



St. Louis Chapter Newsletter December 2018



Next Meeting

OSHA Update

OSHA Update with Speaker Bill McDonald, OSHA's Area Director in St Louis. Mr. McDonald provides his annual OSHA fiscal year update and quick review of new and old initiatives.

- **NEW Location For This Event Only:**
Helen Fitzgerald's 3650 S. Lindbergh Blvd 63127
- We open at 11:00am for networking, followed by lunch and chapter business at 11:30am and our presentation at noon.
- **Please register and pay at**
<https://stl.assp.org/events/december-lunch-meeting-osh-update/>
- Pre-registering will ensure we have enough food and seating for everyone.

Coming Up

Tuesday, December 11th 10am to 11am

Take a tour of the AB Metal Container Corp in Arnold, MO. The tour is limited to 20 individuals, so sign up quickly if you are interested. Due to the 20 person limit, this tour is only open to ASSP members. Register here:

<https://stl.assp.org/events/ab-metal-container-corp-tour/>

Update 11/27: Only 5 spots remaining!

Thursday, January 10th

Membership Appreciation Night

Enjoy dinner at The Bristol on Olive and relax with others in your field at this event just for St Louis Chapter Members. Attendance is free but registration is required.

Please register here: <https://stl.assp.org/events/asse-membership-appreciation-night-2/>

In This Issue

Page: 2	News and Notes <ul style="list-style-type: none">- ASSP Silica Resource Guide- WISH Picture- Scholarship Deadline Extended
Page: 3	OSHA Myths, by Bill Kincaid, PE, CSP, CET
Page: 9	Annual ASSP Meeting Calendar
Page: 10	Job Opportunities, Board Member Contacts

ASSP's Industrial Hygiene Practice Specialty Publishes Silica Resource Guide

ASSP's [Industrial Hygiene Practice Specialty](#) has developed a resource guide for contractors that pulls together frequently asked questions about complying with OSHA's silica standard. The guide addresses issues such as air sampling, the use and sources of objective data, medical surveillance, respirator use and exposure control plans. It also contains links to a wide range of resources that provide detailed information, including OSHA documents, voluntary national consensus standards and tools created by key stakeholder organizations.

"The construction silica regulation is a complex, performance-oriented regulation that gives contractors flexibility for compliance. However, this flexibility also requires contractors to ensure that selected compliance methods protect workers to the maximum extent feasible," the guide explains. "Contractors should use all available resources, including insurance loss control, private consultants, OSHA consultation, university programs and tool manufacturers, in developing their programs and addressing concerns."

[Download the guide](#)

The St. Louis's own Eric Olson was part of the workgroup developing this guide. Thanks Eric!



WISH Gathering November 27th

Scholarships and Professional Development Awards

The deadline for accepting student scholarship applications has been extended!! Please share this great \$\$ opportunity with any students you know. Their chances of receiving \$1500 are very high!

Our chapter is proud to be able to provide student scholarships and professional development awards. If you know of a Safety/Health student or life-long learner that could benefit, please let them know and help them apply!

Student Scholarship Info: <https://stl.assp.org/encounters-news/assp-scholarships-its-time-to-apply/>

Scholarship and Professional Development Guidelines: <https://stl.assp.org/download/332/>

Professional Development Award application: <https://stl.assp.org/download/330/>

OSHA Myths

by William Kincaid, P.E., CSP, CET

Lockton Companies of St. Louis

Myths are a persistent part of human culture. Many of them seem to be a way to deal with the unknowns of life. Certainly, our favorite Federal government agency, OSHA, has its share of mythology. Not enough space here to cover them all, but in this column, we'll look at some of the more important myths. I will preface this by saying I am a former OSHA officer, and I have a great deal of confidence that my fellow OSHA employees are out there trying to do the right thing for America's working people and their employers. I feel like OSHA deserves much more respect than it gets from the public. This mythology stuff accomplishes nothing good and gets in the way.

Myth #1. "OSHA gives advance notice of inspections."

This one is pervasive, especially among manufacturing employees. When I was doing OSHA inspections, always popping in by surprise and usually at the worst possible times, plant employees would often pull me aside to whisper "They knew you were coming!" It would make me stop cold – giving an employer advance notice of an impending OSHA inspection is a huge taboo.

Since in most cases I was the only person who knew where I would be that day, and when I would get there, and I've always known how to keep my mouth shut, I knew nobody was tipping anybody off. Certainly nobody was paying ME for advance notice. I was offered only one suggestion of a bribe in my hundreds of inspections, and I turned it down flat. But somehow, everyone knew I was coming before I got there.

Or seemed to.

What was happening was that the standard inspection practices taught to me by the old school inspectors were making it look like the plant had been notified. Typically, I would show up at the front door at 8:30 am, get permission to inspect and hold my opening conference by 9:00 or 9:30, and then sit in the offices going over the all-important paperwork for an hour or two. By the time I'd eventually

mosey out into the plant, the plant management had two hours to scramble maintenance and supervisors on a mission to clean up and prepare the plant for my scrutiny. After I'd announced my arrival to the management, the employees would start hearing "OSHA's on the way! Let's stop working and clean up before they get here!" and two hours later it would come true. Of course they saw that as advance notice.

I partially fixed that problem by skipping the paperwork until I'd had a chance to see the operations. That caught some employers off guard if they were accustomed to the usual routine.

Myth #2. "If you don't let OSHA in to inspect within one hour of their arrival, they'll get a warrant."

Yes, for decades the operations manual has said that if permission to inspect hasn't been given within an hour the inspector should consider it to be a passive denial of entry, leave the premises and apply for a search warrant. Leaving an OSHA inspector sitting in a cold lobby for an hour is rude treatment, and sure to test the patience of any normal human being. If you try it, don't be surprised to find the inspector gone on his way to write up your warrant application. You should treat any government official as a distinguished visitor regardless of your opinions about regulation.

All that said, though, OSHA has no desire to ramrod their way into any facility when the essential management personnel are not available. I'm not saying full calendars are an excuse. Everybody's busy, and every day is a bad day for an OSHA inspection. As the employer, we should be willing to move mountains for our distinguished visitor. However, when a key person such as the Safety Director is in another city and can't be onsite for a day, that's different.

For routine inspections OSHA will sometimes concede it's necessary to postpone the inspection until the person who knows every detail of the safety programs can be there. This can also apply to the safety consultant who helps run the safety program, and to the company's attorney. Otherwise, the inspection would start off on the wrong foot, with important information not being

available and the employer not properly represented. OSHA has been seen in the past to postpone the start of an inspection and agree to come back a day or two later. For non-routine inspections, such as fatalities, even with a key person missing, OSHA may want to at least do a quick examination of important areas and take a few photos just to get it on the books without getting too deep into the details.

Why wouldn't OSHA just get a warrant? It takes a week or two, a pile of paperwork and a Federal judge's approval for a search warrant. If the choice is a one-day delay or a two-week delay, OSHA may choose to go with the easiest, quickest choice. Also, there have been times when we approached the judge stating we didn't get admitted within the one-hour time limit and the judge asked, "why don't you just go back tomorrow without the warrant and try again?" And so we did, and it worked out fine.

Myth #3. "Tell the OSHA person to go get a warrant, and there's a chance you'll never see them again."

One thing OSHA is very good at is choosing inspection sites so that if there is a true denial of entry a Federal judge can easily see OSHA has a good reason for the inspection and will authorize a search warrant. I don't know the exact number, but I would guesstimate the percentage of warrant applications which are denied is less than one percent. You kick 'em out, they're probably coming back.

Plus, once your company gets a reputation for denials of entry, you may find the next OSHA person who visits has prepared an anticipatory warrant before even knocking on your door.

Given the statistics showing correlation between search warrants and more citations with higher fines, it's usually smarter to avoid chasing the OSHA person away for no good reason.

Myth #4. “It’s a good idea to leave some simple violations where the OSHA person can find them because then they’re satisfied and can leave.”

Nope. It’s never a good idea to be cited for anything. With the revised penalties, even a seemingly minor hazard such as a misadjusted work rest on a grinder can cost some real money. The exposure for the next five years to repeat violations at ten times the penalties is also a problem. Unions have been known to use OSHA history in their organizing efforts. Icing on the cake, customers in some industries are now catching on to using OSHA history as a metric for their vendors. Citations on that history can obstruct future business opportunities.

There’s no reward for sloppiness. Take diligent, detail-oriented care of the safety in your facility with the understanding there are specific rules for how that’s done, and things should go better.

Myth #5. “A lot of our accidents are due to careless employees, so we shouldn’t be cited for those. These people are adults and we trained them to know better.”

Employer “due diligence” is a huge part of OSHA’s focus. When an employee is observed doing something dangerous, OSHA sees that as the employer’s problem. They figure, rightfully, that employer knew or could have known of the unsafe whatever and done something about it. Sometimes it’s a physical problem - a machine isn’t guarded well enough, so it’s possible for an employee to “put his hand where it doesn’t belong”. That’s something the employer should have addressed. Or, it could be a lax level of supervision over safety which allows employees to improvise their way around safety rules.

OSHA people are smart enough to know watching a half-hour lockout video five years ago is not enough to ensure each employee will diligently follow every aspect of the complicated LOTO regulations. They also figure, rightfully again, your employees may have had a little quick safety training but on a day-to-day basis they are rewarded and judged based on productive work, not how safely they work. The incentive is to get the job done, and beat the previous records doing it. A safe workplace requires basic safety oversight by management. No way around it.

Myth #6 “OSHA is the government, so we just have to let them do what they’re gonna do and hope for the best.”

When I pick up a fast food order at a drive-up window, I go through the bag and check my order carefully before I drive away. That’s always worth doing, and usually there’s only a bucket of fried chicken at stake.

Yet as an OSHA inspector I was sometimes treated so casually as to be abandoned in the middle of a tour, so my escort could attend some routine meeting or other. I can assure you, allowing me to virtually run loose in a manufacturing plant was never a good idea for an employer. After an OSHA inspection you might end up slapped with \$15,000 or more worth of fines. Isn’t that worth managing?

Not enough room here to run through how to manage an OSHA visit, but there’s plenty of decent sources out there for the basics. If we have allowed OSHA in willingly, without exercising our 4th Amendment right to a warranted inspection, we can ask for some small concessions in return and better manage the process.

Myth #7. “This employee complaint isn’t valid. It’s clearly from a disgruntled employee!”

That one never made sense to me. Isn’t every complainant disgruntled? If the complainant were happy, why would they complain? To me the real question is, was that a disgruntled current employee who signed the complaint, or a disgruntled former employee?

Here’s why that matters. Did you know under most circumstances OSHA only launches a complaint inspection when the complainant is a current employee at the time of signing the complaint? Normally, a former employee complaint is handled without an inspection.

Have you ever considered how OSHA could even know for sure whether they’re talking to a former employee or a current employee? Given the common mistrust of the government’s ability to keep a secret, it’s a rare employee who is willing to stick their neck out and sign a complaint. Thus, almost all complaints are from former employees who have nothing to lose.

An experienced OSHA officer can sniff out a former employee with a few questions, but we still see complaints crammed with flimsy items, so we know not all OSHA people are so careful with questioning their complainants. No sane employee would risk getting fired over a dirty toilet, a flickering light in a hallway, or a half-empty first aid kit. A former employee with an axe to grind, on the other hand, will scrape together whatever they can to mobilize OSHA and stir up trouble for their former employer. I've even had them tell me they were current employees, then instruct me to tell the employer who complained. When that happened, I knew it was time to handle it as a former employee complaint.

Certainly, we never want to know who complained, or even look like we might want to know. That bit of information can only cost us more trouble. We want it to be clear we have no interest in knowing who complained. But why not present OSHA with the employee roster and ask them to make sure their complainant is on the list?

If there were only more time and more space for OSHA myths, we could cover many more of these. We'll save them for a future column.



AMERICAN SOCIETY OF SAFETY PROFESSIONALS

2018-19 Rolling Calendar of Meetings and Events

<u>Date</u>	<u>Meeting Topic & Presenter</u>	<u>Notes</u>
May 14 Monday	Fall Protection, Ladder Safety & Dropped Objects from heights Speaker Dave Barklage of Midwestern Safety Equipment	Beef Buffet
June 15 Friday	ASSE Scholarship Golf Tournament Fundraiser The Prairies Golf Club in Cahokia, Illinois	All Day
July 9 Monday Lunch	"Head Injury in the Workplace: Evaluation and Management." Dr. Brandon Larkin will discuss multiple constellations of complaints in head injuries—the concussion, cervical injury, vestibular dysfunction.	BBQ
August 13 Monday Lunch	Joint Meeting with the AIHA Silica Panel, Eric Olson-Western Construction Group; Daniel Stark- Asstnt Dir Mo Dept of Labor Consultation Service and Matt Orr-AmerenMO	Ball Park Buffet
September 10 Monday Lunch	How a Solid Safety Culture Drives Performance ASSE Member & Presenter Dennis Pivin will share his story of developing a strong Safety Culture at his company, Aegion Corp.	Dad's Meatloaf Special
October 8 Monday Lunch	Worker's Compensation Speaker J Bradley Young of Harris Dowell Fisher & Young L.C. will provide us with the latest information in the legal circles that affect worker's compensation.	Mexican Buffet
November 12 Monday Lunch	Joint Meeting with the Gateway Society of Hazardous Material Managers (GSHMM) Effective Communication - Working through the Generations – Presenter Erin Mutert from DJM Ecological Services current member and Past President of ASSE.	Taste of Italy
December 10 Monday Lunch NEW LOCATION	OSHA Update Speaker Bill McDonald, OSHA's Area Director in St Louis provides his annual OSHA fiscal year update and quick review of new/old initiatives. This meeting to be held at Helen Fitzgerald's 3650 S. Lindbergh Sunset Hills, MO 63127	Chicken Delight
January 10, 2019 Thursday, 5 pm	Membership Appreciation Night No luncheon meeting this month. Enjoy dinner at Bristol Seafood Grill on Olive and relax with others in your field at this event just for St Louis Chapter Members.	Heavy Appetizers
February 11 Monday Lunch	OSHA Defense Speaker Julie O'keefe of Armstrong Teasdale Law Firm Update on strategies to defend against OSHA citations	Deli Delight
March Monday All Day	Professional Development Conference Joint conference with the American Industrial Hygiene Association (AIHA) to bring you high quality training at the best price. CEU's awarded.	Ameren Hdqtrs
April 8 Monday Lunch	Defensive Communication Speaker Mary Sue Love Ph.D Associate Professor SIU-Edwardsville	Roasted Pork Buffet

Lunch will include house salad, bread and cookies in addition to the listed entree.

American Society of Safety Professionals

St. Louis Chapter Committees

Website – Dave Callies – dcallies@kelpe.com

Maintains website with updated news, chapter events, and job postings

Newsletter – Dan Bemhower – dan.bemhower@usi.com

Publishes and distributes the chapter newsletter to all chapter members

PDC Chair – Paul Edler – paul_edler@yahoo.com

Coordinates logistics of professional development activities

Membership – Dianne Gibbs – dianne@ideasftp.com

Ensures new members are recognized & introduced at membership meetings

Public Relations – Steve Williams – swilliams@bellelectrical.com

Promotes chapter activities to the general public. Coordinates poster contest

Awards & Honors – Bill Kincaid – billkincaid@yahoo.com

Recognizes member achievement through awards like Safety Professional of the Year

Scholarship – Rob Miller – robertmiller91@yahoo.com

Promotes student scholarships & continuing education scholarships for members

Programs – Jim Latta – jlatta@nbwest.com

Plans the program time and needs for presentations & coordinates schedule

Social Media – JaNola Rigsby – jrigsby@qualsafesolutions.com

Maintains Face book & Twitter accounts promoting discussion with local membership

Please contact the committee chair with comments or if you would like to participate.

Mid Missouri Officers

Bret Derrick, Chairman

bderrick@broadwayergonomics.com

Mark Woodward, Vice Chair

mwoodwar@mem-ins.com

Bethany Watson, Membership Chair

bethany@365safetyervices.com

Job Opportunities

Job opportunities are posted frequently on the website:

<https://stl.assp.org/current-openings/>

The St. Louis Chapter would like to offer unemployed ASSE members with a free lunch at our monthly meeting! Just be ready to show your membership card for validation.

Have a safe month!

St. Louis Chapter Board Members

Rick Reams – President, 618-670-6589 (rick@haydenwrecking.com)

Steve Williams – Vice President, 314-213-5859 (swilliams@frenchgerleman.com)

Rudy May – Secretary, 636-677-3421x362 (rudym@h-j.com)

Erica Heinssen – Treasurer, 314-941-4545 (heinssen.e.1@pg.com)

Mark Krieger – Past President, 314-435-3630 (mark.krieger2007@gmail.com)

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