

STATE OF NEW YORK
DEPARTMENT OF LABOR
TWO WORLD TRADE CENTER
NEW YORK, NEW YORK 10047

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DECISION

In the Matter Of :

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Part 36 of Title 12 of the Official Compilation
of Codes, Rules and Regulations
of the State of New York :

DATED: APRIL 6, 1981

(cited as 12NYCRR 36) :

Code Rule Subdivision 36-2.8(b) :

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I, the Industrial Commissioner, pursuant to Section 30 of the Labor Law, have reviewed the provisions of Subdivision 36-2.8(b) of Industrial Code Rule 36; relative to the location of sanitary facilities for the general public in indoor places of public assembly at agricultural fairs; and

In conjunction with this review, I have also reviewed the comments received from parties of interest relative to the location of sanitary facilities required by Subdivision 36-2.8(b) cited above; and

Upon these collective records, I, the Industrial Commissioner, find that the issuance of an applicable variance would not violate the spirit and purpose of Industrial Code Rule Subdivision 36-2.8(b).

APPLICABLE VARIANCE

A variance from Subdivision 36-2.8(b) of Part 36 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (cited as 12NYCRR 36), as amended, effective July 1, 1967 is

hereby GRANTED permitting the location of sanitary facilities at sites other than within indoor places of public assembly at agricultural fairs as per the requirements of Subdivision 36-2.8(b) as follows:

1. Sanitary facilities in compliance with applicable laws and codes shall be freely and readily available for the public's use. These sanitary facilities shall be located not more than 500 feet total travel distance from any indoor place of public assembly.
2. The public shall not be required to cross any public street or highway to reach the sanitary facilities.
3. If there is more than 500 feet of travel, but not more than 2000 feet to the sanitary facilities, special permission shall be obtained from the Industrial Commissioner to use such facilities. In applying for permission to use these sanitary facilities, the operator of the agricultural fair must show that adequate and frequent transportation is supplied from all parts of the fairgrounds that are more than 500 feet from the sanitary facilities.
4. The number of toilet fixtures in buildings or structures housing sanitary facilities shall conform to the requirements of Subdivision 36-2.8(b), i.e., in women's rooms, one toilet bowl minimum for the first 200 female occupants and one toilet bowl for each additional 200 female occupants or major fraction thereof; in men's rooms one toilet bowl and one urinal minimum

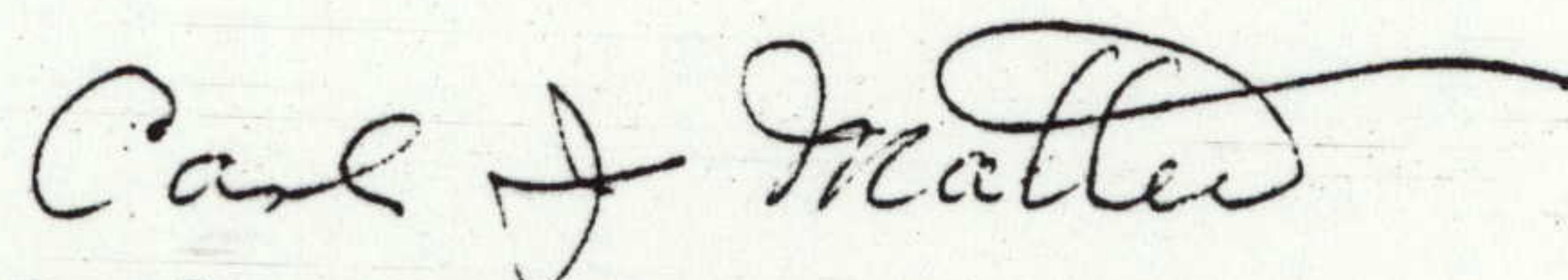
for the first 200 male occupants and one toilet bowl for each additional 300 male occupants or major fraction thereof and one urinal for each additional 200 male occupants or major fraction thereof. In both men's and women's rooms, there shall be one lavatory for each two of the total fixtures calculated above, with a minimum of one in each such room.

5. Portable sanitary facilities, acceptable to the Industrial Commissioner, may be used in lieu of transportation from places over 500 feet from centrally located sanitary facilities, if a sufficient number of such portable facilities is made available and is limited to one portable toilet per 30 persons.

This variance shall apply and shall be applied by all enforcement officials to all agricultural fairs where Industrial Code Rule Subdivision 36-2.8(b) applies, with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every agricultural fair affected by said Subdivision.

WILLIAM L. O'TOOLE
EXECUTIVE DEPUTY INDUSTRIAL COMMISSIONER

By



Carl J. Mattei, Director
Division of Safety and Health