

(2) The specific designated work position at the mine to which the plan applies;

(3) A detailed description of the specific respirable dust control measures used to abate the violation of the respirable dust standard; and

(4) A detailed description of how each of the respirable dust control measures described in response to paragraph (b)(3) of this section will continue to be used by the operator, including at least the specific time, place and manner the control measures will be used.

§ 71.301 Respirable dust control plan; approval by District Manager and posting.

(a) The District Manager will approve respirable dust control plans on a mine-by-mine basis. When approving respirable dust control plans, the District Manager shall consider whether:

(1) The respirable dust control measures would be likely to maintain compliance with the respirable dust standard; and

(2) The operator's compliance with all provisions of the respirable dust control plan could be objectively ascertained by MSHA.

(b) MSHA may take respirable dust samples to determine whether the respirable dust control measures in the operator's plan effectively maintain compliance with the respirable dust standard.

(c) The operator shall comply with all provisions of each respirable dust control plan upon notice from MSHA that the respirable dust control plan is approved.

(d) The operator shall post on the mine bulletin board a copy of each current respirable dust control plan approved by the District Manager.

(e) The operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.

Subpart E—Surface Bathing Facilities, Change Rooms, and Sanitary Flush Toilet Facilities at Surface Coal Mines

§ 71.400 Bathing facilities; change rooms; sanitary flush toilet facilities.

Each operator of a surface coal mine shall provide bathing facilities, clothing change rooms, and sanitary flush toilet facilities, as hereinafter prescribed, for the use of miners employed in the surface installations and at the surface worksites of such mine. (NOTE: Sanitary facilities at surface work areas of underground mines are subject to the provisions of § 75.1712 of this chapter et seq.)

§ 71.401 Location of facilities.

Bathhouses, change rooms, and sanitary flush toilet facilities shall be in a location convenient for the use of the miners. Where these facilities are designed to serve more than one mine, they shall be centrally located so as to be convenient for the use of all miners served by the facilities.

§ 71.402 Minimum requirements for bathing facilities, change rooms, and sanitary flush toilet facilities.

(a) All bathing facilities, change rooms, and sanitary flush toilet facilities shall be provided with adequate light, heat, and ventilation so as to 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

§ 71.403

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 Coal Mine Health and Safety District and Subdistrict 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, for \$2.50 per copy and copies of the National Plumbing Code (ASA A40.8—1955) may be purchased from the American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018, for \$6 per copy. 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 § 71.402, 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 approxi-

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mately 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]

§ 71.403 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—

(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