



# Opening Statement

COMMITTEE ON EDUCATION & LABOR

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The Hon. Robert C. "Bobby" Scott • Chairman

## **Opening Statement of Chairwoman Alma Adams (NC-12)**

Subcommittee on Workforce Protections Hearing

*Examining the Federal Government's Actions to Protect Workers from COVID-19*

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Today's Subcommittee hearing will explore the performance of the federal government in protecting worker safety during the COVID-19 pandemic. I want to thank OSHA Deputy Assistant Secretary Sweatt and NIOSH Director Howard for joining us today.

The COVID-19 pandemic has resulted in the worst worker safety crisis in OSHA's 50-year history. Nothing compares.

In the past 4 months, more than 62,000 health care workers, who we have asked to risk their lives without protective equipment, have been diagnosed with COVID-19 and at least 291 have died. And this is an underestimate. According to CDC, these shocking numbers are a mere fraction of the true toll due to the absence of reporting by as many as 27 states, New York City and the District of Columbia.

As we know, infection outbreaks have not been limited to health care facilities.

More than 17,000 meat processing workers have been infected and an estimated 66 have died. One Iowa Tyson plant saw 60% of its employees test positive. A Greely Colorado meatpacking plant closed after hundreds fell ill. Although the plant promised to test every worker before reopening, the plant identified so many positive cases that it stopped testing and reopened anyway.

Prisons, long-term care facilities, grocery stores, transportation systems and warehouses have all experienced deadly outbreaks.

Earlier this month, the CDC reported 2,778 infections and 15 deaths among staff employed in correctional and detention facilities. From late January to late April, fully 36% of all reported infections at correctional facilities were suffered by staff.

At least 6 employees of one warehouse in New York have died from COVID-19. One-hundred and twenty nine New York City transit workers have died of the virus.

As of last week, 1,424 Veterans Administration employees have been diagnosed with COVID-19 and 31 have died.

Some 2,400 postal workers have tested positive and 60 have died from COVID-related illnesses. United Parcel Service is facing an outbreak of 36 cases at its facility in Tuscon.

But as we will discuss today, we actually don't really know the toll to workers because this nation has no system for collecting data on COVID-19 infections in the workplace. And employers are not obligated to publicly report these infections. Some government agencies refuse to make this information public due to employer concerns about adverse publicity, leaving workers and the public unaware of what risks they are facing.

We cannot lose sight of the fact that this is largely a tragedy inflicted on our nation's essential workers. People who don't have a choice on whether they have to go to work. Many of those on the frontlines are low income workers and disproportionately people of color who don't have the luxury of teleworking from home.

COVID-19 is largely a workplace disease and a community tragedy. In Iowa, Nebraska and South Dakota, coronavirus cases linked to meat workers represent 18, 20 and 29 percent of the states' total cases, respectively, [according to the Environmental Working Group](#). My home state of North Carolina leads the nation with the number of meatpacking plants facing an outbreak—with the state Department of Health and Human Services reporting that at least 23 plants have outbreaks with more than 1,300 worker infections.

Yet OSHA, the agency that this nation has tasked to protect workers, has been largely invisible. It has failed to develop the necessary tools it needs to combat this pandemic and it has failed to fully use the tools it has; instead focusing principally on issuing press releases and voluntary guidance.

This hearing will focus on why that is and the price that this nation's workers are paying for OSHA's inaction.

Deep into this pandemic, OSHA has still not developed any enforceable standards for employers to follow that can protect workers from the airborne transmission of the novel coronavirus.

And OSHA's existing enforcement tools to combat this pandemic, which include standards covering respirators and personal protective equipment, are inadequate and unused.

While guidance issued by the Centers for Disease Control and Prevention can be useful, it is not binding. Only OSHA can enforce safe working conditions.

And although OSHA says it uses its enforcement authority to protect workers, OSHA's own data shows that the majority of its inspections are conducted only after workers have died. And OSHA has conducted complaint inspections for less than one percent of the complaints filed.

And while the Secretary of Labor says it does not need an Emergency Temporary Standard, because OSHA already has the tools it needs to enforce its guidelines through the General Duty Clause, the embarrassing truth is that OSHA has not issued a single citation under the General Duty Clause to enforce that Guidance. Not one!

This worker safety crisis was clearly foreseeable. And OSHA was warned. It was clear after the H1N1 Swine Flu pandemic in 2009 that an infectious disease standard was needed that requires employers to assess the infectious disease risks in their workplaces and mitigate the hazards. Such a standard was well along the way at the beginning of the Trump Administration, but in February 2017, that draft standard was mothballed and relegated to the "long term" regulatory agenda where it languishes today.

In January, I joined Chairman Bobby Scott in calling on OSHA to put the infectious disease standard back on the active agenda. In that letter, we also urged OSHA to issue a compliance directive for the health care sector, and to issue an Emergency Temporary Standard if the situation deteriorated. At the time of our request, there were just 5 confirmed COVID-19 infections in the United States.

Hearing nothing back, on March 5th we wrote OSHA again describing how hundreds of health care workers had been exposed and stated the obvious: that OSHA urgently needed to issue an Emergency Temporary Standard

(ETS). In mid- March, OSHA rejected an ETS on the grounds that “the health care industry fully understands the gravity of the situation and is taking the appropriate steps to protect its workers.”

In April, with more than 720,000 infections nationwide, OSHA finally issued enforcement guidance, but only covering the health care sector.

In mid-May, as workers continue to face risk of infection, illness, and death, the agency is *still* refusing to issue an Emergency Temporary Standard to protect workers from exposure to the coronavirus.

Here is what the *OSHA Act* states: OSHA “*shall* provide .... for an Emergency Temporary Standard” if it determines “that employees are exposed to a grave danger....” from “new hazards”, and “that such emergency standard is necessary to protect employees from such danger.”

Circumstances like this pandemic are the exact reason this authority exists, yet OSHA continues to sit on the sidelines.

My question to the Secretary of Labor is how, after tens of thousands of workplace infections and hundreds of worker deaths, why is OSHA missing in action?

OSHA’s failure to take meaningful action has sent a clear message to workers across the country that they are on their own.

On Friday, May 15, the House of Representatives passed the *Heroes Act* (H.R. 6800) which included the *COVID 19 Every Worker Protection Act* introduced by Chairman Scott, Representative Shalala and myself. That bill directs OSHA to issue an emergency temporary standard with seven days to protect workers in hospitals, meatpacking plants, retail stores, restaurants, offices, shipyards, and any other workplace where a person may face risk from exposure to the novel coronavirus from the public or from other workers. The *Heroes Act* would also prohibit employers from retaliating against workers for sounding the alarm about unsafe conditions.

As the states across the country begin to reopen, more workers will be at risk of infection unless OSHA starts doing its job. And if the reopening of workplaces drives up infections rates, states will be forced to reinstate stay-at-home orders, which will do further damage to our economy.

We simply cannot safely and effectively reopen our economy until we secure the safety of our workers.

The only logical conclusion I can draw is that OSHA’s inadequate response to this pandemic has been informed more by stale politics rather than modern science. The necessity to protect workers should not be cramped by stale ideological notions about regulation, nor campaign slogans about repealing two regulations for every new one that is created. The house is on fire, and we cannot waste time arguing about how to rewrite our building codes.

Today, we will explore and hopefully answer why there has been the lack of political will in the face of this public health disaster. And we will learn why no one seems to care enough to even track the number of workers who are getting sick and dying.

Finally, before I end, I feel the need to respond to two items in Ms Sweatt’s written testimony.

First, we note that because of a lawsuit, Ms. Sweatt will refuse to answer any questions about an Emergency Temporary Standard. I want to note for the record that there is no legal basis for this refusal; it is purely a political statement.

Second, I want to respond to Ms. Sweatt's testimony which implies that criticism of OSHA's failure to issue an emergency standard or enforce existing standards "does a disservice ... to the hardworking men and women of OSHA."

No one has more respect for the dedicated staff of OSHA and the hard work they do every day than this Committee, as evidenced by our advocacy for the agency's budget and opposition to the torrent of rollbacks to worker safety protections. The failure to competently address the life-threatening hazards that working Americans are facing from COVID-19 is not the fault of OSHA professional staff, but rather due to the unfortunate decisions of OSHA's political leadership.

I now yield to the Ranking Member, Mr. Byrne, for his opening statement.