



FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

**Regulatory Audit
of
Preliminary Assessment Report
By
Meth Lab Cleanup, LLC
at an
Identified Illegal Drug Laboratory**

Located at:

**836 Prospect Lake Drive
Colorado Springs, CO**

Prepared by:

FORENSIC APPLICATIONS CONSULTING TECHNOLOGIES, INC.

185 Bounty Hunter's Lane
Bailey, CO 80421



May 18, 2015

TABLE OF CONTENTS

EXECUTIVE SUMMARY	3
REVIEW OF THE METH LAB CLEANUP LLC DOCUMENT	3
Violation of Paragraph 4.0.....	3
Violation of Paragraph 4.1.....	4
Violation of Paragraph 4.2.....	4
Violation of Paragraph 4.3.....	5
Violation of Paragraph 4.3.1.....	5
Violation of Paragraph 4.3.1.....	5
Violation of Paragraph 4.3.2.....	6
Violation of Paragraph 4.4.....	6
Violation of Paragraph 4.4.2.....	6
Violation of Paragraph 4.5.....	7
Violation of Paragraph 4.6.....	7
Violation of Paragraph 4.8.....	8
Violation of Paragraph 4.9.....	8
Violation of Paragraph 4.10.....	12
Violation of Paragraph 4.13.....	12
Violation of Paragraph 4.15.....	13
Violation of Paragraph 4.15.1	13
Violation of Paragraph 4.15.3	13
Violation of Paragraph 4.17.....	13
Violation of Paragraph 4.17.3	14
Violation of Paragraph 4.17.4	14
Violation of Sampling Requirements.....	14
Violation of Paragraph 6.1.3.2	15
Violation of Paragraph 6.1.3.3	15
Violation of Paragraph 6.2.1	15
Violation of Paragraph 6.2.3	16
Violation of Paragraph 6.2.7	16
Violation of Paragraph 6.2.11	18
Violation of Paragraph 6.2.12.1	18
Violation of Paragraph 6.2.14	18
Violation of Paragraph 6.2.14.7	18
Violation of Paragraph 6.2.14.8	19
Violation of Paragraph 6.2.14.9	19
Violation of Paragraph 6.2.14.11	19
Violation of Paragraph 6.2.14.12.....	19
Violation of Paragraph 6.2.15	20
Violation of Paragraph 6.3.6	20
Violation of Paragraph 6.9.1	22
Violation of Paragraph 6.9.4	22
Violation of Paragraph 6.9.4	23
Violation of Paragraph 6.9.4	23
CONCLUSION.....	23



EXECUTIVE SUMMARY

FACTs has performed a series of regulatory audits on public domain documents. This is our regulatory audit of the public domain document titled:

PREASSESSMENT REPORT
METHAMPHETAMINE LAB INVESTIGATION
836 Prospect Lake Drive
Colorado Springs, CO
Prepared For:
Lori Hamilton, Assistant Vice President
U.S. Bank Wealth Management 950 17th Street, 5th Floor
Denver, CO 80202
303-585-4387
lori.hamilton@usbank.com
MLCC Project #0315-2973-CO
Report Date: April 1, 2015

For this regulatory audit, FACTs has identified no fewer than 39 individual regulatory violations.

REVIEW OF THE METH LAB CLEANUP LLC DOCUMENT

In the following section we have described, in detail, the regulatory violations associated with the work.

Violation of Paragraph 4.0

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.0 Preliminary Assessment. *A preliminary assessment of all methamphetamine-affected properties shall be conducted in accordance with this section and Section 6.1.2 of these regulations, unless the property owner elects to demolish the property in lieu of assessment and decontamination pursuant to § 25-18.5-103(1)(a), C.R.S.*

In their report, MLCC stated:

A Preliminary Assessment was conducted by a Certified Industrial Hygienist as defined in § 24-30-1402, C.R.S in accordance with Colorado Department of Public Health & Environment 6 CCR 1014-3 Regulations Pertaining to the Cleanup of Methamphetamine Laboratories.

On December 15, 2014, the regulations titled: “*Regulations Pertaining to the Cleanup of Methamphetamine Laboratories*” was supplanted by newer regulations titled “*REGULATIONS PERTAINING TO THE CLEANUP OF METHAMPHETAMINE-*



AFFECTED PROPERTIES.” The provisions and requirements of the two regulations are considerably different.

For example, MLCC relied on the application of functional spaces:

The survey included an evaluation of the floors, walls, ceilings and other various surfaces within the functional spaces of the unit

And

For any given functional space identified by the technician, at least 400 cm² of surface was sampled.

And

Other standards apply to nonfunctional areas such as crawl spaces and attics.

Pursuant to the newer regulations titled “*REGULATIONS PERTAINING TO THE CLEANUP OF METHAMPHETAMINE-AFFECTED PROPERTIES,*” “Functional Spaces” were replaced by the regulatory concept of “Rooms” and the application of “Functional Spaces is no longer permitted.

Violation of Paragraph 4.1

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.1 Subject property description, including physical address, legal description,....

Nowhere in the MLCC report has MLCC provided the legal description for the subject property.

Violation of Paragraph 4.2

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.2 Summary of information from review of available law enforcement reports regarding the manufacturing method, chemicals present, cooking areas, chemical storage areas, and areas of contamination, or waste disposal.

Nowhere in the MLCC report has MLCC provided any documentation they made any attempt to determine the availability of any law enforcement documents associated with the subject property.

In their report, MLCC states:

MLCC is unaware of the existence of any federal law enforcement activity report (i.e. El Paso Intelligence Center or EPIC form) related to methamphetamine manufacturing at this address. MLCC reviewed the US Department of Justice National Clandestine Laboratory Database and found the subject address not listed at the time of generation of this report (list date 3/23/14).



The El Paso Intelligence Center (EPIC) has nothing to do with the subject property and EPIC is not a law enforcement agency with jurisdiction over the property. The El Paso Intelligence Center (EPIC) is a Federal DEA and U.S. Customs Service Center assisting in the identification of drug traffickers and illegal alien trafficking along the U.S. - Mexico border and is headquartered at Biggs Army Airfield in Texas.

By contrast, the subject property in question is located in the City of Colorado Springs, Colorado. As such, the law enforcement agency with jurisdiction is the Colorado Springs Police Department. We do not see any where in the MLCC report where the Consultant documented any attempt to contact the Colorado Springs Police Department to determine if any law enforcement documents were available for review.

Violation of Paragraph 4.3

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.3 Description of structural features in all buildings, such as attics, false ceilings, crawl spaces, and basements, including:

Nowhere in the MLCC report has the consultant provided a description of any structural features and nowhere in the report is there any discussion of such *as attics, false ceilings, crawl spaces, and basements.*

Violation of Paragraph 4.3.1

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.3.1 If the building has an attic, a description of the integrity of the building ceiling (i.e., attic floor), any signs of access, storage, manufacturing, or venting into the attic (e.g., holes cut in ceiling for the purpose of venting gases from a cook), and

From the photographs, it would appear the structure has an attic. However, since, in violation of §4.3, there is no “*Description of structural features in all buildings, such as attics, false ceilings, crawl spaces, and basements...*” the issues regarding the attic are unresolved.

Violation of Paragraph 4.3.1

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.3.1 ...a description of observations of the ducting associated with all bathroom and kitchen exhaust vents.



Nowhere in the MLCC report has the consultant even used the word “exhaust” and nowhere in the MLCC report has the consultant provided a “*a description of observations of the ducting associated with all bathroom and kitchen exhaust vents.*”

In their report, MLCC identifies they collected a sample from:

Bath 2 fans

Therefore, presumably there was a bathroom fan, and thus a bathroom exhaust, and as such that exhaust must necessary terminate somewhere. In violation of regulations, all of this information is missing from the MLCC report.

Violation of Paragraph 4.3.2

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.3.2 A description of the integrity of the building floor, ...

Nowhere in the MLCC report has the consultant provided a “... *description of the integrity of the building floor*”

Violation of Paragraph 4.4

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.4 Description of outdoor areas, including notation of the following:

Nowhere in the MLCC report has the consultant provided a “*Description of outdoor areas,...*”

Violation of Paragraph 4.4.2

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.4.2 Conditions indicative of contamination.

Since MLCC did not comply with Section 4.4, compliance with 4.4.2 would be impossible. Furthermore, there is nothing in the documentation that would indicate that either of the field consultant have any known training in illegal drug laboratory assessments.¹ Mr. Gonzales has been associated with other illegal assessments and fabrication of information on real estate documents.²

¹ Training in the assessment of illegal drug laboratories and/or knowledge of illegal drug laboratories is not a necessary element to be a Qualified Consultant in Colorado.

² See for example: http://forensic-applications.com/meth/Censored_Compliance_Audit.pdf



Violation of Paragraph 4.5

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.5 Identification of manufacturing methods based on the Consultant's observations and law enforcement reports, if available.

Since neither consultant has any known documented training in the assessment of illegal drug laboratories, and since neither consultant documented any attempt to determine the availability of law enforcement documentation, there is no conceivable way the consultants could have been expected to comply with this mandatory provision.

In fact, the photographs provided do indicate the manufacturing of methamphetamine in the structure, however, since the consultants lack any known training in such assessments, they failed to observe those indicators for what they were.

The photographs indicate a pseudoephedrine reduction process occurred in the property. This in turn is important since it triggers Section 6.1.3.3

6.1.3.3 Wipe sampling shall be used to determine the extent of iodine contamination whenever there is visible evidence of iodine staining on surfaces that will not be removed.

Nowhere in the MLCC report has this issue been addressed.

Violation of Paragraph 4.6

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.6 Identification of chemicals used, based on the Consultant's observations and knowledge of manufacturing method(s), and if available, identification and documentation of any methamphetamine lab wastes or precursor chemicals discovered at the subject property.

Nowhere in the MLCC report has this issue been addressed.

Since neither consultant has any known documented training in the assessment of illegal drug laboratories, there is no expectation the consultants could have possessed the necessary skills or knowledge to identify manufacturing methods.

The photographs provided in the report indicate the potential for iodine contamination at the property, consistent with a pseudoephedrine reduction method of methamphetamine production.



Violation of Paragraph 4.8

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.8 Identification and documentation of chemical storage areas, waste disposal areas, cooking areas, and/or use areas, if known.

Nowhere in the MLCC report has this issue been addressed.

Since neither consultant has any known documented training in the assessment of illegal drug laboratories, there is no expectation the consultants could have possessed the necessary skills or knowledge to identify cooking areas. The photographs in the report indicate where manufacturing occurred.

Violation of Paragraph 4.9

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.9 Identification and documentation of signs of contamination such as staining, etching, or fire damage.

Nowhere in the MLCC report has this issue been addressed. In the MLCC report, we see that the consultants unwittingly photographed several signs of contamination and manufacturing and profound staining as described below. Remarkably, in their report MLCC states:

There were no direct indicators of methamphetamine manufacturing within any of the rooms. Typical indications of meth manufacture are the presence of stains, drug use paraphernalia, burn marks, drugs, various suspect household chemical products and propane tanks.

The consultant failed to identify the staining in this photograph:





The consultant failed to identify the staining in this photograph:



The consultant failed to identify the staining in this photograph:





The consultant failed to identify the staining in this photograph:



The consultant failed to identify the staining in this photograph:





The consultant failed to identify the staining in this photograph:



The consultant failed to identify the staining in this photograph:





Violation of Paragraph 4.10

According to the Regulations, the Consultant shall perform specific duties and inclusions in the Preliminary Assessment including:

4.10 Description of plumbing system, including identification and documentation of potential disposal into the sanitary sewer or an on-site wastewater treatment system (OWTS). If an OWTS is present, include a description of the results of field screening of the OWTS in accordance with Section 6 of this Part 1. If the Consultant determines that sampling of an OWTS is necessary to determine if methamphetamine lab wastes have been disposed of into an OWTS, include the results of sample collection and analysis conducted in accordance with Section 6 of this Part 1.

Nowhere in the MLCC report has this issue been addressed. It is unknown if the property is on city sewer, or has an OWTS. Furthermore, in violation of Section 4.14, MLCC failed to properly photograph site conditions and therefore, there is no way of now knowing the appropriate information needed to comply with Section 4.10.

Violation of Paragraph 4.13

According to the Regulations, the Consultant shall perform specific duties and provide inclusions in the Preliminary Assessment including:

4.13 Identification of surfaces that are known or suspected to have been painted or sealed after the cessation of contamination-causing activities (painted-over surfaces).



In their report, MLCC states:

Portions of the family room, living room and dining may have been recently painted.

Therefore, as described later, MLCC is also in violation of Section 6.2.15.

Violation of Paragraph 4.15

According to the Regulations, the Consultant shall perform specific duties and provide inclusions in the Preliminary Assessment including:

4.15 If assessment sampling is conducted, it shall be conducted in accordance with Section 6 of this Part 1. Documentation of assessment sampling shall include:

Violation of Paragraph 4.15.1

4.15.1 a description of the sampling procedures used, including sample collection, handling, and QA/QC;

Nowhere in the MLCC report has this issue been addressed. In their report, MLCC states:

Quality Control/Quality Assurance (QA/QC) procedures in handling and laboratory QA/QC were conducted.

However, nowhere in the MLCC report is the information provided.

Violation of Paragraph 4.15.3

4.15.3 results of sampling, including a description of sample locations and a computer generated figure illustrating the layout of the building(s) and sample locations and identification.

Nowhere in the MLCC report, do we find a computer generated figure of the layout of the buildings. Based on the MLCC report, there are at least three distinct buildings:

- 1) Residence
- 2) Garage
- 3) Shed

Since there is no figure of the shed or the garage, it is axiomatic that there can be no figures of the eight samples collected from these independent structures.

Violation of Paragraph 4.17

According to the Regulations, the Consultant shall perform specific duties during the Preliminary Assessment including:



4.17 If clearance sampling is conducted during the preliminary assessment, it shall be conducted in accordance with Section 6 of this Part 1. Documentation of clearance sampling shall include:

According to the MLCC report, MLCC performed sampling pursuant to a Regulation that is no longer valid in Colorado. MLCC states:

Sampling was conducted in accordance with the Colorado Department of Public Health & Environment 6 CCR 1014-3 Regulations Pertaining to the Cleanup of Methamphetamine Laboratories, Part 1: Property Assessment, Decontamination and Clearance, December 15, 2014

On December 15, 2014, *Regulations Pertaining to the Cleanup of Methamphetamine Laboratories* was supplanted by *REGULATIONS PERTAINING TO THE CLEANUP OF METHAMPHETAMINE-AFFECTED PROPERTIES*.

Violation of Paragraph 4.17.3

According to the Regulations, the Consultant shall perform specific duties during the Preliminary Assessment and shall include specific information including:

4.17.3 Results of clearance sampling, including a description of sample locations and a computer generated figure with sample locations

Nowhere in the MLCC report, do we find a figure of the samples that were reportedly collected from the shed.

Nowhere in the MLCC report, do we find a figure of the samples that were reportedly collected from the garage.

Violation of Paragraph 4.17.4

According to the Regulations, the Consultant shall perform specific duties during the Preliminary Assessment and shall include specific information including:

4.17.4 Documentation of variations from standard practices.

Nowhere in the MLCC report identify any of the variations from standard practice as delineated in this audit.

Violation of Sampling Requirements

According to the Regulations, the Consultant is required to perform specific duties including performing sampling pursuant Section 6 of the regulations

4.0 Preliminary Assessment. A preliminary assessment of all methamphetamine-affected properties shall be conducted in accordance with this section and Section 6.1.2 of these regulations, unless the property owner elects to demolish the



property in lieu of assessment and decontamination pursuant to § 25-18.5-103(1)(a), C.R.S.

Furthermore:

6.1.3 The following sample collection procedures shall be followed for screening level sampling, preliminary assessment sampling and clearance sampling, except as provided in Section 6.8.2 of this Part 1.

Violation of Paragraph 6.1.3.2

According to the Regulations, the Consultant shall perform specific duties during the Preliminary Assessment including:

6.1.3.2. Wipe sampling shall be used to determine the extent of lead contamination on all surfaces at properties whenever the preliminary assessment indicates the phenyl-2-propanone (P2P) method of methamphetamine manufacture was used on the property.

There is nothing in the documentation to indicate the Consultant has any training in illegal drug laboratories and would possess the necessary skill or training to be capable of identifying a P-2-P laboratory. As already described, the Consultant, in violation of regulations, made no attempt to ascertain the availability of law enforcement documents, and failed to recognize the signs of contamination and manufacturing processes.

Violation of Paragraph 6.1.3.3

According to the Regulations, the Consultant shall perform specific duties during the Preliminary Assessment including:

6.1.3.3 Wipe sampling shall be used to determine the extent of iodine contamination whenever there is visible evidence of iodine staining on surfaces that will not be removed.

There is nothing in the documentation to indicate the Consultant has any training in illegal drug laboratories and would possess the necessary skill or training to be capable of identifying a iodine staining. As already described, the Consultant, in violation of regulations, made no attempt to ascertain the availability of law enforcement documents, and failed to recognize the signs of iodine contamination in the subject property as evidence d by the photographs in the Consultant's report.

Violation of Paragraph 6.2.1

According to the Regulations, the Consultant shall follow specific sampling protocols during the Preliminary Assessment including:

6.2 Discrete Wipe Sample Collection Procedures. The following procedure shall be used for collecting discrete wipe samples:

6.2.1 Sample media shall consist of 2x2 inch wipes made of one of the following:



- 6.2.1.1 Cotton gauze material.
- 6.2.1.2 4-ply non-woven cotton/polyester blend.
- 6.2.1.3 Tightly knitted continuous filament polyester.

In violation of Section 4.15:

4.15 If assessment sampling is conducted, it shall be conducted in accordance with Section 6 of this Part 1. Documentation of assessment sampling shall include:

4.15.1 a description of the sampling procedures used, including sample collection, handling, and QA/QC;

MLCC failed to include a description of the sampling procedures used to the extent that there is no information regarding the sampling material used. Instead, in their report MLCC states:

Sampling media was provided by Fortes Laboratories¹ with field sample kits prepared by the industrial hygienist. The methamphetamine surface samples were collected using sterile gauze pads saturated with alcohol in accordance with standard sampling protocols.

Furthermore, as described below, MLCC was required by Section 6.2.14.9 to identify the sampling material used, and in violation of regulations, MLCC failed to provide that information.

Violation of Paragraph 6.2.3

According to the Regulations, the Consultant shall follow specific sampling protocols during the Preliminary Assessment including:

6.2.3 Prepare a rough sketch of the area(s) to be sampled and indicate sample location(s).

In violation of regulations, no figures are included for the samples collected from the garage.

In violation of regulations, no figures are included for the samples collected from the shed.

Violation of Paragraph 6.2.7

According to the Regulations, the Consultant shall follow specific sampling protocols during the Preliminary Assessment including:

6.2.7 Wipe the surface using one of the following methods:



6.2.7.1 Square method: Start at the outside edge and progress toward the center of the surface area by wiping in concentric squares of decreasing size.

6.2.7.2 “S” method: Wipe horizontally from side-to-side in an overlapping “S”-like pattern as necessary to completely cover the entire wipe area.

6.2.8 Without allowing the sample media to come into contact with any other surface, fold the sample media with the sampled side in.

6.2.9 Use the same sample media to repeat the sampling of the same area using the same method. If using the “S” method, the **second** pass shall be sampled by wiping with overlapping “S”-like motions in a top-to-bottom direction.

6.2.10 Fold sampled side in. Using the same sample media, sample the same area a third time. The **third** pass shall be sampled by wiping using the method not previously used (i.e., use the square method if the “S” method was originally used).

According to MLCC:

The sample area was wiped with the gauze (first from left to right on one side of the gauze, and secondly from top to bottom on the other side of the gauze; repeatedly).

Therefore, in violation of the regulations MLCC failed to employ the “concentric” method of wiping the surface as required.

On February 19, 2015, FACTs officially requested a variance from the provisions of 6.2.7 through 6.2.10, especially where it was physically impossible to comply with this sampling requirement. In her response to our request,³ Ms. Brisnehan explicitly rejected this variance from the regulations:

The Regulations, as amended, merely add a third pass to increase sample recovery. The sample collection procedure included in the Regulations is based on wipe sample collection procedures developed by the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH). The sample collection procedure using the “S” method is also referenced in the NIOSH analytical methods for methamphetamine.

The Department does not consider the deviations proposed by FACTs to be *de minimis* variations from standard sampling requirements. The Department is not willing to provide FACTs a “blank check” to determine when it will or will not comply with the sample collection requirements. Therefore, the Department has determined that approval of this variance may result in substantial deviation from the intent of the regulatory requirement. This variance request is denied.

³ February 27, 2015, letter from Colleen Brisnehan, Hazardous Waste Corrective Action Unit, Hazardous Waste Program, to Mr. Caoimhín P. Connell, Forensic Applications Consulting Technologies, Inc., 185 Bounty Hunter’s Lane, Bailey, Colorado 80421, RE: Request for Variance under 6 CCR 1014-3, 788 West Lois Court, Louisville, Colorado, cc: Mr. Dan Miller - Colorado Attorney General Office, Michael Richen - Boulder County Public Health



Therefore, Ms. Brisnehan has explicitly stated that all three passes must be conducted or there is a significant violation of the regulations.

Based on the February 27, 2015, letter from Colleen Brisnehan, CDPHE, the method used by MLCC at the subject property is prohibited, and therefore, ALL of the samples thus collected by MLCC at the subject property are **invalid**.

Violation of Paragraph 6.2.11

According to the Regulations, the Consultant shall follow specific sampling protocols during the Preliminary Assessment including:

6.2.11 ... Photograph each sample location.

In their report, MLCC identifies 64 distinct sampling locations, and provides 56 photographs of sampling locations. Therefore, there are photographs of sampling locations missing from the MLCC report.

Violation of Paragraph 6.2.12.1

According to the Regulations, the Consultant shall follow specific sampling protocols during the Preliminary Assessment including:

6.2.12.1 To collect a field blank, remove a wipe from the wrapper with a new glove, shake the wipe open, refold in the same manner as during the sampling procedure, and then insert the wipe into the sample container.

According to Section 4.15.1 MLCC was required to provide a description of the sampling procedures used, *including sample collection, handling, and QA/QC*; yet that description is missing from the MLCC report vis-à-vis field blanks.

Violation of Paragraph 6.2.14

According to the Regulations, the Consultant shall maintain specific documentation during the Preliminary Assessment including:

6.2.14 Maintain a Chain-of-Custody Record covering the time of sample collection through final disposition. ... At a minimum, the Chain-of-Custody Record shall include the following:

Violation of Paragraph 6.2.14.7

According to the Regulations, the Consultant shall maintain specific documentation during the Preliminary Assessment including:

6.2.14.7 number of containers for each sample;

Nowhere in the MLCC chain-of-custody has MLCC provided the number of containers for each sample.



Violation of Paragraph 6.2.14.8

According to the Regulations, the Consultant shall maintain specific documentation during the Preliminary Assessment including:

6.2.14.8 sample collection time and date;

Nowhere in the MLCC chain-of-custody has MLCC provided the sample collection times as required.

Violation of Paragraph 6.2.14.9

According to the Regulations, the Consultant shall maintain specific documentation during the Preliminary Assessment including:

6.2.14.9 sample matrix;

Nowhere in the MLCC chain-of-custody has MLCC provided the sample matrix as required.

Violation of Paragraph 6.2.14.11

According to the Regulations, the Consultant shall maintain specific documentation during the Preliminary Assessment including:

6.2.14.11 sample preservatives, if applicable; and


Nowhere in the MLCC chain-of-custody has MLCC addressed the sample preservatives or identified if the preservatives were appropriate.

Violation of Paragraph 6.2.14.12

According to the Regulations, the Consultant shall maintain specific documentation during the Preliminary Assessment including:

6.2.14.12 signature and date for each person relinquishing or receiving sample custody.

The MLCC chain-of-custody is as follows:

Relinquished By	Date & Time	Received By	Date & Time	Sam
		UPS	3.25.15	Total Nu
UPS	MAR 26 2015		MAR 26 2015	Shipping
				Seals Int
				Received
				Notes:

As can be seen, in violation of Section 6.2.14.12 there is no signature or identification for the person who relinquished the samples to UPS on March 25, 2015.



Violation of Paragraph 6.2.15

According to Section 6.2.15 of the Regulations, for structures with “painted-over” surfaces(as defined in Section 2 of Part 1, 6 CCR 1014-3), the Consultant shall estimate the concentration of methamphetamine present below a painted-over surface by one of the following methods:

6.2.15.2 collect wipe samples from similar surfaces within the same room that were not painted after contamination was introduced, or

6.2.15.3 sample the painted over surface as set forth in 6.2.1 – 6.2.14, but use methanol instead of isopropanol as the wetting agent for the sampling media to acquire a representative sample from beneath the painted-over surface.

The Consultant shall, then provide

4.15.1 a description of the sampling procedures used, including sample collection, handling, and QA/QC;

In their report, MLCC states:

Portions of the family room, living room and dining may have been recently painted.

In violation of Section 4.15.1, nowhere in their report, has MLCC described the sampling protocol used to comply with Section 6.2.15

Violation of Paragraph 6.3.6

According to the Regulations, the Consultant shall perform sampling pursuant to maintain specific protocols during the Preliminary Assessment including:

6.3.6 Collect all individual aliquots from 100 cm² sampling areas.

For this property, MLCC failed to comply with the sampling protocols and also exhibited a lack of knowledge in sampling procedures. In their report, MLCC indicates they knowingly provided false information to the analyzing laboratory, and to the client.

In their report, and on their analytical chain-of-custody, MLCC identified the individual aliquots for their composites as 100 cm². However, the photograph of the sample 15, for example indicates that the area was mostly air (literally).

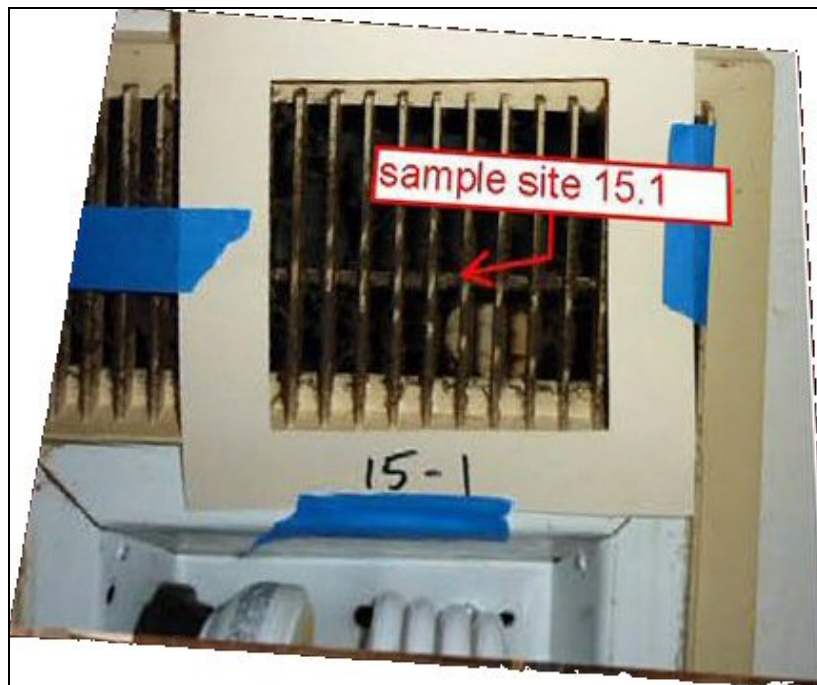
In the photograph below, MLCC depicts a sampling location delineated with a 10 cm X 10 cm template.





Photograph 1
MLCC Photograph Sample 15

Using distortion correcting software, we can correct the perspective of the photograph and then, using the template as the scale, calculate the actual area sampled. Thus the distortion corrected photograph for the above sample is depicted below:



Photograph 2
Distortion Corrected Sample Location



When we measure the area that was actually sampled, we see that there is only 20 cm² of surface available, and not 100 cm² as reported by MLCC.

Violation of Paragraph 6.9.1

According to the Regulations, the Consultant shall perform sampling pursuant to maintain specific protocols including:

4.17 If clearance sampling is conducted during the preliminary assessment, it shall be conducted in accordance with Section 6 of this Part 1.

According to the MLCC report,

Sampling was conducted in accordance with the Colorado Department of Public Health & Environment 6 CCR 1014-3 Regulations Pertaining to the Cleanup of Methamphetamine Laboratories, Part 1: Property Assessment, Decontamination and Clearance, December 15, 2014, and was based on the preliminary assessment information, chemicals used and duration of lab operation (if applicable), the apparent extent and severity of contamination, and professional judgment.

Since virtually none of the sampling and analysis performed at the property was actually needed, the only rationale that could be employed was that MLCC collected the sample for clearance (this is to demonstrate compliance).

According to Regulations:

6.9.1 Except as provided in Section 6.9.1.1, at least 400 cm² of surface area shall be sampled from every room, attic, and crawl space.

As already mentioned, MLCC failed to address the attic in the structure, and nowhere in their report are the attic samples presented.

Violation of Paragraph 6.9.4

According to the Regulations, the Consultant shall perform sampling pursuant to maintain specific protocols including:

6.9.4 For buildings and structures that have forced air ventilation systems, at least 400 cm² of surface area of the ventilation system shall be sampled, ...

MLCC failed to collect "...at least 400 cm² of surface area of the ventilation system..."
From the MLCC report, we see:

836-14	3/25/15	HVAC	Meth	100 cm ²	p 13.94 µg/100 cm ²	
--------	---------	------	------	---------------------	--------------------------------	--

Therefore, since MLCC only collected 100 cm², MLCC could not have collected "...at least 400 cm² of surface area of the ventilation system..."



Violation of Paragraph 6.9.4

According to the Regulations, the Consultant shall perform sampling pursuant to maintain specific protocols including:

*6.9.4 For buildings and structures that have forced air ventilation systems, ...
Samples shall be collected from accessible areas within the heat exchanger unit,*

MLCC failed to collect a sample from within the heat exchanger unit.

Violation of Paragraph 6.9.4

According to the Regulations, the Consultant shall perform sampling pursuant to maintain specific protocols including:

*6.9.4 For buildings and structures that have forced air ventilation systems, ...
Samples shall be collected from ...inside the cold air return system...*

MLCC failed to collect a sample from inside the cold air return system.

CONCLUSION

In our review, FACTs has identified no fewer than 39 regulatory violations, as documented in the Preliminary Assessment and Clearance report by MLCC.

According to Colorado Regulations, 6 CCR 1014-3

3.0 Notification and Imposition

3.1 Whenever the Department has reason to believe that a person has violated any requirement of these regulations, the Department shall notify the person, specifying the requirement alleged to have been violated and the facts alleged to constitute the violation.

To our knowledge, the Department has ignored all of the violations identified in this review.



Appendix A

Statement of Qualifications

