

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

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In the Matter 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)
Paragraph 36-2.9(a) (4)
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DECISION

AV 74

DATED: JUNE 25, 1981

I, the Industrial Commissioner, pursuant to Section 30 of the Labor Law, have reviewed the provisions of Paragraph 36-2.9(a) (4) of Industrial Code Rule 36; relative to the prohibition of dry vegetation and flammable materials in places of public assembly insofar as it applies to buildings or other structures used for housing and exhibiting of animals at fairs; and

In conjunction with this review, I have also reviewed the provisions of Paragraph 36-3.8(c) (3) of Industrial Code Rule 36 pertaining to hay, straw, shavings or similar combustible materials that are permitted in tents used to house animals in connection with a place of public assembly; 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 Paragraph 36-2.9(a) (4).

APPLICABLE VARIANCE

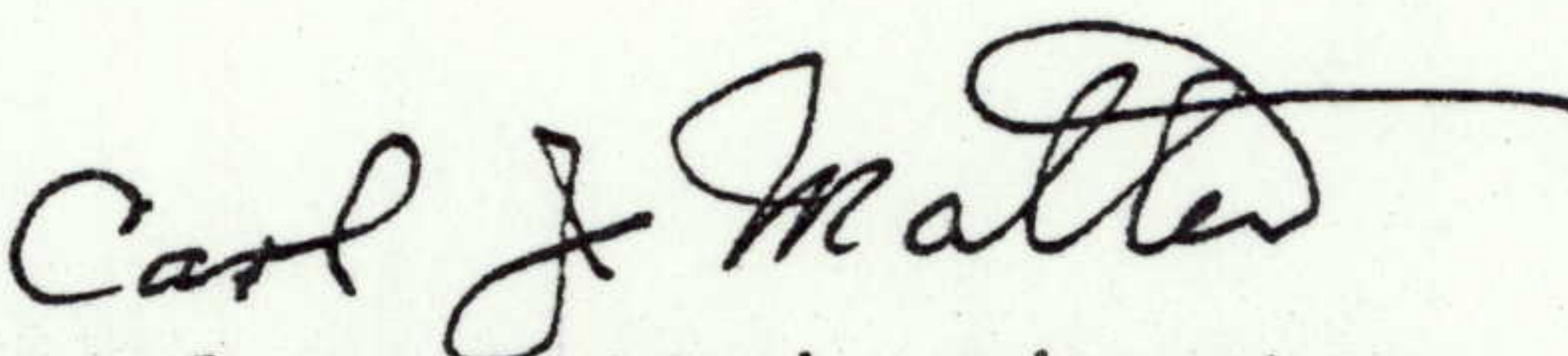
A variance from Paragraph 36-2.9(a) (4) of Part 36 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York (cited as 12NYCRR 36), as amended, effective July 1, 1967, is hereby GRANTED, permitting the use of hay, straw, shavings or similar combustible materials in building or other structures used as places of public assembly for the housing and exhibition of animals at agricultural fairs, in lieu of compliance with the provisions of Paragraph 36-2.9(a) (4) of Industrial Code Rule 36; subject to the following:

1. Smoking shall be prohibited in any buildings or other structures at agricultural fairs which contain hay, straw, shavings or similar combustible materials; and are used to house and exhibit animals. No smoking signs shall be posted at each entrance to, and at frequent intervals in view of the public within, these buildings or other structures.
2. In each of the above buildings other structures, there shall be placed, in conspicuous locations, loaded stream fire extinguishers, which shall be kept properly charged at all times. These extinguishers shall be provided at the rate of one for each 2,000 square feet of area in the building or other structure.

3. No hay, straw, shavings or similar combustible materials other than that necessary for the daily feeding and care of animals shall be permitted within any building or other structure used as a place of public assembly at agricultural fairs, except that sawdust and shavings may be used if kept damp.

This variance shall apply and shall be applied by all enforcement officials to all persons and in all existing places of public assembly used to house and exhibit animals at agricultural fairs to which Industrial Code Rule Paragraph 36-2.9(a) (4) applies, with the same force and effect as if this variance were duly granted upon separate petition for the use and benefit of every person and in all existing places of public assembly at agricultural fairs affected by said Paragraph.

WILLIAM L. O'TOOLE
EXECUTIVE DEPUTY INDUSTRIAL COMMISSIONER

By 
Carl J. Mattei, Director
Division of Safety and Health