



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR 3195

[BLM_HQ_FRN_MO4500172196]

RIN 1004–AE93

Helium Contracts

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Helium Stewardship Act of 2013 (HSA) required the Bureau of Land Management (BLM) to sell the Federal Helium System (FHS) and end the Federal Helium In-Kind Program. Accordingly, on September 24, 2021, the BLM declared the FHS as excess to the General Services Administration (GSA), and on September 30, 2022, ceased operation of the Federal Helium In-Kind Program. This final rule removes the Federal Helium In-Kind Program’s associated provisions from the BLM’s regulations.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send inquiries or suggestions to Director (630), Bureau of Land Management, 1849 C St. NW, Room 5646, Washington, DC 20240; Attention: RIN 1004–AE93.

FOR FURTHER INFORMATION CONTACT: Amy Hay, Division Chief, Division of Business Resources, 303-236-6629, ahay@blm.gov; or Faith Bremner, Regulatory Analyst, Division of Regulatory Affairs, fbremner@blm.gov. Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting

Ms. Hay. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Background

The BLM operates and maintains the FHS, which includes a helium storage reservoir, enrichment plant, pipeline system, and related infrastructure near Amarillo, Texas. The BLM will continue to operate the system until the sale is completed. Crude helium is extracted from the storage reservoir and transported to private helium refineries in Oklahoma and Kansas through the Federal Helium Pipeline. These refiners process the crude helium gas into refined liquid helium that is transported via tanker truck for use by private industry and Federal users. Helium is important for scientific research and medical imaging devices and is used by the Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), and the Department of Homeland Security, among others. Over the past 3 years, the FHS provided roughly 14 percent of the domestic helium supply.

The BLM's regulations at 43 CFR part 3195, entitled "Helium Contracts," implemented the requirements of the Helium Privatization Act of 1996 to establish the BLM's Federal Helium In-Kind Program (Pub. L. No. 104-273, amended by the HSA, codified at 50 U.S.C. 167 (2013)). The BLM issued the regulations on July 28, 1998, establishing procedures for the BLM's Federal Helium In-Kind Program and defining the obligations of Federal helium suppliers and users. See 63 FR 40175. Under the BLM's Federal Helium In-Kind Program, Federal agencies were required to purchase all of their refined helium from private suppliers who, in turn, were required to purchase an equivalent amount of crude helium from the FHS.

Congress later enacted the HSA (Pub. L. No. 113-40), which amended the Helium Privatization Act and required the Secretary of the Interior to dispose of the FHS. The Act continued the Federal Helium In-Kind Program until the disposal of the FHS.

The Department of the Interior and the BLM have complied with the requirements of the HSA. In April 2020, the BLM announced the disposal process for the FHS and explained that the Federal Helium In-Kind Program would end on September 30, 2022. The BLM has turned the FHS over to the GSA so that the GSA can sell the FHS. The BLM ended the Federal Helium In-Kind Program on September 30, 2022, in preparation for the sale. Since that time, Federal users have been procuring helium on the open market.

The GSA has modified the Federal Acquisition Regulation to comply with the HSA. On September 19, 2022, the GSA, DoD, and NASA published a proposed rule that would remove the requirements for government contractors to purchase helium from the Federal Government through the Federal Helium In-Kind Program. See 87 FR 57166. On April 26, 2023, the GSA, DoD, and NASA published the final rule. See 88 FR 25474.

II. Discussion of Final Rule

This final rule is an administrative action that simply removes 43 CFR part 3195 from the BLM's regulations in its entirety. These regulations are no longer in effect due to the pending sale of the FHS as required by the HSA. This action will implement Federal law. The BLM does not have the discretion to continue operating the in-kind program. Therefore, the Department of the Interior for good cause finds under 5 U.S.C. 533(b)(B) and (d)(3) that notice and public comment procedures are unnecessary.

Procedural Matters

Regulatory Planning and Review (E.O. 12866, E.O. 14094, E.O. 13563)

This document is not a significant rule, and the Office of Management and Budget (OMB) has not reviewed this final rule under Executive Order (E.O.) 12866. The BLM

has determined that this final rule will not have an annual effect on the economy of \$200 million or more. It will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. This final rule simply removes the Federal Helium In-Kind Program regulations from the Code of Federal Regulations (CFR). These regulations are no longer in effect, due to the pending sale of the FHS, as required by the HSA.

This final rule will not create inconsistencies or otherwise interfere with an action taken or planned by another agency. In addition, this final rule does not materially affect the budgetary impact of entitlements, grants, or loan programs, or the rights and obligations of their recipients. Finally, this final rule does not raise novel legal or policy issues. As explained earlier, the final rule removes regulations from the CFR that are no longer in effect.

Regulatory Flexibility Act

This final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). As a result, a Regulatory Flexibility Analysis is not required. The final rule will not affect small entities in any material way, because this final rule simply removes regulations from the CFR that are no longer in effect.

Congressional Review Act

This final rule is not a “major rule” as defined at 5 U.S.C. 804(2). The final rule will not have an annual effect on the economy greater than \$100 million; it will not result in major cost or price increases for consumers, industries, government agencies, or regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete

with foreign-based enterprises. Accordingly, a Small Entity Compliance Guide is not required.

Federalism (E.O. 13132)

This final rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. In accordance with E.O. 13132, the BLM therefore finds that the final rule does not have federalism implications, and a federalism assessment is not required.

The Paperwork Reduction Act of 1995

The Paperwork Reduction Act (44 U.S.C. 3501–3521) generally provides that an agency may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. Collections of information include any request or requirement that persons obtain, maintain, retain, or report information to an agency, or disclose information to a third party or to the public (44 U.S.C. 3502(3) and 5 CFR 1320.3(c)).

OMB has generally approved the information collection requirements contained in 43 CFR part 3195 under OMB control number 1004–0179. Since this final rule removes 43 CFR part 3195 in its entirety, including all information collection requirements contained therein, the BLM has requested that OMB discontinue that OMB control number, along with the associated public paperwork burdens. This action also results in discontinuing the following BLM form numbers: 3195-1; 3195-2; 3195-3; and 3195-4. Discontinuing OMB control number 1004-0179 results in reducing the BLM's information collection burdens by 94 annual responses and 642 annual burden hours.

Takings Implication Assessment (E.O. 12630)

As required by E.O. 12630, the BLM has determined that this final rule will not cause a taking of private property. The BLM therefore certifies that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the BLM finds that this final rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order.

The National Environmental Policy Act (NEPA)

The BLM has determined that this final rule qualifies as an administrative, housekeeping action that is categorically excluded from environmental review under NEPA pursuant to 43 CFR 46.205 and 46.210(i). The final rule does not meet any of the 12 criteria for exceptions to categorical exclusions listed at 43 CFR 46.215. Therefore, neither an environmental assessment nor an environmental impact statement is required in connection with the rule (40 CFR 1501.3).

The Unfunded Mandates Reform Act of 1995

The BLM has determined that this final rule is not significant under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*, because it will not result in State, local, private sector, or Tribal government expenditures of \$100 million or more in any one year, 2 U.S.C. 1532. This rule will not significantly or uniquely affect small governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act.

Consultation and Coordination with Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, the BLM has determined that this final rule does not include policies that have Tribal implications. Specifically, the rule will not have

substantial direct effects on one or more Indian Tribes. Consequently, the BLM did not use the consultation process set forth in section 5 of the Executive Order.

Information Quality Act

In developing this final rule, the BLM did not conduct or use a study, experiment, or survey requiring peer review under the Information Quality Act (Pub. L. No. 106–554).

Effects on the Nation’s Energy Supply (E.O. 13211)

In accordance with E.O. 13211, the BLM has determined that this final rule will not have a significant adverse effect on the supply, distribution, or use of energy. The final rule removes regulations from the CFR that are no longer in effect.

Delegation of Signing Authority

The action taken herein is pursuant to an existing delegation of authority.

List of Subjects

Government contracts, helium, mineral royalties, oil and gas exploration, public lands-mineral resources, reporting and recordkeeping requirements, and surety bonds.

Laura Daniel-Davis,

Principal Deputy Assistant Secretary,

Land and Minerals Management

Under the authority of 5 U.S.C. 301, 50 U.S.C. 167, and for the reasons stated in the preamble, 43 CFR Chapter II is amended as follows:

PART 3195 -- [REMOVED]

- 1. Remove part 3195.**

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