



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street  
DENVER, CO 80202-1129  
Phone 800-227-8917  
<http://www.epa.gov/region08>

2008 DEC 15 AM 9:58

DEC 16 2008

Ref: 8ENF-L

**VIA FEDERAL EXPRESS**

Merl Reynolds  
Cheerful Cesspool Service  
18758 Surface Creek Road  
Cedaredge, CO 81413

Re: Opportunity to Confer and Order for  
Compliance with Information Request,  
Docket No. CWA-08-2008-0016

Dear Mr. Reynolds:

On June 30, 2008, the U.S. Environmental Protection Agency (EPA) sent you a Notice of Opportunity to Confer and Order for Compliance with Information Request (Notice and Order) issued under the authority vested in the Administrator of EPA by sections 308 and 309(a)(3) of the Clean Water Act (the Act), 33 U.S.C. §§ 1318 and 1319(a)(3). The Notice and Order require you to submit certain information concerning the operations of Cheerful Cesspool (Cheerful) within thirty days of the effective date of the Notice and Order, and offered you the opportunity to confer with EPA regarding the requested information. You received the Notice and Order on July 8, 2008, but, to date, EPA has not received your response or any indication through phone calls or email that you wish to confer with EPA.

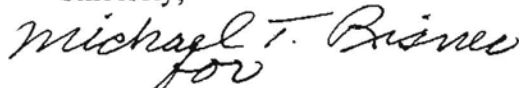
EPA is concerned with your continued refusal to comply with our requests for information on Cheerful's operations. As you may recall, in November 2002, EPA sent you a supplemental request for information to which you failed to respond. The supplemental request was sent to you because some required information was missing from your response to EPA's 2001 request for information. In January 2003, EPA sent you a letter by certified mail offering the opportunity to confer with EPA regarding the November 2002, request for information, but you refused to claim that letter. On November 16, 2007, EPA sent you a request for information regarding the method(s) of septage disposal employed by Cheerful. Cheerful received that request on November 26, 2007, and the response was due on or before January 10, 2008. After you failed to respond to the November 2007, request, on March 14, 2008, EPA sent Cheerful a follow-up and opportunity to confer, as required by section 309(a)(4) of the Act. Cheerful refused to accept service by first class mail of the opportunity to confer. EPA made several attempts to contact Cheerful via telephone November 2008 to discuss the Notice and Order; however Cheerful has not returned the phone messages left by EPA.



As you have been informed in prior correspondence from EPA, the Act requires the Administrator of EPA to take all appropriate enforcement action to secure prompt compliance with the Act and any order issued under the Act. Section 309 of the Act authorizes a variety of possible enforcement actions, including a civil or criminal action; administrative penalty action; and disbarment from federal contracts and loans for any non-compliance with the Act or an order issued pursuant to the Act. At this time, EPA is planning to pursue an action for administrative penalties against Cheerful for its non-compliance with the November 2007, request for information unless Cheerful provides EPA with complete responses to each question contained in that document, a copy of which is enclosed, prior to January 9, 2009. Section 309(g) of the Act authorizes administrative penalties of up to \$11,000 per day for each day that a violation continues, up to a maximum of \$157,500.

If you have any questions concerning this letter or the information being requested of Cheerful, the most knowledgeable person on my staff is Elizabeth Fagen, Environmental Engineer, at 303-312-6095. Legal questions should be directed to Wendy Silver, Senior Attorney, at 303-312-6637.

Sincerely,

A handwritten signature in cursive script that reads "Michael T. Bisnes". The signature is written in dark ink and is positioned above the typed name of the signatory.

Andrew M. Gaydosh  
Assistant Regional Administrator  
Office of Enforcement, Compliance and  
Environmental Justice

Enclosure



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2008 DEC 16 AM 9:39

DEC 16 2008

Ref: 8FNF-W-NP

**CERTIFIED MAIL: 7005-1160-0005-3397-2296**  
**RETURN RECEIPT REQUESTED**

Merl Reynolds  
Cheerful Plumbing (Cesspool Service)  
18758 Surface Creek Road  
Cedaredge, Colorado 81413

Re: Request for Information  
Pursuant to section 308 of the  
Clean Water Act, 33 U.S.C. § 1318

Dear Mr. Reynolds:

The Environmental Protection Agency (EPA) has received information regarding your company's operations that has given us reason to believe that you may be subject to the domestic septage regulations found at 40 C.F.R. Part 503. Therefore, this letter is a Request for Information regarding the method(s) of septage disposal that may be employed by Cheerful Plumbing. Section 308 of the Clean Water Act (Act), 33 U.S.C. § 1318, gives EPA the authority to request information of this nature. The term, "Cheerful Plumbing", will be used throughout the information request to include any and all operation(s) performed by this company. Please provide a separate and complete narrative response to each and every question and subpart of a question. Precede each answer with the number of the question to which it corresponds. Your response to this request must be accompanied by a certificate that is signed and dated by you or the person who is authorized by you to respond to the request. The certification must state that the response is complete and contains all information and documentation available to you that is responsive to the request. We have enclosed a sample Statement of Certification and a copy of the Domestic Septage Regulatory Guidance with this letter.

The Federal government promulgated regulations found at 40 C.F.R. Part 503 in February 1993, governing the use and disposal of sewage sludge, including septage. The aforementioned regulations contain specific requirements for record keeping, land application and/or disposal of septage. Septage is defined at 40 C.F.R. § 503.9(f) as either liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Failure to comply with these regulations constitutes a violation of the Act. You are hereby required to provide to EPA the following information **within forty-five (45) days** of receipt of this letter:

Requested Information:

1. Describe the business operations of Cheerful Plumbing, including all types of waste accepted, size of operation, and the percentage of total waste accepted or picked up that qualifies as septage. (Defined above and at 40 C.F.R. § 503.9(f).)
2. Provide a list of all septage received or picked up by Cheerful Plumbing from November 1, 2005 to present. Include the name and address where the septage was received, the date it was received, the type of septage, and the amount (gallons) received. Typically the truck manifest or trucking log will contain this information.
3. Describe each and every method of septage disposal employed by Cheerful Plumbing (i.e., land application, surface disposal, disposal into a wastewater treatment facility, incineration). Provide the following requested information from November 1, 2005, to present, for every disposal method utilized:
  - a) If disposing of septage into a publicly owned treatment works (POTW) or other contract site, describe the location and method of disposal. Include the name of the POTW or contract site, the name of the POTW or contract site employee who authorized such disposal, and copies of any written agreements, disposal logs and/or billing statements between your company and the POTW or contract site.
  - b) If land application or surface disposal of septage is or has been employed provide:
    - (i) Provide a list of all land application and disposal locations utilized. Include the size of each site, the Section, Township and Range in which the site is located or the Global Positioning System (GPS) coordinates (if available) and the number of acres applied at each site;
    - (ii) Identify the application rate and application method of each load that your company applied, the overall gallons applied to each site and the nitrogen requirement for the crop or vegetation grown on each site during the given time frame;
    - (iii) Provide copies of all sample analyses for all septage that was land applied and/or surface disposed.
    - (iv) Describe any treatment of the septage which took place prior to application or disposal. If the septage was incorporated into the soil during land application, describe the process used and time period between application and incorporation.
    - (v) Describe how your company is achieving compliance with pathogen and vector attraction reduction requirements found in 40 C.F.R. § 503.

**Cheerful Plumbing**

**Request for Information Pursuant to Section 308 of the Clean Water Act**

**Statement of Certification**

I certify under penalty of law that the foregoing responses and attachments to EPA's Request for Information Pursuant to the Clean Water Act ("Request") were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. The response and attachments contain all documents and information responsive to the Request that are known to me following a complete and thorough review of all information and sources available to me. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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Signature \_\_\_\_\_ Date \_\_\_\_\_

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Printed Name \_\_\_\_\_

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Official Title \_\_\_\_\_



Bcc: Aaron Urdiales, ENF-W-NP  
Bob Brobst, 8P-W-WW

CC: Address

Kenan Dicker  
Water Quality Control Division  
Biosolids  
Colorado Department of Public  
Health and Environment  
4300 Cherry Creek Drive South  
Denver, CO 80246-1530