

GAO Highlights

Highlights of [GAO-22-105711](#), a testimony before the Subcommittee on Workforce Protections, Committee on Education and Labor, House of Representatives

Why GAO Did This Study

The COVID-19 pandemic raised concerns about OSHA's preparedness for a future crisis. OSHA, within the Department of Labor, helps ensure safe and healthful worker conditions by setting mandatory standards, conducting inspections, and investigating incoming complaints and referrals, among other efforts.

This testimony is based on work in GAO's October 2021 CARES Act report (GAO-22-105051) and January 2021 report on OSHA's injury and illness reporting requirement (GAO-21-122). It examines OSHA's efforts regarding (1) COVID-19-related enforcement actions, (2) developing and using standards related to COVID-19, and (3) obtaining injury and illness data to support its enforcement efforts.

For the prior reports, GAO reviewed OSHA policies and federal laws and regulations, analyzed OSHA enforcement and employer-reported injury and illness data, and interviewed OSHA officials. For this testimony, GAO obtained updated data covering OSHA enforcement activity from February 2020 through December 2021, reviewed documentation, and interviewed OSHA officials.

What GAO Recommends

GAO recommended in October 2021 that OSHA assess challenges the agency has faced in its response to the COVID-19 pandemic, and take related action. OSHA partially agreed with this recommendation. GAO recommended in January 2021 that OSHA evaluate procedures for ensuring reporting of summary data and develop a plan to remediate deficiencies. OSHA generally agreed with this recommendation. Both remain open.

View [GAO-22-105711](#). For more information, contact Thomas M. Costa, (202) 512-4769 or costat@gao.gov

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WORKPLACE SAFETY AND HEALTH

Data and Enforcement Challenges Limit OSHA's Ability to Protect Workers during a Crisis

What GAO Found

From February 2020 through June 2021, the Occupational Safety and Health Administration (OSHA) relied primarily on existing workplace safety and health standards and voluntary employer guidance for its COVID-19-related enforcement. Before June 2021, without COVID-19-specific standards in place, OSHA enforced existing applicable standards, such as those related to respiratory protection, and occasionally cited violations of its "general duty clause," which can be used when no standard applies to a particular hazard and certain criteria are met. However, inspectors faced challenges in applying existing OSHA requirements to COVID-19 hazards, and in citing general duty clause violations, which require large amounts of documentation. OSHA officials experienced other enforcement challenges while operating during the pandemic, including those related to resources, and to communication and guidance, but the agency has not yet assessed related lessons learned or promising practices.

Workers Wearing a Face Shield and Face Masks



Source: stock.adobe.com.

In 2021, OSHA issued one COVID-19 emergency temporary standard (ETS), which it is generally no longer enforcing, and a second COVID-19 ETS, which it withdrew; OSHA is also developing a separate infectious disease standard. If OSHA determines that employees are being exposed to a "grave danger" in the workplace, it may forgo its typical rulemaking process and issue an ETS. In June 2021, OSHA issued a COVID-19 ETS for certain health-care employers that treat suspected or confirmed COVID-19 patients. However, in December 2021, OSHA announced that it planned to withdraw all but the COVID-19 log and reporting provisions in the COVID-19 health-care ETS. The agency issued another ETS in November 2021 related to COVID-19 vaccination and testing for large employers. In January 2022, OSHA withdrew that ETS after a U.S. Supreme Court decision to stay it. OSHA currently is engaged in a rulemaking process, which began in 2010, to develop and issue a broader infectious disease standard to protect workers in high-risk environments from long-standing and emerging infectious diseases. GAO has previously reported on multiple challenges OSHA faces in setting standards and found that it took OSHA more than 7 years, on average, to develop and issue a new standard.

GAO estimated that employers did not report injury and illness data on more than 50 percent of their establishments for which they were required to do so for calendar years 2016 through 2018. GAO found that OSHA cited employers for nearly 35,800 recordkeeping violations in fiscal years 2005 through 2019. Among these violations, 65 percent occurred in the 7½ years before a court decision effectively limited the time period for citing these violations. The remaining 35 percent occurred in the 7½ years after that court decision. GAO also found that OSHA had limited procedures for encouraging compliance with the injury and illness reporting requirement and for penalizing non-compliance.