

FEBRUARY 2023

February-May
Contract Seminar
Breakfast Series
Mason Contractors

FEBRUARY

February 16
FREE HAPPY HOUR
Rosalita's Cantina

February 22
Monthly Dinner Meeting
Syberg's on Dorsett

MARCH

March 8-11
SUBExcel Convention
Fort Worth, TX

March 15
BPI in a Box Lunch
Syberg's on Dorsett

APRIL

April 22
Emerald City Awards Gala
The Four Seasons Hotel

MAY

MAY 17
Monthly Lunch Meeting
Syberg's on Dorsett

*For a complete list of all
upcoming ASA MWC
meetings and events visit
our website
www.asamidwest.com*

Welcome to the Shortest month of the year. February might be short on days, but ASA has many important things packed into the 28 days! This included the GC Expo which was held on February 1st. We had 38 GC Exhibitors and hundreds of attendees. Always a great way to kick off a new year and this year was no exception. I enjoyed catching up with many ASA members & other industry representatives.

We definitely started this year with a bang. In January we had two great programs. First, Dick Stockenberg, our chapter attorney, volunteered his time and talent on the first of five presentations of "The Anatomy of a Construction Contract" on January 10th. We had 45 people in attendance. There is still time to sign up for the remaining 4 parts of this series. Just visit asamidwest.com before the February 14th session. Next up we had Mr. Patrick O'Neal with Enterprise Bank fill us in on an economic forecast for 2023. This meeting was a sell out! This just goes to show you that you need to sign up early for these events. The Economic Forecast was our first breakfast meeting in a while. Please let me know how you felt about the breakfast meeting, and if you would like to see more of these early morning meetings in the future.

Lots of good things coming in early 2023, including a **FREE** Construction Industry Happy Hour on February 16th at Rosalita's Cantina, and our next monthly meeting on Wednesday, February 22nd. At our February 22nd meeting we will discuss a very timely topic, in how amendment 2 & 3 might affect our workplaces. These amendments legalized first medical and then recreational marijuana in MO. Join two subject matter experts and attorneys from McMahon Berger, who will lead us in this important discussion. Visit asamidwest.com to register for both February events.

Finally, next month, check back here for a full list of our award nominees for the Emerald City Awards Gala which will be held on Saturday, April 22nd at the Four Seasons Hotel STL. April will be here before we know it, so save the date, and plan to join us for this annual ASA event. I look forward to seeing you soon!

Dan Tucker
MC Mechanical Services
President, ASA MWC
314.707.7595 | dtucker@mcservicestl.com

Syberg's on Dorsett
2430 Old Dorsett Rd
Maryland Heights, MO 63043

February 22, 2023 | 5:30 to 8:00 p.m.
BPI | 5:45 to 6:15 p.m.
Dinner & Hosted Bar Included
\$42 ASA members | \$80 NON ASA Members

The ASA WOMEN'S COUNCIL | *She's Built For This*

The purpose of our women's peer group is to become a valuable resource for women in the construction industry and related fields. Our goal is to help woman **Build. Community.** by providing resources needed to build relationships; be a source of information & support; and to provide connections & networking opportunities to all women from our member companies and the STL construction industry as a whole!

For more information & to join our peer group contact the "She's Built For This" committee co-chairs:

Jennifer Church, United Rentals | jchurch@ur.com

Stephanie Woodcock, Too Creative | stephanie@toocreativestl.com

Susan Winkelmann, ASA Midwest Council | susan@asamidwest.com



February 22, 2023
Monthly DINNER Meeting

Syberg's on Dorsett

2430 Old Dorsett Rd | Maryland Heights, MO 63043

5:30 to 8:00 p.m.

Join us for the ASA Monthly **DINNER** Meeting on Wednesday, February 22nd at 5:30 p.m. Dinner & Cocktails.

Thank you to our speakers Mr. James N. Foster, Jr., Senior Partner; and Mr. Timothy W. Bubenik, Attorney with McMahon Berger. For over 60 years, McMahon Berger's sole commitment has been the exclusive representation of management in labor and employment law matters

THE IMPACT OF MISSOURI AMENDMENT 2 & 3 ON EMPLOYERS (Legalization of Medical & Recreational Marijuana in Missouri) **Our presentation will include:**

- ✓ Brief overview of the history of marijuana legalization in Missouri;
- ✓ Discussion of Missouri Amendments and the resulting changes to the law;
- ✓ Review of employer policies based on changes to the law;
- ✓ Drug testing: Pre-employment; Post accident/injury; Reasonable suspicion;
- ✓ Disciplining employees for marijuana use: Without a medical marijuana card; With a medical marijuana card; ADA reasonable accommodations;
- ✓ Other topics to be considered;
- ✓ Best practices for employers.

MEETING AGENDA:

Cocktails & Networking | 5:30 to 6:15 p.m.

BPI | 5:45 to 6:15 p.m.

Dinner | 6:30 p.m.

Program Begins | 7:00 p.m.

Registration includes Dinner & Hosted Bar

\$42 ASA Members | \$80 NON ASA Members

Register online-www.asamidwest.com

by Friday, February 17, 2023

(Attendees not cancelled by 2.17.23. will be charged per ASA cancellation policy. No refund after 2.17.23. but you may always send someone in your place if you are unable to attend the meeting)

ASA MEANS BUSINESS

Membership Benefits!

How ASA Helps YOU!

ASA's Legislative involvement on the State & National Level to provide representation of Subcontractors & Suppliers in the Construction Industry in Jefferson City and Washington DC.

Ongoing Work to Improve Laws & Regulations affecting the construction industry

Protecting Your Contract Rights via legislative and contract review activities

Chapter Contract Review Committee with member access to a library of reviewed GC contracts

Business Practices Interchange (BPI) sessions to gain first-hand knowledge of GC's, from peers

Building Your Business & Management Skills thru relevant training and resources provided locally & nationally

Enhancing Your Professional Status with area General Contractors via networking opportunities at our Awards Gala, GC Expo, and Golf Tournament.

Networking Opportunities with Subs & Suppliers who Share Your Concerns, and the opportunity to share ideas with peers

Outstanding Educational Seminars, Publications and Materials, to build your professional knowledge of the industry.

Assistance with improved Job Safety & Working Conditions with information and resources provided by ASA Midwest Council Safety Committee

Access to MEMBER ONLY Safety information, including monthly **TOOL BOX TALK** topics updated each month

ASAdvantage Program & local Affinity Programs to provide member only discounts on important goods and services needed to conduct business efficiently

Did you know? ASA offers a discount on all your UPS shipping needs thru our ASA UPS Savings Program

Member Savings Include:

50% on Domestic Next Day / Deferred

30% on Ground Commercial / Residential

Up to 50% off International Imports / Exports

Plus, UPS Smart Pickup® service is free

Who Has the Duty to Coordinate the Schedule?

Richard A. Stockenberg
ASA Midwest Counsel Chapter attorney
richard@stockenberglawfirm.com



Profitability on any construction project is in part determined by the project schedule. To a certain extent, general contractors are dependent upon owners to schedule and coordinate their work; but subcontractors, to an even greater extent, rely upon their general contractors to efficiently coordinate the work of all of the subcontractors.

During contract negotiations, contractors and subcontractors should protect themselves from the potential harm caused by poor scheduling and lack of coordination. At a minimum, they should:

- ✓ *quality their bids for specific commencement and completion dates;*
- ✓ *avoid no damage for delay clauses;*
- ✓ *craft reasonable clauses dealing with notice requirements in case of delays; and*
- ✓ *subcontractors should not assume the duty to coordinate work with their subcontractors.*

Limitations on Scheduling

Both general contractors and subcontractors should state in their bid qualifications what the commencement and completion dates are. They should further qualify their bids by saying that the bid is dependent upon a mutually agreeable schedule. Subcontractors may find themselves in trouble if they agree to perform "promptly as requested by the contractor." For example, the progression of a subcontractor's work may be dependent upon testing of conditions or materials before the subcontractor can proceed with performance or completion of its work. Thus, the subcontractor needs contract protection to make sure the testing has been completed before its work is scheduled. For instance, soil compaction and density should be tested before asphalt is laid. In addition, concrete should be tested for proper strength or mix before it is poured. Subcontractors should be able to rely on these test results without fear of having to redo their follow-along work or become liable for consequential or delay damages if it is later determined that the test results were in error through no fault of the subcontractor.

Accordingly, subcontractors need contract language which protects them in this type of circumstance. The clause should say something like if the subcontractor proceeds with its work in reliance upon the contractor's approval of any prior work or material, whether by testing or otherwise, the subcontractor shall be relieved of all responsibility for

any later discovered defects, deficiencies or omissions that were not discovered or disclosed before approval or testing unless the defects, deficiencies or omissions could have been disclosed or discovered due to the fault of the subcontractor.

General Contractor's Duty to Coordinate

Even if it is not expressly stated in its subcontract, a general contractor has an implied duty to schedule and coordinate the work of its various trade contractors in a logical and orderly fashion. To be sure, such scheduling and coordination can be done in a manner that is best for the overall project, but it cannot be done in an arbitrary and capricious manner to the prejudice of subcontractors. General contractors have this duty because they are in the best position to orchestrate scheduling issues between the various trades. Some general contractors, however, are attempting to purge themselves of this responsibility by shifting the duty to coordinate work to their subcontractors. Subcontractors need to respond by saying it is the general contractor who is in the best position to schedule and coordinate the work of all of the trades. Subcontractors, however, should be willing to "cooperate" in sequencing the work, but it is the general contractor who should retain overall coordination responsibility. Whether the subcontractor has the duty to coordinate or merely cooperate in scheduling can make a huge difference to whether the job has a profit or a loss.

Owner's Changes to Schedule

General contractors may not always have an obligation to inform their subcontractors of changes to the schedule made by the owner. Some courts have ruled that a prime contractor's failure to inform the subcontractor of the owner's extension of the completion date was a breach of the general contractor's implied duty to cooperate. However, since this implied duty may not be read into all contracts, it is prudent for the subcontractor to expressly require such notification.

Finally, sometimes there is a delay in commencement of work that is not known until after the contract is signed. It should be incumbent upon the parties in such situation to clarify as early as possible whether the delay in commencement will extend completion by a like amount as the delay or whether completion will be compressed into a shorter period. Obviously, there are potential additional costs which must be measured in either situation.

JOIN US | FREE HH

FEBRUARY 16, 2023 | 4-6 PM

ASA Midwest Council

Happy Hour



**ROSALITA'S CANTINA
DES PERES, MO**

FREE TO ATTEND

MUST REGISTER IN ADVANCE



**SCAN QR CODE TO REGISTER
OR VISIT ASAMIDWEST.COM**



Upcoming ASA Midwest Council Meetings & Events



January thru May

5-part Breakfast Contract Seminar Series

The Mason Contractors-1429 S. Big Bend Blvd 63117

February 16

FREE HAPPY HOUR

Rosalita's Cantina-Des Peres

February 22

ASA Monthly Member *Dinner* Meeting

Syberg's on Dorsett

March 15

BPI in a Box Lunch Meeting-Subcontractors Only

Syberg's on Dorsett

April 22

The Emerald City Awards Gala

The Four Seasons Hotel



[SCAN QR CODE TO VISIT ASAMIDWEST.COM TO REGISTER FOR ANY EVENTS](#)
[Event registration requires member login, contact \[susan@asamidwest.com\]\(mailto:susan@asamidwest.com\) with questions!](#)

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





Saturday, April 22, 2023 | 6:00 to 11:00 p.m.
The Four Seasons Hotel | 999 North Second Street | St. Louis, MO

VISIT asamidwest.com TO REGISTER BY APRIL 12, 2023 | \$225 PER PERSON | VALET PARKING INCLUDED | BLACK TIE OPTIONAL
 CALL 314.881.5757. TO RESERVE A HOTEL ROOM AT ASA RATE OF \$250 | ROOM BLOCK EXPIRES 3.31.23

CHECK BACK HERE NEXT MONTH FOR FULL LIST OF 2023 NOMINEES

ATTENTION ASA MEMBERS | ASA SAFETY AWARD APPLICATIONS AVAILABLE

**If you are interested in applying for the annual safety awards
 please scan QR code or visit**

<https://asamidwest.com/category/safety/>

to download application and submit by March 7th, 2023



THANK YOU to the MEMBER COMPANIES that attended our January Monthly Meeting

*Affton Fabricating
 Bazan Painting Co.
 Bi-State Fire Protection
 Corrigan Company
 D&L Painting & Drywall
 Dynamic Controls
 Enterprise Bank & Trust*

*FastTrac Rentals
 Foreman Fabricators
 Grant Contracting
 Helmkamp Electric
 Imperial Metal Co.
 Jarrell Mechanical
 Marketeer, Inc.*

*MC Mechanical
 Meyer Painting Co.
 Midwest Elevator Co
 MJ Products Co.
 Modern Communications
 Montgomery Bank
 Murphy Company*

*P&A Drywall
 Precision Analysis, Inc.
 R.F. Meeh
 Schmersahl Treloar
 The Daniel and Henry Co.
 The Stockenberg Law Firm
 T J Wies Contracting
 Vee-jay Cement Contracting*

The
STOCKENBERG
Law Firm LLC



Mason
Contractors
Association

THE ANATOMY OF A CONSTRUCTION CONTRACT

*Stay Healthy by
Skillfully Using an Addendum
Smartly Avoiding Killer Contract Clauses
Properly Exercising Lien and Bond Rights*

*A 5-part Breakfast Series of Educational Seminars for Subcontractors & Suppliers
Presented by Richard Stockenberg, The Stockenberg Law Firm, ASA Chapter Attorney*

2023 Dates & Information | 7:00 a.m. Continental Breakfast | 7:30 to 9:00 a.m. Seminar

January 10	The Womb: <i>Scope Letters, Bid Shopping, Bid Qualifications, and Incorporation of Contract Documents-COMPLETED</i>
February 14	The Heart: <i>Payment Clauses: Pay-if Paid, Progress, Final; Retainage Bonds; Right to Stop Work for Non-Payment</i>
March 14	The Growth: <i>Change Orders and Back Charges; Indemnification</i>
April 11	The Guts: <i>Price Escalation, Force Majeure, Damages, Labor Clauses, Releases and Waivers of Rights, Termination, Arbitration</i>
May 9	The Protection: <i>Lien and Bond Rights, Lien Waiver Forms</i>

Seminars held at The Mason Contractors | 1429 S Big Bend Blvd, St. Louis, MO 63117

***Register for entire series or individual seminars /
Scan QR code of visit asamidwest.com to register***



ASA Member Price | Series of 5 \$140 | Individual Seminars \$35 per session
Non-Member Price | Series of 5 \$280 | Individual Seminars \$70 per session

Lawmakers gathered in Jefferson City on Wednesday, January 4 at noon to begin the 2023 legislative session. The day was ceremonial in nature, with newly elected members taking the oath of office, followed by an evening of receptions and ending with the Legislative Ball. Opening day speeches were given by the new leadership in both the House and Senate. Representative Dean Plocher was elected by his peers to be the Speaker of the House for the next two years. Joining Plocher in leadership will be Representative Jon Patterson, who was selected as Majority Floor Leader. In the upper chamber, Senator Caleb Rowden assumes the top spot as President Pro-Tem, and Senator Cindy O'Laughlin serve as Majority Floor Leader.

Little legislative activity occurred during the first several weeks of session, as committee assignments were made, and bills were referred to committee for consideration. Several bills have been filed to repeal any future increases in the fuel tax, but to date there has not been any discussion on moving any of the bills forward. Other legislation impacting ASA has not yet moved forward.

On January 18, Governor Mike Parson delivered his State of the State address to a joint session of the General Assembly. Parson stressed workforce development and infrastructure, which has been his signature items since taking office. The Governor laid out several priorities as he put forth his legislative agenda and budget proposal to lawmakers. Included in his package was \$859 million to make improvements to Interstate 70 across the state. The multi-year project would include widening and safety upgrades, focusing primarily on the St. Louis, Columbia, and Kansas City areas. Parson also proposed \$35 million for safety upgrades to railroad crossings across the state, and \$272 million for higher education building projects. Other proposals include an additional \$78 million to subsidize childcare, in order to make it easier for parents of young children to enter the workforce. Also in Parson's budget request is an 8.7% pay increase for all state employees. The total cost of the proposed budget for Fiscal Year 2024 is \$57.3 billion.

Additional political highlights in January included the inauguration of two statewide officials. On January 9, Scott Fitzpatrick was sworn-in as the new State Auditor. He takes the place of Nicole Galloway as she decided to not seek reelection. Fitzpatrick had been serving as State Treasurer. In his remarks during his swearing in ceremony, Fitzpatrick vowed to look at the spending of federal COVID dollars and promised an increase in the auditing of Missouri's schools. The inauguration of Fitzpatrick left a vacancy in the office of State Treasurer, which was filled as Governor Mike Parson appointed Vivek Malek to fill out the remainder of Fitzpatrick's term. Malek was sworn-in on January 16 during a ceremony in the House chamber. Malek immigrated to the United States in 2001 from India and attended Southeast Missouri State University in Cape Girardeau. He owned a law firm in St. Louis before becoming Treasurer, specializing in immigration law. Parson has now made more appointments than any Governor in history, having appointed two treasurers, two attorneys general, and a lieutenant governor.

The pace of legislative activity will continue to increase as the session moves forward, and we will continue to provide you weekly email updates on the political activity that impacts ASA and the construction industry.

We will continue to keep you updated on political events in Jefferson City and around the state as they happen. Nikki Strong, Strong Consulting Group.

ASA Midwest Council Members

Acoustical Ceilings, Inc.
Affton Fabricating & Welding
All American Painting Co.
AME Constructors
American Steel Fabrication, Inc.
Aqueduct Plumbing LLC
Archview Metal Systems Co.
Armanino LLP
Aspen Waste Systems
Bazan Painting Company
Bell Electrical Contractors
Benson Electric Company
Bi-State Fire Protection Corp.
BluSky Restoration
Boyer Fire Protection
Budrovich
C.E. Bollmeier Company, Inc.
C. E. Jarrell Contracting
C&R Mechanical
Capital One
Central Power Systems & Services
Century Fire Sprinklers
CK Power
CK Supply
CliftonLarsonAllen LLP
CMIT Solutions
CNA Surety
CSA Advisors LLC
Cardinal Elevator
Century Fire Sprinklers, Inc.
Cooperworks Industries
Corrigan Company
D&L Painting and Drywall
Drilling Service Company
Dynamic Controls, Inc.
E. Meier Contracting
ELCO Chevrolet Cadillac
Empire Fence & Custom Iron Works
Enterprise Bank & Trust
Fabick CAT
FastTrac Rentals LLC
Federal Steel & Erection Co.
Flooring Systems, Inc.

Foreman Fabricators
George McDonnell & Sons
Golterman & Sabo
Grant Contracting
Grasser Electric
Guarantee Electrical
H & G /Schultz Door Inc.
Haberberger, Inc.
Hanenkamp Electric
Hansen's Tree, Lawn & Landscaping
Hawkins Construction & Flatwork
Hayden Wrecking
Heitkamp Masonry
Imperial Metal Company
Integrated Facility Services
Irwin Products
JD Kutter
J.F. Electric
J & S Industrial Services
J.W. Terrill
John J. Smith Masonry
K & K Supply
Kaemmerlen Electric
Kaiser Electric
KAM's Mechanical LLC
Kay Bee Electric
Kirby-Smith Machinery, Inc.
Knapheide Truck Equipment
Lawrence Fabric & Metal Structures
Leach Painting Company
Liberty Mutual Surety
Lindberg Waterproofing
Linek Plumbing Co.
Luby Equipment Services
Marketeer, Inc.
Maxim Crane Works LP
Metal Supermarkets
Meyer Painting Co.
MC Mechanical
Mid-America Carpenters Reg. Council
Midwest Elevator
MJ Products
Mold Solutions

Modern Communications
Montgomery Bank
Murphy Company
Negwer Door Systems
Nu Way
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.
Seiler Instruments
SFW Partners, LLC
The Sherwin-Williams Co.
Siemens
Sikich LLP
Stylemaster Apparel, Inc.
Sunbelt Rentals
Swanson Masonry, Inc.
Titan Carpentry LLC
T.J. Wies Contracting
Taylor Excavating
The Daniel and Henry Company
The Stockenberg Law Firm
Too Creative
Total Contractors Services LLC
TROCO Custom Fabrication
UHY LLP
United Rentals
UNITS Moving and Portable Storage
Vee-Jay Cement Contracting
Vision Electric & Systems
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



SAFETY

SAFETY AWARD APPLICATIONS ARE NOW AVAILABLE ON THE ASA WEBSITE AND VIA EMAIL! Download the application and include your OSHA 300A Form when you submit by March 7th.

Lets be **Always Safety Aware!** Check out the Safety page on the ASA website. Member only access to monthly Tool Box Talks is included in your ASA membership!

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

Welcome to our 2 Newest Members:

C&R Mechanical AND E. Meier Contracting

If you know a subcontractor who would 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 our Membership Committee Chairperson, Chris O'Hagan, JD Kutter. (314) 444-4949 or chris@jdkutter.com.

CONTRACT REVIEW

Did you know ASA Midwest Council has an extensive library of General Contractor contracts on file? These contracts have been reviewed by the Contract Review Committee, and include comments/suggestions of changes you may want to request during your contract negotiations. The contracts are available to ASA members only, and can be requested by sending an email to susan@asamidwest.com

If you have questions regarding the contract review service offered to our ASA members, please contact the Contract Review committee chair, Dick Stockenberg, ASA MWC chapter attorney, The Stockenberg Law Firm; richard@stockenberglawfirm.com

PROGRAMS

Do you have suggestions for upcoming speakers and seminar topics? We want to hear from our members to ensure we are providing the best content possible to meet your needs! If you have suggestions or feedback, please contact our Programs Committee Chair: Chris O'Hagan, chris@jdkutter.com or executive director, Susan Winkelmann; susan@asamidwest.com



SUBExcel 2023

March 8-11, 2023

Fort Worth, Texas

**The premier education and networking event
for subcontractors,
specialty trade contractors, and suppliers.**

**Come join us for this industry
leading event!**

SUBExcel is the annual national convention of the American Subcontractors Association, a trade association representing construction subcontractors, specialty trade contractors and suppliers. We are planning for 2023 to be our biggest year yet, so make plans now to bring your whole team! Mark your calendars today and prepare for inspiration, new ideas, quality education, and a ton of fun!

Some of the highlights of the 2023 SUBExcel include:

- Speakers and educational sessions that can change the course of your business.
- Industry suppliers exhibiting their game-changing products & services.
- Luxury hotel accommodations.
- Special events, including the ASA President's Welcome Reception, the Final Reception & Banquet, and a variety of fun activities!
- Deep dives into the future of the industry, your chapters and the association as a whole in ASA's task force, committee and council meetings....And much more!

REGISTRATION AVAILABLE AT BELOW LINK
<https://www.asaonline.com/subexcel/>

Safety Data Sheets



Over each of the past seven years, hazard communication (1910.1200) has been one of the top five most penalized OSHA standards. But concentrating your efforts on maintaining safety data sheets (SDSs) can help. And that's because a major component of any worksite's hazard communications plan is its SDS.

An SDS is a 16-section source of information relating to a hazardous chemical in the workplace. OSHA standardized the number of sections in 2012 when it revised its Hazard Communication Standard to align with the UN's global chemical labeling system.

SDSs must contain the information a worker needs to access in the event of an emergency-like the chemical name, its hazards and first aid procedures. More technical details, like handling and storage measures, should also be included on the SDSs.

When do you need a Safety Data Sheet?

OSHA uses the term "hazardous chemical" to identify which substances require SDSs on your site. But what exactly is a "hazardous chemical"?

OSHA defines it as "any chemical that poses either a physical hazard (such as flammability) or a health hazard (such as causing damage to the skin or eyes)."

So, what about commercial products, like Clorox or Lysol?

OSHA provides guidance on these, as well (1910.1200(b)(6)(ix)). When employees use consumer products in the same manner and at the same frequency a consumer uses them, you don't need an SDS for those products.

But this exemption doesn't apply when employees work with hazardous chemicals in a manner greater than what a normal consumer would experience. In this case, employees have a right to know about the properties of those hazardous chemicals and have access to an SDS for those products.

As an example, let's say you have Windex on your site. People use Windex to clean their homes. But if your team works with Windex frequently that it exceeds the amount an average consumer uses, you must provide an SDS for your site's Windex. In other words, an SDS exemption is based on the workplace's use of the product, not just the manufacturer's intended use.

How Should You Maintain Safety Data Sheets?

It's incumbent on employers to maintain the current version of the SDS for every hazardous chemical on their site. Even though you should request an SDS every time you purchase a hazardous chemical from a supplier or manufacturer, you may at some point need to update or create them yourself.

There are a few reasons why:

- ✓ The supplier or manufacturer sends you an SDS that isn't compliant (e.g., they send an MSDS, not an SDS).
- ✓ The supplier or manufacturer has changed its formula since you last purchased the product.
- ✓ New hazard information for a chemical on your worksite comes out.

Keeping your SDSs updated might sound tedious, but it keeps your worksite OSHA-compliant and, more importantly, it keeps your workers safe.

Let's say one of your employees is exposed to Clorox Bleach. Your team leaps into action and consults the bleach's SDS-but it's six years old. For all you know, Clorox could have changed its formula in the time since. Because your team is working from older information, the affected employee might not receive the care they need. And that can be very dangerous, both for your employee and any first responders.

Maintaining your SDSs takes more than updating the formatting and information, though. Here are two additional steps that go into maintaining your SDSs and keeping your worksite safe.

Designating an SDS manager. Keeping track of new OSHA guidelines and changing product formulas takes a lot of work. That's why you should assign these tasks to an SDS Manager. Your SDS Manager is the person responsible for obtaining and updating your SDSs, which means the role generally isn't a fit for an entry-level employee. After all, this position requires a keen awareness of your worksite and familiarity with OSHA guidelines.

Training your employees. OSHA's Hazard Communication standard (29 CFR 1910.1200(a)) details the chemical hazard information that employers must offer to employees. Specifically, OSHA notes that employers must "train employees on the hazardous chemicals in their work area before initial assignment and when new hazards are introduced. It's critical that workers understand they are exposed to hazardous chemicals, know how to read labels and SDSs, have a general understanding of the information provided, and know how to access related tools."

Here are several elements your training should cover:

- ✓ How to comprehend the information in SDSs and access them quickly.
- ✓ Which measures employees should take to protect themselves, such as wearing the correct PPE and understanding emergency procedures.
- ✓ How to understand the labels received on shipping containers and that supplier's or manufacturer's labeling system.

The goal of an effective training program isn't to give employees materials to read; it's to ensure each employee comprehends the material and understands how to build a safe workplace.

Where to Store Safety Data Sheets

OSHA notes that "employers must ensure that the SDSs are readily accessible to employees for all hazardous chemicals in their workplace."

What does "readily accessible" mean? In the past, many employers addressed this by filing their SDSs in a binder located in the work area. But as technology has developed, employers have started to file their SDSs in online databases.

While an online database helps employers more easily store and recover versions of SDSs, it's important that every employee can access them. This means that if you use an online database, each employee should know the login credentials and how to access the SDSs within seconds.

A Culture of Safety Requires Buy-In

SDSs are the go-to place for hazardous chemical information at your worksite. Without them, you lose the resource that helps you properly assess chemical emergencies, administer care, and dispose of any chemicals safely.

This is why maintaining your SDSs is so crucial. Although an emphasis on safety needs to come from the top, it takes your entire team to adopt it. Each component of your hazard communications- from correctly filing SDSs in an accessible location to regularly conducting safety training-requires your team's support and energy. Establishing a culture of safety that complies with OSHA guidelines helps you protect your worksite and your employees.

INTERESTED IN SPONSORING AN UPCOMING MEETING?
ONLY \$250-CONTACT SUSAN@ASAMIDWEST.COM FOR DETAILS!

C&R Mechanical *E. Meier Contracting*

Help ASA Midwest Council continue to grow, by inviting someone who would benefit from ASA membership, to join us at the next monthly meeting.

All first time non member guests are free of charge.

Please register your guest in advance by contacting susan@asamidwest.com

ASA Midwest Council's 2023



Saturday, April 22, 2023



**FOLLOW US ON FACEBOOK,
TWITTER & LINKEDIN!**

Sponsorship Rates

Sponsorship opportunities are available in the ASA newsletter. Rates are very reasonable but are limited. Below are the rates. If interested, please call Susan at 314 845-0855.

- Website Rotating \$450/Year
- 1/4 Page Monthly \$300/Year
- 1/4 Page Quarterly \$125/Year
- 1/2 Page Monthly \$500/Year
- 1/2 Page Quarterly \$225/Year
- Business Card Monthly \$125/Year
- Business Card Quarterly \$70/Year
- Whole Page 1X \$300 Per Issue
- Whole Page Quarterly \$900/Year
- Classified Ads \$15 Per Issue

ASA Meeting Sponsorship

Highlight your company at an
ASA Monthly Meeting

Only **\$250** to be a meeting sponsor.

What do you get for \$250?

Full Color Sponsor Flyer

Slide in Meeting Presentation.

*Microphone time to present company
overview to meeting attendees!*

Announcement at Meeting.

Recognition in Newsletter.

Contact Susan Winkelmann

susan@asamidwest.com

314 845-0855

[Join a committee today.](#)



Membership

(Chris O'Hagan)

Education/Programs

(Chris O'Hagan)

Golf

(Jennifer Church | Steve Cummins)

Advocacy

(Chris Sauer | Walter Bazan, Jr.)

Awards Gala

(Rick Swanson)

GC Expo

(Walter Bazan, Jr. | Tim Thomas)

Safety

(Rose Kastrup | Steve Williams)

Brand Development

(Stephanie Woodcock)

Contract Review

(Dick Stockenberg)



