Georgia Department of Public Health

Brenda Fitzgerald, MD, Commissioner | Nathan Deal, Governor

2 Peachtree Street NW, 15th Floor
Atlanta, Georgia 30303-3142
www.health.state.ga.us

12 September 2013 *By email to Jennifer.Burgess@legis.ga.gov*

Wayne R. Allen, Esq.
Office of Legislative Counsel
State Capitol Building, Room 316
Atlanta GA 30334-1140

RE **Georgia Department of Public Health**
Proposed Revisions to Chapter 290-5-59 of the Georgia Rules & Regulations
"Special On-Site Sewage Management Services"

Dear Mr. Allen:

I have enclosed a copy of our "Notice of Proposed Rulemaking" and the proposed rules as revised. I would greatly appreciate it if you would forward copies to the presiding officers of the House and Senate as provided by O.C.G.A. Section 50-13-4(e).

As always, please let me know if you have any questions or concerns.

With best regards, I am

Yours very truly,

Sidney R. Barrett, Jr.
General Counsel

Georgia Department of Public Health

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12 September 2013

NOTICE OF PROPOSED RULEMAKING
"Portable Sanitation Contractors"
Revisions to Regulation Chapter 290-5-59

Please take note that the Department of Public Health proposes to repeal the administrative regulations currently codified as Chapter 290-5-59 ("Special On-Site Sewage Management Systems"), and replace them with the attached language to be codified at Chapter 511-3-6, pursuant to its authority under O.C.G.A. Sections 31-2A-4(12) and 31-2A-6. The proposed revised regulation is attached.

These proposed regulations govern "portable sanitation units" as that term is defined in the regulations, as well as individuals and companies engaged in the business of renting and servicing portable sanitation units. The proposed revisions are intended to update, clarify, and streamline the earlier regulations on this subject. **Comments and suggestions from the public in response to an earlier notice of rulemaking have been incorporated into this proposal.**

Interested persons may submit comments on these proposed revisions in writing addressed to:

Sidney R. Barrett, Jr.
General Counsel
Georgia Department of Public Health
2 Peachtree Street, NW, 15th Floor
Atlanta GA 30303

Comment may also be presented in person at a public meeting scheduled for 1:30 p.m., 9 October 2013, in room 9-260 at 2 Peachtree Street, NW, 15th Floor, Atlanta GA.

Sidney R. Barrett, Jr.
General Counsel

RULES OF THE
DEPARTMENT OF PUBLIC HEALTH
CHAPTER 511-3-6
PORTABLE SANITATION CONTRACTORS

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511-3-6-.01 Applicability. These Rules shall apply to all portable sanitation service providers except those being used in a facility or system under the jurisdiction of and regulated by the Department of Natural Resources under the Georgia Water Quality Control Act or the Georgia Comprehensive Solid Waste Management Act.

Authority: O.C.G.A. Sections 31-2A-6, 31-12-8, 31-27-9, 12-8-1.

511-3-36-.02 Definitions.

(a) "Approval" or "approved" means acceptable or accepted by the Health Authority in accordance with applicable specifications stated herein or with additional criteria applied by the Authority.

(b) "Certified Portable Sanitation Contractor" means an individual engaged in furnishing, renting, or servicing portable units, and that has met the certification requirements of this Chapter and is in good standing with the Department.

(c) "Certified Portable Sanitation Company" means a person engaged in the business of furnishing, renting or servicing portable sanitation units, and that has met the requirements of this Chapter and is in good standing with the Department.

(d) "Construction Site" means a development area in which building construction, repair, or land improvement is taking place.

(e) "Department" or ""DPH" means the Georgia Department of Public Health.

(f) "Health Authority "means a county board of health organized pursuant to O.C.G. A. Sections 31-3-1 *et seq.*

(g) "Holding Tank" means a water-tight container utilized temporarily to hold sewage from a portable sanitation unit.

(h) "Onsite Sewage Management System" means a sewage management system other than a public or community sewage treatment system, whether serving single or multiple buildings, mobile homes, recreational vehicles, residences or other facilities designed or used for human occupancy or congregation. It includes conventional septic tank systems and privies, as well as alternative onsite sewage management systems approved by the local Health Authority.

(i) "Person" means any individual, partnership, corporation or association including bodies political and corporate.

(j) "Portable chemical toilet" means a self contained non-flush portable toilet facility containing a solution of water and chemical intended for the collection and temporary storage of human body wastes.

(k) "Portable hand washing fixture" means any portable fixture containing fresh water, soap and disposable towels used for cleaning an individual's hands.

(l) "Portable sanitation contractor" means an individual performing services related to installation, pumping, transportation, disposal, maintenance, removal, or safe management of portable sanitation units and portable hand washing fixtures.

(m) "Portable sanitation unit" means any portable structure or fixture used for the collection, temporary storage and chemical treatment of human body wastes that is not connected to an onsite sewage management system or public or community sewerage system. It includes portable chemical toilets and portable hand washing fixtures.

(n) "Portable sanitation waste" means sewage from portable sanitation units or other equipment designed for temporary collection and storage of waste containing human excreta or residuals of such, or other waste having similar characteristics, and the ingredients used as part of operation of the portable sanitation unit. It does not include liquid or solid material removed from a septic tank or similar treatment works that receives commercial wastewater, industrial wastewater or grease removed from a grease trap.

(o) "Prohibited discharge" means the discharge or spillage of sewage from a portable sanitation unit in violation of law and that constitutes a public health nuisance.

(p) "Public health nuisance" means any condition with the potential to cause or promote pathogens, infection, or disease in any individual or the public in general.

(q)"Sanitary" means free of conditions with the potential to cause or promote pathogens, infection, or disease in any individual or the public in general.

(r) "Sewage" means human excreta, all water-carried wastes, and liquid portable sanitation waste including grey water from portable showers and hand washing fixtures.

(s) "Special event" means any temporary activity attracting more than fifty persons and where individuals congregate to participate in or observe an activity in outdoor or portable enclosed or semi-enclosed structures for more than two consecutive hours.

(t) "Toilet" means a sanitary fixture meeting Health Authority and plumbing code requirements for receipt and conveyance of human body wastes to a public or community sewerage system or an onsite sewage management system.

Authority: O.C.G.A. Sections 31-2A-6, 31-12-8, 31-27-9, 12-8-1.

511-3-6-.03 General Provisions

(1) The Department shall regulate the use of temporary non-flush portable sanitation units, and shall regulate persons engaged in the business of furnishing, renting, or servicing portable chemical toilets, and portable hand washing facilities at locations where public sewage treatment systems or on-site sewage management systems are not available or lack sufficient quantities.

(2) No person shall engage in the removal or disposal of the contents of a portable sanitation unit without having obtained a "Waste Removal and Disposal Permit" from the Health Authority for the county in which the business is based. The permit must be renewed annually, and shall be valid in every county throughout the State.

(3) It is the responsibility of the certified portable sanitation contractor and certified portable sanitation company to maintain the portable sanitation unit in a safe and sanitary manner so as not to constitute a public health nuisance.

(4) The property owner and special event sponsor are responsible for all prohibited discharge and unapproved spillage of sewage associated with a portable sanitation unit. A portable restroom or portable hand wash fixture cannot be used or maintained in such a manner that will allow the seepage, dumping or discharge of sewage from such system to the ground surface, to a water course, drainage ditch, open trench, canal, storm drain or storm sewer, water well, abandoned well, lake, stream, river, estuary, groundwater or other body of water. The property owner and special event sponsor must notify the portable sanitation company if any unit becomes unsanitary, unsafe, or causes a prohibited discharge. The property owner, as the originator, is responsible for ensuring that the portable sanitation unit is only used for the disposal of human excreta. Commercial waste, grease, hazardous chemicals, and non human excreta shall not be discarded into portable sanitation units.

(5) Each special event sponsor and construction site owner utilizing a portable sanitation unit must and show proof of a service contract with a certified portable sanitation company.

(6) Portable sanitation unit must meet the requirements of this Chapter where sanitary facilities are needed on a temporary basis for construction sites and special events.

(7) Employees at all construction sites and the general public attending and participating in special events that are inadequately served by sewered toilet facilities should have easy access to portable sanitation units that are maintained in a clean, sanitary, and functional condition for the protection of human health, safety and welfare. Where a

portable sanitation unit supplements or serves in lieu of sewered toilet facilities, the portable sanitation units shall meet the following guidelines:

(a) Must be furnished by a certified portable sanitation contractor or company holding a current "Waste Removal and Disposal Permit" issued by a Health Authority.

(b) The minimum number of portable sanitation units required during anticipated peak attendance at a construction site shall be determined in accordance with the most current Occupational Safety and Health Administration (OSHA) Regulations for Toilets at Construction Sites (Appendix Table 1), after taking into consideration any sewered seated or urinal toilets that may be present at the site of the construction site.

(c) The minimum number of portable sanitation units required during anticipated peak attendance at a special event shall be determined in accordance with Table 2, after taking into consideration any sewered seated or urinal toilets that may be present at the site of the special event.

(8) Portable sanitation units shall be located as close as practical to the highest concentration of participants, observers and employees of special events. However, the units should be placed as far from the food service area as possible. The safety of users shall be a primary consideration in the placement of the units. At special events, portable sanitation units shall be accessible at all times for maintenance by truck.

(9) No strong bases, acids or organic solvents shall be used in the operation of a portable sanitation unit. Chemicals used in the cleaning, operation or maintenance of portable sanitation units shall be in accordance with applicable federal, state and local provisions.

(10) The fresh water tank on the service vehicle must be filled with potable water only. When hand wash fixtures are serviced, they must be filled with water from the fresh water tank on the truck or directly from a potable water source. All fresh water tanks on the service vehicles and affixed to hand wash fixtures must be labeled with the international symbol for "Do Not Drink". Each hand washing fixture must be sufficiently supplied with soap and paper towels adequate for the duration between servicing.

Authority: O.C.G.A. Sections 31-2A-6, 31-12-8, 31-27-9, 12-8-1.

511-3-6-.04 Construction of Portable Sanitation Units

(1) A portable sanitation unit shall be a portable self-contained sheltered unit equipped with a waste-receiving holding tank. The waste container shall be rigid, water-tight, made from impervious material, and capable of containing the waste in a sanitary manner.

(2) Portable sanitation units shall be constructed in the following prescribed manner:

(a) Each portable sanitation unit must have the name and phone number of the company clearly visible.

(b) Rooms or shelters housing the units shall be of solid construction, easy to clean, and provide privacy. The toilet room shall be ventilated to the outside and adequately lighted. All ventilation openings to the units, except vent pipes, shall be covered with a screen.

(c) Portable sanitation units shall have closing doors with internal latches provided to prevent inadvertent entry.

(3) Portable sanitation units having hand wash fixtures shall have an air gap between the water supply faucet and the flood level rim of the fixture sufficient to prevent backflow and cross contamination between the fresh water supply tank and the wastewater holding tank.

(4) Any defective or inadequate portable sanitation unit shall be repaired, replaced or withdrawn from service by locking or removal.

Authority: O.C.G.A. Sections 31-2A-6, 31-12-8, 31-27-9, 12-8-1.

511-3-6-.05 Removal and Disposal of Waste from Portable Sanitation Units

(1) Removal and disposal of waste from portable sanitation units shall be conducted only by a certified portable sanitation contractor in good standing with the Department, pursuant to a "Waste Removal and Disposal Permit."

(2) The application for a "Waste Removal and Disposal Permit" shall be submitted in writing, on forms provided by the Department, to the Health Authority for the county in which the business is based, at least ten days prior to engaging in such activities. The Health Authority shall approve or disapprove the application within twenty days after the receipt of a completed application. The application shall include the business name and address, name and address of the applicant, the manner by which such contents are to be removed, transported and given final disposal, and such other documentation as required by the Health Authority, including evidence that waste removed and transported will be accepted at approved disposal sites. Prior to the issuance of a permit, the applicant shall provide evidence of satisfactory compliance with the provisions of these rules.

(3) The permit shall be valid for no more than twelve months, and shall be subject to suspension and revocation for failure to comply with the requirements of these regulations. Permits shall expire upon change in company ownership or business location.

(4) Removal of portable sanitation waste shall be conducted in a clean and sanitary manner by means of a vacuum hose to a leak proof tank truck on which all ports are properly valved and capped. The certified portable sanitation contractor is required to clean up all spillage during unit servicing.

(a) Service vehicles should be equipped with a portable sanitation waste tank adequately sized to service the units; a tank containing sanitizing solution for recharging the units; and when applicable or required, a fresh water tank filled with potable water to service the hand washing fixtures.

(b) Separate dedicated hoses shall be used for supplying potable water and servicing the portable sanitation unit. They shall be labeled to prevent them from being interchanged and stored in such a manner to prevent cross contamination.

(5) It is the responsibility of property owners, employers, and event sponsors to ensure that portable sanitation units are serviced by a certified portable sanitation contractor or company in accordance with this Rule at least once every seven days, and more frequently as usage may require.

(6) Servicing shall include the use of a sanitizing solution for cleaning urinals and toilet seats, removing waste from containers, recharging containers with an odor controlling solution, and installing an adequate supply of toilet tissue.

(7) Portable sanitation waste from tank trucks must be disposed at a facility regulated by the Georgia Department of Natural Resources, Environmental Protection Division.

(8) A manifest or route sheet must be maintained by the portable sanitation company for a period of twelve months. The manifest or route sheet must include:

(a) Name or originator, event, sponsor;

(b) Address or route;

(c) Date and location of service;

(d) Date and location of final disposal; and

(e) Total of gallons being disposed.

(9) The county issued "Waste Removal and Disposal Permit" number, including the name and address of the person or firm engaging in the removal of portable sanitation unit waste, shall be lettered on both sides of each vehicle. Letters and numerals shall not be less than two inches in height and shall be readily visible.

(10) Every vehicle used for service and removal of portable sanitation unit waste shall be equipped with watertight tanks or body and properly maintained. Liquid wastes shall not be transported in open bodied vehicles. All pumps, hose lines, valves and fittings shall be maintained as to prevent leakage. The truck must also have adequate means to clean each unit in place with sanitizing solution.

(11) Signage or placard stating "Do Not Drink" shall be affixed to the fresh water supply tank and all portable hand washing fixtures. The fresh water supply tank, hand wash fixture's water supply tank and gray water storage tank must be cleaned with 1 to 10 bleach to water solution (typically 3 to 6 % sodium hypochlorite solution) at least every forty five days to prohibit the growth of algae.

Authority: O.C.G.A. Sections 31-2A-6, 31-12-8, 31-27-9, 12-8-1.

511-3-6-.06 Certification of Portable Sanitation Contractors and Companies

(1) The Department shall be responsible for certifying individuals and companies performing services related to furnishing, renting, servicing, and maintenance of a portable sanitation unit.

(2) There shall be established an Advisory Board to assist the Department with certification, recertification and decertification of all individuals required to be certified under Chapter 511-3-6. The Board shall include at least two individuals that are currently certified as portable sanitation contractors. The Advisory Board will assist the Department with the following:

(a) Establishing written tests to be administered for the various certifications, and revising such tests from time to time;

(b) Reviewing complaints regarding poor quality of work and unlawful or unethical practices, and recommending appropriate action by the Department;

(c) Reviewing the content of educational programs and events and assigning appropriate continuing education units;

(d) Reviewing the established criteria for certification in the assigned specialties and recommending such modifications as are appropriate for the ongoing management of the process; and

(e) Providing such services or advice as will assist the Department and Health Authorities in the effective enforcement of this Chapter.

(3) Certification of Portable Sanitation Contractors:

(a) Individuals engaged in the cleaning installation and maintenance of portable sanitation units may obtain certification from the Department as a Portable Sanitation Contractor meeting the following requirements:

1. Must be at least 18 years of age;

2. Must show proof of ownership or employment with a certified Portable Sanitation Company currently operating in good standing with the Department; and

3. Must successfully complete a written or oral examination concerning properly maintaining a portable sanitation unit in a clean, sanitary, and functional condition for the protection of human health, safety and welfare. Individuals currently certified by the Portable Sanitation Association International as a Health and Safety Certified Portable Sanitation Worker are excluded from the examination requirement in this Chapter. However, all other requirements must be completed prior to receiving a Certified Portable Sanitation Contractor certificate.

4. The certification period is two years.

(b) Certification may be renewed for a Portable Sanitation Contractor upon meeting the following requirements:

1. Must have no unresolved or outstanding disciplinary actions related to the portable sanitation industry;

2. Must submit a copy of business license or other verification of business or submit proof of employment with a certified portable sanitation company.

3. Must not have committed any illegal acts related to this Chapter during the certification period;

(c) A Portable Sanitation Contractor whose certification has expired may be recertified upon meeting the following requirements:

1. Must have no unresolved or outstanding disciplinary action related to the portable sanitation industry.

2. Must not have committed any illegal service or maintenance acts related to this Chapter following the expiration of the certification.

3. Must submit a copy of business license or other verification of business or submit proof of employment with a certified Portable Sanitation Company; and

4. If more than two years have passed since the certification expired, the applicant must take and pass the Portable Sanitation Contractor exam in addition to meeting the continuing education requirement.

(d) A decertified Portable Sanitation Contractor may be recertified upon meeting the following requirements:

1. Must wait at least two years after decertification to re-apply:

2. Must have no unresolved or outstanding disciplinary actions;

3. Must not have committed any illegal acts related to this Chapter during the decertification period;

4. Must submit a copy of business license or other verification of business or submit proof of employment with a certified portable sanitation company; and

5. Must take and pass the Portable Sanitation Contractor Exam with a score of 70 or above.

(4) Certification of Portable Sanitation Companies

(a) Any person engaged in the business of cleaning, pumping, installation, and maintenance of portable sanitation units may be certified as a Portable Sanitation Company by the Department upon meeting the following requirements:

1. Must employ at least one person who is a Certified Portable Sanitation Contractor in good standing with the Department:

2. May not associate with any person as owner, part owner, manager, or employee, whose certification has been revoked under this Chapter 511-3-6, unless and until such person has been recertified; and

3. The certification period is two years.

(b) Certification may be renewed for a Portable Sanitation Company upon meeting the following requirements:

1. Must have no unresolved or outstanding disciplinary action related to this Chapter;

2. Owner or designee must obtain at least six hours of continuing education approved by the Department; and

3. Must not have committed any illegal acts related to this Chapter during the certification period.

(c) A Portable Sanitation Company whose certification has expired may be recertified upon meeting the following requirements:

1. Must have no unresolved or outstanding disciplinary action related to this Chapter;

2. Must submit evidence of the owner's or their designee's completion of six hours of continuing education as approved by the Department;

3. Must not have committed any illegal acts related to this Chapter during the expiration period.

(d) A decertified Portable Sanitation Company may be recertified upon meeting the following requirements:

1. Must wait at least two years after decertification to re-apply;

2. Must have no unresolved or outstanding disciplinary action relating to this Chapter; and

3. Must not have committed any illegal acts related to this Chapter during the decertification period;

(5) Fees

(a) The certification examination fee is $50.00.

(b) The Portable Sanitation Company fee shall be $300.00 for the two year certification period. Persons who achieve a passing score on the examination will be issued a numbered certificate upon receipt of the certification fee.

(c) The renewal fee shall be $300.00.

Authority: O.C.G.A. Sections 31-2A-6, 31-12-8, 31-27-9, 12-8-1.

511-3-6-.07 Decertification of Portable Sanitation Contractors and Companies.

(1) The Department may take disciplinary action, including suspension and revocation of the certification if the Department finds that the contractor or company has failed to comply or maintain compliance with O.C.G.A. Title 31 or this Chapter 511-3-6, or has committed any of the following acts:

(a) Misrepresentation or falsification of information on any application or document submitted to the Department or any Health Authority; or

(b) Conviction in any court of a felony or crime of moral turpitude. In the case of a corporation or other business entity, this provision shall apply in the event of such a conviction of any person associated with the company as an owner, partner, officer, director, or manager.

(2) The holder of any certification that is revoked under this Rule shall not be eligible for recertification for a period of at least twenty-four months. In the case of a Portable Sanitation Company, this provision also shall apply to partners, co-owners, officers, directors, and stockholders of corporate providers involved in the company.

Authority: O.C.G.A. Sections 31-2A-6, 31-12-8, 31-27-9, 12-8-1.

511-3-6-.08 Appendix.

<u>Table 1:</u> Minimum Number of Portable Sanitation Units at Construction Sites

Number of Workers*	Minimum Number of Units Serviced Weekly**
20 or less	1 Toilet per 20 Workers
21 or more	1 Additional Toilet per 40 Workers
200 or more	1 Additional Toilet per 50 Workers

29 CFR 1926.51 OSHA Regulations for Toilets at Construction Sites

** The number of portable sanitation units required shall be determined by the maximum number of workers present on a regular 8 hour shift. Shifts lasting longer than 8 hours (40 hour work week) should double the number of portable sanitation units.*

*** "Servicing" refers to the emptying of waste and the cleaning of the portable sanitation unit.*

Table 2. **Portable Sanitation Units for Special Events Planning**

AVERAGE CROWD SIZE	AVERAGE HOURS AT THE EVENT *									
	1	2	3	4	5	6	7	8	9	10
500	2	4	4	5	6	7	9	9	10	12
1,000	4	6	8	8	9	9	11	12	13	13
2,000	5	6	9	12	14	16	18	20	23	25
3,000	6	9	12	16	20	24	26	30	34	38
4,000	8	13	16	22	25	30	35	40	45	50
5,000	12	15	20	25	31	38	44	50	56	63
10,000	15	25	38	50	63	75	88	100	113	125
15,000	20	38	56	75	94	113	131	150	169	188
20,000	25	50	75	100	125	150	175	200	225	250
25,000	38	69	99	130	160	191	221	252	282	313
30,000	46	82	119	156	192	229	266	302	339	376
35,000	53	96	139	181	224	267	310	352	395	438
40,000	61	109	158	207	256	305	354	403	452	501
45,000	68	123	178	233	288	343	398	453	508	563
50,000	76	137	198	259	320	381	442	503	564	626
55,000	83	150	217	285	352	419	486	554	621	688
60,000	91	164	237	311	384	457	531	604	677	751
65,000	98	177	257	336	416	495	575	654	734	813
70,000	106	191	277	362	448	533	619	704	790	876
75,000	113	205	296	388	480	571	663	755	846	938
80,000	121	218	316	414	512	609	707	805	903	1001
85,000	128	232	336	440	544	647	751	855	959	1063
90,000	136	246	356	466	576	686	796	906	1016	1126
95,000	143	259	375	491	607	724	840	956	1072	1188
100,000	151	273	395	517	639	762	884	1006	1128	1251

Based on "Portable Restroom Requirements at Special Events and Crowd Gatherings"
Center for Business and Industrial Studies, University of Missouri-St. Louis

- *Determine the appropriate potable sanitation units needed form the table above.*
- *For each sewered toilet available onsite, subtract 1 from the previously calculated number.*
- *If alcoholic beverages are to be served, add 25% to the base number.*
- *For peak crowd numbers that fall between chart numbers, round up to the next base number.*
- *Units shall be provided in accordance with the Georgia Accessibility Code following state or local requirements.*
- *Table based on units being serviced daily*

Authority: O.C.G.A. Sections 31-2A-6, 31-12-8, 31-27-9, 12-8-1.