

The Texas Natural Resource Conservation Commission (TNRCC or commission) adopts amendments to §11.1, Historically Underutilized Business Program. The amendments are adopted without changes to the proposed text as published in the December 17, 1999 issue of the Texas Register (24 TexReg 11228) and will not be republished.

#### BACKGROUND AND SUMMARY OF THE FACTUAL BASIS FOR THE ADOPTED RULES

The purpose of §11.1, Historically Underutilized Business Program, is to comply with Texas Government Code, §2161.003, created by Senate Bill (SB) 178, 76th Legislature, 1999, which requires the commission to adopt the General Services Commission (GSC) rules for Historically Underutilized Businesses (HUBs). The GSC amended its rules in July 1999. The commission must adopt the amendments by reference in order to be consistent. Section 11.1 is amended to adopt by reference the the GSC rules for HUBs, as amended through July 9, 1999 (24 TexReg 5179).

Concurrently with this rules adoption, the commission is approving the review and readoption with amendments of 30 TAC Chapter 11. This review is in accordance with Texas Government Code, §2001.039, and the General Appropriations Act, Article IX, §9-10.13, 76th Legislature, 1999, which require state agencies to review and consider for readoption each of their rules every four years.

#### SECTION BY SECTION DISCUSSION

Section 11.1 is amended to adopt by reference the July 9, 1999 version of the GSC HUB rules, as amended through July 9, 1999 (24 TexReg 5179). Subsections (b) and (c) are deleted because they are not statutorily required and are unnecessary.

#### FINAL REGULATORY IMPACT ANALYSIS

The commission has reviewed the adopted rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and has determined that the rulemaking is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a “major environmental rule.” These are procedural rules governing contract procedures with HUBs. These rules do not set any environmental standards or affect the enforcement of environmental standards. There are no federal standards for these contracting issues. These rules are specifically required by state law, Texas Government Code, §2161.003. These rules are adopted under specific state statute rather than the general powers of the commission. These rules do not exceed the requirements of state law. There are no delegation agreements or contracts between the state and federal government concerning state contracting procedures.

#### TAKINGS IMPACT ASSESSMENT

The commission has prepared a takings impact assessment for the rules under Texas Government Code, §2007.043. The following is a summary of that assessment. The specific purpose of the rules is to adopt by reference the rules of the GSC for contracting with HUBs. These are procedural rules governing contract procedures with HUBs. These rules do not set any environmental standards or affect the enforcement of environmental standards. These rules do not regulate the use of private real property. Therefore, these rules will not constitute a takings under Texas Government Code, Chapter 2007.

#### COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW

The commission has determined that the proposed rulemaking does not relate to an action or actions subject to the Texas Coastal Management Program (CMP) in accordance with the Coastal Coordination Act of 1991, as amended (Texas Natural Resources Code, §§33.201 et seq.), and the commission's rules in 30 TAC Chapter 281, Subchapter B, concerning Consistency with the CMP. These are procedural rules that do not set environmental standards or affect their enforcement.

#### HEARING AND COMMENTERS

A public hearing was held in Austin on the proposed amendments and rules review on January 13, 2000. No one testified at the public hearing. The comment period on the proposed amendments and rules review ended on January 18, 2000. No one submitted any comments.

#### STATUTORY AUTHORITY

The amendment is adopted under SB 178, §1.23, 76th Legislature, 1999, codified as Texas Government Code, §2161.003, which requires state agencies to adopt the GSC rules on contracting with HUBs as the agency's own rules.

**§11.1. Historically Underutilized Business Program.**

The commission adopts by reference the rules of the Texas General Services Commission in 1 TAC §§111.11-111.23 (relating to Historically Underutilized Business Certification Program), as amended through July 9, 1999 (24 TexReg 5179).