

STATE OF NEW YORK
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the Matter of a Request for a Declaratory Ruling
by the NEW YORK DEPARTMENT OF CORRECTIONS under
Section 204 of the State Administrative Procedure Act

DECLARATORY
RULING 15-02

The New York State Department of Correctional Services ("Corrections") has sent a letter from Edward T. Gardner, Deputy Commissioner, Department of Correctional Services, to M. Peter Lanahan, First Deputy Commissioner, Department of Environmental Conservation, dated April 3, 1980, and received April 4, 1980, a copy of which is attached hereto. The Department of Environmental Conservation of the State of New York ("Department") has decided that this letter is in fact a request for a determination pursuant to 6 NYCRR §619 as to the applicability of Article 15, Title 3, Section 15-0314 of the Environmental Conservation Law to the importation and installation of blow-out type water closets (toilets) in penal institutions. This type of toilet does not conform to the water saving standards of the law.

Section 15-0314 prohibits any individual, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality, industry, co-partnership, association, firm, trust, estate or other legal entity, from distributing, selling, offering for sale, importing or installing after January 1, 1980, any sink faucet or lavatory faucet, shower head,

urinal or toilet and associated flush valve, if any, which does not meet the water saving standards specified therein.

The Act also states that its provisions shall not apply to fixtures, which, in order to perform a specialized function, cannot meet the specified standards. The information here comes both from the Applicant's letter and from conversations with the Applicant and many others in the plumbing industry.

Corrections states that the blow-out style toilet is a specialized security fixture which performs a unique function in penal institutions. This type of toilet is also typically required for security reasons in county and local jails throughout the State. No currently manufactured toilet which meets the standards of the Act, is capable of providing the flow necessary to prevent vandalism and the concealment of contraband.

An additional problem cited by Corrections is that the roughing, that is, the location of the fasteners and the outlet piping, for a replacement fixture must match the existing configuration, because the cell walls are generally constructed of "prison steel" which is "toolproof" and to change openings is difficult. The roughing configuration varies among brands and styles of toilets.

I find that until a design breakthrough, sufficient evidence has been presented to verify that the blow-out style toilet performs a specialized function in penal institutions and is necessary to their safe and efficient operation. Therefore, for the purpose of use in prisons, jails, penitentiaries and other penal institutions, the blow-out toilet may be imported, sold and installed in the State of New York.



Richard A. Persico
General Counsel/Deputy Commissioner

DATE: April 18, 1980
Albany, New York