

maintain a comfortable air temperature and to minimize the accumulation of moisture and odors, and the facilities shall be maintained in a clean and sanitary condition.

(b) Bathing facilities, change rooms, and sanitary flush toilet facilities shall be constructed and equipped so as to comply with applicable State and local building codes. *However*, Where no State or local building codes apply to these facilities, or where no State or local building codes exist, the facilities shall be constructed and equipped so as to meet the minimum construction requirements in the National Building Code (1967 edition) and the plumbing requirements in the National Plumbing Code (ASA A40.8—1955) which documents are hereby incorporated by reference and made a part hereof. These documents are available for examination at the Mine Safety and Health Administration, Department of Labor, 1100 Wilson Blvd., Room 2424, Arlington, Virginia 22209-3939; at every MSHA Coal Mine Safety and Health district office; at the National Institute for Occupational Safety and Health, 5600 Fishers Lane, Rockville, Md.; and at the Public Health Service Information Centers as listed in 45 CFR 5.31. Copies of the National Building Code (1967 edition) may be purchased from the American Insurance Association, 85 John Street, New York, NY 10038, and copies of the National Plumbing Code (ASA A40.8—1955) may be purchased from the American National Standards Institute, Inc., 25 W. 43rd Street, 4th Floor, New York, NY 10036; <http://www.ansi.org>. An official historic file of the National Building Code (1967 edition) and of the National Plumbing Code (ASA A40.8—1955) will be maintained at the National Institute for Occupational Safety and Health, 5600 Fishers Lane, Rockville, Md.

(c) In addition to the minimum requirements specified in paragraphs (a) and (b) of this section, facilities maintained in accordance with § 71.400 shall include the following:

(1) *Bathing facilities.* (i) Showers shall be provided with both hot and cold water.

(ii) At least one shower head shall be provided where five or less miners use such showers.

(iii) Where five or more miners use such showers, sufficient showers shall be furnished to provide approximately one shower head for each five miners.

(iv) A suitable nonirritating cleansing agent shall be provided for use at each shower.

(2) *Sanitary flush toilet facilities.* (i) At least one sanitary flush toilet shall be provided where 10 or less miners use such toilet facilities.

(ii) Where 10 or more miners use such toilet facilities, sufficient flush toilets shall be furnished to provide approximately one sanitary flush toilet for each 10 miners.

(iii) Where 30 or more miners use toilet facilities, one urinal may be substituted for one flush toilet, however, where such substitutions are made they shall not reduce the number of toilets below a ratio of two flush toilets to one urinal.

(iv) An adequate supply of toilet paper shall be provided with each toilet.

(v) Adequate handwashing facilities or hand lavatories shall be provided in or adjacent to each toilet facility.

(3) *Change rooms.* (i) Individual clothes storage containers or lockers shall be provided for storage of miners' clothing and other incidental personal belongings during and between shifts.

(ii) Change rooms shall be provided with sample space to permit the use of such facilities by all miners changing clothes prior to and after each shift.

[37 FR 6368, Mar. 28, 1972, as amended at 43 FR 12319, Mar. 24, 1978; 67 FR 38385, June 4, 2002; 71 FR 16668, Apr. 3, 2006]

§ 71.403 Waiver of surface facilities requirements; posting of waiver.

(a) The Coal Mine Health and Safety District Manager for the district in which the mine is located, after consultation with the appropriate Regional Program Director, National Institute for Occupational Safety and Health, may, upon written application by the operator, and after consideration of any comments filed within 30 days after receipt of the application, waive any or all of the requirements for §§ 71.400 through 71.402 for a period not to exceed 1 year if he determines that—

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(1) The operator is providing or making available, under arrangements with one or more third parties, facilities which are at least equivalent to those required by the standards, or

(2) It is impractical for the operator to meet the requirement(s) or provide the facility (facilities) for which the waiver is sought.

(b) The waiver shall be in writing and shall set forth the requirement(s) which the operator will not be required to meet or the facilities which the operator will not be required to provide and the specific reason or reasons for such waiver.

(c) Upon receipt of any waiver, the operator shall post a copy of the waiver for at least 30 days on the mine bulletin board required by section 107(a) of the Act.

(d) An extension of the waiver at the end of 1 year may be sought by the operator by filing an application pursuant to § 71.404 no later than 30 days nor more than 60 days prior to the expiration date of the waiver.

(Pub. L. No. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 et seq.))

[37 FR 6368, Mar. 28, 1972, as amended at 47 FR 14696, Apr. 6, 1982; 60 FR 33723, June 29, 1995]

§ 71.404 Application for waiver of surface facilities requirements.

(a) Application for waivers of any requirements of §§ 71.400 through 71.402 shall be in writing, filed with the appropriate Coal Mine Health and Safety District Manager, and shall contain the following information:

(1) The name and address of the mine operator,

(2) The name and location of the mine, and

(3) A detailed statement of the grounds upon which the waiver is requested and the period of time for which it is requested.

(b) At the same time the application is sent to the District Manager, a copy of the application shall be forwarded to the appropriate Regional Program Director, National Institute for Occupational Safety and Health by the operator, and a copy showing the addresses of the appropriate District Manager and Regional Program Director shall be posted by the operator for at least 30

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days on the mine bulletin board required by section 107(a) of the Act.

Subpart F—Sanitary Toilet Facilities at Surface Worksites of Surface Coal Mines

§ 71.500 Sanitary toilet facilities at surface work sites; installation requirements.

(a) Each operator of a surface coal mine shall provide and install at least one sanitary toilet in a location convenient to each surface work site. A single sanitary toilet may serve two or more surface work sites in the same surface mine where the sanitary toilet is convenient to each such work site.

(b) Where 10 or more miners use such toilet facilities, sufficient toilets shall be furnished to provide approximately one sanitary toilet for each 10 miners.

(c) Sanitary toilets shall have an attached toilet seat with a hinged lid and a toilet paper holder together with an adequate supply of toilet tissue.

(d) Only flush or nonflush chemical or biological toilets, combustion or incinerating toilets, sealed bag toilets, and vault toilets meet the requirements of this section. Privies are prohibited.

NOTE TO PARAGRAPH (d): Sanitary toilet facilities for surface work areas of underground mines are subject to the provisions of § 75.1712-3 of this chapter.)

[68 FR 37087, June 23, 2003]

§ 71.501 Sanitary toilet facilities; maintenance.

Sanitary toilets provided in accordance with the provisions of § 71.500 shall be regularly maintained in a clean and sanitary condition. Holding tanks shall be serviced and cleaned when full and in no case less than once each week when in use by draining or pumping or by removing them for cleaning and recharging. Transfer tanks and transfer equipment, if used, shall be equipped with suitable fittings to permit complete draining without spillage and allow for the sanitary transportation of wastes. Waste shall be disposed of in accordance with State and local laws and regulations.