



FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

December 10, 2015

Colleen Brisnehan
Hazardous Waste Corrective Action Unit
Hazardous Waste Program
4300 Cherry Creek Drive S., Denver, CO 80246-1530

Via: email: ctbrisne@smtpgate.dphe.state.co.us, colleen.brisnehan@state.co.us

RE: 403 Regulatory violations associated with Preliminary Assessment Report for 728 Cherry Street, Fort Collins, Colorado

Dear Ms. Brisnehan:

Forensic Applications Consulting Technologies, Inc. (FACTs) has begun a series of regulatory audits of reports submitted to the Colorado Department of Public Health and Environment (CDPHE) pursuant to 6 CCR 1014-3 "*Regulations Pertaining To The Cleanup Of Methamphetamine-Affected Properties.*"

Using a degree of scrutiny for reviews developed and deployed by your office, FACTs has thus far identified a total of seven *thousand*, four hundred and seventeen violations of 6 CCR 1014-3.

As you know, Section 3.1 of Part 3, of 6 CCR 1014-3 requires enforcement actions on the part of the CDPHE whenever the CDPHE has reason to believe that a person has violated any requirement of the regulations. FACTs performed a detailed regulatory audit for the report titled:

Preliminary Assessment
For Methamphetamine
728 Cherry Street
Fort Collins, Colorado
Century Environmental Hygiene LLC
3201 E. Mulberry St, Unit C
Fort Collins, CO 80524
Client Property ID 1007219
January 12, 2015
Century Project #4831.14

Prepared for:
David Mares
Pacific Asset Preservation Services
3020 Oakfield Court
Chino Hills, CA 91709
Work Order # 13675

This is an interesting project for several reasons; for example, the author, (who is an "asbestos technician") claims that he received special authorization from the CDPHE to

identify himself as having “Interim Authorization” to perform the work before there was such a thing as “Interim Authorization.”

The author, also claims that he received special authorization from the CDPHE to ignore the existing regulations. The author claims that the CDPHE told him he could ignore the existing regulations and follow the regulations that were planned to be effective in the near future. In the end, the consultant ignore the existing regulations AND the upcoming regulations that were planned on being released.

To refresh your memory, this is the property for which you issued a variance on June 4, 2015 for violations that occurred in 2014 wherein one of the contractors asked for a variance on just one aspect of the four hundred and three (403) violations:

Colleen,

I respectfully request a variance on this project due to learning during the first available training class since the regs went in effect that sampling requirements are a little different that were thought on appliances. Specifically, a variance is requested on 6.9.7 requirement for sampling the outside of major appliances. The reg says “may sample exterior” so we thought it was optional. The contractor states that he did clean the exterior of all major appliances and since the room itself passed, it would seem that the exterior of the appliance would likely pass since it is an easy substrate to clean. Thus, the intent of the reg for meth safety would seem to be equally met.

And you responded with:

Based on the successful decontamination of the kitchen, as demonstrated by clearance sampling, it is assumed that the decontamination of the appliance exteriors was similarly successful. In addition, the non-porous nature of appliance exteriors makes them relatively easy to clean. Considering the information provided, the requested variance appears reasonable. Therefore, in accordance with Part 1, Section 10.2 of the Regulations, the Department approves the requested variance from the requirement for the collection of clearance samples from appliance exteriors at the subject property.

Naturally, FACTs finds this letter regarding sampling the exterior of appliances interesting, and there was apparently no comment from your office on the remaining 402 regulatory violations.

As discussed in detail in the actual audit, for this particular property, Mr. Jaeckel falsified the certification that he performed the work pursuant to regulations.

In our detailed report, FACTs discusses the following violations:

- PART 1: REVIEW PURSUANT TO 6 CCR 1014-3 (2005)
- Failure to Provide Authorized Personnel
- Failure to Comply With Mandatory Elements of a Preliminary Assessment
- Failure to comply with 6 CCR 1014-3 Paragraph 4.2
- Failure to comply with 6 CCR 1014-3 Paragraph 4.3 (Ten Violations)
- Failure to comply with 6 CCR 1014-3 Paragraph 4.4

- Failure to comply with 6 CCR 1014-3 Paragraph 4.5
- Failure to comply with 6 CCR 1014-3 Paragraph 4.6 – Bias Sampling (27 Violations)
- Failure to comply with 6 CCR 1014-3 Paragraph 4.6 – Prohibited Surfaces (9 Violations)
- Failure to comply with 6 CCR 1014-3 Paragraph 4.7
- Failure to comply with 6 CCR 1014-3 Paragraph 4.8
- Failure to comply with 6 CCR 1014-3 Paragraph 4.9
- Failure to comply with 6 CCR 1014-3 Paragraph 4.10
- Failure to comply with 6 CCR 1014-3 Paragraph 4.11
- Failure to comply with 6 CCR 1014-3 Paragraph 4.12
- Failure to comply with 6 CCR 1014-3 Paragraph 6.0
- Failure to comply with 6 CCR 1014-3 Section 6.1.1 (27 Violations)
- Violation of Section 6.2.1 Prohibited Composite Sampling Technique (52 violations)
- Violation of Section 6.2.1 Prohibited Matrix Mixing (44 violations)

- PART 2 REVIEW PURSUANT TO 6 CCR 1014-3 (2014)
- Failure to Provide Qualified Personnel
- Violation of Section 4.0
- Violation of Section 4.2
- Violation of Paragraph 4.3.1 (3 Violations)
- Violation of Paragraph 4.3.2
- Violation of Paragraph 4.4.1
- Violation of Paragraph 4.4.2
- Inability to Comply with Section 4.5
- Inability to Comply with Section 4.6
- Violation of Paragraph 4.7
- Violation of Paragraph 4.8
- Violation of Paragraph 4.9
- Violation of Paragraph 4.10
- Violation of Section 4.14
- Violation of Section 4.15
- Violation of Section 4.15 (4 Violations)
- Violation of Section 4.17.2
- Violation of Section 4.17.4
- Violation of Section 4.18
- Review of Section 5 Violations
- Review of Section 6 Violations
- Violation of Paragraph 6.1.1
- Violation of Paragraph 6.1.3
- Violation of Paragraph 6.1.3.2
- Violation of Paragraph 6.1.3.3
- Violation of Paragraph 6.1.3.5
- Violation of Paragraph 6.2.2 (7 Violations)
- Violation of Section 6.2.7 (53 Violations)
- Violation of Section 6.2.12.5 (2 Violations)
- Violation of Paragraph 6.2.14
- Violation of Paragraph 6.2.14.3 (Failed to Identify Sampler)
- Violation of Paragraph 6.2.14.5 (5 Violations)
- Violation of Paragraph 6.2.14.6 (17 Violations- Number of Aliquots)
- Violation of Paragraph 6.2.14.8 (17 Violations- Sampling Time)
- Violation of Paragraph 6.2.14.9 (17 Violations- Sampling Time)
- Violation of Paragraph 6.2.14.11
- Violation of Section 6.3.6 (7 Violations)
- Violation of Paragraph 6.5

- Violation of Paragraph 6.9
- Violation of Paragraph 6.9.1(5 Violations)
- Violation of Paragraph 6.9.1(5 Violations)
- Violation of Paragraph 6.9.7 (2 Violations)
- Violation of Paragraph 6.9.11.1 (27 Violations)
- Violation of Paragraph 6.11 (17 Violations)
- Failure to Comply with Paragraph 7.1 (2 Violations)
- Failure to Comply with Paragraph 7.2
- Failure to Comply with Paragraph 7.3
- Colorado Consumer Protection Act
- Colorado Criminal Code CRS 18-5-113. Criminal impersonation
- Colorado Criminal Code – Fraud; Offering a false instrument for recording

We plan on reviewing the clearance sampling report in the upcoming week.

Naturally, we are concerned for the public safety of the innocent occupants, and the construction personnel , who may now be exposed to potentially toxic materials.

This communication is being sent to your office in good faith pursuant to pursuant to the provisions of C.R.S. 18-8-115 *Duty to report a crime - liability for disclosure*.

Kind regards,



Caoimhín P. Connell
Forensic Industrial Hygienist

CC: Daniel S. Miller, Senior Assistant Attorney General

CC: Howard Thigpen, Esq.