Message

From: Purvis, James [Purvis.James@epa.gov]
Sent: 11/4/2021 5:33:16 PM
To: Mills, Andrew [mills.andrew@epa.gov]; Akers, Brad [Akers.Brad@epa.gov]
CC: Febres, Andres [febres-martinez.andres@epa.gov]
Subject: RE: South Carolina Construction Permit Question

Well, able? The answer is certainly yes as far as procedures goes. We'd need to know about what the case requires, timing wise. There have been different discussions from the legal perspectives as to if a CD still exists after it is terminated or not, which might leave no applicable requirement without the construction permit. A major modification to the title V that references the CD as the requirement would be a little faster. Let's talk! I'm free until 3.

James

From: Mills, Andrew <mills.andrew@epa.gov>
Sent: Thursday, November 4, 2021 1:27 PM
To: Purvis, James <Purvis.James@epa.gov>; Akers, Brad <Akers.Brad@epa.gov>
Cc: Febres, Andres <febres-martinez.andres@epa.gov>
Subject: RE: South Carolina Construction Permit Question

Thank you all, this is incredibly helpful. James are you saying that SC should be able to incorporate the terms of a CD directly into a title V permit rather than also issuing a construction permit?

From: Purvis, James <Purvis.James@epa.gov>
Sent: Thursday, November 4, 2021 1:25 PM
To: Akers, Brad <Akers.Brad@epa.gov>; Mills, Andrew <mills.andrew@epa.gov>
Cc: Febres, Andres <febres-martinez.andres@epa.gov>
Subject: RE: South Carolina Construction Permit Question

Thanks Brad! That's right! Andrew, please feel free to reach out with the details and we can dig into the case-specific details!

Regards,

James

From: Akers, Brad <Akers.Brad@epa.gov>
Sent: Thursday, November 4, 2021 9:38 AM
To: Mills, Andrew <mills.andrew@epa.gov>
Cc: Febres, Andres <febres-martinez.andres@epa.gov>; Purvis, James <Purvis.James@epa.gov>
Subject: RE: South Carolina Construction Permit Question

Thanks Andrew.

I will give some replies here, and I know James can correct me. Just trying to lighten his load a little.

My understanding is that SC DHEC issues construction permits first, and that an operating permit must be requested once the construction permit is issued and construction completed (https://scdhec.gov/environment/air-quality/air-quality-permits/overview-air-operating-permits). This is true for major and minor sources (title V and non-title V).

I do not believe the construction permits expire. There is nothing in their rules (61-62.1, Section II; 61-62.5, Standard No. 7) that would say such permits expire. They are supposed to live on in perpetuity and be incorporated into the operating permit, especially in the title V major source realm. If the construction permit which precedes the title V permit happens to be PSD, their PSD rules align with our federal rules, so that may be helpful to understand as well. That does not mean that there could not be a subsequent construction permit with different requirements, etc., so I don't want to say definitively that they could never change what was required by the CD once the terms of the CD were to expire. I would definitely defer to James for this consideration.

As I understand SC DHEC's process, if they issue a construction permit with the CD terms, and this would be a major source for title V purposes, then the terms would be picked up and incorporated into the title V permit once the operating permit is required. The title V permit has its own timetable in accordance with Part 70 for renewals. If at any time the CD terms are to be removed from the title V permit, my understanding is also that it would not be a "minor modification" to the permit, and that the major change would require public notice, etc.

Question: Aren't they able to incorporate the terms of a CD directly into a title V permit rather than also issuing a construction permit with those conditions? That's truly a question for James and APS.

For general information on construction permitting, see 61-62.1, Section II. For PSD permitting see 61-62.5, Standard No. 7. For title V permitting, see 61-62.70. While they have made significant changes to their minor source construction permitting rules over the years, many of those changes have not yet been incorporated into the SIP. To understand what they are doing in practice, look to their online version of their rules for 61-62.1, Section II. The other rules should be up to date for their SIP (PSD/61-62.5, Standard No. 7) and their title V program (62.70), respectively.

Thanks,
Brad

From: Mills, Andrew <mills.andrew@epa.gov>
Sent: Thursday, November 4, 2021 9:18 AM
To: Akers, Brad <Akers.Brad@epa.gov>
Cc: Febres, Andres <febres-martinez.andres@epa.gov>; Purvis, James <Purvis.James@epa.gov>
Subject: RE: South Carolina Construction Permit Question

I did mean James Purvis. Thanks Brand!

From: Akers, Brad <Akers.Brad@epa.gov>
Sent: Thursday, November 4, 2021 6:55 AM
To: Mills, Andrew <mills.andrew@epa.gov>
Cc: Febres, Andres <febres-martinez.andres@epa.gov>
Subject: RE: South Carolina Construction Permit Question

Hi Andrew,

Did you mean to include James Purvis here? I'll take a look at your questions once I sign on, but I am pretty sure you wanted James Purvis.

Brad

From: Mills, Andrew <mills.andrew@epa.gov>
Sent: Wednesday, November 3, 2021 5:27 PM
To: Akers, Brad <Akers.Brad@epa.gov>; Febres, Andres <febres-martinez.andres@epa.gov>; Barringer, James <James.Barringer@ardaghgroup.com>
Subject: South Carolina Construction Permit Question

Hey all,

I hope things are going well. I'm on a team putting together a CD for the New Indy Emergency Order case and we want to better understand SC's construction permits. A few question we have are:

Does SC issue construction permits first then incorporate the construction permits into a Title V permit or do they have a combined permitting program?
Do the construction permits live on in perpetuity or do they expire?
Are the construction permits eventually succeeded by other permits?

We've had issues in the past where a state permit references a CD for certain terms and conditions and then the CD expires, allowing those terms and conditions to expire with it. Our goal is to get the specific terms of the CD into a Title V eventually but we want to make sure we're standing on firm ground during the permitting process.

Thank you and if these questions are off base I can give more context over a teams call.