

Regulation

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# Industry Regulation Guide



# REGULATIONS GUIDE

Thanks for allowing us to be of service to you as you build your portable restroom business.

Satellite | PolyPortables is committed to the portable sanitation industry, which it helped to establish more than 30 years ago, and enjoys a reputation as a provider of durable, no-nonsense equipment. We know that our own success depends solely on your success, and that is why we're known for a relentless pursuit of smaller scale, but more profit-significant improvements, in both manufactured products as well as customer support services, such as this informational booklet.

Many of the statistics, documentation, and other data used here come from the Portable Sanitation Association International. This industry owes much to the PSAI for its years of dedication to its membership, grassroots efforts, and political savvy. PSAI members continue to pave the way for this industry.

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## Overview

Throughout the history of the portable sanitation industry regulations surrounding the placement and servicing of portable sanitation products have been inconsistently written and possibly even more inconsistently enforced. However, with the recent E. coli and Norwalk virus outbreaks, the provision and use of portable sanitation products, including toilets, hand wash stations and hand sanitizers is rising in the public consciousness.

But first, an overview of the players and their involvement in the portable sanitation industry:

### OSHA

The U.S. Department of Labor's Occupational Safety & Health Administration has written detailed standards covering portable sanitation for construction (1926.51) and field sanitation (1928.110). Both of the Standards require toilets at a rate of 1:20 workers. However, the Field Sanitation Standards do not apply to establishments with 10 or fewer workers.

Handwash requirements for construction apply to those "engaged in the application of paints, coatings, herbicides, or insecticides, or in other operations where contaminants may be harmful to the employees." The Field Sanitation requirements are stricter, requiring a hand wash station on the same 1:20 ratio as noted above.

Interestingly, both the construction and the field sanitation Standards require the use of potable water. None of the portable hand wash stations on the market today can support this requirement. Likewise, there are no companies in our experience who are capable, with current equipment, of hauling and dispensing potable water on job sites.

### AMERICAN NATIONAL STANDARDS INSTITUTE

The American National Standards Institute (ANSI) is a voluntary, consensus-building organization tasked with the creation and distribution of standards related to various businesses and industries. The Portable Sanitation Association International (PSAI), through ANSI, has developed several standards for sanitation, including ANSI Z4.1 – Sanitation in Places of Employment, ANSI Z4.3 Sanitation – Non-Sewered Waste Disposal Systems (enclosed), and ANSI Z4.4 – Sanitation – In Fields and Temporary Labor Camps. ANSI 4.3 – 1995 is more stringent than the OSHA Standard in that it calls for portable toilets on a 1:10 worker basis. In 2009, the ANSI standard A10.25-2009 was released, which again reflects the 1:10 worker basis, and also includes Section 4.4 which calls for the provision of handwash facilities for jobsite workers. The ultimate goal of PSAI is to have this new ANSI standard accepted as OSHA regulation through reference by OSHA.

### INTERNATIONAL CODE COUNCIL / PLUMBING CODE

The International Code Council was formed in 1994 dedicated to developing a set of national construction codes, many of which have been adopted by various governments and municipalities throughout the United States. Section 311.1 of the International Plumbing Code references and adopts the Standards put forth in ANSI Z4.3. The International Plumbing Code is the standard most cited by local inspectors on job sites.

### U.S. FOOD & DRUG ADMINISTRATION

While recent outbreaks of illness caused by food-borne bacteria have made the headlines, the U.S. FDA has placed emphasis on preventing this type of problem for some time. In 1998, the department released its "Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables." This guide highlights eight basic principles the department targeted as points of prevention. Two of the principles (# 3 & # 8) specifically deal with human hygiene and sanitation.

Sections IV through VI (pages 25 – 32) deal exclusively with portable sanitation and worker hygiene. This report does not dictate requirements for portable sanitation but outlines several suggestions.

Look for the FDA and the Department of Homeland Security to make food security a priority in the coming months.

It is noted that waterless hand sanitizer options are not addressed in any of the above referenced materials. However, the FDA did address this product in its "Food Service Safety Facts" publication in May 2003. In this publication, the department recommends thorough hand washing prior to the use of waterless hand sanitizers. While this publication is focused on the food service industry, it is logical to assume that the Department would extrapolate this recommendation toward other industries as well. However it would seem that a waterless hand sanitizer, in situations where no hand wash facility is available, would be better than no sanitizing option at all.

Sounds great, right? But we have a problem. Enforcement is in many areas lax, and in some instances non-existent. And when speaking to many portable restroom operators, they will tell you the industry itself is to blame in many cases.

## One. Image is Everything. Or is it?

Despite all the hard work and best intentions of the restroom rental companies, the manufacturers that supply their equipment, and industry association that represents us all, we still allow the world around us to put us in the same perspective as the late comedian Rodney Dangerfield. Just like Mr. Dangerfield, “we get no respect.”

Creating an image for your company that puts you a step above the overall industry’s perceived image is a good thing, and will serve to pull the industry as a whole along with you.

Remember, there are requirements in most states providing for “adequate sanitation” to be made available to construction workers on their jobsites. If not the “sewered” type, then there are very specific provisions for the “non-sewered” type, i.e., portable restrooms. Although there are other government entities such as local health departments, and OSHA that have requirements for “adequate sanitation,” the International Plumbing Code (IPC) 311.1 is the one that most closely regulates our industry in the United States and carries the most weight.

The IPC 311.1 was adopted from an American National Standards Institute (ANSI) standard, which includes a chart showing how one portable restroom can accommodate up to ten workers on a job, working eight hours a day, for one week.

If these guidelines were enforced, the portable sanitation industry could provide an amazing service to workers and our communities.

The first portable restrooms were built of wood and used lye for odor control. Decades have passed and millions of dollars have been spent designing and creating new equipment, training people to use the equipment, and developing 21st century servicing strategies. Yet today’s portable restroom companies still are faced with the old “outhouse” mentality. In many instances, people still snicker when they see a portable restroom, and likewise the end users don’t appreciate the services they are provided.

Lumpkin County, Georgia, Satellite | PolyPortables southeastern divisions’ home county, only recently began enforcing the International Plumbing Code. The Planning/Zoning Director verified the enforcement activities. When asked, “Why now?” he said the county DIDN’T KNOW the code existed, but that they were getting complaint calls about workers exposing themselves ...urinating behind trees, car doors, houses, etc. on jobsites, and it was getting to the point that some citizens were threatening to file indecent exposure charges. The county NEEDED the codes to prove to the builders that they had to have restrooms available for their workers.



The construction industry, one of the most powerful labor-based industries in the U.S., with one of the most powerful lobbies in Congress, continues to oppose guaranteed access to “adequate” sanitation for its employees. The portable sanitation industry continues to be viewed as an unnecessary evil, usually one of the last and least important items on the construction company’s list of necessary components to complete their project (if on the list at all). Has the situation improved in the last decade? Absolutely. But not to the extent where there are adequate restroom units on every jobsite.

We have to educate ourselves and all who will listen about the already existing codes and regulations pertaining to portable sanitation, and even laws that govern the construction industry overall.

One point that is especially interesting to those contracting for portable service relates to the millions of dollars per year saved by construction companies that provide “adequate sanitation” on jobsites. The PSAI funded a study to determine just this (see page x). It’s a great reference to show proof of these savings. Summarized, it says... making “adequate sanitation” available to workers on construction sites can bring up to a 600% return on the money spent. This is just from time lost. It doesn’t take into account any of the other potential liabilities that we all know exist: Citations from indecent exposure!, Damage to a building project from raw urine/feces inside or underneath (especially if the buyer’s Home Inspector finds it, Drug and alcohol abuse while driving to/from a rest room not on the jobsite and Sanitary Nuisance Laws.

The PSAI, by the way, was responsible for the American National Standard for sanitation through the American National Standards Institute (ANSI), and it continues to champion portable sanitation regulations throughout the country. In fact, the PSAI is recognized as the expert on the subject.

We need to work from every conceivable angle. The first and most obvious beginnings would be to agree we have a problem. And then agree that it is up to us to make sure it gets fixed.

### **International Plumbing Code**

#### **SECTION 311.1**

#### **TOILET FACILITIES FOR WORKERS**

**311.1 General. Toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction worker toilet facilities of the nonsewer type shall conform to ANSI 7.4.3.**

**Construction employees must have plumbing facilities available to them during the construction of a building. These facilities may either be permanent or portable. Portable facilities are regulated by ANSI Z4.3, which specifies the various construction requirements. Figure 311.1 has been provided to show the minimum number of fixtures required by ANSI Z4.3.**



## Two. Laying Down the Law.

So what can you do about it? First and foremost, get to know the law. Study it. Memorize it. You will never convince someone else to enforce the law unless you can recite it like the Pledge of Allegiance.

First, a bit of history. The U.S. Occupational Health & Safety Administration (OSHA) requires one toilet facility for 20 or fewer workers, one toilet and one urinal for every 40 workers up to 200, and one toilet and one urinal for every 50 workers over 200.

Originally, OSHA said this regulation didn't apply to "mobile crews having transportation readily available to near-by toilet facilities." The PSAI pressured OSHA to publish a codicil clarifying that a mobile crew "requires continual or frequent movement from jobsite to jobsite on a daily or hourly basis."

The PSAI has also lobbied Congress for years to get OSHA regulations in line with the stricter and more often followed International Plumbing Code. The organization came close to success with this proposal, until the Bush Administration shifted governmental priorities in 2001. Recently, the focus has changed to getting handwashing facilities available on construction sites, in part because of the national focus on avoiding the spread of disease.

It's a good idea to familiarize yourself with the OSHA regulations, so you aren't caught off guard if someone brings them up. Even more important, you'll want to stress the importance of the more stringent, and more practical, IPC code. At this printing, twenty-six states and the Virgin Islands have state-level occupational and safety regulations recognized by U.S. OSHA. You can access these state regulations at [www.osha.gov/fso/osp/index.html](http://www.osha.gov/fso/osp/index.html).

In 1995, OSHA began an inspection program for the construction industry that concentrated on serious hazards. However, at the urging of the PSAI, OSHA clarified that they were continuing to issue citations for "other-than-serious" hazards on construction sites.

Other regulatory agencies such as IPC follow the American National Standards Institute (ANSI) recommendations. PSAI is the secretariat for four standards:

- *ANSI Z4.1 Sanitation - In Places of Employment*
- *ANSI Z4.3 Sanitation - Nonsewered Waste-Disposal Systems*
- *ANSI Z4.4 Sanitation - In Fields and Temporary Labor Camps*
- *ANSI A10.25 Sanitation - In Construction*

The most important agency to follow the ANSI codes is the International Code Council (ICC). The ICC is an international organization that is now a consolidation of a number of other agencies including Building Officials and Code Administrators International (BOCA), International Conference of Building Officials (ICBO), and Southern Building Code Congress International (SBCCI).

Prior to the ICC, building safety codes were regional. BOCA National Codes were used mostly in Eastern and Great Lakes states; ICBO Uniform Codes in Western and Midwest states; and SBCCI Standard Codes in Southern States. The ICC international Codes (I-Codes) combine the strengths of the regional codes without regional limitations. Development of a single set of codes has had strong support from government, code enforcement officials, fire officials, architects, engineers, builders, developers, and building owners and managers.

Most states have either adopted ICC codes statewide or within the state at a local level. Some have adopted the codes statewide with a future enforcement date. To see where your state stands, go to [www.intlcode.org/government/adoptions.html](http://www.intlcode.org/government/adoptions.html).

Within the ICC is the International Plumbing Code, which many states and municipalities follow. The IPC also follows the ANSI codes:

*311.1 General. Toilet facilities shall be provided for construction workers and such facilities shall be maintained in a sanitary condition. Construction worker toilet facilities of the nonsewer type shall conform to ANSI z4.3.*

Even those in charge of special events are getting in on the standards. The City of Seattle recently issued a new Special Events Handbook, which includes a section on restroom facilities.

There are changes in building codes every year. The Building, Planning, & Zoning people are required to take continuing education courses regularly to keep up with the changes. It's our job to make sure our counties, cities, and states know this.

A customer in the panhandle of Florida took the bull by the horns herself, with much success. She was always very particular about her few hundred restrooms, and her service...but had the same problem as everyone else. The builders didn't understand about the opportunity to provide bathrooms for their workers.

After lots of hard work, persistent pounding on her inspectors, and most important the consistent sanitary condition of her restrooms, her county planning/zoning director made an important addition to the list of requirements to obtain a building permit. She was able to coerce them into doing this because she also does the paperwork for her customers. They call her and let her know when the job is supposed to start. Then she fills out the Contract/Agreement and faxes it to the county to go in the builders permit file. At the time of first inspection, the inspector checks it off his list if it's there, if not, the job is "Red-tagged".

This is an option for you as well. Go straight to the county and/or city department that handles health and safety regulations in your area. Arm yourself with the ANSI standards book, the IPC code from ICC, and anything else that looks official (see Guide to Clean Portable Restrooms on page 11). Then show them the law.

Another option is to work through an industry organization, even if it means starting one in your area. This option can give you more weight and validity, as well as more ideas and more people to get things done.

**OSHA Regulation: 1926.51 SANITATION**

*(c) Toilets at construction jobsites*

*(1) Toilets shall be provided for employees according to the following table:*

**TABLE D-1**

<i>Number of employees</i>	-	<i>Minimum number of facilities</i>
<i>20 or less</i>	-	<i>1</i>
<i>20 or more</i>	-	<i>1 toilet seat and 1 urinal per 40 workers</i>
<i>200 or more</i>	-	<i>1 toilet seat and 1 urinal per 50 workers.</i>

*(2) Under temporary field conditions, provisions shall be made to assure not less than one toilet facility is available.*

*(3) Job sites, not provided with a sanitary sewer, shall be provided with one of the following toilet facilities unless prohibited by local codes:*

- (i) Privies (where their use will not contaminate ground or surface water);*
- (ii) Chemical toilets;*
- (iii) Recirculating toilets;*
- (iv) Combustion toilets.*

*(4) The requirements of this paragraph (c) for sanitation facilities shall not apply to mobile crews having transportation readily available to nearby toilet facilities.*

**29 CFR 1926.51(c) (1)-(3)** contains the minimum requirements for toilets at construction jobsites. As you are aware, **29 CFR 1926.51 (c)(4)** makes the provisions of paragraph (c) inapplicable to mobile crews having transportation readily available to nearby toilet facilities.

*The determination of whether work crews are mobile is dependent upon factors such as worksite operations and circumstances. In general, "mobile crews" job functions require continual or frequent movement from jobsite to jobsite on a daily or hourly basis. Such is not the normal situation for work crews involved in housing construction.*

ICC consolidation benefits building safety and public

With the stroke of a pen, more than 190 years of combined building and fire safety code development and 30 years of anticipation for one organization to produce codes for use across the country and around the globe became a reality.

The International Code Council (ICC) became one consolidated organization effective Feb. 1. Directors signed documents to create a unified ICC made up of what is Building Officials and Code Administrators International (BOCA), International Conference of Building Officials (ICBO), and Southern Building Code Congress International (SBCCI).



### Three. Get Involved.

As we all know, there is strength in numbers. Unless you're prepared to work completely on your own, you need to get involved with other industry people to ensure that these laws are enforced. The PSAI is the group most available to everyone in the portable sanitation industry. The organization formed in the early 1970's and has grown to be the leading force behind many positive industry changes.

Whenever anyone has a question about portable sanitation, they call the PSAI, who refers them to its members. So joining PSAI isn't just good common sense, it's good business sense, too, because you will be receiving referrals for business in your market.

PSAI membership can give you the leverage and authority with local officials that you are not likely to get on your own. The organization has a number of specific ways to ensure regulations are followed, but you must be a member to access them. Giving the organization an even more official boost, PSAI is now a part of the new U.S. Office of Homeland Security.

For its members as well as the rest of the world, PSAI created the Guide to Clean Portable Restrooms. This guide has a short history lesson of the industry, plus tables and charts for construction and special events. But most importantly, because of its researched and documented statistics, Guide to Clean Portable Restrooms is now being used as a reference document. It has just been recognized by the National Environmental Health Association (NEHA) and is available in its bookstore.

Here's one very simple way you can begin to address the regulations issue. The PSAI offers decals to its members that can be posted on the wall of your units. The first decal says, Capacity: 1 Unit/10 Workers.

The second decal states that the PSAI will pay \$100 reward for information leading to the arrest and conviction of anyone caught damaging or defacing a PSAI member's portable restroom unit, providing the decal is prominently displayed.

In addition to the PSAI, there are other regional or state-wide groups that advocate for the portable sanitation industry. Some, such as the North Carolina Portable Toilet Group, established on its own. A group of companies got together and hired a lobbyist and an attorney. This organization is different than most in that it's considered a lobbying group. It recently won a battle by having an anti-vandalism law passed by the state legislature.

Possibly the greatest opportunity for forming statewide groups is under the auspices of your State Onsite Wastewater Association or Septic Tank Association. Florida is one state that has started the Florida Portable Restroom Organization (FPRO) through the Florida Onsite Waste Association (FOWA). FPRO has been very successful. The group meets quarterly, and has been focused recently on passage of a bill that will separate the licensing requirements for septic and portable restroom businesses.

The PSAI recommends the following steps to impact the regulatory process. Again, keep in mind that by joining the PSAI, you have the option of letting that organization do the legwork for you, using the PSAI name for validity:

1. Get to know the staff of your regulatory agency: Know who is responsible for what programs and decisions but follow the informal rules of the pecking order. The general rule is that contacts should be initiated at lower and middle level staff. If lower echelon staff can't adequately assist you, move on, but advise those staff people with whom you have been working that you are taking the matter to a higher authority. Do this tactfully, to ensure the liaison is kept intact, as many times top officials will refer the matter back to the working level. Make sure the lower echelon executives are aware of particulars and are prepared in advance. Aids of this type help them perform for their superiors and provide you with a working advantage.
2. Remember when dealing with regulatory agencies you must avoid private communications with officials or staff members who may have the responsibility to rule on a pending case. Written material at this stage can wind up as public documents or become part of a public record, which can be read by anyone.
3. Avoid frivolous pleading with regulatory agencies.
4. Anticipate future problems, identify them, and get involved early with the agency.
5. When meeting with the agency's top echelon, be organized and considerate. Remember they are appointed, not elected, and aren't necessarily motivated by the "votes" you represent. A top official granting a meeting will assume that lower levels in the agency have been exhausted. Make sure this is the case before requesting a meeting.

## Regulatory Negotiation Strategy from the PSAI

**Step 1:** Define your specific stand (problem). Why is it sufficiently compelling to get involved? What should the government do and why is that better than the alternatives? Know your facts and figures.

**Step 2:** Determine what specifically must be done to move the process along. Who needs to be involved?

- Corporate (legal, technical)
- Industry trade association
- Agency personnel (who to start with)
- Allies (who else has the same problem and should be involved).

Then outline the process/steps and develop a time frame for each. Identify key points on the timeline where more aggressive actions must be taken if the decision process is not progressing toward a finale. This may include involving your state representatives, etc.

**Step 3:** Educate the working staff level people about the problem(s). Be specific; they may not understand the finer points of your industry/process. Leave documentation of your position; they will probably have to discuss this with others. Specify the solution you want/desire. Give them alternatives to achieve your needs and the regulation.

**Step 4:** After meeting agency personnel, immediately send a letter summarizing the meeting, decisions made, and reiterate the time frame by which a final decision is needed. This step documents meetings and creates a visible path which may be helpful when meeting with members of the agency hierarchy later on if a bottleneck occurs.

Always include the time frame by which a decision needs to be made.

**Step 5:** Manage the process; don't let it manage you. Be candid with staff members of an official's office when requesting a meeting. They may be able to provide insight into certain matters that might be best handled at a different level. Remember, boring the official with an unconvincing or poorly organized presentation or embarrassing them by discussing a matter on which they haven't been briefed will make the next appointment more difficult or impossible.

**Step 6:** Subscribe to agency newsletters.

**Step 7:** File written comments/testify at agency hearings.

**Step 8:** Since regulations are more technical than legislation, in submitting comments on a proposed rule, be as structured and factual/technical as possible.

**Step 9:** Other channels to use: members of Congress, certain publications, Regulatory Analysis Review Group and the Regulatory Council; but know when NOT to involve these other sources.

**Step 10:** Advisory committees to the executive branch offer a way of working that isn't available through Congress.

### Available Options

- Arm (educate) yourself and go to war.
- Arm yourself and your like-minded competitors and go to war.
- Join forces with legal entities (local, regional, state, national) and go to war.
- Become a supportive member of your local Home Builder's Association.
- Become a supportive member of your local Chamber of Commerce.

The Portable Sanitation Association International is the primary authoritative voice for the portable sanitation industry, and is the repository for a wealth of information on these and other items of interest to portable restroom operators.

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