

BILL ANALYSIS

Senate Research Center

S.B. 1478
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Natural Resources
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Railroad Commission of Texas (railroad commission) Surface Mining and Reclamation Division (SMRD) implements a mine and reclamation permit program under Chapter 134 (Texas Surface Coal Mining and Reclamation Act), Natural Resources Code, and maintains delegated authority from the United States Department of Interior, Office of Surface Mining, to act as the permitting authority under the federal coal mining and reclamation program, the Surface Mining Control and Reclamation Act (SMCRA).

Currently, there is no statutory requirement for the railroad commission to complete their administrative and technical review of surface mining and reclamation permit applications, renewals, and revisions within a specific timeline. This surface mining program is fully self-funded through fees paid by the regulated industry and matching federal funds, and in the past industry has agreed to pay higher fees to support additional SMRD staff to handle an increasingly lengthy permit process. This does not appear to have solved the problem, and long permit timelines have resulted in delays and additional costs for operators.

To address concerns over permit timelines, SMRD has developed non-rule directives designed to establish deadlines for administrative and technical review, but these are not binding.

S.B. 1478 would codify the administrative and technical review timelines currently set out in informal directives to ensure that the timelines are complied with and greater efficiencies in the permit review process are realized.

As proposed, S.B. 1478 amends current law relating to permit review timelines of the surface mining and reclamation division of the Railroad Commission of Texas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. PURPOSE. Provides that the purpose of this Act is to establish timelines for the review of applications for surface coal mining permits, renewals, and revisions.

SECTION 2. Amends Section 134.004, Natural Resources Code, to define "director."

SECTION 3. Amends Subchapter F, Chapter 134, Natural Resources Code, by adding Sections 134.135, 134.136, and 134.137, as follows:

Sec. 134.135. ADMINISTRATIVE REVIEW PERIOD FOR NEW PERMITS, RENEWALS, AND SIGNIFICANT REVISIONS. (a) Requires the director, Surface Mining and Reclamation Division, Railroad Commission of Texas (director; division; railroad commission) to complete a review to assess the administrative completeness of any application submitted for a new surface coal mine permit or the renewal or revision of such a permit within one week of receipt of the application.

(1) Requires that the letter, if the application is found to be incomplete, will identify for the applicant the specific information that causes an incompleteness determination and, upon the applicant's submittal of the requested information, make a determination whether the application is administratively complete within one week of receipt of requested information.

(2) Provides that if the application is found to be administratively complete, the application will be filed with the office of general counsel for processing in accordance with railroad commission rules and Chapter 2001 (Administrative Procedure), Government Code.

Sec. 134.136. TECHNICAL REVIEW PERIOD FOR NEW PERMITS, RENEWALS, AND SIGNIFICANT REVISIONS. (a) Requires the director, within 120 days of receipt of an administratively complete application for a new permit or significant permit revision (or within 60 days for a renewal application), to file documentation of its technical analysis with the railroad commission's office of general counsel and contact the applicant to schedule a meeting to discuss the technical analysis review findings.

(1) Provides that if the applicant files a supplement to the application, the director will follow the procedure outlined in Section 134.135(a) regarding administrative review and review the supplement and respond with an addendum to its technical analysis within 30 days of receiving an administratively complete supplement, unless a substantive revision to the proposed mining and operation plan is made to the application in the supplemental filing.

(2) Requires that the review, if a substantive revision is made in the applicant's supplemental filing, be completed within 60 days from receipt of an administratively complete supplement.

(b) Provides that, during this review time period, the director will request that the hearings examiner assigned to the case from the office of general counsel review the public notice to ensure that no material change, requiring additional notice, has occurred with this supplemental filing to the application.

Sec. 134.137. REVIEW OF NONSIGNIFICANT REVISIONS. (a) Requires the director, within 60 days of receipt of a complete application for a non-significant permit revision, to issue a written response to the applicant either authorizing the requested permit revision or providing a list of deficiency comments with precise citations to applicable regulation sections.

(b) Requires the director, within 30 days of receiving an applicant's response to deficiency comments, to issue a written response authorizing the requested permit revision or setting out additional deficiencies consistent with the process outlined in subsection (a) of this section.

SECTION 4. EFFECTIVE DATE. Provides that this Act applies to applications submitted on or after June 1, 2011. Requires the director to take all reasonable steps necessary to ensure that applications still pending on the effective date of this Act are processed within timeframes that are consistent with permit review timeframes set out in this Act.