

California Business and Professions Code Sections 7180 et., seq.

The California business and professions code serves to regulate the asbestos industry where consulting is concerned. This is the law that also regulates Certified Asbestos Consultants (CAC) within the state. The following paragraph explains the purpose of the law.

7180. (a) No person shall, on or after July 1, 1992, engage in the practice of an asbestos consultant as defined in Section 7181, or as a site surveillance technician as defined in Section 7182, unless he or she is certified by the Division of Occupational Safety and Health pursuant to regulations required by subdivision (b) of Section 9021.5 of the Labor Code.

Of great importance is the outlining of the practices of an asbestos consultant and the limitations placed upon those who are not asbestos consultants. There is a secondary category of consultants known as Site Surveillance Technicians (SST). SST's can only work under a CAC and not independently.

7181. An "asbestos consultant," as used in this chapter, means any **person who contracts to provide professional health and safety services relating to asbestos-containing material**, as defined in subdivision (b) of Section 6501.8 of the Labor Code, including **building inspections, abatement project design, contract administration, supervision of site surveillance technicians** as defined in Section 7182, **sample collections, preparation of asbestos management plans, and clearance air monitoring**.

7182. A "site surveillance technician" means any person who acts as an independent onsite representative of an asbestos consultant who monitors the asbestos abatement activities of others, provides asbestos air monitoring services for area and personnel samples, and performs building surveys and contract administration **at the direction of an asbestos consultant**.

Importantly, the contractor or building owner can be held legally liable for not contracting with the appropriate individual for asbestos consulting purposes.

7180.5. When a building **owner or operator** engages the **services of a person to perform asbestos consulting** or site surveillance technician activities as defined in Sections 7181 and 7182 after July 1, 1992, the building **owner or operator shall contract with a person who is certified by the Division of Occupational Safety and Health** pursuant to the regulations required by subdivision (b) of Section 9021.5 of the Labor Code.

For most contractors the following exemptions for testing of building materials are key points. These paragraphs allow testing by the contractor within specific guidelines. Furthermore, this code prohibits an asbestos abatement contractor from performing "clearance air testing" or from providing any asbestos risk assessment work. Contractors basically have two justifications for sampling, bid preparation and their workers' protection.

(b) **Certification** as an asbestos consultant or site surveillance technician **shall not be required** when a **licensed contractor or registered asbestos abatement contractor** takes **no more than 12 bulk samples** of suspected asbestos-containing material **that is required to be removed, repaired, or disturbed** as part of a construction project in a **residential dwelling** solely for any of the following purposes:

- (1) **bid preparation** for asbestos abatement;
- (2) **evaluating exposure to its own employees** during construction or asbestos abatement; or
- (3) **determining** for its own purposes or for the purpose of communicating **whether or not a contract for asbestos abatement has been satisfactorily completed**. **Persons taking samples** for the purposes described in this section **shall be certified building inspectors** under the Asbestos Hazard Emergency Response Act, as specified in Section 763 of Title 40 of the Code of Federal Regulations, appendix (c) to subpart (e). **No licensed contractor or asbestos abatement contractor may provide professional health and safety services or perform any asbestos risk assessment**. A **bid** for asbestos abatement **may communicate the results and location of sampling** for the presence of asbestos and **how the asbestos will be abated**. This section does not affect the requirement that

asbestos abatement contractors be registered under Section 6501.5 of the Labor Code, **nor does it permit a licensed contractor or asbestos abatement contractor to perform clearance air monitoring following asbestos abatement**, unless otherwise permitted by law.

7187. When a building owner or operator contracts with an asbestos consultant or site surveillance technician for performance of the activities described in Sections 7181 and 7182, **that asbestos consultant or site surveillance technician shall not have any financial or proprietary interest in an asbestos abatement contractor hired for the same project**. However, this section **shall not preclude the hiring of a consultant** by a contractor for the **purpose of providing health and safety services for the personnel of the contractor**. This section shall not apply when a licensed contractor or registered asbestos abatement contractor takes no more than 12 bulk samples of suspected asbestos-containing material that is required to be removed, repaired, or disturbed as part of a construction project in a residential dwelling solely for any of the following purposes:

- (1) bid preparation for asbestos abatement;
- (2) evaluating exposure to its own employees during construction or asbestos abatement; or
- (3) determining for its own purposes or for the purpose of communicating whether or not a contract for asbestos abatement has been satisfactorily completed. Persons taking samples for the purposes described in this section shall be certified building inspectors under the Asbestos Hazard Emergency Response Act, as specified in Section 763 of Title 40 of the Code of Federal Regulations, appendix (c) to subpart (e). No licensed contractor or asbestos abatement contractor may provide professional health and safety services or perform any asbestos risk assessment. **A licensed contractor or asbestos abatement contractor may seek compensation for bid preparation**, including the cost of laboratory analysis of asbestos-containing material.

In summary, the B & P Code Section 7180 et., seq., allows or requires the following:

1. Requires contracting with a CAC for determinations of the existence of asbestos, or any risks posed by asbestos (for example, final air clearance monitoring or renovations).
 - a. The CAC cannot have financial interests with the asbestos contractor who will perform or bid on the asbestos removal project.
2. Allows sampling by the contractor of up to 12 samples provided that the sampler is AHERA certified as a building inspector and that the samples are taken only for bidding purposes, to see if asbestos still remains after a removal, or for the protection of their own workers.
 - a. The contractor may charge for these samples as required for bidding.
 - b. The contractor may only provide to the bid requestor the location of sampling and results as well as how the asbestos will be abated.