



# The Public Restroom Initiative

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## The United States Code of Federal Regulations for Toilet Facilities

[29 CFR 1910.141\(c\)\(1\)\(i\): Toilet Facilities](#)  
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### 29 CFR 1910.141(c)(1)(i): Toilet Facilities

**Scope.** This section applies to permanent places of employment.

Definitions applicable to this section.

**"Toilet facility,"** means a fixture maintained within a toilet room for the purpose of defecation or urination, or both.

**"Toilet room,"** means a room maintained within or on the premises of any place of employment, containing toilet facilities for use by employees.

**"Urinal"** means a toilet facility maintained within a toilet room for the sole purpose of urination.

**"Water closet"** means a toilet facility maintained within a toilet room for the purpose of both defecation and urination and which is flushed with water.

(c) Toilet facilities--(1) General. (i) Except as otherwise indicated in this paragraph (c)(1)(i), toilet facilities, in toilet rooms separate for each sex, shall be provided in all places of employment in accordance with table J-1 of this section. The number of facilities to be provided for each sex shall be based on the number of employees of that sex for whom the facilities are furnished. Where toilet rooms will be occupied by no more than one person at a time, can be locked from the inside, and contain at least one water closet, separate toilet rooms for each sex need not be provided. Where such single-occupancy rooms have more than one toilet facility, only one such facility in each toilet room shall be counted for the purpose of table J-1.

Table J-1

Minimum number of Number of employees water closets \1\

1 to 15.....	1
16 to 35.....	2
36 to 55.....	3
56 to 80.....	4
81 to 110.....	5.
111 to 150.....	6
Over 150.....	(2\)

Source: U.S. Department of Labor Occupational Safety and Health Administration  
[Interpretation of 29 CFR 1910.141\(c\)\(1\)\(i\): Toilet Facilities](#)

## Interpretation of 29 CFR 1910.141(c)(1)(i): Toilet Facilities Standards Interpretation and Compliance Letters

- **Record Type:** Interpretation
- **Standard Number:** [1910.141](#)
- **Subject:** Interpretation of 29 CFR 1910.141(c)(1)(i): Toilet Facilities
- **Information Date:** 04/06/1998

April 6, 1998

MEMORANDUM FOR:	REGIONAL ADMININSTRATORS STATE DESIGNEES
FROM:	JOHN B. MILES, JR., Director Directorate of Compliance Programs
SUBJECT:	Interpretation of 29 CFR 1910.141(c)(1)(i): Toilet Facilities

OSHA's sanitation standard for general industry, 29 CFR 1910.141(c)(l)(i), requires employers to provide their employees with toilet facilities:

Except as otherwise indicated in this paragraph (c)(l)(i), toilet facilities, in toilet rooms separate for each sex shall be provided in all places of employment in accordance with Table J-1 of this section .... [emphasis added]

This memorandum explains OSHA's interpretation that this standard requires employers to make toilet facilities available so that employees can use them when they need to do so. The employer may not impose unreasonable restrictions on employee use of the facilities. OSHA believes this requirement is implicit in the language of the

standard and has not previously seen a need to address it more explicitly. Recently, however, OSHA has received requests for clarification of this point and has decided to issue this memorandum to explain its position clearly.

## Background

The sanitation standard is intended to ensure that employers provide employees with sanitary and available toilet facilities, so that employees will not suffer the adverse health effects that can result if toilets are not available when employees need them. Individuals vary significantly in the frequency with which they need to urinate and defecate, with pregnant women, women with stress incontinence, and men with prostatic hypertrophy needing to urinate more frequently. Increased frequency of voiding may also be caused by various medications, by environmental factors such as cold, and by high fluid intake, which may be necessary for individuals working in a hot environment. Diet, medication use, and medical condition are among the factors that can affect the frequency of defecation.

Medical studies show the importance of regular urination, with women generally needing to void more frequently than men. Adverse health effects that may result from voluntary urinary retention include increased frequency of urinary tract infections (UTIs), which can lead to more serious infections and, in rare situations, renal damage (see, e.g., Nielsen, A. Waite, W., "Epidemiology of Infrequent Voiding and Associated Symptoms," *Scand J Urol Nephrol Supplement* 157). UTIs during pregnancy have been associated with low birthweight babies, who are at risk for additional health problems compared to normal weight infants (see, Naeye, R.L., "Causes of the Excess Rates of Perinatal Mortality and the Prematurity in Pregnancies Complicated by Maternity Urinary Tract Infections," *New England J. Medicine* 1979; 300(15); 819-823). Medical evidence also shows that health problems, including constipation, abdominal pain, diverticuli, and hemorrhoids, can result if individuals delay defecation (see National Institutes of Health (NIH) Publication No. 95-2754, July 1995).

OSHA's field sanitation standard for Agriculture, 29 CFR 1928.110, based its requirement that toilets for farmworkers be located no more than a quarter mile from the location where employees are working on similar findings. This is particularly significant because the field sanitation standard arose out of the only OSHA rulemaking to address explicitly the question of worker need for prompt access to toilet facilities.

## The Sanitation Standard

The language and structure of the general industry sanitation standard reflect the Agency's intent that employees be able to use toilet facilities promptly. The standard requires that toilet facilities be "provided" in every workplace. The most basic meaning of "provide" is "make available." See **Webster's New World Dictionary, Third College Edition**, 1988, defining "provide" as "to make available; to supply (someone with something);" Borton Inc. V. OSHRC, 734 F.2d 508, 510 (10th Cir. 1984) (usual meaning of provide is "to furnish, supply, or make available"); Usery v. Kennecott Copper Corp., 577 F.2d 1113, 1119 (10th Cir, 1978) (same); Secretary v. Baker Concrete Constr. Co., 17 OSH Cas. (BNA) 1236, 1239 (concurring opinion; collecting cases); Contractors Welding of Western New York, Inc., 15 OSH Cas. (BNA) 1249, 1250 (same).<sup>1</sup> Toilets that employees are not allowed to use for extended periods cannot be said to be "available" to those employees. Similarly, a clear intent of the requirement in Table J-1 that adequate numbers of toilets be provided for the size of the workforce is to assure that employees will not have to wait in long lines to use those facilities. Timely access is the goal of the standard.

The quoted provision of the standard is followed immediately by a paragraph stating that the toilet provision does not apply to mobile work crews or to locations that are normally unattended, "provided the employees working at these locations have transportation immediately available to nearby toilet facilities which meet the other requirements" of the standard (29 CFR 1910.141(c)(1)(ii) (emphasis supplied). Thus employees who are members of mobile crews, or who work at normally unattended locations must be able to leave their work location "immediately" for a "nearby" toilet facility. This provision was obviously intended to provide these employees with protection equivalent to that the general provision provides to employees at fixed worksites. Read together, the two provisions make clear that all employees must have prompt access to toilet facilities.

OSHA has also made this point clear in a number of letters it has issued since the standard was promulgated. For example, in March 1976, OSHA explained to Aeroil Products Company that it would not necessarily violate the standard by having a small single-story building with no toilet facilities separated by 90 feet of pavement from a building that had the required facilities, so long as the employees in the smaller building had "unobstructed free access to the toilet facilities." Later that year, it explained again, in response to a question about toilet facilities at a U-Haul site, "reasonableness in evaluating the availability of sanitary facilities will be the rule." Again in 1983, OSHA responded to a request for a clarification of the standard by stating, "[i]f an employer provides the required toilet facilities ... and provides unobstructed free access to them, it appears the intent of the standard would be met."

In light of the standard's purpose of protecting employees from the hazards created when toilets are not available, it is clear that the standard requires employers to allow employees prompt access to sanitary facilities. Restrictions on access must be reasonable, and may not cause extended delays. For example, a number of employers have instituted signal or relief worker systems for employees working on assembly lines or in other jobs where any employee's absence, even for the brief time it takes to go to the bathroom, would be disruptive. Under these systems, an employee who needs to use the bathroom gives some sort of a signal so that another employee may provide relief while the first employee is away from the work station. As long as there are sufficient relief workers to assure that employees need not wait an unreasonably long time to use the bathroom, OSHA believes that these systems comply with the standard.

### Citation Policy

Employee complaints of restrictions on toilet facility use should be evaluated on a case-by-case basis to determine whether the restrictions are reasonable. Careful consideration must be given to the nature of the restriction, including the length of time that employees are required to delay bathroom use, and the employer's explanation for the restriction. In addition, the investigation should examine whether restrictions are general policy or arise only in particular circumstances or with particular supervisors, whether the employer policy recognizes individual medical needs, whether employees have reported adverse health effects, and the frequency with which employees are denied permission to use the toilet facilities. Knowledge of these factors is important not only to determine whether a citation will be issued, but also to decide how any violation will be characterized.

It is important that a uniform approach be taken by all OSHA offices with respect to the interpretation of OSHA's general industry sanitation standard, specifically with regard to the issue of employee use of toilet facilities. Proposed citations for violations of this standard must be forwarded to the Directorate of Compliance Programs (DCP) for review and approval. DCP will consult with the Office of Occupational Medicine. DCP will approve citations if the employer's restrictions are clearly unreasonable, or otherwise not in compliance with the standard. **(NOTE: See 08/11/00 Memorandum to RAs attached below.)---Added this note**

State Plan States are not required to issue their own interpretation in response to this policy, however they must ensure that State standards and their interpretations remain "at least as effective" as the Federal standard. Regional Administrators shall offer assistance to the States on this issue, including consultation with the Directorate of Compliance programs, at the State's request.

If you have any questions, contact Helen Rogers in the Office of General Industry Compliance at (202) 219-8031/41 x106.

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**Footnote(1)** This decision was later vacated pursuant to a settlement, but the Commission has continued to cite it. See Secretary v. Baker Concrete Constr. Co., supra. The issue in Contractors Welding and the other cited cases has been whether the meaning of the term "provide," in various standards requiring employers to provide certain equipment or other materials, is not limited to making something available, but may also mean that the employer

must pay for what it provides and must require it to be used. Those broader meanings are not relevant to this issue, however, where the sanitary facilities the employer is required to provide are a physical part of its workplace, and the question is not whether employees must be required to use those facilities, but whether they will be allowed to do so. ([Back to Text](#))

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August 11, 2000---**Added this memo**

MEMORANDUM FOR: REGIONAL ADMININSTRATORS

FROM: RICHARD E. FAIRFAX, Director  
Directorate of Compliance Programs

SUBJECT: Interpretation of 29 CFR 1910.141(c)(1)(i): Toilet Facilities

On April 6, 1998 we issued an interpretation of 1910.141(c)(1)(i), which requires employers to make toilet facilities available so that employees can use them when they need to do so. A copy of that memorandum is attached.

The 1998 memorandum states that proposed citations for violations of this standard are to be forwarded to the Directorate of Compliance Programs (DCP) for review and approval. Shortly after the interpretation was issued, it was decided that the review and approval was to be at the Regional Office level, but that copies of any citations issued based on the April 6, 1998 interpretation should still be sent to DCP.

This topic continues to generate interest from the public. Early this year we had a Freedom of Information Act (FOIA) request for copies of citations issued. Therefore, please continue to send copies of any citations issued pursuant to the 1998 interpretation to the National Office. If you have any questions, please contact Helen Rogers at (202) 693-1850. The copies should be sent to the following address:

Richard E. Fairfax, Director  
Directorate of Compliance Programs  
U.S. Department of Labor - OSHA  
200 Constitution Avenue, NW Room N-3603  
Washington, DC 20210

Source: [Interpretation of 29 CFR 1910.141\(c\)\(1\)\(i\): Toilet Facilities](#)

*Memorandum from John B Miles Jnr.* OSHA Directorate of Compliance Programs. OSHA Standards Interpretation and Compliance Letters. Interpretation of 29 CFR 1910.141(c)(1)(1): Toilet facilities. 6 April 1998.

From  
Hazards and Workers' Health International Newsletter  
PO Box 199 Sheffield S1 4YL England  
<http://www.hazards.org/toiletbreaks.htm>

### **Please relieve me, let me go...**

The US pee-breaks memo from John B Miles Jr, head of OSHA's Directorate of Compliance Programs, explained that the standard is necessary "so that employees will not suffer the adverse health effects that can result if toilets are not available when employees need them...

"Medical studies show the importance of regular urination with women generally needing to void more frequently than men. Adverse health effects that may result from voluntary urinary retention include increased frequency of urinary tract infections (UTIs), which can lead to more serious infections and, in rare situations, renal damage. UTIs during pregnancy have been associated with low birthweight babies, who are at risk of for additional health problems compared to normal weight infants.

"Medical evidence also shows that health problems, including constipation, abdominal pain, diverticuli, and haemorrhoids, can result if individuals delay defecation."

UK health and safety law does not contain a specific right to go, but this is implied in employers' general duties to protect the health, safety and welfare of employees in the Health and Safety at Work etc Act 1974, regulation 2. The Workplace (Health, Safety and Welfare) Regulations 1992 require suitable and sufficient, clean and adequately ventilated and lit sanitary conveniences at readily accessible places. Pregnant women have additional rights (*Hazards* 63).

From the Washington Insider: OSHA clarifies ruling about restroom breaks  
<http://www.aphanet.org/stat/restroom.html>

In 1974, the U.S. Occupational Safety and Health Administration (OSHA) released a sanitation standard that required employers to provide their employees with toilet facilities and provided specifications for those facilities. At the time, OSHA believed that the standard was self-explanatory; however, on April 6 of this year, the agency issued another memo-to clarify the intent of the standard as it pertains to allowing workers to use the restroom facilities. The OSHA Sanitation Standard was intended to ensure that employers provide employees with available, sanitary toilet facilities. **OSHA issued the interpretive memo to ensure that employees do not experience adverse health effects (urinary tract infection, renal damage, constipation, abdominal pain, hemorrhoids, diverticula) that can occur when they are unable to use (or discouraged from using) the restroom when necessary.**

<http://www.uiowa.edu/~ournews/1998/april/0409osha.html>

CONTACT: SCOTT HAUSER  
100 Old Public Library  
Iowa City IA 52242

(319) 384-0007; fax (319) 384-0024

[e-mail: scott-hauser@uiowa.edu](mailto:scott-hauser@uiowa.edu)

Release: Immediate

## **OSHA agrees with UI professors: Workers have right to use the bathroom**

IOWA CITY, Iowa -- Federal regulations that say employers must provide toilet facilities for their workers also mean that workers must be permitted to use the bathroom when they need to at work, according to new guidelines issued this week by regulators to clarify an issue that two University of Iowa professors raised with OSHA and have been closely watching.

John B. Miles Jr., director of compliance programs for the U.S. Occupational Safety and Health Administration (OSHA), issued a four-page memorandum Monday, April 6 to regional administrators of the agency, spelling out the proper way to interpret a federal rule that says "toilet facilities, in toilet rooms separate for each sex, shall be provided in all places of employment."

"This memorandum explains OSHA's interpretation that this standard requires employers to make toilet facilities available so that employees can use them when they need to do so," the memo says. "The employer may not impose unreasonable restrictions on employee use of the facilities." ...

"Recently, however, OSHA has received requests for clarification of this point and has decided to issue this memorandum to explain its position clearly," Miles wrote.

Marc Linder, professor of law, and Ingrid Nygaard, associate professor of obstetrics and gynecology, initiated OSHA's reexamination of its position on access to bathrooms for workers.

They are the authors of a new book, "Void Where Prohibited: Rest Breaks and the Right to Urinate on Company Time" (Cornell University Press), which argues that many workers are not allowed to go to the bathroom when they need to because of a lack of regulatory enforcement, callousness by some employers who pay little attention to worker rights, and miserly planning in some work environments.

The restrictions lead to personal indignities and health problems for many employees.

Linder has made frequent appeals to state and federal regulators to clarify the regulations.

"One of the points we make in the book is that the 25-year-old standard requiring employers to provide toilets makes no sense unless it includes the obligation to let workers use those toilets," Linder says. "But until OSHA was confronted with the research in the book, and with strong appeals from the United Food and Commercial Workers, the agency was unwilling to enforce the law in a way that guaranteed employees the right to use the bathroom at work."

## **Regulations (Standards - 29 CFR) Sanitation. - 1926.51**

**OSHA Regulations (Standards - 29 CFR) - Table of Contents**

- **Standard Number:** 1926.51
- **Standard Title:** Sanitation.
- **SubPart Number:** D
- **SubPart Title:** Occupational Health and Environmental Controls

**(c)** "Toilets at construction jobsites."

**(c)(1)** Toilets shall be provided for employees according to the following table:

Table D-1

Number of employees	
20 or less.....	1
20 or more.....	1 toilet seat and 1 urinal per 40 workers.
200 or more.....	1 toilet seat and 1 urinal per 50 workers.

**(c)(2)** Under temporary field conditions, provisions shall be made to assure not less than one toilet facility is available.

**(c)(3)** Job sites, not provided with a sanitary sewer, shall be provided with one of the following toilet facilities unless prohibited by local codes:

**(c)(3)(i)** Privies (where their use will not contaminate ground or surface water);

**..1926.51(c)(3)(ii)**

**(c)(3)(ii)** Chemical toilets;

**(c)(3)(iii)** Recirculating toilets;

**(c)(3)(iv)** Combustion toilets.

**(f)(3)** "Lavatories."

**(f)(3)(i)** Lavatories shall be made available in all places of employment. The requirements of this subdivision do not apply to mobile crews or to normally unattended work locations if employees working at these locations have transportation readily available to nearby washing facilities which meet the other requirements of this paragraph.

**(f)(3)(ii)** Each lavatory shall be provided with hot and cold running water, or tepid running water.

**(f)(3)(iii)** Hand soap or similar cleansing agents shall be provided.

**(f)(3)(iv)** Individual hand towels or sections thereof, of cloth or paper, warm air blowers or clean individual sections

of continuous cloth toweling, convenient to the lavatories, shall be provided.

[OSHA Regulations \(Standards - 29 CFR\) - Table of Contents](#)

**OSHA Standard Interpretations 06/07/2002 - Mobile crews must have prompt access to nearby toilet facilities.**

June 7, 2002

[ DELETED TEXT ]

Re: §1926.51(c)(4); sanitation, mobile crews

This is in response to your letter of October 1, 2001, to the Occupational Safety and Health Administration (OSHA) in which you ask for an interpretation of the construction sanitation standard, specifically the provision pertaining to mobile crews. We apologize for the long delay in providing this response.

**Question:** The requirements of §1926.51(c) for sanitation facilities states that they do not apply to mobile crews "having transportation readily available to nearby toilet facilities." What does "nearby" mean?

**Answer:**

**Construction sanitation standard; mobile crews**

OSHA's construction sanitation standard is codified at 29 CFR 1926.51. Paragraph (c) of §1926.51, "*Toilets at construction jobsites*," states:

*Toilets shall be provided for employees according to the following table:*

*Table D-1*

<i>employees</i>	<i>Minimum number of facilities</i>
<i>20 or less . . .</i>	<i>1.</i>
<i>20 or more . . .</i>	<i>1 toilet seat and 1 urinal per 40 workers.</i>
<i>200 or more . . .</i>	<i>1 toilet seat and 1 urinal per 50 workers.</i>

However, as you are aware, §1926.51(c)(4) makes the provisions of paragraph (c) inapplicable to "*mobile crews having transportation readily available to nearby toilet facilities.*"

When determining whether paragraph (c)(4) applies to a work crew, employers must evaluate the nature of the site and job functions of the crew. Workers who continually or frequently move from jobsite to jobsite on a daily or hourly basis would be considered a "mobile crew." Workers who report to a conventional construction project, where they work for more extended periods of time (days, weeks, or longer), would not be considered a "mobile crew" for purposes of the sanitation standard.

**Definition of "nearby"**

As noted above, the requirements of (c)(4) are inapplicable when a mobile crew has transportation readily available to "nearby" toilet facilities. As explained below, for purposes of this standard, "nearby" means prompt access -- sufficiently close so that employees can use them when they need to do so.

[ DELETED TEXT ]

Mobile crew employees relying on "nearby" facilities must be afforded access equivalent to that provided by the general provision for employees at fixed worksites. Read together, the two provisions make clear that mobile crews must have prompt access to nearby toilet facilities. For example, in general, toilets would be considered "nearby" if it would take less than 10 minutes to get to them.

[ DELETED TEXT ]

**SOURCE:** [www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=24369](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=24369)

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Metroped Inc. P.O. Box 7244 Alexandria, VA. 22307  
Email: [contact@metroped.org](mailto:contact@metroped.org) Phone: 1-267-295-1035  
Revised: January 07, 2004 [Webmaster](#) **29990**