

# US ESH Webinar Series

# COVID-19: Safety and Health Law on the New Frontier

Tuesday, April 21, 2020

1 – 2 p.m. EDT



- Welcome

- **Karen Winters**, Environmental Safety & Health Practice Group Leader



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- For those of you who require CLE credits please note the following states have been approved or pending CLE in AZ, CA, CO, NJ, NY, OH and TX
- A couple business days after today's session you will receive an email with a link to the ***uniform certificate of attendance*** and ***program evaluation*** to complete and SUBMIT to Robin Hallagan at [robin.hallagan@squirepb.com](mailto:robin.hallagan@squirepb.com).

# Presenters



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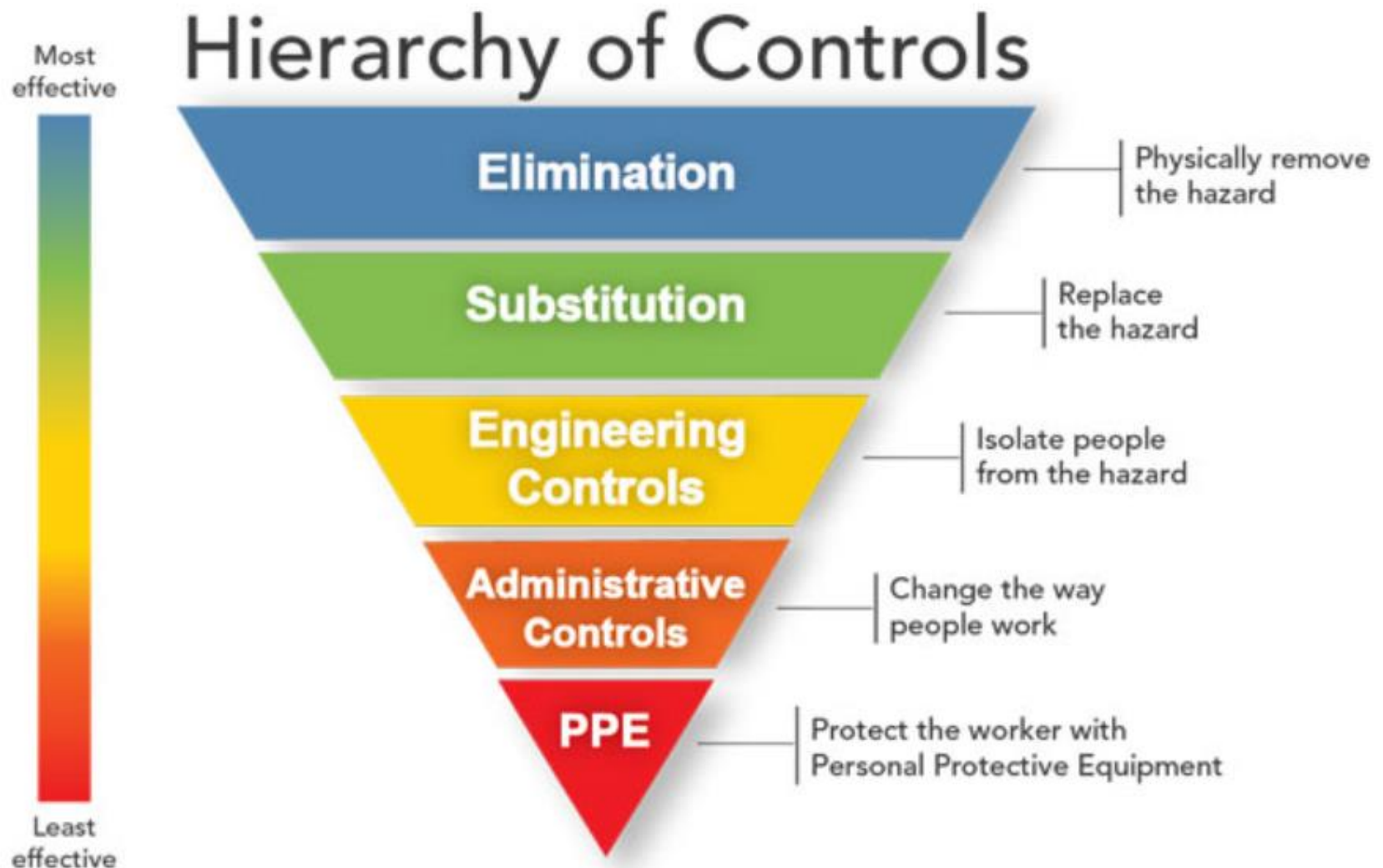
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- Introduction
  - [Peter Gould](#) (moderator), Office Managing Partner, Denver
  - [Dr. Emily Hass](#), National Institute of Occupational Safety & Health
- Part I - COVID-19 safety and health law *now*
- Part II - COVID-19 safety and health law *in the future*
- Audience Q&A
- Closing remarks



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Coronavirus [Live updates](#) [U.S. map](#) [World map](#) [FAQs](#) [How to help](#) [Flattening the curve](#) [Newsletter](#)

Business

## Thousands of OSHA complaints filed against companies for virus workplace safety concerns, records show

Employees told regulators about failures to follow social distancing, lack of protective gear and other issues at scores of U.S. employers

SCRATCH

## Going to Work With Danger, and Maybe Death, Every Day

By Julia Rothman and Shaina Feinberg

March 12, 2020



OREGON OSHA TO BEGIN 'SPOT CHECKS' ON BUSINESSES FOR COVID-19 COMPLIANCE



Representatives from Oregon OSHA will begin checking on employers to make sure they're complying with the Governor's executive orders for social distancing.

Posted: Apr 13, 2020 5:40 PM  
Updated: Apr 13, 2020 5:50 PM  
Posted By: Jamie Parfitt



NATION

## What is OSHA doing? Coronavirus crisis raises questions about workplace safety agency

Donovan Slack and Dennis Wagner USA TODAY

Published 3:38 p.m. ET Apr. 16, 2020 | Updated 5:57 p.m. ET Apr. 16, 2020



## To Provide an N95 Mask or Not to...That is the Question Plaguing Some Employers (US)

By Squire Patton Boggs on April 19, 2020

POSTED IN [HEALTH & SAFETY](#)

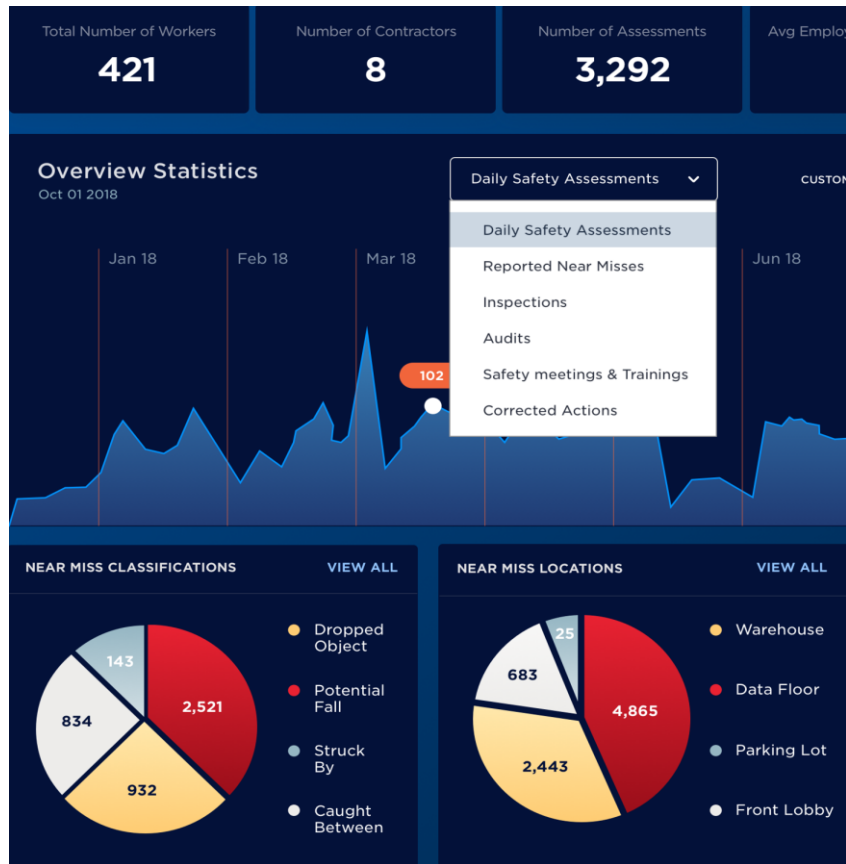
\*The Washington Post; The New York Times; USA Today; KDVR.com; The Milwaukee Journal Sentinel

- The General Duty Clause (29 U.S.C. § 654)
  - Hazard and risk level assessment
  - Pyramid of risk (lower, medium, high, very high)
  - Good faith efforts at compliance
- Engineering, administrative and safe work practice controls
  - Remote working
  - Distancing and isolation
  - Sanitization and good housekeeping
- Personal protective equipment (PPE)
  - Gloves, eye protection, masks
  - Respiratory protection
- Training
  - Sources of exposure and associated hazards
  - Compliance with implemented policies and procedures



- Additional safety and health standards
  - Bloodborne pathogens
  - Toxic and hazardous substances and HAZCOM
  - Reporting and recording (general vs. healthcare, emergency, correctional facilities)
  - Review of exposure and medical records
  - State plans
    - Cal/OSHA Aerosol Transmissible Diseases, Interim Guidelines for General Industry, and Guidance on Requirements to Protect Workers from Coronavirus
- Enforcement
  - Complaints and referrals
  - Inspections
  - Whistleblower rights and anti-retaliation
- Civil actions, workers' compensation claims, and more.

# Companies need to re-examine risk management processes and practices



## New NIOSH Project:

## Validating H&S Leading Indicators to Identify and Mitigate Risks

Now, more than ever we know that occupational H&S programs and accompanying risk management practices are not static

- How can we engage in better tracking and improve measurement?
- How can we continuously monitor and identify new risks?
- How do we improve and sustain engagement?



**NIOSH Mining Program**



# Organizations want to know employee perceptions and attitudes toward COVID-19 and what they can do

- Initiated by industry stakeholders
- 25-question survey made available on mobile platform (Acknowlogy)
- Five companies posted to mobile application as a daily safety assessment
- March 16–March 20, 2020
- 83% feel that their organization is taking extra precautions to protect employees (4.87 on a 6-point scale)
  - But, perceptions were lower as the week progressed

What behaviors have you changed in response to the recent COVID-19 situation, either at home or at work?

22.

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My organization has been taking extra precautions to protect the workforce.

23.

Please rate:

1 6

Strongly Disagree Neutral Strongly Agree

What can your organization do that would make you feel better/more at ease?

24.

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# Action: What companies can consider doing immediately

- Temporarily redesign job tasks and procedures to aid social distancing
  - Working close to people is a distraction and brings new risks to the job

“Going from working shoulder to shoulder, to now 6’ distance, takes constant thought. It’s something we don’t usually think about, which now it’s got to be part of our continual thinking...and we need help.”

# Action: What companies can consider doing immediately

## Employees' ideas to temporarily redesign job tasks and procedures:

- Provide ability for some to work at home
- Change processes to avoid contamination of equipment
- Have more phone calls, fewer meetings
- Cancel or postpone group projects
- Stop in-person pre-shift safety meetings
- Stagger work shifts
- Separate work stations
- Conduct daily assessments to gauge work environment and situation
- Encourage situational awareness



# COVID-19 safety and health law in the future

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- Increased role of employee representatives and safety committees
- Guidelines for Reopening + OSHA Guidance
  - Core state preparedness responsibility
  - Individual and employer responsibilities
- Update Policies and Implement Hierarchy of Controls
  - Maintain telework and avoid unnecessary personal interaction
  - Close common areas, restrict number of personnel in work areas, social distancing
  - Physical barriers
  - Minimize non-essential travel (and isolate upon return)
  - Special accommodations for vulnerable populations (relocate to lower-risk)
  - Further PPE usage and training (once shortages improve)
  - Frequent cleaning and decontamination measures
  - Temperature checks and contact tracing (vs. COVID-19 testing?)
  - Proper signage and enhanced training





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