



Department of Justice

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NEW JERSEY COMPANY PLEADS GUILTY TO COMMITTING AN OSHA VIOLATION THAT RESULTED IN A WORKER'S DEATH

SCRANTON- The United States Attorney's Office for the Middle District of Pennsylvania announced that Dana Container, Inc., ("Dana"), headquartered in Avenel, New Jersey, pled guilty on April 14, 2021, before U.S. Magistrate Judge Joseph F. Saporito, Jr., to willfully committing an OSHA violation that resulted in an employee's death, as charged in a criminal Information.

According to Acting United States Attorney Bruce D. Brandler, the criminal information to which Dana pleaded guilty alleges that Dana utilized the trade name "Dana Rail Care" for a portion of its business activity related to the maintenance and cleaning of the interior of rail cars, and that in or about March of 2019, Dana contracted with another firm to clean crude oil residue from approximately 100 rail cars that were located at a rail yard in Pittston, Pennsylvania.

Under regulations issued by the Occupational Safety and Health Administration ("OSHA"), an employee who is tasked by his or her employer to work in a confined space, like the interior of a rail car, must be protected in various ways. Employers are required to test and monitor atmospheric conditions within the space to ensure that the atmosphere is non-hazardous and to purge, flush or ventilate the space as necessary to eliminate or control any atmospheric hazards, including oxygen concentrations below 19.5 percent. Employers must also outfit any employee tasked with working in any atmosphere considered to be potentially hazardous with a particular type of OSHA-certified respirator.

On May 31, 2019, a Dana employee entered one of the rail cars at the Pittston site in order to scrape crude oil from the walls of the car. About 30 minutes later, the employee collapsed inside the car. He later died on scene, with the cause of death ruled asphyxiation. The atmosphere inside the car was determined to be oxygen-deficient and although Dana was aware of applicable OSHA regulations, the employee had not been outfitted with the proper OSHA-certified respirator.

"The death of the employee was a tragedy and could have been avoided if the company had followed the regulations for this type of dangerous activity," stated Acting U.S. Attorney

Bruce D. Brandler. “Our office and OSHA take these cases very seriously and willful violations of OSHA regulations will be aggressively prosecuted to deter this type of behavior and ensure that workers are protected.”

The charge stems from an investigation by the Occupational Safety and Health Administration (OSHA) and the Department of Labor, Criminal Investigation Division. Assistant U.S. Attorney Jeffery St John is prosecuting the case.

A sentence following a finding of guilt will be imposed by the Judge after consideration of the applicable federal sentencing statutes.

The maximum penalty under federal law for this offense is a \$500,000 fine and a 5-year term of probation. Under federal law, the Judge is also required to consider and weigh a number of factors, including the nature, circumstances and seriousness of the offense; the history and characteristics of the defendant; and the need to punish the defendant and protect the public. For these reasons, the statutory maximum penalty for the offense is not an accurate indicator of the potential sentence for a specific defendant.

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