

INTRA-AGENCY MEMORANDUM

TO : Regional Directors

FROM : Assistant Executive Director - Operations

SUBJECT : Interim Guidance - Shell Buildings

DATE : January 30, 1987

We frequently run into a situation where an interpretation of the regulations is needed. When this occurs, I am trying to work out a procedure with Deb Feild to have these drafted in such a way that they can be issued as policy statements or interpretations of the regulations. This is our first attempt at doing this and what follows should be considered as "interim guidance" until such time as Deb can help us write this in a policy statement format.

As you know, we do not require a permit for someone to build a shell building in an industrial park in the hopes of attracting someone to use it. Where we know ahead of time what is going into the shell building, it becomes a little bit more of a gray area but, realistically, a "shell building" is a "shell building" whether it's a speculation or its end use is known. On Page 312 of our regulations, the term "begin actual construction" is defined. It says "initiation of permanent physical onsite construction of an emissions unit." The remainder of the definition covers all kinds of things, such as, building supports and foundations, but it is my feeling that everything that follows the first sentence should refer only to the "emissions unit." In most cases, the emissions unit is some process that will be installed inside the shell building. A precedent for this was set in the case of O-Sullivan Company, outside of Winchester, where it was agreed that the shell building did not constitute an emissions unit and, therefore, construction of such a building did not come under our permit requirements. Our Board Chairman has also said publicly that we do not "permit shell buildings." The key word in the definition of begin actual construction is "emissions unit."

By copy of this memorandum, I am asking Deb Feild to help me put this in the form of an official policy statement. Until such time as this can be completed, construction of a shell building without a permit from us should not be considered a violation of our regulations.

John M. Daniel, Jr.

JMDJr/jh

ccs: Executive Director
Assistant Executive Director - Programs
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Mr. Bill Robinson, Div. of Industrial Development
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