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**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**[LLNM006200 L99110000.EK0000 XXX L4053RV]**

**Notice of Final Action: Crude Helium Sale and Auction for Fiscal Year 2016**

**Delivery**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The Secretary of the Interior (Secretary), through the Bureau of Land Management (BLM) New Mexico State Office, is issuing this Final Notice to conduct a sale and auction from the Federal Helium Program, administered by the BLM New Mexico Amarillo Field Office. The BLM will use the sale and auction process outlined in this Notice for the sale and auction that the Helium Stewardship Act of 2013 (HSA) requires the BLM to conduct during fiscal year (FY) 2015 for delivery in FY 2016. This action takes into consideration public comments received as a result of the Notice of Proposed Action published in the Federal Register on June 12, 2015.

**DATES:** This Notice is effective on [INSERT DATE OF PUBLICATION].

**FOR FURTHER INFORMATION CONTACT:** Robert Jolley, Amarillo Field Manager, at 806-356-1002. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339. The FIRS is available 24 hours a day, 7 days a week, to leave a message. You will receive a reply during normal business hours.

## **SUPPLEMENTARY INFORMATION**

### **A. Purpose and Background:**

In October 2013, Congress passed the HSA (Public Law 113-40). The HSA requires the Department of the Interior, through the BLM Director, to offer for sale and auction annually a portion of the helium reserves owned by the United States and stored underground in the Cliffside Gas Field, near Amarillo, Texas (50 U.S.C. 167d(b)).

On July 22, 2014, the BLM published a “Final Notice for Implementation of Helium Stewardship Act Sales and Auctions” in the Federal Register, (79 FR 42808) (2014 Final Notice). The 2014 Final Notice contained information about the HSA, definitions of terms used in the Notice, the reasons for the action, and a process for conducting the auctions and sales in FY 2014. The 2014 Final Notice is available at the BLM helium operations website at: <http://www.blm.gov/nm/helium>.

The BLM published a “Notice of Proposed Action: Crude Helium Sale and Auction for Fiscal Year 2016 Delivery” in the Federal Register on June 12, 2015 (80 FR 33548). The BLM requested comments regarding elements of the FY 2016 sale and auction. These elements included:

- a. The process for arriving at the price for helium to be sold at the Phase B auction and sale, as described in section 1.01 of this Notice;
- b. The format of the auction, as described in section 1.04 of this Notice;
- c. Who will be allowed to purchase helium in the FY 2016 Phase B sale, as described in section 2.01 of this Notice; and
- d. The process for allocating helium for the FY 2016 Phase B sale, as described in section 2.02 of this Notice.

A summary of changes made as a result of those comments is provided below:

## Summary of Changes

Affected Text	Explanation of Change
Volumes Offered in the FY 2016 Helium Auction and Sale	Added non-allocated and adjusted sale volumes.
Section 1.01	Added the additional three criteria from the statute regarding pricing.
Section 1.03	The BLM set the auction date as August 26, 2015, with auction results published on the BLM website on August 27, 2015; the BLM set the sale date for September 1, 2015.
Section 2.01	The BLM re-instituted the non-allocated sale.
Section 2.02	Added explanation for decision to reinstitute non-allocated sale.
Section 2.03	Added information on how FY 2016 Phase B sale will be allocated among those participating in the non-allocated sale.

### **B. Public Comment: Analysis of Comments and Changes**

In response to the invitation in the Notice of Proposed Action, six commenters, who are refiners and non-refiners, submitted 22 comments totaling 8 pages. The BLM developed a table of comments and responses, which is available for public review at:

www.blm.gov/nm/Helium2016. Based upon the comments received, the BLM has revised the process for the FY 2016 sale and auction.

**C. Volumes Offered in the FY 2016 Helium Auction and Sale:**

Table 1 identifies the volumes to be offered for auction and sale in FY 2015 for FY 2016 delivery.

**Table 1.** Projected Volumes for Phase B Auction and Sales for FY 2016 Delivery

Fiscal Year (FY)	Forecasted Production Capability (NITEC Study)	In-Kind Sales (Sales to Federal Users)	Total Remaining Production Available for Sale/ Auction or Delivery	Volume Available for Auction	Previously Sold in FY 2014 Advanced Sale	Volume Available for Non-Allocated Sale	Volume Available for Sale
	MMcf*	MMcf	MMcf	MMcf	MMcf	MMcf	MMcf
FY 2016**	1,310	160	1,150	300***	250****	85	515

\* MMcf means one million cubic feet of gas measured at standard conditions of 14.65 per square inch atmosphere (psia) and 60 degrees Fahrenheit

\*\* Delivery for FY 2016 sales and auctions will be subject to a new storage contract beginning October 1, 2015

\*\*\* 25% of total production capacity after deducting In-Kind (rounded)

\*\*\*\* In accordance with the HSA, 250 MMcf of FY 2016 volumes were offered in FY 2014

**D. FY 2016 Helium Auction**

**1.01 What is the minimum FY 2016 Phase B auction price and the FY 2016 Phase B**

**sales price, and how were those prices determined?** The minimum FY 2016 Phase B auction price is \$100 per Mcf (one thousand cubic feet of gas measured at standard conditions of 14.65 psia and 60 degrees Fahrenheit). The BLM established the minimum auction price and will calculate the FY 2016 Phase B sale price using four criteria established in the HSA, in the following priority: (A) The sale price of crude helium in auctions held by the Secretary; (B) Price recommendations and disaggregated data from a qualified, independent third party who has no conflict of interest, who shall conduct a confidential survey of qualifying domestic helium transactions; (C) The volume-weighted

average price of all crude helium and pure helium purchased, sold, or processed by persons in all qualifying domestic helium transactions; and (D) The volume-weighted average cost of converting gaseous crude helium into pure helium.

The BLM will announce the FY2016 Phase B sale price after the auction has concluded and the BLM completes its analysis of the auction information. The BLM will post the crude helium price for the FY2016 Phase B sale, effective October 1, 2015.

**1.02 What will happen to the helium offered but not sold in the helium auction?**

Any volume of helium offered, but not sold in the FY 2016 Phase B auction, will be added to the 600 MMcf available for sale and will be offered for sale in the FY 2016 Phase B sale.

**1.03 When will the sale and auction take place?** The BLM intends to offer helium for FY 2016 according to the following schedule:

August 26, 2015	FY 2016 Phase B helium auction held in Amarillo, Texas
August 27, 2015	FY 2016 Phase B helium auction results published on the BLM website
September 1, 2015	Phase B Helium Sale
September 30, 2015	Revenues from auction and sale due to the BLM

**1.04 What is the auction format?** The auction will be a live auction, held in the main conference room of the Amarillo Field Office at 1:00 pm central time, on August 26, 2015. The address is 801 South Fillmore, Suite 500, Amarillo, TX 79101. Anyone meeting the HSA definition of a qualified bidder may participate in the auction. The logistics for the auction and the pre-bid qualification form is included in a document entitled Auction Guide at [www.blm.gov/nm/helium2016](http://www.blm.gov/nm/helium2016). Questions related to the auction can be submitted by phone to the BLM at 806-356-1001.

**1.05 Who is qualified to purchase helium at the Phase B auction?** Only qualified bidders, as defined in 50 U.S.C. 167(9), may participate in and purchase helium at the Phase B auction. The BLM will make the final determination of who is a qualified bidder using the HSA's definition of a qualified bidder, regardless of whether or not that person was previously determined to be a qualified bidder.

**1.06 How many helium lots does the BLM anticipate offering at the FY 2016 Phase B auction?** The BLM anticipates auctioning 300 MMcf in a total of 18 lots for FY 2016. The lots would be divided as follows:

- (8) lots of 25 MMcf each;
- (5) lots of 15 MMcf each; and
- (5) lots of 5 MMcf each.

**1.07 What must I do to bid at auction?** The BLM has described the live auction procedures, including detailed bidding instructions and pre-bid registration requirements, in a document entitled FY 2016 Helium Auction Notice and Guide at [www.blm.gov/nm/helium2016](http://www.blm.gov/nm/helium2016).

**1.08 When will helium that is purchased at sale or won at auction be available in the purchaser's storage account?** The BLM will transfer the volumes purchased in the FY 2016 Phase B auction and sale to the buyer's storage accounts beginning on the first day of the month following receipt of payment.

#### **E. FY 2016 Phase B Helium Sale**

**2.01 Who will be allowed to purchase helium in the FY 2016 Phase B sale?** The Phase B crude helium sale will be separated into two distinct portions, a non-allocated portion and an allocated portion. The non-allocated portion will be ten percent of the total amount offered for sale for FY2016 and will be available to those storage contract

holders, as of August 31, 2015, who do not have ability to accept delivery of crude helium from the Federal Helium Pipeline (as defined in 50 U.S.C. 167(2)). The allocated portion will be ninety percent of the total amount offered for sale for FY2016 and will be available to any person (including individuals, corporations, partnerships, or other entities) with the ability to accept delivery of crude helium from the Federal Helium Pipeline (as defined in 50 U.S.C. 167(2)).

**2.02 Why did the BLM re-institute the non-allocated sale?** The BLM specifically requested information regarding who will be allowed to purchase helium in the FY 2016 Phase B sale in the draft Federal Register notice. Based on comments received, the BLM determined that a non-allocated sale would increase participation in the Federal Helium Program and maximize the total financial return to the taxpayer.

**2.03 How will helium sold in the FY2016 Phase B sale be allocated among those participating in the non-allocated sale?** The non-allocated sale will be made available to all qualified entities not eligible to participate in the allocated sales. The minimum volume that can be requested is 1 MMcf. The total volume available for the non-allocated portion of the sale is 85 MMcf. Any volumes not sold at auction will be distributed between the non-allocated (10 percent) and the allocated sale (90 percent). Any volumes not purchased at the non-allocated sale will be sold in the allocated sale. A hypothetical example is provided in a document entitled “Hypothetical example of how the FY 2016 Phase B Non-Allocated Sale would be conducted” at [www.blm.gov/nm/helium2016](http://www.blm.gov/nm/helium2016).

**2.04 How will the helium sold in the FY 2016 Phase B sale be allocated among the persons to accept delivery of crude helium from the Federal Helium Pipeline?** Any person desiring to participate in the allocated portion of the FY 2016 Phase B sale needs

to report its excess refining capacity and operational capacity by August 14, 2015, using the Excess Refining Capacity form, which can be downloaded at <http://www.blm.gov/nm/heliumreporting>, or in a link entitled “Required Forms for Helium Reporting” at [www.blm.gov/nm/helium2016](http://www.blm.gov/nm/helium2016). Each person participating in the sale will then be allocated a proportional share based upon that person’s operational capacity. A hypothetical example is provided in a document entitled “Hypothetical Example of how the FY 2016 Phase B Allocated Sale would be conducted” at [www.blm.gov/nm/helium2016](http://www.blm.gov/nm/helium2016).

**2.05 How does a person apply for access to the Federal Helium Pipeline for the purpose of taking crude helium?** The steps for taking crude helium are provided in the BLM’s Helium Operations website in a document entitled “How to Set Up a Storage Account and Pipeline Access” at <http://www.blm.gov/nm/helium2016>. Reporting forms show the due dates for each report, and can be found in a document entitled “Required Forms for Helium Reporting” at [www.blm.gov/nm/helium2016](http://www.blm.gov/nm/helium2016). The length of time required to apply for and obtain access to the Federal Helium Pipeline will vary based on the person’s plans for plant construction, pipeline metering installation, and other variables. The BLM is available to provide technical assistance and information, including contact information for applying for access and information about any applicable National Environmental Policy Act requirements.

**2.06 What will happen if one or more persons request an amount other than the person’s share of the volume offered for either the allocated or the non-allocated sale?** If one or more persons request less than their share(s), any other person(s) who request(s) more than their share(s) will be allowed to purchase the excess volume based

on the proportionate shares of operational capacity of all persons requesting more than their initial shares.

**2.07 What will happen if the total amount requested by persons is less than the 515 MMcf offered in the FY 2016 Phase B allocated sale?** Any excess volume not sold in the FY 2016 Phase B allocated sale may be available for future sale or auction.

#### **F. Delivery of Helium in FY 2016**

**3.01 When will I receive the helium that I purchase in a sale or win based on a successful auction bid?** Helium purchased at the FY 2016 sale or won at the FY 2016 auction will be delivered starting October 1, 2015, in accordance with the crude helium storage contract. The intent is to ensure delivery of all helium purchased at sale or won at auction up to the BLM's production capability for the year.

**3.02 How will the BLM prioritize delivery?** The HSA gives priority to Federal In-Kind helium (i.e., helium sold to Federal users) (50 U.S.C. 167d(b)(1)(D)) and (b)(3)). After meeting that priority, the BLM will make delivery on a reasonable basis, as described in the crude helium storage contract, to ensure storage contract holders who have purchased or won helium at auction have the opportunity during the year to have that helium produced or refined in monthly increments.

#### **G. Background documents**

Supplementary documents referenced in this Notice are available at the BLM helium operations website at: <http://www.blm.gov/nm/helium2016>, and include the following:

- a. The HSA (50 U.S.C. 167);
- b. Proposed Notice, June 22, 2015;
- c. Consolidated Comment Sheet from Proposed Notice;
- d. FY 2016 Helium Auction Notice and Guide;

- e. Table of Projected Volumes for Sales and Auctions for Delivery for FY 2017-FY 2021 (informational);
- f. Hypothetical example of how the FY 2016 Phase B Allocated Sale would be conducted (informational);
- g. Hypothetical example of how the FY 2016 Phase B Non-Allocated Sale would be conducted (informational);
- h. Schedule for Helium Auction and Sale;
- i. How to Set Up a Storage Account and Pipeline Access;
- j. 2011 Reference Helium Storage Contract (informational); and
- k. Required Forms for Helium Reporting.

Authority: The HSA of 2013, Public Law No. 113-40, codified to various sections in 50 U.S.C. 167-167q.

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Corey Grant,

Acting State Director.

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