

Public Notice:
An Act Regarding the Placement of Portable Toilets – Effective August 8, 2024

As a result of the Maine Legislature’s passage of LD 2201 into Public Law (PL 2023, Ch 614), the Maine Department of Health and Human Services Maine CDC Subsurface Wastewater Program (the Department) will update its oversight of temporary portable toilets in Maine. This notice provides a review of the change and the new guidance.

On September 23, 2023, the Department amended its Subsurface Wastewater Disposal Rule (10-144 CMR Ch. 241), which defines a temporary portable toilet as: *“A prefabricated toilet designed for temporary use, typically at social functions, work sites, outdoor gatherings.”*

The newly amended rule also included a new section of the rule restricted long-term placement of any temporary portable toilets and required approval by Local Plumbing Inspectors (LPIs) for temporary portable toilets. This rule’s new Section 5(l)(6) states the following:

“Temporary Portable Toilets are not alternative toilets, and, therefore, may not be used as permanent alternative toilets. Temporary portable toilets are allowed for use for a maximum of seven days. Any use of temporary portable toilets for more than seven days, other than at construction sites, must receive written approval from the appointed LPI. If placement for use of the temporary portable toilet is intended for longer than seven days and associated with the Department’s Health Inspection Program operation, then it must be approved by the Department’s Health Inspection Program.”

The Department included the above language in its newly amended rule to address concerns brought to the Department’s attention directly by Maine Local Plumbing Inspectors (LPIs) who were concerned about the long-term use of temporary portable toilets, especially those in use at restaurants.

However, the Maine Legislature enacted **An Act Regarding the Placement of Portable Toilets** or The Act (LD 2201 – Public Law 2023, Ch. 614), in response to the Department’s rule. This Act, which will become effective August 8, 2024, allows portable toilets beyond the maximum seven days and lifts the requirement for written approval by a licensed plumbing inspector.

The Act amends two statutes:

- 22 MRS § 42 (3-B): In this section, it states that the Department may adopt rules regarding the inspection of portable temporary toilets, except for what is allowed in 30-A MRS § 4211 (3-A);

and

- 30-A MRS § 4211 (3-A): In this section, the following language was added:

Except for persons required to be licensed under Title 22, chapter 562, a person may place and use a temporary portable toilet on property as long as the temporary portable toilet is maintained and serviced in a reasonable manner to protect the public’s health and safety and the environment. For purposes of this subsection, “temporary portable toilet” means a prefabricated toilet designed for temporary use.

As a result of this Act, the Department will not enforce its Subsurface Wastewater Disposal Rule's requirement for LPI approval of a temporary portable toilet longer than seven days. Important to note, however, any establishments subject to licensure by the Maine DHHS - Maine CDC Health Inspection Program (HIP) are excluded from this Act. Therefore, any establishments licensed under Title 22 MRS Chapter 562, will still require local plumbing inspector written approval and signature of Appendix C within the HIP License Application, as part of the application and licensing process for HIP and part of compliance with the Subsurface Wastewater Disposal Rule.