



United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
Washington, D.C. 20240  
<http://www.blm.gov>



The Honorable Rob Bishop  
Chairman  
Committee on Natural Resources  
House of Representatives  
Washington, DC 20515

JUL 07 2015

Dear Mr. Chairman:

Thank you for your letter regarding the Bureau of Land Management's (BLM) implementation of the Helium Stewardship Act of 2013 (HSA), P.L. 113-40. We appreciate that you took the time to share your concerns regarding the sales provisions of the HSA. The BLM fully supports Congress' goals of encouraging competition and expanding participation in the Federal Helium Program, and is committed to implementing the HSA to achieve those objectives. We look forward to working with you going forward and welcome your views on how best to do this.

Your letter asks about the use of non-allocated sales. Section 6 of the HSA neither implicitly nor explicitly requires non-allocated sales. However, in implementing the Act, the BLM understood that "Phase A" as identified by the HSA was intended to maintain the status quo, and thus included in that sale both allocated and non-allocated components. With respect to "Phase B" of the HSA, the BLM substituted an auction for 10 percent of the helium in the first Phase B sale in lieu of a non-allocated sale as it appeared that such a process would provide access to both refiners and non-refiners.

However, while the first auction held in Phase B during Fiscal Year 2014 generated an unexpected increase in revenue, the fact that only two refiners purchased all of the crude helium auctioned at that time had the unexpected consequence of shutting out non-refiners, potentially limiting future competition. We believe this result could have been caused by a number of factors. The BLM is reviewing the matter and considering revisiting its approach to Phase B sales. In particular, on June 12, 2015, the BLM published a Notice of Proposed Action: Crude Helium Sale and Auction for Fiscal Year 2016 Delivery in the *Federal Register*. As part of that notice, the BLM specifically sought comment on the auction process for its upcoming sale. The comment period on this Notice of Proposed Action closes on July 13, 2015. The BLM will carefully review any input received, the information in your letter, a report being prepared by BLM economists evaluating various auction methods, and the previous non-allocated sales decision in order to make any necessary adjustments prior to publication of the final notice. The BLM intends to continue working toward the implementation of an auction and sale process that aligns with the HSA's pricing requirements and serves to increase competition.

Finally, you have asked about implementation of the tolling provisions of the HSA. The BLM has been obtaining the information necessary to assess compliance with these provisions. For example, the BLM requires refiners to report excess refining capacity in order to post the

aggregated volumes. In Fiscal Year 2015, refiners reported over 700 million cubic feet of excess refining capacity. With respect to tolling agreements, the BLM has included in its Notices of Crude Helium Sale and Auction a request for refiners to voluntarily report tolling arrangements and/or efforts to negotiate tolling agreements that were not successful. Each of the refiners has reported the relevant information in response to these requests. This reporting is significant given the fact that in many cases the refiners and non-refiners are direct competitors in the helium market. Based on the information collected, it appears that in many instances refiners were unsuccessful in executing tolling contracts due to differences with respect to price, volumes, delivery schedules, and a host of other market considerations. Going forward, the BLM is developing a new storage contract with industry input, to be effective October 1, 2015, which will potentially provide more latitude for tolling.

As noted above, the BLM is working to carry out the goals of the HSA to encourage competition and expand participation in the Federal Helium Program in the most effective manner possible. We look forward to working with you in this effort, and would be happy to discuss this matter further with you or your staff as we review the issues you have raised. If you have additional questions, please contact me at 202-208-3801, or your staff may contact Patrick Wilkinson, BLM Legislative Affairs Division chief, at 202-912-7421. A similar reply is being sent to Representative Grijalva.

Sincerely,

  
Neil Kornze  
Director