

JANUARY 2021

ALL EVENTS SUBJECT TO CHANGE OR CANCELLATION.

JANUARY

January 7
ASA Quick Hits
Virtual Round Table

January 20
Monthly Meeting
Virtual via Zoom

FEBRUARY

February 4
ASA Quick Hits
Virtual Round Table

February 17
Monthly Meeting
TBD

MAY

May 19
Meet the GC's Expo
St. Charles
Convention Ctr

JUNE

June 25
28th Annual Awards Gala
The Four Seasons

For a full list of all
ASA Midwest Council events
visit www.asamidwest.com

To all of our subcontractor, supplier, and associate members and friends, I hope you found enjoyment in the holidays and this New Year finds all of you healthy and safe.

Our family has belonged to the same swim and tennis club for the last 20 years or so. Every January, we receive an email to remind us to renew our membership. This January, the automated reminder email sent out to the members inadvertently, was the same one sent last January. The message espoused an optimistic outlook hyping that 2020 was going to be an awesome year! The board of directors quickly caught it and sent another email to correct it and point out the ironic humor of it. Of course, it gave us all a pretty good laugh.

Being the first "president's column" of the New Year, it's difficult for me to just come out and say that we're really excited for 2021 and it's going to be the best ever for ASA Midwest Council (which is rather cliché anyway). Nonetheless, I am more positive than to welcome our membership to the New Year by stating we're expecting the same suffering, inconveniences, and isolation as last year. It seems the only things that are certain for 2021 are that it will be different, and uncertainty will prevail for a while.

In the last few months of 2020, the ASA Midwest Council board and committees tried to schedule some in-person events, but due to the rapid coronavirus spread, it just didn't make sense to meet in person, so we cancelled some events and held others virtually. We are currently busy optimistically making plans to get back to some of our normal events, such as "Meet the GCs Expo" and our annual Awards Gala. These events are being moved back on the calendar to allow time for vaccines to work their way into the system, and hopefully see a decline in the latest surge of coronavirus cases. We're optimistic and keeping our fingers crossed.

Meanwhile, our not as "high-vis" committees are still hard at work doing what they do so well. The safety committee continues to bring their "A Game", and at our most recent board meeting in December, Mr. Walter Bazan masterfully testified in an extensive and thorough report for the Advocacy Committee. Seems that it is shaping up to potentially be an interesting year in local and state government, with issues such as licensure and Right to Work lurking about, waiting in the shadows. Stay tuned, pay attention, keep alert!

A New Years' column wouldn't be complete without resolutions or goals. So here are my top three, as they pertain to ASA:

1. Man up and enter the shootout after the ASA golf tournament. (I'm not at all a bad golfer but can get nervous in front of a raucous gallery.)
2. Preside over more live events than last year. (Two events would clinch it. One to tie. Stretch goal is six.)
3. Say thank you to everyone who continues to participate and support ASA Midwest Chapter (see below.)

Happy New Year! Thank you to everyone for your continued participation and unwavering support for ASA Midwest Chapter!

Richard A. Russell, Sachs Electric
President, ASA Midwest Council
russell@sachscsco.com | 314.681.9849

VIRTUAL Meeting

Virtual via Zoom

WE HAVE RESCHEDULED THE MEET THE GC'S EXPO FOR MAY!
REGISTRATION OPENS JANUARY 15th 2021 online at www.asamidwest.com



**JANUARY 20, 2021
VIRTUAL Monthly Meeting**



11:30 a.m. to 12:30 p.m.

Mark your calendar, and register for the **VIRTUAL** monthly meeting on Wednesday, January 20, 2021 11:30 a.m. to 12:30 p.m. **This is a FREE meeting for ASA Members.**

**DOING BUSINESS OUTSIDE YOUR COMFORT ZONE |
PANEL DISCUSSION**

Covid-19 has completely upended what is “normal” in construction. With this level of disruption comes opportunities.....and threats.

Join us for a discussion on maneuvering your way through the morass of what could be coming in 2021.

Discussion topics will include but not limited to below:

- How do I evaluate opportunities that involve me stretching outside my comfort zone?
- What are the financial and legal risks that come with bigger job sizes, working for new clients, entering new territories.
- Dealing with 5 Out of State Legal and Illegal Ls | Licenses, Liens, Laws, Losers, and Lovers.
- Income & sales tax considerations while working in other states.
- How to be seen as a trusted business development advisor while networking.
- What and how can this go right.....and wrong!

Expert Panelists Include | Chris O'Hagan, JD Kutter | Richard Stockenberg, Sandberg Phoenix | Jennifer Bardot, Enterprise Bank & Trust | Robert Schroell, UHY LLP, Certified Public Accountants

The virtual presentation will last approx. 40 minutes, with a 15 minute Q&A at the end of presentation.

**Register online-www.asamidwest.com
by Monday, January 18, 2021.**

ASA MEMBERS-FREE | NON MEMBERS-\$25
(Attendees will receive zoom login after registration is completed)

ASA MEMBER RESOURCES

Did you know?

The **ASA Safety Committee** provides 4 new tool box talks on the safety page of the ASA website each month for **members ONLY!**
Use your member login to access the information each month !

Below is a Tool Box available now for download, along with many others on the safety page! **(ASA MEMBER BENEFIT ALERT)**

Recognizing Unsafe Conditions

Recognizing unsafe conditions, or hazards in the workplace, is not just a Safety Committee responsibility. It is everyone's responsibility from the most junior employee to the company president to identify hazards and make suggestions on how to fix the problem.

Guide for Discussion

Causes of unsafe conditions or actions:

- ✓ Poor housekeeping.
- ✓ Horseplay.
- ✓ Confused material storage.
- ✓ Careless handling of materials.
- ✓ Improper or defective tools
- ✓ Lack of machine guarding; failure to install warning signs
- ✓ Lack of or failure to wear proper personal protection equipment. Weather.
- ✓ Worker not dressing for the job to be done.
- ✓ Failure to follow instructions.

Steps to take once an unsafe condition is found:

If possible, correct the condition yourself immediately. Report any major unsafe condition or action to the appropriate company authority. Follow-up – report the condition again if it is not corrected.

Additional Discussion Notes:

Remember: There are three steps to follow in recognizing unsafe conditions. Look for trouble (the unsafe condition), report it, and act to prevent it from happening again. Attendees:

NOTE: Always promote a discussion on any of the topics covered in the Tool Box Talks. Should any question arise that you cannot answer, don't hesitate to contact your Employer.

VOLUNTARY v. MANDATORY VACCINATION POLICY

*RICHARD A. STOCKENBERG
CHAPTER ATTORNEY
THE STOCKENBERG LAW FIRM
richard@stockenberglawfirm.com
314-324-7001*

Now that the trucks are delivering the Covid-19 vaccine, some employers are asking can or should they implement a policy requiring their workforce to be vaccinated as a condition of employment. Such a policy carries its own risks, no matter how well intended it may be.

WHAT IS ALLOWABLE?

Existing law - embodied in the Americans with Disabilities Act ("ADA") - places limitations and conditions on an employer's ability to require its employees to be vaccinated. Such mandated vaccinations (1) may not be more intrusive than necessary; (2) must be job related; and (3) must be consistent with business necessity. However, even when these conditions are met, there are certain exemptions excusing an employee's participation from mandatory vaccination. For example, an employee is exempt where he or she has a medical condition that creates a danger of serious illness or death, or has a disability, or holds a sincere religious belief, practice, or observance against the vaccination.

In the Spring of 2020, before Operation Warp Speed developed and delivered the Covid-19 vaccine, the Equal Employment Opportunity Commission ("EEOC") stated that an employee may be exempted from mandatory vaccination due to a disability. Such an exemption falls under the ubiquitous category of a "reasonable accommodation" as used in the ADA.

While there are circumstances where an employer is allowed to mandate that its employees be vaccinated, this right is not always clearly defined and is not without risk.

WHAT ARE THE RISKS?

While there are risks to an individual who is not vaccinated, there are risks to employers who for whatever reason require their employees to be vaccinated. For example, the EEOC is well known for suing employers on behalf of employees in order to protect the employees' rights to be the beneficiaries of the exemptions afforded to them under the ADA. Likewise, employers may be sued directly by their employees in civil actions claiming a failure on the employer's part to reasonably accommodate religious beliefs or medical conditions.

In today's toxic political climate, employers may reasonably be concerned that some employees are highly suspicious of the efficacy of the vaccine and may be locked and loaded and ready to aggressively resist any mandated vaccination policy. The impact on employee morale in having a mandatory policy affecting personal lives has to be considered and weighed.

Each employer has to ask, "Do I want to run the risk of a lawsuit and potential liability for requiring my employees to be vaccinated as a condition of continued employment?" Having the "right" to do something does not always mean it is the right thing to do. But like the process of making so many other daily decisions, we all have to weigh the risk v. the reward.

FINAL THOUGHTS

Do what is right for you. Be safe.

ANNOUNCEMENT

Richard A. Stockenberg
ASA's Chapter Attorney Since 1989
Is Pleased to Announce the
Relocation of His Law Practice to

Richard A. Stockenberg
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Saint Louis, MO 63127
314-324-7001
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www.stockenberglawfirm.com

*Continuing to fully serve
Subcontractors, Suppliers,
and the Construction Industry*



*The **Tom Owens Memorial Scholarship** is a 501(c)(3) non-profit organization that provides financial assistance to qualified candidates who are part-time or full-time students who attend or will be attending accredited junior college, college, university or post-graduate institutions.*

We are currently accepting applications from students!

Applications are due by January 31, 2021

Download the application at asamidwest.com/about-us/committees/#tomowens

Please consider making a tax deductible donation to the **Tom Owens Memorial Scholarship Fund** to further our cause and support deserving students advance their educational goals!

**For additional information about the Scholarship Fund contact
Chris O'Hagan, J D Kutter chris@jdkutter.com**

www.asamidwest.com

Save the Date



2021 Awards Gala | June 25, 2021

Upcoming ASA Midwest Council Meetings & Events



- | | |
|---------------------------|---|
| <i>January 7</i> | <i>ASA Quick Hit-Virtual Round Table Discussion</i>
<i>Effective Marketing Strategies in the age of COVID</i> |
| <i>January 20</i> | <i>ASA Virtual Monthly Member Meeting</i>
<i>Doing Business Outside your Comfort Zone-Panel Discussion</i> |
| <i>February 4</i> | <i>ASA Quick Hit-Virtual Round Table Discussion</i>
<i>Sales Strategies in the age of COVID</i> |
| <i>February 17</i> | <i>ASA Monthly Member Meeting</i>
<i>TBD</i> |
| <i>May 19</i> | <i>Meet the GC's Expo</i>
<i>St. Charles Convention Center</i> |
| <i>June 25</i> | <i>28th Annual Awards Gala</i>
<i>The Four Seasons Hotel</i> |

VISIT WWW.ASAMIDWEST.COM TO REGISTER FOR ANY OF THE ABOVE EVENTS!

Event registration requires member login, contact susan@asamidwest.com with questions!

ALL MEETINGS & EVENTS SUBJECT TO POSTPONEMENT & CANCELLATION

***ASA Midwest Council is on Facebook, Twitter & LinkedIn
Follow ASA Midwest Council
for the latest news and information!***



Survival Strategies Amid COVID-19

By Michael McLin, Maxim Consulting Group

The COVID-19 pandemic has had far reaching impacts on the U.S. economy. Companies in once successful industries across the United States have felt the immediate impact of the current pandemic in the most devastating ways. Since March 2020, many companies have come to a complete and total shutdown, displacing more than 25 million Americans from their jobs. Other industries, such as the healthcare and medical research fields, have seen excessive stress placed on them not only in terms of resources and equipment, but also on the personal lives of the professionals administering these services. These are truly unprecedented times that were unforeseen just one year ago.

The federal government has tried to do its part to care for the unemployed, the small businesses, and even some large industries that have been most noticeably impacted by the government-directed shutdowns and forced isolations of our population. The CARES Act has gone a long way to help start bridging the gap from today toward recovery. However, unemployment remains high with nearly one million people a week claiming unemployment benefits.

It could be months or, in some cases, a few years from the start of this pandemic until we see construction companies fail. It will happen because they have no clear channel for equitable adjustment and have been contractually mandated to continue operations. The new normal being created from pandemic-driven health and social modifications is being seen all over the construction industry. There is also widespread belief in the industry that pandemic liability will be pushed down contractually leaving the burden on the very businesses needed to complete complex construction projects.

The construction industry thrives on challenge and innovation and will continually improve to deliver products safely to owners. In time, firms will adjust to this new normal and price the contracted work appropriately. However, in the near term, the industry's financial burden from the social restrictions placed on it may be so great, that many companies will not survive to compete in the future.

Economic Fallout Multiple studies completed by Maxim Consulting Group and commissioned by ELECTRI International and New Horizons Foundation have discovered a nearly 20% negative impact on contractor productivity. Both studies are available for download at no cost on the ELECTRI and New Horizon Foundation websites. A rule of thumb for self-performing contractors is a 10% decline in productivity equates to a 100% decline in profitability. This puts the magnitude of a 20% productivity loss attributable to COVID-19 into perspective. The strong economic runup to the pandemic means many contractors have solid balance sheets. That hard-earned financial strength quickly erodes when matched against the magnitude of the impacts on the MEP Trades discussed.

Most contractors have indicated they expect minimal amounts of COVID-19 related cost recovery. Few owners are reimbursing them for costs incurred due to COVID, so general contractors and subcontractors have limited options. Further, cost recovery is a much more sensitive topic with negotiated clients than in the hard-bid world. For many contractors, PPP Loans helped keep their staff employed and protected the balance sheet and profitability of the organization, however, the loans are largely consumed and expected to be forgiven.

Making matters worse, construction is a lagging industry that tends to feel economic impacts 18 to 24 months after the general economy. The stock market's performance is nothing short of remarkable considering the looming economic impacts from extended closures and under-utilization. Contractors are seeing project opportunities dry up and backlogs shrink. This pipeline of business is felt most severely within smaller organizations that tend to have a smaller average project size. Larger contractors anticipate big projects will carry them through 2021, but opportunities for 2022 are dwindling. ITR Economics released their October 2020 economic forecast recently and it is clear the widespread decline is expected to continue into 2021 which will impact backlogs on a broad basis.

Survival Strategies To survive the impending downturn, contractors should consider a variety of strategies. No single strategy is likely to be the answer, so it may well be a combination of approaches. Some options to consider include:

Prepay anything you can. For example, rent, utilities, property taxes, software licensing fees, personal protective equipment, professional services, disposable tools like battery drills, etc. Anything you can pay for now while you have the cash should be considered. Align your overhead to your volume demand curve. Contractors have historically been notoriously late cutting overhead costs when volume is dropping. Get LEAN. Eliminate waste, streamline your business processes, and prepare to do more with less. Retrench and wait out the storm. Add a new service line, particularly anything that helps companies and industries address COVID-19. An example would be for HVAC Contractors to offer facility air quality analysis for potential system upgrades or changeouts. Offer customer incentives to proceed with planning maintenance of capital expenditures. This might include extended warranties, first year of maintenance included, multi-year maintenance agreements, and other like strategies. Consider a merger or an acquisition with a firm that offers complimentary services. Ensure the cost efficiencies are leveraged through back office department consolidation. Add a geographic region to expand your customer base. Consider joining an industry-focused peer group where the "wisdom of crowds" can effectively evaluate your plans and provide advice.

There is little doubt the economic fallout is coming. There is widespread discussion of a GDP Decline approaching 6% . To get a sense of the level of decline, one must only think back to the great recession of 2008 when GDP dropped 4.8%. Many contractors are having record years in 2020 thanks in part to PPP loans and a strong backlog, but unfortunately this is not sustainable. Covid-19 has created new and very unique challenges for contractors. Adjusting to the new normal will require changes in strategy and a recognition of the timing of the economic decline for contractors. Act now while all your options are available to avoid getting caught later.

ASA Midwest Council needs your time and talent!



**Are you a new member looking to get more involved with the ASA?
Or perhaps you are a long time member, and have never joined a committee!**

**We are always looking for committee members to assist with our
quarterly events, as well as the ongoing committees,
that help run the organization & further ASA's goals!**

**If you are interested in joining a committee, contact executive director,
Susan Winkelmann 314.845.0855 or susan@asamidwest.com
*ASA Midwest Council has been Building. Community. Since 1967!***



DID YOU KNOW?

Check out the **Info Hub** on the ASA National Website for extra member benefits included in your membership!

www.asaonline.com, then member login to access the **Info Hub**

A few Areas to visit in the Info Hub Include:

- ✓ **Resources section.** There are hundreds of documents in the Resources section of the **Info Hub** that include critical COVID-19 information, sample contract language, negotiating tips, archived webinars, and so much more.
- ✓ **ASAdvantage.** In the Info Hub, there is a link to our ASAdvantage program. Members should spend time looking through what is available. Includes programs to save money with Office Max, UPS, Lenovo, Verizon Wireless, as well as discounts on software, and many other cost savings discounts.

You must login to the ASA National website to access the **Info Hub, and your login is different than your local ASA Midwest Council login information.**

If you need assistance logging in, please contact: Loni Warholic: lwarholic@asa-hq.com

As 2020 draws to a close, we find that members of the General Assembly, the Governor's staff, and special interest groups are all busy finalizing their respective agendas for the 2021 Legislative Session which begins on January 6. COVID-19 concerns will still be at the forefront when legislators return to Jefferson City. We are certain that precautions will remain in place in and around the Capitol, with limited access to hearings and floor proceedings in order to keep legislators, staff, and visitors as safe as possible. Live streaming of Capitol events along with Zoom meetings and the like will probably be the new normal for the foreseeable future. In addition, all groups are discouraged from holding big gatherings or lobby days at the Capitol this session.

As we are all aware, the pandemic has been devastating to many businesses around the state. That devastation equates to job losses and an anticipated loss in local and state tax revenues. With that in mind, the Governor and legislative leaders recently announced their consensus revenue estimates (CRE) for Fiscal Year 2022, which will begin July 1 of next year. The CRE is the starting point for preparing the state operating budget for the coming fiscal year. As announced in Governor Mike Parson's recent press release, the key figure in preparing the budget is general revenue collections. Net general revenue collections for FY22 are projected to decrease by approximately \$419 million. House Budget Committee Chairman Cody Smith remarked that we are in the "midst of the most trying economic times in a generation."

Despite the projected shortfall, the state released some good news for the month of November. General revenue collections for the month came in at \$811.1 million compared to \$708.5 million for the same period last year. The revenue numbers combined with the first round of COVID-19 vaccinations arriving in the state have many hoping that a full recovery could be coming in the very near future.

At least two lawmakers will find themselves at odds with their colleagues when the new session begins. Representative-elect Rick Roeber (R-Lee's Summit) had been accused of physical and sexual assault by his children, who are now adults, prior to the November election. Roeber has denied the allegations, and narrowly won his election, squeezing out a 1.7 percent margin of victory. Although he will be in Jefferson City for the opening of session, House leadership recently announced the Roeber would be barred from sitting with the Republican Caucus and the allegations would be investigated by the House Ethics Committee when the session commences. Additionally, it appears that House leadership will pursue censure of Representative Wiley Price (D-St. Louis), after he was accused of an inappropriate relationship with a Capitol intern, followed by threatening and intimidating a staff member for reporting the relationship. The House Ethics Committee, comprised of five Democrats and five Republicans, unanimously found that Price committed perjury, obstructed their investigation of the matter, and compromised the ability of the House to provide a respectful, professional work environment. To date, Price has not resigned, denies the allegation and states he will be attending the opening of the next legislative session.

Pre-filing of legislation for the upcoming session continues at a rapid pace. Nearly 900 bills and resolutions have been filed by Senators and Representatives as of the writing of this report. As expected, bills have been pre-filed that impact the construction industry including but not limited to right-to-work, repeal of prevailing wage, changes to workers compensation, and transportation taxes just to name a few.

As stated above, the 2021 legislative session will begin on January 6. Throughout the entire 2021 session, we will be in the Capitol advocating on your behalf. Our weekly legislative reports will also begin once session starts. You can expect weekly legislative updates to be emailed to you every Friday or Saturday during the 2021 legislative session. Nikki Strong, Strong Consulting Group.

ASA Midwest Council Members

24/7 OnSite Cameras
Acoustical Ceilings, Inc.
Acropolis Technology Group
Affton Fabricating & Welding
AME Constructors
American Burglary & Fire, Inc.
American Steel Fabrication, Inc.
Anders CPAs + Advisors
Aqueduct Plumbing LLC
Archview Metal Systems Co.
Aschinger Electric
Aspen Waste Systems
Auto Trim Restyling
Bazan Painting Company
Bell Electrical Contractors
Benson Electric Company
Bick Group
Big Boy's Steel Erection
Bi-State Fire Protection Corp.
Bi-State Utilities Company
BluSky Restoration
Boyer Fire Protection
Brown Smith Wallace LLP
Budrovich
Building Point Mid-America
C.E. Bollmeier Company, Inc.
C. E. Jarrell Contracting
CK Power
CMIT Solutions
CNA Surety
CSA Advisors LLC
Cardinal Environmental Operations
CarsonAllaria Wealth Management
Cee Kay Supply
Century Fire Sprinklers, Inc.
Common Sense Solutions
Corrigan Company
Drilling Service Company
Dynamic Controls, Inc.
ELCO Chevrolet Cadillac
Empire Fence & Custom Iron Works
Enterprise Bank & Trust
Fabick CAT
Fenix Construction Co. of STL
The Fletcher Company
Flooring Systems, Inc.

Focal Pointe Outdoor Solutions, Inc.
Foreman Fabricators
Foundation Supportworks by Woods
Frost Supply
Galloway, Johnson, Tompkins,
Burr & Smith
George McDonnell & Sons
Golterman & Sabo
Grant Contracting
Grasser Electric
Guarantee Electrical
HM Risk
Haberberger, Inc.
Hanenkamp Electric
Hansen's Tree, Lawn & Landscaping
Hawkins Construction & Flatwork
Hayden Wrecking
Heitkamp Masonry
Hoette Concrete
Ideas4Promos
Imperial Metal Company
Integrated Facility Services
Irwin Products
JD Kutter
J.F. Electric
J.W. Terrill
John J. Smith Masonry
Johnson Controls
K & K Supply, Inc.
Kaemmerlen Electric
Kaiser Electric
KAM's Mechanical LLC
Kay Bee Electric
Kirberg Company
Kirby-Smith Machinery, Inc.
Knapheide Truck Equipment
Landesign LLC
Lawrence Fabric & Metal Structures
Leach Painting Company
Liberty Mutual Surety
Lindberg Waterproofing
Linek Plumbing Co.
Luby Equipment Services
Marketeer, Inc.
Meyer Painting Co.
MC Mechanical Services

Midwest Elevator
Mold Solutions
Montgomery Bank
Murphy Company
Negwer Door Systems
Niehaus Building Services
NuWay
O.J. Laughlin Plumbing Co.
On Site Companies, Inc.
P & A Drywall Supply
Parkway Construction Services
PayneCrest Electric
Pirtek Overland
Pipe and Duct Systems
Precision Analysis, Inc.
Professional Metal Works, LLC
R.F. Meeh Co.
RJP Electric
Ravensberg, Inc.
Rock Hill Mechanical Corp.
RubinBrown LLP
Sachs Electric Company
Sandberg Phoenix
Schmersahl Treloar & Co.
Seal the Deal Too
Seiler Instruments
SFW Partners, LLC
The Sherwin-Williams Co.
Show Me Industrial Services, Inc.
Signature Craft
Sikich LLP
St. Louis-KC Carpenters Reg Council
The Stockenberg Law Firm
Stylemaster Apparel, Inc.
Sunbelt Rentals
Swanson Masonry, Inc.
T.J. Wies Contracting
Taylor Excavating
TROCO Custom Fabrication
UHY LLP
United Rentals
Vee-Jay Cement Contracting
Wies Drywall and Construction
Woodard Cleaning and Restoration
Worksafe Technologies
Zurich Surety

Each month you will receive an update on the committees within ASA, to keep you informed on current happenings at the committee level. Below are this month's committee reports. Interested in joining a committee? Contact Susan Winkelmann, ASA Executive Director- susan@asamidwest.com or 314.845.0855



CONTRACT REVIEW

SAFETY

Watch for the 2020 Safety Award applications that will be available later this month. Awards will be announced at our Annual Awards Gala on Friday, June 25th 2021.

Lets be **Always Safety Aware!** For additional information regarding the ASA Safety Committee, or to join the committee, contact our Safety Committee

Co-Chairs: Rose Kastrup with CSA Advisors at (417) 761-4194 or Steve Williams with Bell Electrical at (314) 447-9071.



MEMBERSHIP

A great way to kick off the new year is to introduce someone to all the benefits that ASA Midwest Council has to offer to subcontractors! If you know a subcontractor who could benefit from the resources that ASA brings to its members, let us know. The benefits of ASA membership are many and our committee is very focused on adding quality new members. For Additional information contact on of our Membership Committee Co-Chairs Chris O'Hagan, JD Kutter, at (314) 444-4949 or chris@jdkutter.com. OR Matt Tucker, Affton Fabricating & Welding, at (618)391-0434 or mtucker@afwc.com

When market conditions are as erratic and unpredictable as today's, we recommend that both you bid, and your subcontract contain terms that protect against escalating prices and availability. Here is recommended language to insert into your subcontract:

PRICE ESCALATION. Subcontractor's bid price and the contract price are based on current market conditions. In the event there is a delay or significant price increase for material, equipment, or energy occurring after submission of this bid and before installation through no fault of Subcontractor, the bid price and contract sum, time of completion and contract requirements shall be equitably adjusted to reflect the price increase or delay. A change in price of an item of material, equipment, or energy shall be considered significant when the price of an item increases 3% or more between the date of the bid and the date of installation. If Subcontractor makes a request for an equitable adjustment to the contract price based on an increase in price, Subcontractor shall be required at that time to disclose its original price that has increased.

If you have questions regarding the contract review service, contact committee chair, Dick Stockenberg, The Stockenberg Law Firm; richard@stockenberglawfirm.com

PROGRAMS

Happy New Year! We are all hoping to be able to return to in person meetings and events in the near future. Do you have suggestions for future ASA MWC program topics, please contact our Programs Committee Chair: Chris O'Hagan, chris@jdkutter.com or executive director, Susan Winkelmann; susan@asamidwest.com

OSHA Reveals Most-Violated Standards Related to COVID-19

OSHA has published a list of the most-violated standards during COVID-19 inspections in an effort to help employers better protect their workers. The agency also issued guidance that will assist contractors and other businesses in passing jobsite inspections.

The most frequently cited violations are those related to respiratory protection (1910.134) and specifically, the lack of medical evaluations and fit tests. The next-most violated standards are related to respiratory protection programs: not implementing a written program with worksite-specific safety procedures; not providing employees with information about using respirators when their use is not mandatory; and not designating a qualified administrator to ensure the respiratory program's effectiveness.

OSHA is using existing standards when inspecting jobsites for COVID-19 violations because it chose not to develop and issue COVID-19-specific emergency standards due to the evolving guidance from public health officials. The AFL-CIO tried to get the agency to provide specific guidance, but its legal challenge was unsuccessful.

In addition to respiratory protection citations, OSHA also cited employers with violations of:

- Recording and Reporting Occupational Injuries and Illnesses (Subpart 1904).
- Personal Protective Equipment (1910.132).
- General Duty Clause (OSH Act 5(a)(1)).

On its website, OSHA says that in order to come into compliance in advance of an inspection, employers should consider:

- Providing a medical evaluation before a worker is fit-tested or uses a respirator.
- Using a tight-fitting respirator to perform the fit test.
- Assessing the workplace to determine if COVID-19 hazards are or are likely to be present and if they will require the use of a respirator and/or other PPE.
- Establishing, implementing and updating a written, worksite-specific respiratory protection program;
- Providing an appropriate respirator and/or other PPE to each employee when necessary.
- Providing up-to-date training to workers on the safe use of respirators and/or other PPE.
- Properly storing respirators and other PPE to protect them from damage.
- Timely reporting of work-related fatalities.
- Keeping required records of work-related fatalities, injuries and illness.

Employers are required to make sure employees wear respirators when jobsite conditions call for their use. Some respirators capture fumes, others dust, but they should not be confused with face coverings like masks and shields that do not achieve as tight a fit. OSHA has issued guidance that construction workers wear face coverings while on the job in order to help prevent the spread of COVID-19 and to practice social distancing when possible.

In the absence of federal OSHA standards regarding the novel coronavirus, some states Virginia, Michigan and Oregon, which have OSHA-approved state safety programs — have introduced COVID-19 emergency standards. While each program is different in its details, they all have similar components such as the mandatory use of face coverings, social distancing and daily screening of workers and visitors for signs of infection.

One COVID-19-related rule that OSHA has introduced is the mandatory reporting of workplace-related COVID fatalities within eight hours of learning about it. The reporting is only required if the case was connected to workplace exposure.

What's Ahead for OSHA

With each new White House administration comes change in Washington. When President-elect Joe Biden takes office Jan. 20, those changes will include a new approach at OSHA, according to prominent worker safety experts starting with how to abate the risk of COVID-19 infection among employees in various industries.

"COVID-19 has affected all aspects of the United States," said former OSHA administrator David Michaels, who directed the agency during the Obama administration and in November was named to Biden's Transition COVID-19 Advisory Board. "It's a worker safety crisis. We want to be able to open the economy and expand the economy to get incomes back for so many reasons. But before you can take steps, you need a plan."

The new administration's plan is generally expected to begin with OSHA issuing an emergency temporary standard on infectious diseases, requiring employers to take certain measures to protect workers from on-the-job exposure to the coronavirus.

During a November roundtable discussion with Biden, Vice President-elect Kamala Harris, and business and labor leaders, AFL-CIO President Richard Trumka called an enforceable COVID-19-related ETS "one of the best ways OSHA can reestablish its mission ... to protect workers. We cannot afford to wait any longer."

Although protecting workers from COVID-19 likely will be the agency's highest priority, OSHA's plate under the new Biden administration will be quite full.

However, the safety and health of workers amid the COVID-19 pandemic isn't just the job of one federal agency, Michaels said during a Nov. 11 webinar hosted by the University of Colorado Center for Bioethics and Humanities. "It has to be beyond OSHA," he said. "We have to be thinking about an all-government effort led by the Labor Department. You can be very successful involving other agencies. Hopefully, we'll start to see that in January."

STATISTICAL CONTROL TECHNIQUES

The accident rate may fluctuate from one period to another and still reflect nothing more than chance variation. There are also times, however, when a fluctuation is due to something different in the system. This could be a period of high turnover, and hence untrained workers, or of sudden production pressure, for example.

Statistical control techniques provide a tool which will enable us to detect the presence of new accident causes. We should be relatively unconcerned with minor fluctuations but remain alert to detect when the situation has become unstable. These techniques have proved themselves in quality control. They can be used equally well in accident control.

Statistical methods can help us to do five things:

1. Plan programs for obtaining data so that reliable conclusions can be drawn from them.
2. Organize and analyze our raw data to bring out the maximum information.
3. Establish or pinpoint cause-and-effect relationships.
4. Assess the reliability of our conclusions.
5. Monitor trends and processes.

The control chart is the working tool of statistical control. On it the observed accident rates are plotted against time, with the overall accident rate or mean for the entire period. Finally, upper and lower control limits are computed such that the probability of an accident rate exceeding the limits by chance alone is .005.

From a study of statistical control chart data, we can tell whether the system is a relatively constant one. If it is, we have a stable situation. Conversely, we can tell whether the system has changed. If an accident rate exceeds the upper limit, it signals a change for which there is an assignable cause. Similarly, when a point falls below the lower limit, we infer that there has been a significant change for the better.

Statistical control techniques offer a means for making the work of accident reduction more effective and efficient. They cannot assign cause, but they can point out where and when to look for causes.



Plan Your Lift to Prevent Crane Incidents

When compared to other types of construction accidents, crane incidents are infrequent, but they can be costlier and may result in serious injuries to workers and the public. To help prevent incidents, you should conduct effective lift planning. Planning should start with a site inspection, followed by a review of the lift's parameters and the qualifications of those involved in the lift.

Planning: As part of your planning process, you should determine if the lift is a standard or critical lift. This determination is dependent upon the nature of the load handling activity and the exposures that impact the safety of the lift. When evaluating the lift activity, the lift director should at a minimum review the following exposures:

- Hazards to the public and workers near or involved in the lift.
- Hazards in close proximity to the work area that could affect the lift.
- The complexity of the lift including the potential for instability.
- Potential adverse impacts from the environment such as weather or hot/acidic environments.
- Capacity of the crane.
- The rigging needed and its complexity.
- The commercial impact if the load is damaged during the lift.
- Unique site requirements for the lift.

Critical lifts: If during your lift review, you determine that the lift should be categorized as a critical lift, the planning process should be documented with either a written document or a more detailed work package. When planning your lift, at a minimum, review the following factors:

- The load weight, center of gravity, dimensions of the load, and attachment points.
- Load handling equipment and its capacity, as well as the assembly process.
- Rigging method and the capacity of the rigging.
- Crane and load travel path.
- The tasks workers will perform prior to, during, and after the lift.
- The site and work areas, especially the foundation for the crane.
- Communication methods.
- Site control for the lift.
- Contingency plan if there is a deviation from the documented plan.
- Emergency action plan.

Pre-lift meetings: Prior to conducting a lift, a pre-lift meeting should be conducted with all involved in the lift to discuss the documented critical lift plan as well as roles and responsibilities. Lastly, after executing your lift, conduct a post-lift review to identify potential improvement opportunities. The ANSI standard, ASME P30.1-2019 Planning for Load Handling Activities, provides guidance on how to plan a lift. The standard reviews the factors to consider when planning for a standard lift or critical lift. If you need a sample lift plan the appendix of the P30.1 document contains a lift data sheet, a pre-lift safety checklist, and rigging checklist.

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