

- SUBJECT:** Deadlines for the RRC to review surface coal mining permits
- COMMITTEE:** Energy Resources — committee substitute recommended
- VOTE:** 9 ayes — Keffer, Crownover, Carter, Craddick, J. Davis, C. Howard, Lozano, Sheffield, Strama
- 0 nays
- WITNESSES:** For — Phil Berry, Texas Mining and Reclamation Association; (*Registered, but did not testify:* Ches Blevins, Texas Westmoreland Coal Co., Texas Municipal Power Co., and Walnut Creek Mining Co.; Gary Gibbs, Association of Electric Companies of Texas; Lisa Kost, San Miguel Electric Cooperative Inc.; Mike Nasi, Clean Coal Technology Foundation of Texas and Gulf Coast Lignite Coalition; Stephanie Strother, Luminant)
- Against — None
- BACKGROUND:** Natural Resources Code, sec. 134.080 requires the Railroad Commission (RRC) to approve or disapprove an application for a surface coal mining permit revision by the 90th day after the application is submitted.
- DIGEST:** HB 2963 would amend the review periods for revisions to surface coal mining permits and codify review periods for new permits and permit renewals.
- The director of the Surface Mining and Reclamation Division of the RRC, or the director's representative, would have to review the application for a new permit, a permit renewal, or a significant permit revision within seven days of the application's receipt and determine whether the application was complete. If the director determined the application was complete, the application would be filed for processing with the RRC office of general counsel. If the director determined that the application was not complete, the director would have to send a written notice to the applicant identifying the information needed. The director would have to complete another review for completeness within seven days after the requested information was received.

Within 120 days after a completed application was received, the director would be required to complete a technical review of the application and make a recommendation to approve or deny the application to the RRC office of general counsel. If the director determined that the application was deficient after the technical review, the 120-day review period would be tolled until the RRC received the requested information from the applicant. The director would have to send a written notice informing the applicant that the review period was being tolled, the reason the review period was being tolled, the information needed from the applicant, and the number of days remaining to review the application after the RRC received the requested information. If the applicant submitted non-responsive information, the director would be able to extend the review period for up to 60 more days. The director would be required to provide written notice to the applicant on whether the review period was extended, the reason for the decision, and the number of days remaining in the review period.

For a permit revision that was not a significant departure from approved mining and reclamation operations, within 90 days after the commission received a complete application, the director would have to provide written notice to the applicant that the revision request had been approved or denied. If this revised application was deficient, the review period would be tolled as for other applications, and the director would be required to send a written notice as for other applications.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011. The bill would apply only to a mining application filed on or after the effective date.

**SUPPORTERS
SAY:**

The permit process for mining and reclamation activities has grown longer despite staff being added and industry fees being increased. The long process has resulted in additional costs and delays for mine operators. If this trend continues, mine operators could have difficulty timely and reliably delivering fuel to the state's coal-fired power plants. HB 2963 would codify administrative and technical review deadlines currently set out in informal directives and better ensure that these deadlines were met. The bill also would replace the current 90-day deadline for permit revisions with a more flexible deadline.

OPPONENTS
SAY:

The technical review deadline for permit renewals should be shorter than the deadline for new permits because renewal applications do not take as long to review. Prompt approval of renewal applications is crucial because delays could force interruption of coal delivery. The bill would provide shorter deadlines for a non-significant permit revision, and a similar provision should be included for permit renewals.

NOTES:

The substitute differs from the original by removing a shorter deadline for permit renewals and adding a tolling provision.

The companion bill, SB 1478 by Hegar, passed the Senate by 31-0 on the Local and Uncontested Calendar on April 28 and was referred to the House Energy Resources Committee on April 29.