

Asbestos Surveys: The Good, The Bad, and The Ugly

Course Number: RC401108

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Questions related to specific materials, methods, and services will be addressed at the conclusion of this presentation.

This course is registered with **AIA**

Asbestos Surveys

This panel presentation consisting of asbestos consultants and contractors will discuss the current requirements of an asbestos survey and what constitutes a good survey. Then, how a bad survey can derail a project.

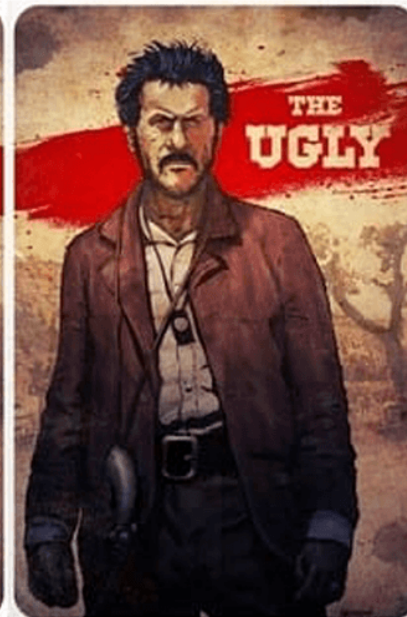
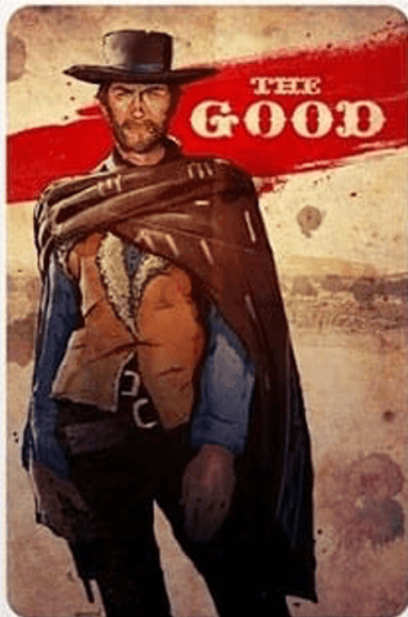
Learning Objectives

At the end of the this course, participants will be able to:

1. Clarify the difference between Asbestos sampling and an asbestos survey.
2. Recognize what a good survey should entail including new sampling requirements.
3. Discuss what happens when an incomplete survey is utilized.
4. Demonstrate the value of determining and understanding the scope of work before conducting a survey,



Asbestos Surveys: The Good, The Bad & The Ugly



Sampling vs Survey

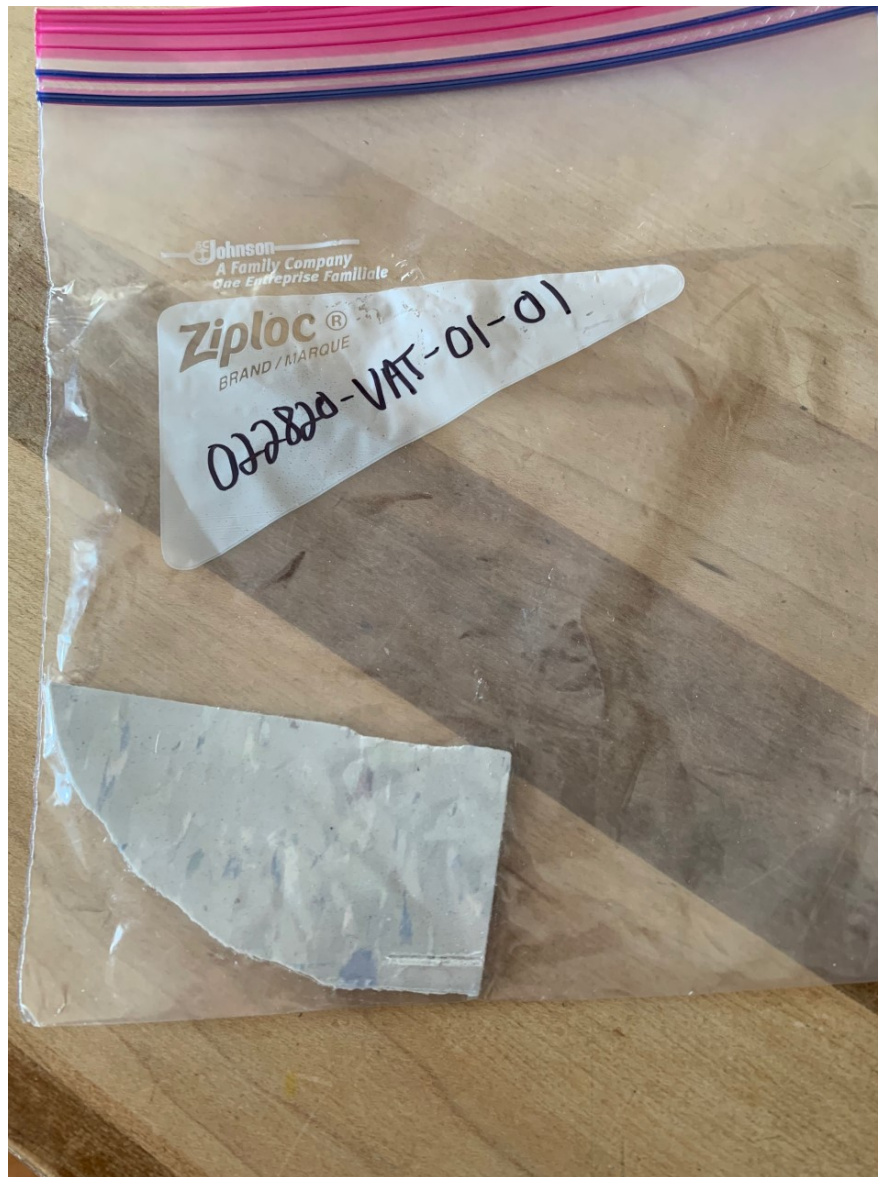
Is there a difference
between a sampling
and a survey?

What is a Bulk Sample?

Bulk Sample. A small portion of a suspect **asbestos**-containing building material collected for laboratory analysis to determine **asbestos** content.

Bulk Sample

- One sample of a suspect asbestos containing floor tile



Is a Bulk Sample a Survey?

NO!

Why Not?

What is an Asbestos Survey?

An *asbestos survey* is a survey undertaken within a building, property or structure, with the purpose of identifying asbestos containing materials.

Who Requires an Asbestos Survey

- The Environmental Protection Agency (USEPA)
- The New York State Department of Labor (NYSDOL)
- Occupational Safety and Health Administration (OSHA)

NYSDOL

- NYSDOL Industrial Code Rule 56
- **56-5.1(a)Asbestos Survey
Requirements for
Building/Structure Demolition,
Renovation, Remodeling and
Repair**

NYSDOL

- **56-5.1(e) Building/Structure Asbestos Survey Requirements.**
- “Thorough inspection for and identification of all PACM, suspect miscellaneous ACM, or asbestos material throughout the building/structure or portion thereof to be demolished, renovated, remodeled, or to have repair work”

NYSDOL

- **56-5.1(e) Building/Structure Asbestos Survey Requirements.**
- Methods:
- The review of building/structure plans and records

NYSDOL

- **56-5.1(e) Building/Structure Asbestos Survey Requirements.**
- Methods:
- A visual inspection for PACM and suspect miscellaneous ACM throughout the building/structure or portion thereof to be demolished, renovated, remodeled, or repaired.

OSHA

- 1926.1101(k)(1) Hazard Communication
- 1926.1101(k)(2)(i) Before work subject to this standard is begun, building and facility owners shall determine the presence, location, and quantity of ACM and/or PACM at the work site pursuant to paragraph (k)(1)(i) of this section.

USEPA

- Part 763 Asbestos Model Accreditation Plan (MAP) Interim Final Rule (02/92)
- EPA requires surveys done by certified Building Inspectors following AHERA protocol



The Good...

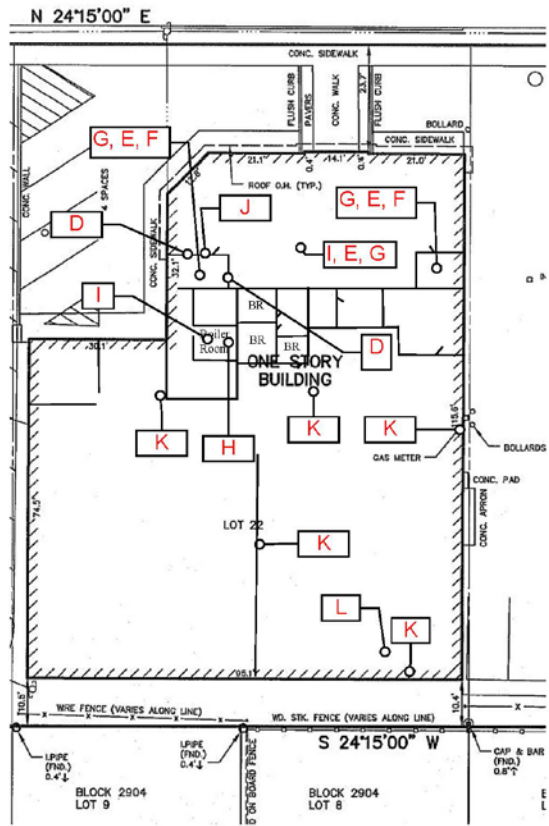


What Helps Make a Good Survey?

- Compliant with all Regulatory Requirements
- Identify the scope of work & any Limitations
- When in doubt **sample it**
- Floor plans- sample locations and ACM locations
- Photographs
- Standardized, User-Friendly Format

Floor Plans

565 Maple Ave.
Interior ACM Approximate Location
(Contractor shall confirm all quantities and locations)



Legend

- D - Black Mirror Adhesive
- E - Black Floor Tile Mastic
- F - Red Floor Tile (2nd Layer)
- G - Joint Compound Applied to Sheetrock
- H - Boiler Insulation & Concealed Boiler / Boiler System PACM, Boiler Flue Fire Stop
- I - Pipe Fittings and Pipe Installation
- J - Yellow Adhesive
- K - Fire Doors (all)
- L - Transite Ceiling Fragment

Photos Help





The Bad...



What makes a Survey Bad?

Does not meet the Basic Requirements of a proper Survey, which would specifically, clearly and accurately Identify & Convey to the User:

- Presence;
- Location; and
- Quantity

of Asbestos Containing Materials.

Bad Asbestos Surveys

An improperly conducted Survey can Result in:

- Increased Bid Pricing
- Unknown/Unexpected Exposures
- Incidental Disturbances
- Delays in Construction
- Project Planning/Coordination Difficulties
- Change Orders/Budget Over-runs
- Regulatory Penalties
- Legal Liabilities
- Additional Costs to “Re-Do” a Proper Survey

Avoiding “The Bad”

What Can We Do?

- Encourage Building & Facility Owners to:
 - Employ Experienced Inspectors – Not Always the Lowest Bidder
 - Clearly Identify Scope of Work & Type of Survey Desired/Required
 - Conduct Timely, Current & Project-Specific Surveys
 - Provide Accurate and Complete Historical Site/Facility Information to Inspector
 - Provide Complete & Ready Access to all Spaces within Survey Scope/Area
- Participate in PACNY initiatives in working with NYSDOL to establish Industry Standards & Increase Enforcement

Contractor Perspective – Asbestos Surveys Why?

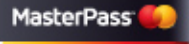
- Protect Health
- Compliance
- Schedule and Cost





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Asbestos revealed as Canada's top cause of workplace death

TAVIA GRANT

The Globe and Mail

Published Monday, Dec. 15 2014, 3:00 AM EST

Last updated Friday, Jan. 02 2015, 2:06 PM EST

97 comments



324



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0



324



35



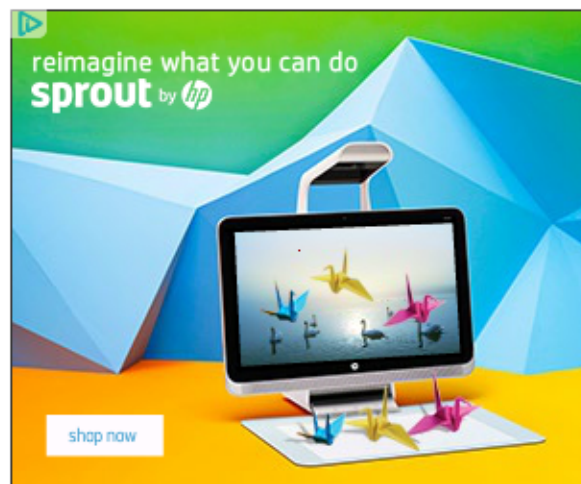
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AA

Asbestos exposure is the single largest on-the-job killer in Canada, accounting for more than a **third of total workplace death** claims approved last year and nearly a third since 1996, new national data obtained by The Globe and Mail show. The 368 death claims last year alone represent a higher number than fatalities from highway accidents, fires and chemical exposures combined.

MORE RELATED TO THIS STORY

- **SPECIAL REPORT** No safe use: The Canadian asbestos epidemic that Ottawa is ignoring
- The case against asbestos: Accidental exposure is entirely preventable
- Pipes with asbestos still used in new buildings



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The Asbestos Disease Awareness Organization (ADAO) is a registered 501(c)(3) nonprofit organization.



Since 1989, more than one million Americans have died as a result of asbestos exposure, and about \$100,000,000 USD has been spent importing 375,000 metric tons of the mineral.

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Global Asbestos Disaster Study Estimates More than 39,000 USA Deaths Annually from Asbestos-Related Diseases



Posted on April 23, 2019

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Mesothelioma

STEVE MCQUEEN (ACTOR, 1930-1980)



Almost certainly the best known victim of mesothelioma, Steve McQueen was the ultra-cool actor of the 1960s and 1970s. He remains a cultural icon: the ultimate rebel. Steve McQueen perfected the “anti-hero” persona and became tremendously popular for his roles in such films as *The Magnificent Seven*,

Wanted: Dead or Alive, *The Great Escape*, *The Thomas Crown Affair*, *Bullit*, and *Papillon*. He also starred in the archetypal disaster film and mega-hit of the 1970s, *The Towering Inferno*.

Some have speculated that Steve McQueen’s connection to his characters came from his own turbulent and unsettled childhood. He was involved with a street gang in his early teens, and his mother sent him to a “home for wayward boys” when he was 14. He continued to visit and support the home later in his life. Steve McQueen served in the U.S. Marine Corps from 1947 until 1950. Afterward, using money from the G.I. Bill, he studied acting and was singled out to study with Lee Strasberg in New York.

Steve McQueen’s great passion was for motorcycles and race car driving. He reportedly remarked, “Racing is life. Anything before or after is just waiting.” He performed many of his own driving stunts in his movies, and he coveted the Ford Mustang that he drove in *Bullit* but was never able to own. In 1999, Steve McQueen was posthumously inducted into the Motorcycle Hall of Fame for his enthusiasm and support of the sport and the contribution he made to improving the image of motorcycling.

Steve McQueen was likely exposed to asbestos during his service in the Marines between 1947 and 1950—the work that funded his acting studies and set him on

WARREN ZEVON (MUSICIAN, 1947-2003)



Singer-songwriter Warren Zevon was the product of a Mormon mother and a Russian-Jewish father who was a professional gambler and moved his family around. Warren Zevon saw a slow start to his solo career in the 1960s, and he worked as a songwriter for the Everly Brothers and Linda Ronstadt. But after spending some time in Spain, he returned to the United States in the 1970s where he met and collaborated with Jackson Browne, the Eagles and Linda Ronstadt. A dark, ironic songwriter, Warren Zevon’s most well-known release is 1978’s “Werewolves of London.” Later, he collaborated with musicians from such varied bands as Little Feat, Pink Floyd and Jefferson Airplane. He also worked with Jerry Garcia and Neil Young. Warren Zevon was close to several writers, including Hunter S. Thompson, Carl Hiassen and Mitch Albom, and was the musical coordinator for Rock Bottom Remainers, a group of writers who played rock and roll at book fairs and various public events, which included Stephen King, Amy Tan and Dave Barry.

Warren Zevon was afraid of and avoided doctors. After a long period of illness and pain, he visited his doctor and was diagnosed with mesothelioma. He refused treatment that might debilitate him and instead focused his energy and efforts on completing his album *The Wind*, which posthumously won two Grammys—the first of Zevon’s career.

Warren Zevon never knew where he was exposed to asbestos. Because the exposure levels that can cause mesothelioma are quite low, some victims are never able to pinpoint the source of their exposure. On his 1987 album *Sentimental Hygiene*, however—fifteen years before his own diagnosis with mesothelioma—Warren Zevon wrote about the plight of an automotive worker in his song “The

Surveys are always required



OSHA
**Occupational Safety
and Health Administration**



-
- **GD Question 121:** Regardless of Code Rule 56 requirements regarding surveys/inspections, as per Section 56-5.1(d) "No exemption to this requirement to conduct an asbestos survey shall exempt any person, asbestos contractor, property owner or business entity from the inspection or asbestos survey requirements of EPA, OSHA...". Thus, if federal regulations mandate various materials installed on January 1, 1974 or after to be treated as ACM, Code Rule 56 does not grant relief from that requirement. **Regardless of construction date**, Building Owner **"due diligence"** is always required for identification and assessment of ACM, as per OSHA requirements



- 1926.1101(k)(1)

If the employer/building owner has **actual knowledge**, or **should have known** through the **exercise of due diligence**, that other materials are asbestos-containing, they too must be treated as such.



- 61.145 (a)
- Prior to commencement of the demolition or renovation, **thoroughly inspect** the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos
- **Regardless of construction date**
 - Exemption - Residential 4 or fewer dwellings



OSHA: Materials <1% asbestos

- **1926.1101(a) *Scope and application.*** This section regulates asbestos exposure in all work as defined in 29 CFR 1910.12(b)
- Competent person
- Exposure assessments
- Recordkeeping
- If < PELs
 - Wet methods
 - Prompt cleanup
 - No prohibited methods



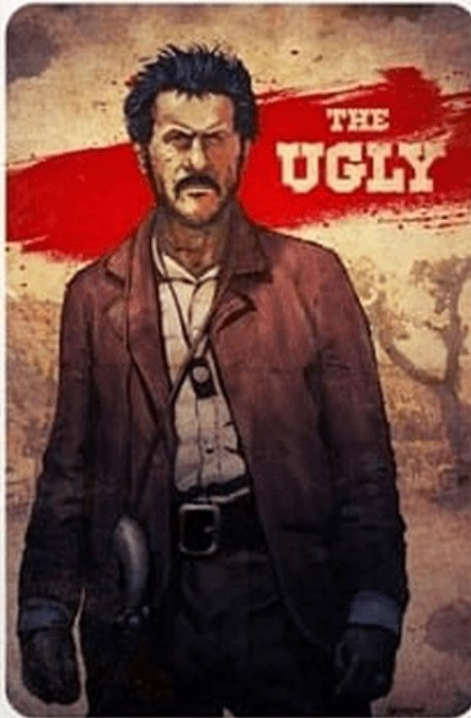
Survey Quality

- ◆ You get what you pay for
 - Poor surveys = higher bid numbers over a greater range
 - Good surveys = can lower bid numbers over a tighter range
 - Good surveys w/project designs = tighter bid numbers





The Ugly...



Examples of Bad Surveys

- Two inspectors over a weekend collected 70 samples in a 1,400,000 S/F building.
- Two roof field samples collected from a 180,000 S/F roof system with 5 known different construction dates.
- Sampling collected from one floor and calling the materials on other floors homogenous in a building with multiple renovations over a 70-year period.
- Samples collected by the owner or owner's agent who is not a certified inspector.



HEALTHY BUILDINGS HEALTHY AIR

2019 ASBESTOS INITIATIVE REPORT



**OFFICE OF MASSACHUSETTS
ATTORNEY GENERAL MAURA HEALEY**

COMM. V. J. KERRISSEY, LLC, ET AL. Quincy

The Attorney General's Office filed a civil lawsuit against three companies that conducted the 2014 demolition of the former South Shore YMCA building in downtown Quincy, following an investigation by MassDEP. The demolition site was adjacent to Quincy High School and the new YMCA. The lawsuit alleged that J. Kerrssey, LLC illegally demolished approximately 45,000 square feet of asbestos-containing ceiling plaster, which generated visible asbestos-containing dust that put the surrounding area at risk of exposure. The company also swept and dropped piles of dusty asbestos-contaminated waste down an exterior waste chute to an unlined dumpster by the sidewalk and performed other illegal demolition work. The Attorney General's Office sued the general contractor, Callahan, Inc., for causing or allowing some of J. Kerrssey's violations, and the asbestos monitoring company, Axiom Partners, Inc., for failing to properly identify asbestos in its survey and to properly monitor J. Kerrssey.

In July 2017, the Suffolk Superior Court entered consent judgments between the Attorney General's Office and Callahan and Axiom Partners for civil penalties of \$120,000 and \$60,000, respectively. The Court entered a default judgment against J. Kerrssey in May 2018, after the company failed to respond to the Attorney General's lawsuit, imposing a civil penalty of \$357,000.



COMM. V. J. KERRISSEY, LLC, ET AL.

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News Release

U.S. Department of Labor

Release: 14-536-NAT
Date: April 2, 2014
Contact: Ted Fitzgerald Andre J. Bowser
Phone: 617-565-2075 617-565-2074
Email : fitzgerald.edmund@dol.gov bowser.andre.j@dol.gov

Olivet Management faces \$2.3M in OSHA fines for knowingly exposing workers to asbestos and lead at NY work site *Exposure occurred during renovation of former Harlem Valley Psychiatric Center*

WASHINGTON – Olivet Management LLC, a real estate development and management company that owns the former Harlem Valley Psychiatric Center in the Wingdale section of Dover Plains, N.Y., faces a total of \$2,359,000 in proposed fines from the U.S. Department of Labor's Occupational Safety and Health Administration. The company has been cited for exposing its own employees, as well as employees for 13 contractors, to asbestos* and lead* hazards during cleanup operations in preparation for a tour of the site by potential investors.

"Olivet knew that asbestos and lead were present at this site, yet the company chose to ignore its responsibility to protect its own workers and contractors," said U.S. Secretary of Labor Thomas E. Perez. "The intolerable choice this company made put not only workers, but also their families, in danger."

An inspection by OSHA's Albany Area Office conducted in response to a complaint began Oct. 23, 2013. The inspection found that Olivet employees and contractors were exposed to asbestos and lead while performing renovation and cleanup activities. The work, which was directed and overseen by Olivet supervisors, included removing: asbestos- and lead-contaminated debris; asbestos-containing floor tiles and insulation; and lead-containing paint from walls, windows, door frames and other painted surfaces.

OSHA determined that Olivet knowingly failed to take basic safety precautions. The company neither informed their own employees nor the contractors about the presence of asbestos and lead, despite knowing that both hazards existed. As a result, Olivet did not: train employees in the hazards of asbestos and lead and the need and nature of required safeguards; monitor workers' exposure levels; provide appropriate respiratory protection; post notices, warning signs and labels to alert workers and contractors to the presence of asbestos and lead. The company also did not provide clean changing and decontamination areas for workers, many of whom wore their contaminated clothing home to households with small children.

As a result of these conditions, Olivet was cited for 45 willful violations, with \$2,352,000 in proposed fines. Twenty-four of the willful citations address instance-by-instance exposure of workers to asbestos and lead hazards. A willful violation is one committed with intentional, knowing or voluntary disregard for the law's requirement, or plain indifference to employee safety and health. Olivet was also issued one serious citation, with a \$7,000 fine, for failing to inform waste haulers of the presence of asbestos and asbestos-containing materials, meaning asbestos from the site may have been disposed of improperly at an unknown location. A serious violation occurs when there is substantial probability that death or serious physical harm could result from a hazard about which the employer knew or should have known.

The citations can be viewed at <http://www.osha.gov/oc/citations/OlivetManagementLLC945519.pdf>*

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