



Legislative Bulletin..... April 23, 2013

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H.R. 527 – Responsible Helium Administration and Stewardship Act

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(Hastings, R-WA)**

Order of Business: The legislation is scheduled to be considered during the week of April 22, 2013, under a rule. The Rule Committee has announced an amendment deadline of 10:00am on April 24, 2013.

Summary: The legislation authorizes the Secretary of the Interior to continue to sell crude helium from the Federal Helium Reserve, until the Reserve only contains a minimal amount of helium for government use.

The drawdown of sale of helium occurs in three phases. The first phase authorizes the Secretary to offer crude helium for sale, via auction, and this authorization shall last for one year after the legislation’s authorization. The legislation sets a minimum price equal to the price in the last sale from the Federal Helium Reserve before the date of enactment of this legislation. This phase is set to occur after enactment of the legislation, but before the final debt payment has been made (see Additional Information for more detail).

The second phase begins one year after enactment. The Secretary is authorized to offer crude helium for sale but will give priority to meeting the helium demand of federal users. The Secretary shall set a minimum price for which helium can be sold. This authorization shall expire when the volume of the helium reserve decreases to 3 billion cubic feet. The Secretary is prohibited from selling more than the total production capacity of the Federal Helium Reserve for that fiscal year, and more than the maximum refining capacity of persons connected by pipeline to the Federal Helium Reserve during that fiscal year.

The third phase begins after the helium reserve decreases to 3 billion cubic feet. The Secretary is authorized to sell crude helium for federal users, federal agencies, and holders of federal research grants. The Secretary shall set a minimum price for which helium can be sold, and these auctions shall occur at a minimum of 2 times a year.

The legislation sets certain criteria by which helium can be sold:

- 60% of the volume of helium available for sale shall be available to entities that demonstrate they have either adequate refining capacity, or tolling agreements for refining in place;
- 20% of the volume of helium available for sale shall be available to any bidder;
- The additional 20% shall be available to persons that demonstrate they have either adequate refining capacity, or tolling agreements for refining in place.

The Secretary may adjust these percentages in order to respond to market supply and demand, or in order to increase participation in helium auctions. The Secretary may auction, once per fiscal year, up to 10% of next year's helium. A storage fee will be charged for helium that is auctioned, but not withdrawn, from the reserve beginning one year after the auction.

Auction Conditions: The legislation sets multiple conditions for crude helium auctions. Each auction shall be for a predetermined volume and the Secretary may not award one person with more than 30% of the total volume offered in that auction. However, the Secretary may adjust this percentage based on the number of bidders in the auction.

Storage Fees: The legislation authorizes the Secretary to begin charging each winning bidder a storage fee for crude helium purchased that remains in the Federal Helium Reserve. A storage fee will begin on the date the Secretary receives payments of the purchase price for the helium. Beginning 270 days after auction, the Secretary shall charge increasing storage fees that will encourage the withdrawal of the helium within two years of the date of the auction.

Minimum Sale Price: In order to determine a minimum sales price, the Secretary shall conduct a confidential survey of domestic helium transactions from contract holders who have contacts with the Federal Helium Reserve. The Secretary shall use the current market crude helium prices as represented by the sale price at any auction held by the Secretary in the preceding 2 years, as well as the volume-weighted average cost among helium refiners, producers, and liquefiers. The Secretary is given the authority to require all contract parties to disclose this information, on a strictly confidential basis. The Secretary shall also take into account the additional layer of cost and profit associated with the sale or resale of bulk liquid helium and the sale price for crude helium offered in the most recent auction. The Secretary is authorized to change the minimum price if they determine that it is not reflective of the current market value of helium.

Helium Production Fund: Amounts received from auctions will be credited to the Helium Production Fund for purposes to carry out this subsection. These funds may be used to pay administrative expenses. Amounts in the fund that are in excess of amounts necessary to carry out the legislation will be deposited within the Treasury and credited to the program's debt (detailed below). Amounts in excess of operating expenses and the programs debt reduction may be used for certain capital investments in upgrades and maintenance at the Federal Helium Reserve.

New Refining Capacity: The Secretary is directed to take applications for new refining capacity on the Federal Helium Reserve pipeline. To create more competition, any new refining capacity added to the pipeline system shall be granted access to crude helium that is equal to the access provided to existing refining facilities. The Secretary is directed to manage pipeline access in a competitive manner to ensure that all buyers have equal access to timing and delivery of the helium, subject to the pipeline's capacity.

Scheduling Priority and Pipeline Access: The legislation directs the Secretary to grant pipeline access in the following order of priority:

- Helium held in the reserve as a result of an auction to any federal agency, and any holder of 1 or more federal research grants;
- Helium sold at auction being delivered to fulfill a tolling agreement;
- Other helium sold at auction;
- Helium held in the reserve as a result of an exchange resulting from any temporary shutdown of the reserve or of a refinery on the reserve pipeline¹; and
- Helium held in inventory in the reserve before the date of enactment of this legislation.

Supply Chain Information: Within 90 days of enactment, BLM is required to establish a real-time reporting process to provide data that will affect the helium industry. BLM will provide data that will affect the helium industry, include such effects for all persons in such industry from crude helium suppliers to end users. The legislation sets specific reporting criteria for the information that BLM is to make available.

Helium Resource Assessment and Helium-3 Separation: The Secretary shall coordinate with appropriate heads of State geological surveys and will complete a national helium gas assessment that identifies and quantifies the quantity of helium, include the isotope helium-3, in each reservoir. This assessment will include the constituent gases found in each helium resource, and will make available the modern seismic and geophysical log data for characterization of the Bush Dome Reservoir.

The Secretary is also required to complete a global helium gas assessment that identifies and quantifies the quantity of the helium, including the isotope helium-3. Additionally, the Secretary shall complete an assessment of trends in global demand for helium, including the isotope helium-3. This will include a 10-year forecast of domestic demand for helium across all sectors, and an inventory of medical, research, scientific and other uses of helium in the United States, including federal commercial uses. These assessments are to be sent to Congress within two years of enactment.

The Secretary is further directed to assess the feasibility of establishing a facility to separate the isotope helium-3 from crude helium at the Federal Helium Reserve, or an existing helium separation or purification facility connected to the Federal Helium Reserve pipeline system. A report on this feasibility study is to be sent to Congress within one year of enactment.

Reports: Within one year of enactment, and annually thereafter, the Secretary shall submit to Congress a report on the expenditures by BLM for the operation and maintenance of the Federal Helium Reserve. The report shall also include investments made by BLM.

The Secretary shall post on the internet the current refining capacity of the Federal Helium Reserve pipeline. This information shall include the refinery capacity and future capacity estimates,

¹ [According to BLM](#), BLM-operating crude helium extraction plant is shutdown typically 10 days a year for preventative maintenance, based on designer's recommendations. Shutting down during the 10 days help ensure the plant avoids any unscheduled shutdowns due to equipment failures.

ownership of federal auctioned helium held in the Federal Helium Reserve, the volume of helium delivered to buyers through the pipelines, and pipeline pressure constraints.

Additional Information: The Federal Helium Program was created in 1925 and is currently administered by the Bureau of Land Management (BLM). Congress amended the program with the Helium Act of 1960 (P.L. 86-777). This legislation authorized the Secretary of Interior to borrow money from the U.S. Treasury to buy a large amount of helium. The Helium Privatization Act of 1996 further amended the program². The 1996 act required helium sales to be priced, at a minimum, to cover operating costs and repay the debt incurred by the helium purchases that resulted from the 1960 act.

The 1960 amendments required the Bureau of Mines³ to set prices on crude helium sold so that it would cover all of the helium program's costs and repay its debts. BLM has estimated the current program debt to be approximately \$44 million, and this debt is scheduled to be paid off in 2013. Once the debt is repaid, the helium program will terminate pursuant to the 1996 law. This legislation seeks to reauthorize the program so the remaining helium reserves may be sold.

The 1996 act required the Secretary to phase out the helium reserve and sell crude helium reserves that are in excess of 600 million cubic feet, so that the government maintains a reserve of no more than 600 million cubic feet. This sale was mandated to occur on a straight-line basis between January 1, 2005 and January 1, 2015.

Background Information and Additional Reading:

- An audit of BLM's Helium Program by the Department of Interior's Office of Inspector General can be [viewed here](#).
- Additional information from the Natural Resources Committee can be [found here](#).

RSC Bonus Fact: Helium is used in the high-tech manufacturing of fiber optic cables and in the manufacturing of computer chips. It is also used in biological research, deep sea diving, high-speed welding, weapons development, medical imaging, etc. With a boiling point of -452.11° Fahrenheit, liquid helium is the coldest liquid known. Absolute zero occurs at -459.67 ° Fahrenheit.

Outside Support: According to the [Natural Resources Committee](#), H.R. 527 is supported by the following organizations:

- [American Air Liquide](#)
- [American Physical Society](#)
- Applied Materials
- Corning Incorporated
- Cree, Inc.
- The Dow Chemical Company
- Fairchild Semiconductor

² The Helium Privatization Act of 1996 (H.R. 4168 from the 104th Congress) passed the House by voice vote on September 26, 1996, and passed the Senate by unanimous consent on September 28, 1996. The legislation was signed into law as P.L. 104-273.

³ The Bureau of Mines closed in 1996 and this authority shifted to the Bureau of Land Management.

- Freescale Semiconductor
- General Electric Company
- GLOBALFOUNDRIES Inc.
- Information Technology Industry Council (ITIC)
- Intel Corporation
- IBM Corporation
- Kodak
- Materials Research Society
- [Medical Imaging and Technology Alliance](#) (MITA)
- Micron Technology Incorporated
- National Electrical Manufacturers Association (NEMA)
- ON Semiconductor
- Philips
- [Semiconductor Industry Association](#) (SIA)
- Siemens
- Texas Instruments Incorporated

Outside Concerns: The following companies have expressed concerns with H.R. 527:

- Praxair

Business Concerns: There are some in the business community that have concerns with this legislation, but there are others who are in favor.

There are refineries that are connected to the Reserve and have contracts with BLM based on their refining capacity. This legislation has the potential to change the amount of crude helium these companies receive, because helium will be sold to the highest bidder at auction. Therefore, some businesses are claiming that this could result in a violation of their contract, because it could alter the amount of helium that the companies receive.

While the RSC does not attempt to take a legal position on the company's contacts with BLM, it is important to note that in the contact with BLM the definition of "force majeure" includes "any laws, orders, rules regulations, acts, or restraints of any government or governmental body of authority..."

Committee Action: H.R. 527 was introduced on February 6, 2013, and was referred to the House Natural Resources Committee. An [oversight hearing](#) was held on February 14, 2013. The full committee held a [markup on March 20, 2013](#). A substitute amendment was offered by Rep. Hastings and was agreed to by voice vote. The committee then reported the legislation by voice vote, as amended.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: CBO estimates that enacting H.R. 527 would increase net offsetting receipts (a credit against direct spending) by \$340 million over the 2014-2023 period. Additionally, CBO estimates that completing the assessments and additional reports required under the bill would cost

\$11 million over the 2014-2023 period, assuming appropriation of the necessary amounts. CBO's full report can be [viewed here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to CBO, the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The legislation contains no earmarks, limited tax benefits, or limited tariff benefits.

Constitutional Authority: According the sponsor, "Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3." Rep. Hastings's statement in the Congressional Record can be [viewed here](#).

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