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HELIUM PRIVATIZATION ACT OF 1996

JUNE 27, 1996.—Ordered to be printed

Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 3008]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 3008) to amend the Helium Act to authorize the Secretary to enter into agreements with private parties for the recovery and disposal of helium on Federal lands, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

On page 12, after line 18, insert the following new section:

SEC. 8. REPORT ON HELIUM.

(a) Not later than three years before the date on which the Secretary commences offering for sale crude helium under Section 8, the Secretary shall enter into appropriate arrangements with the National Academy of Sciences to study and report on whether such disposal of helium reserves will have a substantial adverse effect on U.S. scientific, technical, biomedical, or national security interests.

(b) Not later than 18 months before the date on which the Secretary commences offering for sale crude helium under Section 8, the Secretary shall transmit to the Congress—

(1) the report of the National Academy under subsection (a);

(2) the findings of the Secretary, after consideration of the conclusions of the National Academy under subsection (a) and after consultation with the U.S. helium industry and with heads of affected Federal agencies, as to whether the disposal of the helium reserve under Section 8 will have a substantial adverse effect on the U.S. helium industry, the U.S. helium market or U.S., scientific, technological, biomedical, or national security interests; and

(3) if the Secretary determines that selling the crude helium reserves under the formula established in Section 8 will have a substantial adverse effect on the U.S. helium industry, the U.S. helium market or U.S. scientific, technological, biomedical, or national security interests, the Secretary shall make recommendations, including recommendations for proposed legislation, as may be necessary to avoid such adverse effects.

PURPOSE

The purpose of this Act is to preclude the Federal Government from refining and selling refined helium, to dispose of the United States helium reserve, and for other purposes.

BACKGROUND AND NEED

Helium has unique properties that make it useful for science and industry. It is used in cancer research, to cool nuclear reactors, and by NASA for its shuttle launches. In 1925, the Federal helium program was officially placed under the control of the Bureau of Mines (BOM) when Congress enacted the Helium Act of 1925. In 1929, the BOM's large scale helium extraction and purification facility was built and began operating near Amarillo, Texas.

Concerns that natural gas supplies were tapering off prompted Congress to replace the 1925 Act with the Helium Act Amendments of 1960. The 1960 Act was intended to conserve helium for essential government services and to supply current and foreseeable needs of the Federal Government. The law authorized the Secretary to buy helium from private suppliers and to store it for later use by the Federal Government. Also, the law authorized storage of helium, maintenance of helium production and purification plants, as well as related helium transmission and shipping facilities.

Beginning in 1960, the Federal Government contracted with private companies to supply crude helium to the BOM facility, in the process helping to foster a private helium refining industry. To finance purchases, the BOM borrowed \$252 million from the Treasury, intending that future sales would repay the loan. Federal demand, however, failed to meet projections, and contracts for additional helium were canceled in 1973. By that time, the BOM has amassed a crude helium stockpile of approximately 34 billion cubic feet and a debt that has since grown to \$1.4 billion, including interest.

Under current law, Federal agencies and their contractors must purchase refined helium from the BOM, but this Federal market is small compared to the total refined helium market, which is almost entirely supplied by the private helium refining industry. This industry is much more efficient than the BOM, using 500 people to refine and distribute 90% of the total helium market (approximately 3 billion cubic feet per year) compared to 175 people doing those operations at BOM's Amarillo facility, which handles the remaining 10% (approximately 300 million cubic feet per year). One factor in this greater efficiency is that private industry's facilities are relatively new, whereas BOM facilities are between 40 and 75 years old. A study contracted by BOM in 1988 estimated that it would cost approximately \$20 million to modernize the facilities. BOM also has high overhead cost because it maintains its own personnel, contracting, and other administrative offices. The private industry is more efficient in shipment and distribution, transporting helium in its more-dense liquid form, rather than the gaseous form primarily used by the BOM.

Under the 1960 Helium Act, the BOM was directed to repay the original Treasury loans with compound interest by 1995. To date,

the Bureau has not repaid the loans, In fact, no payments were made between 1965 and 1975 or between 1979 and 1982. Repayments did not begin in earnest until 1983, ranging from \$2 million to \$4 million per year. Since a price increase in 1991, the amount has increased to \$9 million per year. The BOM has repaid the Treasury approximately \$83 million since 1961, a small fraction of the soaring debt, interest on which is now over \$66 million per year. This Act caps the debt at current levels and provides a mechanism for repayment.

“The Helium Act of 1996,” as amended, would: close down the Federal helium program’s marketing and refining duties and turn those functions over to the private sector; repay the debt owed to the Treasury for helium purchased in the 1960’s to build up the stockpile; and establish a mechanism for selling off the 34 billion cubic feet in the stockpile without disrupting the market. The legislation repeals the Secretary’s authority to borrow under the Helium Act. Authorization would continue for the Secretary to store, transport, and withdraw crude helium, and maintain and operate the existing crude helium storage at the Bureau of Mines Cliffside Fields. The Secretary would be required to impose fees for helium storage, withdrawal, and transportation services. In addition, the Secretary is directed to make arrangements with the National Academy of Sciences to study and report on whether selling helium reserves will have any substantial adverse effects on the industrial, scientific and national security interests of the United States.

The Committee believes that private industry is capable of servicing the world’s helium markets, and that a Government-owned stockpile of helium is neither a necessary nor appropriate function of the Government. The Committee has concluded that the sale of the Federal helium stockpile will not have a substantial adverse effect on U.S. scientific, technological, biomedical, or national security interests. In order to validate the Committee’s findings, language has been included directing the Secretary to enter into appropriate arrangements with the National Academy of Science (NAS) to conduct a formal inquiry into this aspect of the legislation. Language in the study section of the bill is not intended in any way to limit the scope of the NAS study exclusively to the question of whether disposal of the Federal stockpile would substantially adversely affect these interests. Indeed, the Committee believes that the answer to this question is inextricably linked to more global supply and demand forces at work in the private helium marketplace and fully expects that the NAS study will validate this contention. It is the Committee’s intention that the Secretary demonstrate that any future legislation he might suggest will result in substantial improvements in the long-term supply of helium.

It is the Committee’s intention that the Secretary of the Interior continue to monitor helium production and helium reserves in the United States and periodically prepare reports regarding the amount of helium produced and the quantity of crude helium in storage in the United States.

The Committee understands that the Department of the Interior’s Office of Inspector General has been conducting annual financial audits of the Federal helium program. In addition, the Com-

mittee understands that financial statements of the Helium Fund may be audited by the Comptroller General, at his discretion, or at the request of a committee of the Congress. The Committee continues to support these activities. Finally, the Committee recognizes that Federal employees will be separated as a result of this legislation. Consequently, it is the Committee's intention that the Secretary may use a portion of the unexpended balance of funds available for the administration of the Federal helium program, to the extent necessary, to provide employment services, retirement benefits, and other appropriate options to ease the effects of termination of the Federal helium program on the employees in Amarillo, Texas.

LEGISLATIVE HISTORY

On May 1, 1995, the Helium Act of 1995 was introduced by Senator Craig Thomas. On July 25, 1995, the Subcommittee on Forests and Public Land Management held a hearing on helium refining and marketing operations reform.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 19, 1996, by voice vote of a quorum present, recommends that the Senate pass H.R. 3008, if amended as described herein.

SECTION-BY-SECTION ANALYSIS

Section 1.—Is the short title.

Section 2.—Provides that unless otherwise noted, this Act amends the 1960 Helium Act (50 U.S.C. 167 to 167n).

Section 3.—Amends sections 3, 4, and 5 of the 1960 Helium Act as follows:

New section 3(a) would authorize the Secretary of the Interior to enter into contracts with private parties to recover and dispose of helium on Federal lands.

New section 3(b) would authorize the Secretary of the Interior to store, transport, and withdraw helium in accordance with the bill.

New section 4(a) would authorize the Secretary to store, transport, and withdraw crude helium and to maintain and operate crude helium storage at the Bureau of Mines Cliffside Field, together with related helium transportation and withdrawal facilities.

New section 4(b) would require the Secretary to cease producing, refining, and marketing refined helium eighteen months after enactment of the bill.

New section 4(c) would require the Secretary to dispose of all facilities, equipment and other real and personal property held for the refining, producing, and marketing of refined helium within 36 months after enactment of the bill. Disposal of such property would be in accordance with the Federal Property and Administrative Services Act of 1949. Facilities, equipment, and other property required for the storage, transportation, and withdrawal of crude helium stored at the Cliffside Field would be exempted from the requirements of this section.

New section 4(d) provides that any contract for refined helium in effect on the date of enactment of the bill would stay in effect until the facilities listed in section 4(c) are sold. This section also provides for any costs associated with termination of such contracts. Funds for such costs would be drawn from the Helium Fund.

New section 5 provides for full cost recovery for helium storage, transportation, or withdrawal services provided by the Secretary.

Section 4.—Provides for the sale of crude helium.

Subsection (a) requires that Federal agencies purchase their refined helium from private industry.

Subsection (b) precludes the Secretary from making sales of crude helium in amounts that would disrupt the market.

Subsection (c) directs that all funds collected pursuant to this section shall be deposited against the helium debt, which would be frozen at the amount outstanding on October 1, 1995. The minimum price of crude helium sold by the Secretary would be determined on the basis of the outstanding amount owed against the debt in comparison with the volume of crude helium in the Cliff Side Reservoir.

Subsection (d) would be amended to require that all funds received from the sale or disposition of helium produced under a Federal lease be deposited against the helium debt.

Subsection (e) would be repealed.

Subsection (f) would be amended to provide that all funds generated from the disposal of facilities and sales would be deposited in the helium fund to be paid against the helium debt, and that such fund's balance would not be greater than \$2 million per year. Once the helium debt is repaid, the fund would be abolished and all moneys received under the Helium Act would be deposited into the general fund of the U.S. Treasury.

Section 5.—Amends section 8 of the Act as follows:

Subsection (a) would require the Secretary, no later than 2005, to commence making sales of the crude helium in the Cliffside Reservoir, and dispose of all such reserves by 2015, except for 600 million cubic feet. Such sales would be made in consultation with the helium industry to provide for minimum market disruption. This subsection ensures repayment of the helium debt.

Subsection (b) provides that discovery of additional reserves would not affect the duty of the Secretary to sell the crude helium in the reservoir.

Section 6.—Repeals section 12 and 15 of the Act.

Section 7.—Directs the Secretary to convey certain land in Potter County, Texas to the Texas Plains Girl Scout Council.

Section 8.—Subsection (a) directs the Secretary of the Interior to make arrangements with the National Academy of Sciences to study and report on whether selling the helium reserves will have a substantial adverse effect on U.S. scientific, technical, biomedical, or national security interest.

Subsection (b) directs the Secretary to consult with representatives of the U.S. helium industry and with heads of affected Federal agencies to determine if selling the helium reserve as proposed under section 8 of the bill will have a substantial adverse impact on the U.S. helium industry, market, or U.S. scientific interest. The Secretary is directed to make recommendations to Congress as may

be necessary to avoid adverse effects to the helium market or U.S. scientific interests.

COST AND BUDGETARY CONSIDERATIONS

The Congressional Budget Office estimates of this measure has been requested but was not received at the time this report was filed. When the report is available, the Chairman will request that it be printed in the Congressional Record to advise the Senate.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact of H.R. 3008. The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses. No personal information would be collected in administering the legislation. Therefore, there would be no impact on personal privacy.

EXECUTIVE COMMUNICATIONS

On June 25, 1996 the Committee on Energy and Natural Resources requested legislative reports from the Department of Interior and the Office of Management and Budget setting forth executive views on H.R. 3008. These reports had not been received at the time the report on H.R. 3008 was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the changes in existing law made by the bill H.R. 3008, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

HELIUM ACT OF 1960 (50 U.S.C. 167 TO 167n)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Helium Act Amendments of 1960."

SEC. 2. The Act entitled "An Act authorizing the conservation, production, and exploitation of helium gas, a mineral resource pertaining to the national defense, and to the development of commercial aeronautics, and for other purposes", approved March 3, 1925 (43 Stat. 1110), as amended, is amended to read as follows:

"That this Act may be cited as the 'Helium Act'.

"SEC. 2. As used in this Act:

"(1) The term 'Secretary' means the Secretary of the Interior;

"(2) The term 'person' means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, or State or political subdivision thereof; and

“(3) The terms ‘helium-bearing natural gas’ and ‘helium-gas mixture’ mean, respectively, natural gas and gas mixtures containing three-tenths of 1 per centum or more of helium by volume.

“SEC. 3. [(a) For the purpose of conserving, producing, buying, and selling helium, the Secretary is authorized—

[(1) to acquire by purchase, lease, gift, exchange, or eminent domain, lands or interests therein or options thereon, including but not limited to sites, rights-of-way, and oil or gas leases containing obligations to pay rental in advance or damages arising out of the use and operation of such properties; but any such land or interest in lands may be acquired by eminent domain only when the Secretary determines (A) that he is unable to make a satisfactory agreement to acquire such land or interest in land, and (B) that such acquisition by eminent domain is necessary in the national interest;

[(2) to make just and reasonable contracts and agreements for the acquisition, processing, transportation, or conservation of helium, helium-bearing natural gas, or helium-gas mixtures upon such terms and conditions, and for such periods, not exceeding twenty-five years, as may be necessary to accomplish the purposes of the Act, except that the Secretary shall not make such contracts and agreements which shall require payments by the Government in any one fiscal year aggregating more than the amount which shall be established initially in an appropriation Act and which may be increased from time to time in appropriation Acts, or if the Secretary—

[(A) determines that the national interests require the conservation of certain helium or require certain helium-bearing natural gas or certain helium-gas mixture for the production or conservation of helium, and

[(B) determines that he is unable to acquire such helium, helium-bearing natural gas, or helium-gas mixture upon reasonable terms and at the fair market value, he is authorized to acquire by eminent domain such helium and so much of such helium-bearing natural gas or helium-gas mixture as is necessarily consumed in the extraction of such helium after removal from its place of deposit in nature and wherever found, or the temporary use of such helium-bearing natural gas or helium-gas mixture for the purpose of extracting helium, together with the appropriate interest in pipelines, equipment, installations, facilities, personal or real property, including reserves, easements or other rights necessary or incident to the acquisition of such helium, natural gas, or mixture, but the condemnation of any such helium, helium-bearing natural gas, or helium-gas mixture, shall be effected in the same manner and following the procedures established in section 8(a) of this Act, the just compensation for such condemnation to be measured by terms and prices determined to be commensurate with the fair market value, and in the temporary use of any helium-bearing natural gas or helium-gas mixture for the purpose of extracting helium the Secretary shall cause no delay in the delivery of natural gas to the owner, purchaser, or purchasers thereof, except that required by the extractive processes;

【“(3) to construct or acquire by purchase, lease, exchange, gift or eminent domain, plants, wells, pipelines, compressor stations, camp buildings, and other facilities, for the production, storage, purification, transportation, purchase, and sale of helium, helium-bearing natural gas, and helium-gas mixtures: and to acquire patents or rights therein and reports of experimentation and research used in connection with the properties acquired or useful in the Government’s helium operations;

【“(4) to dispose of, by lease or sale, property, including wells, lands, or interests therein, not valuable for helium production, and oil, gas, and byproducts, of helium operations not needed for Government use, except that property determined by the Secretary to be ‘excess’ within the meaning of section 3(e) of the Federal Property and Administrative Services Act of June 30, 1949 (60 Stat. 378; 40 U.S.C. 472(e)), as amended, shall be disposed of in accordance with the provisions of that Act; and to issue leases to the surface of lands or structures thereon for grazing or other purposes when the same may be done without interfering with the production, of helium; and

【“(5) to accept equipment, money, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.

【“(b) Any known helium-gas-bearing land on the public domain not covered at the time by leases or permits under the Mineral Lands Leasing Act of February 25, 1920, as amended, may be reserved for the purposes of this Act, and any reservation of the ownership of helium may include the right to extract, or have extracted, such helium, under such rules and regulations as may be prescribed by the Secretary, from all gas produced from lands so permitted, leased, or otherwise granted for development, except that in the extraction of helium from gas produced from such lands, it shall be extracted so as to cause no delay, except that required by the extraction process, in the delivery of gas produced from the well to the purchaser or purchasers thereof at the point of delivery specified in contracts for the purchase of such gas.】 If any reserved rights of ownership and extraction of helium are not exercised before production of any helium-bearing natural gas or any helium-gas mixture, the Secretary is authorized to acquire such helium in accordance with section 3(a)(2) of this Act.

【“(c) All contracts and agreements made by the Secretary for the acquisition of helium from a private plant shall contain a provision precluding the plant owner from selling any helium to any purchaser other than the Secretary at a price lower than the lowest price paid by any Government agency for helium acquired from any private plant under any contract entered into pursuant to this section and outstanding at the time of such sale.】

“(a) *EXTRACTION AND DISPOSAL OF HELIUM ON FEDERAL LANDS.*—

“(1) *IN GENERAL.*—*The Secretary may enter into agreement with private parties for the recovery and disposal of helium on Federal lands upon such terms and conditions as the Secretary deems fair, reasonable, and necessary.*

“(2) *LEASEHOLD RIGHTS.*—*The Secretary may grant leasehold rights to any such helium.*

“(3) *LIMITATION.*—The Secretary may not enter into any agreement by which the Secretary sells such helium other than to a private party with whom the Secretary has an agreement for recovery and disposal of helium.

“(4) *REGULATIONS.*—Agreements under paragraph (1) may be subject to such regulations as may be prescribed by the Secretary.

“(5) *EXISTING RIGHTS.*—An agreement under paragraph (1) shall be subject to any rights of any affected Federal oil and gas lessee that may be in existence prior to the date of the agreement.

“(6) *TERMS AND CONDITIONS.*—An agreement under paragraph (1) (and any extension or renewal of an agreement) shall contain such terms and conditions as the Secretary may consider appropriate.

“(7) *PRIOR AGREEMENTS.*—This subsection shall not in any manner affect or diminish the rights and obligations of the Secretary and private parties under agreements to dispose of helium produced from Federal lands in existence on the date of enactment of the Helium Privatization Act of 1996 except to the extent that such agreements are renewed or extended after that date.

“(b) *STORAGE, TRANSPORTATION AND SALE.*—The Secretary may store, transport, and sell helium only in accordance with this Act.

【**SEC. 4.** The Secretary is authorized to maintain and operate helium production and purification plants together with facilities and accessories thereto; to acquire, store, transport, sell, and conserve helium, helium-bearing natural gas, and helium-gas mixtures, to conduct exploration for and production of helium on and from the lands acquired, leased, or reserved; and to conduct or contract with public or private parties for experimentation and research to discover helium supplies and to improve processes and methods of helium production, purification, transportation, liquefaction, storage, and utilization. *Provided, however,* That all research contracted for, sponsored, cosponsored, or authorized under authority of this Act shall be provided for in such a manner that all information, uses, products, processes, patents and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public. *And provided further,* That nothing contained herein shall be construed as to deprive the owner of any background patent relating thereto to such rights as he may have thereunder.】

“**SEC. 4.** (a) *STORAGE, TRANSPORTATION AND WITHDRAWAL.*—The Secretary may store, transport and withdraw crude helium and maintain and operate crude helium storage facilities, in existence on the date of enactment of the Helium Privatization Act of 1996 at the Bureau of Mines Cliffside Field, and related helium transportation and withdrawal facilities.

“(b) *CESSATION OF PRODUCTION, REFINING, AND MARKETING.*—Not later than 18 months after the date of enactment of the Helium Privatization Act of 1996, the Secretary shall cease producing, refining, and marketing refined helium and shall cease carrying out all

other activities relating to helium which the Secretary was authorized to carry out under this Act before the date of enactment of the Helium Privatization Act of 1996, except activities described in subsection (a).

“(c) DISPOSAL OF FACILITIES.—

“(1) IN GENERAL.—Subject to paragraph (5), not later than 24 months after the cessation of activities referred to in subsection (b) of this section, the Secretary shall designate as excess property and dispose of all facilities, equipment, and other real and personal property, and all interests therein, held by the United States for the purpose of producing, refining and marketing refined helium.

“(2) APPLICABLE LAW.—The disposal of such property shall be in accordance with the Federal Property and Administrative Services Act of 1949.

“(3) PROCEEDS.—All proceeds accruing to the United States by reason of the sale or other disposal of such property shall be treated as moneys received under this chapter for purposes of section 6(f).

“(4) COSTS.—All costs associated with such sale and disposal (including costs associated with termination of personnel) and with the cessation of activities under subsection (b) shall be paid from amounts available in the helium production funds established under section 6(f).

“(5) EXCEPTION.—Paragraph (1) shall not apply to any facilities, equipment, or other real or personal property, or any interest therein, necessary for the storage, transportation and withdrawal of crude helium or any equipment, facilities, or other real or personal property, required to maintain the purity, quality control, and quality assurance of crude helium in the Bureau of Mines Cliffside Field.

“(d) EXISTING CONTRACTS.—

“(1) IN GENERAL.—All contracts that were entered into by any person with the Secretary for the purchase by the person from the Secretary of refined helium and that are in effect on the date of the enactment of the Helium Privatization Act of 1996 shall remain in force and effect until the date on which the refining operations cease, as described in subsection (b).

“(2) COSTS.—Any costs associated with the termination of contracts described in paragraph (1) shall be paid from the helium production fund established under section 6(f).

【“Sec. 5. (a) Whenever the President determines that the defense, security, and general welfare of the United States requires such action, the Secretary shall issue such regulations as he deems necessary for the licensing of sales and transportation of helium in interstate commerce after extraction from helium-bearing natural gas or helium-gas mixtures. Thereafter it shall be unlawful for any person to sell or transfer helium in interstate commerce except in accordance with such regulations or pursuant to the terms of a license issued by the Secretary, or in accordance with the terms of a contract or agreement with the Secretary entered into pursuant to this Act. For the purpose of this section, the term ‘helium’ shall mean helium, after extraction from helium-bearing natural gas or

helium-gas mixtures, in a refined or semirefined state suitable for use.

【“(b) Each license shall be issued for a specified period to be determined by the Secretary, but not exceed five years, and may be renewed by the Secretary upon the expiration of such period. No such license shall be issued to a person if in the opinion of the Secretary the issuance of a license to such person would be inimical to the defense and security of the United States. No such license shall be assigned or otherwise transferred directly or indirectly except with the consent or approval of the Secretary in writing. Any such license may be revoked for any material false statement in the application for license, or for violation or a failure to comply with the terms and provisions of this Act, the regulations issued by the Secretary pursuant thereto, or the terms of the license.

【“(c) In issuing licenses under this section, the Secretary shall impose such regulations and terms of licenses as will permit him effectively to promote the common defense and security as well as the general welfare of the United States. The licensing authority herein granted shall be used solely for the purpose of preventing the transportation or sale of helium for end uses determined by the Secretary to be nonessential or wasteful, and any determination that any end use is nonessential or wasteful shall be published in the form of general regulations applicable to all transportation or sales of helium.

【“(d) Whenever Congress or the president declares that a war or national emergency exists, the Secretary is authorized to suspend any license granted under this Act if in his judgment such suspension is necessary to the defense and security of the United States, and he is further authorized to take such steps as may be necessary to recapture or reacquire supplies of helium.】

“*SEC. 5. (a) IN GENERAL.—Whenever the Secretary provides helium storage withdrawal or transportation services to any person, the Secretary shall impose a fee on the person to reimburse the Secretary for the full costs of providing such storage, transportation, and withdrawal.*

“(b) *TREATMENT.—All fees received by the Secretary under subsection (a) shall be treated as moneys received under this Act for purposes of section 6(f).*

“*Sec. 6. (a) The Department of Defense, the Atomic Energy Commission and other agencies of the Federal Government, to the extent that supplies are readily available, shall purchase all major requirements of helium [from the Secretary] from persons who have entered into enforceable contracts to purchase an equivalent amount of crude helium from the Secretary.*

“(b) *The Secretary is authorized to sell crude helium for Federal, medical, scientific, and commercial uses in such quantities and under such terms and conditions as he determines. Except as may be required by reason of subsection (a), sales of crude helium under this section shall be in amounts as the Secretary determines, in consultation with the helium industry, necessary to carry out this subsection with minimum market disruption.*

“(c) *Sales of crude helium by the Secretary shall be at prices established by him which shall be adequate to cover all costs incurred in carrying out the provisions of this Act and to repay to the*

United States by deposit in the Treasury, [together with interest as provided in subsection (d) of this section, the following:

["(1) Within twenty-five years from the date of enactment of the Helium Act Amendments of 1960, the net capital and retained earnings of the helium production fund (established under section 3 of this Act prior to amendment by the Helium Act Amendments of 1960), determined by the Secretary as of such date of enactment, plus any moneys expended thereafter by the Department of the Interior from funds provided in the Supplemental Appropriation Act, 1959, for construction of a helium plant at Keyes, Oklahoma;

["(2) Within twenty-five years from the date of borrowing, all funds borrowed, as provided in section 12 of this Act, to acquire and construct helium plants and facilities; and

["(3) Within twenty-five years from the date of enactment of the Helium Act Amendments of 1960, unless the Secretary determines that said period should be extended for not more than ten years, all funds borrowed, as provided in section 12 of this Act, for all purposes other than those specified in clause (2) above.] *all funds required to be repaid to the United States as of October 1, 1995 under this section (referred to in this subsection as 'repayable amounts'). The price at which crude helium is sold by the Secretary shall not be less than the amount determined by the Secretary by—*

"(1) dividing the outstanding amount of such repayable amounts by the volume (in million cubic feet) of crude helium owned by the United States and stored in the Bureau of Mines Cliffside Field at the time of the sale concerned, and

"(2) adjusting the amount determined under paragraph (1) by the Consumer Price Index for years beginning after December 31, 1995.

["(d) Compound interest on the amounts specified in clauses (1), (2), and (3) of subsection (c) which have not been paid to the Treasury shall be calculated annually at rates determined by the Secretary of the Treasury taking into consideration the current average market yields of outstanding marketable obligations of the United States having maturities comparable to the investments authorized by this Act, except that the interest rate on the amounts specified in clause (1) of subsection (c) shall be determined as of the date of enactment of the Helium Act Amendments of 1960, and the interest rate on the obligations specified in clauses (2) and (3) of subsection (c) as of the time of each borrowing.】

"(d) All moneys received by the Secretary from the sale or disposition of helium on Federal lands shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c).

["(e) Helium shall be sold for medical purposes at prices which will permit its general use therefor; and all sales of helium to non-Federal purchasers shall be upon condition that the Federal Government shall have a right to repurchase helium so sold that has not been lost or dissipated, when needed for Government use, under terms and at prices established by regulations.】

["(f)“(e)(1) All moneys received under this Act, including moneys from sale of helium or other products resulting from helium oper-

ations and from the sale of excess property shall be credited to the helium production fund, which shall be available without fiscal year limitation, for carrying out the provisions of this Act, including any research relating to helium carried out by the Department of the Interior. Amounts accumulating in said fund in excess of amounts the Secretary deems necessary to carry out this Act and contracts negotiated hereunder shall be paid to the Treasury and credited against the amounts required to be repaid to the Treasury under subsection (c) of this section.

“(2)(A) Within 7 days after the commencement of each fiscal year after the disposal of the facilities referred to in section 4(c), all amounts in such fund in excess of \$2,000,000 (or such lesser sum as the Secretary deems necessary to carry out this Act during such fiscal year) shall be paid to the Treasury and credited as provided in paragraph (1).

“(B) On repayment of all amounts referred to in subsection (c), the fund established under this section shall be terminated and all moneys received under this Act shall be deposited in the general fund of the Treasury.

“SEC. 7. The Secretary of Defense and the Chairman of the Atomic Energy Commission may each designate representatives to cooperate with the Secretary in carrying out the purposes of this Act, and shall have complete right of access to plants, data, and accounts.

“SEC. 8. (a) [Proceedings for the condemnation of any property under section 3 of this Act shall be instituted and maintained pursuant to the provisions of the Act of August 1, 1888 (25 Stat. 357; 40 U.S.C. 257), as amended, and sections 1358 and 1403 of title 28 of the United States Code, or any other Federal statute applicable to the acquisition of real property by eminent domain. The Acts of February 26, 1931 (46 Stat. 1421; 40 U.S.C. 258a–258e), and October 21, 1942 (56 Stat. 797; 40 U.S.C. 258f), shall be applicable to any such proceedings. Wherever the words ‘real property,’ ‘realty,’ ‘land,’ ‘easement,’ ‘right-of-way,’ or words of similar meaning, are used in such code provisions or Acts relating to procedure, jurisdiction, and venue, they shall be deemed, for the purposes of this Act, to include any personal property authorized to be acquired hereunder.

[(b) In the event of disposal under section 3(a)(4) of this Act of any property acquired by eminent domain pursuant to this Act, the former owner or successor in interest of the rights therein shall have the preferential right to reacquire such property on terms as favorable as those terms whereby disposition may be made under such section.] (1) *COMMENCEMENT.—Not later than January 1, 2005, the Secretary shall commence offering for sale crude helium from helium reserves owned by the United States in such amounts as would be necessary to dispose of all such helium reserves in excess of 600,000,000 cubic feet on a straight-line basis between such date and January 1, 2015.*

“(2) TIMES OF SALE.—The sales shall be at such times during each year and in such lots as the Secretary determines, in consultation with the helium industry, to be necessary to carry out this subsection with minimum market disruption.

“(3) *PRICE.*—*The price for all sales under paragraph (1), as determined by the Secretary in consultation with the helium industry, shall be such price as will ensure repayment of the amounts required to be repaid to the Treasury under section 6(c).*

“(b) *DISCOVERY OF ADDITIONAL RESERVES.*—*The discovery of additional helium reserves shall not affect the duty of the Secretary to make sales of helium under subsection (a).*

“SEC. 9. The Secretary is hereby authorized to establish and promulgate such rules and regulations, as are consistent with the directions of this Act and are necessary to carry out the provisions hereof.

“SEC. 10. (a) The provisions of the Administrative Procedure Act of June 11, 1946 (60 Stat. 637; 5 U.S.C. 1001–1011), as amended, shall apply to any agency proceeding and any agency action taken under this Act, including the issuance of rules and regulations, and the terms ‘agency proceeding’ and ‘agency action’ shall have the meaning specified in the Administrative Procedure Act.

“(b) In any proceeding under this Act for the granting, suspending, revoking, or amending of any license, or application to transfer control thereof, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, the Secretary shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. Any final order entered in any such proceedings shall be subject to judicial review in the manner prescribed in the Act of December 29, 1950 (64 Stat. 1129; 5 U.S.C. 1031–1042), as amended, and to the provisions of section 10 of the Administrative Procedure Act.

“SEC. 11. The provisions of the Natural Gas Act of June 21, 1938 (52 Stat. 821; 15 U.S.C. 717–717w), as amended, shall not be applicable to the sale, extraction, processing, transportation, or storage of helium either prior to or subsequent to the separation of such helium from the natural gas with which it is commingled, whether or not the provisions of such Act apply to such natural gas, and in determining the rates of a natural gas company under sections 4 and 5 of the Natural Gas Act, as amended, whenever helium is extracted from helium-bearing natural gas, there shall be excluded (1) all income received from the sale of helium; (2) all direct costs incurred in the extraction, processing, compression, transportation, or storage of helium; and (3) that portion of joint costs of exploration, production, gathering, extraction, processing, compression, transportation or storage divided and allocated to helium on a volumetric basis.

“SEC. 12. [(a) The Secretary is authorized to borrow annually from the Treasury and credit to the fund established under section 6(f) of this Act such amounts as may be authorized in the initial appropriation Act and which may be increased from time to time in appropriation Acts and as are necessary to carry out the provisions of this Act and contractual obligations hereunder.

[(b) For the purpose of this section the Secretary may issue to the Secretary of the Treasury notes, debentures, bonds, or other obligations to be redeemable at the option of the Secretary before maturity in such manner as may be stipulated in such obligations. The Secretary of the Treasury is authorized and directed to pur-

chase any obligations issued by the Secretary under authority of this section and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond act, as amended, are extended to include any purchase of obligations of the Secretary hereunder.】

“(a) *IN GENERAL.*—*The Secretary of the Interior shall transfer all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the Texas Plains Girl Scout Council for consideration of \$1, reserving to the United States such easements as may be necessary for pipeline rights-of-way.*

“(b) *LAND DESCRIPTION.*—*The parcel of land referred to in subsection (a) is all those certain lots, tracts or parcels of land lying and being situated in the County of Potter and State of Texas, and being the East Three Hundred Thirty-One (E331) acres out of Section Seventy-eight (78) in Block Nine (9), B.S. & F. Survey, (some times known as the G.D. Landis pasture) Potter County, Texas, located by certificate No. 1/39 and evidenced by letters patents Nos. 411 and 412 issued by the State of Texas under date of November 23, 1937, and of record in Vol. 66A of the Patent Records of the State of Texas. The metes and bounds description of such lands is as follows:*

“(1) *FIRST TRACT.*—*One Hundred Seventy-one (171) acres of land known as the North part of the East part of said survey Seventy-eight (78) aforesaid, described by metes and bounds as follows:*

“*Beginning at a stone 20×12×3 inches marked X, set by W.D. Twichell in 1905, for the Northeast corner of this survey and the Northwest corner of Section 59;*

“*Thence, South 0 degrees 12 minutes East with the West line of said Section 59, 999.4 varas to the Northeast corner of the South 160 acres of East half of Section 78;*

“*Thence, North 89 degrees 47 minutes West with the North line of the South 150 acres of the East half, 956.8 varas to a point in the East line of the West half Section 78;*

“*Thence, North 0 degrees 10 minutes West with the East line of the West half 999.4 varas to a stone 18×14×3 inches in the middle of the South line of Section 79;*

“*Thence, South 89 degrees 47 minutes East 965 varas to the place of beginning.*

“(2) *SECOND TRACT.*—*One Hundred Sixty (160) acres of land known as the South part of the East part of said survey No. Seventy-eight (78) described by metes and bounds as follows:*

“*Beginning at the Southwest corner of Section 59, a stone marked X and a pile of stones; Thence, North 89 degrees 47 minutes West with the North line of Section 77, 966.5 varas to the Southeast corner of the West half of Section 78; Thence, North 0 degrees 10 minutes West with the East line of the West half of Section 78;*

“*Thence, South 89 degrees 47 minutes East 965.8 varas to a point in the East line of Section 78;*

“Thence, South 0 degrees 12 minutes East 934.6 varas to the place of beginning. Containing an area of 331 acres, more or less.

“SEC. 13. Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this Act or any regulation or order issued or any terms of a license granted thereunder shall, upon conviction thereof, be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both, except that whoever commits such an offense with intent to injure the United States or with intent to secure an advantage to any foreign nation, shall upon conviction thereof, be punished by a fine of not more than \$20,000 or by imprisonment for not more than twenty years, or both.

“SEC. 14. Whenever in the judgment of the Secretary any person has engaged or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of this Act, or any regulation or order issued or any term of a license granted thereunder, any such act or practice may be enjoined by any district court having jurisdiction of such person, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States.

“SEC. 15. [It is the sense of the Congress that it is in the national interest to foster and encourage individual enterprise in the development and distribution of supplies of helium, and at the same time provide, within economic limits, through the administration of this Act, a sustained supply of helium which, together with supplies available or expected to become available otherwise, will be sufficient to provide for essential Government activities.]

“(a) Not later than three years before the date on which the Secretary commences offering for sale crude helium under Section 8, the Secretary shall enter into appropriate arrangements with the National Academy of Sciences to study and report on whether such disposal of helium reserves will have a substantial adverse effect on U.S. scientific, technical, biomedical, or national security interests.

“(b) Not later than 18 months before the date on which the Secretary commences offering for sale crude helium under Section 8, the Secretary shall transmit to the Congress—

“(1) the report of the National Academy under subsection (a);

“(2) the findings of the Secretary, after consideration of the conclusions of the National Academy under subsection (a) and after consultation with the U.S. helium industry and with heads of affected Federal agencies, as to whether the disposal of the helium reserve under Section 8 will have a substantial adverse effect on the U.S. helium industry, the U.S. helium market or U.S., scientific, technological, biomedical, or national security interests; and

“(3) if the Secretary determines that selling the crude helium reserves under the formula established in Section 8 will have a substantial adverse effect on the U.S. Helium industry, the U.S. helium market or U.S. scientific, technological, biomedical, or national security interest, the Secretary shall make recommendations, including recommendations for proposed legislation, as may be necessary to avoid such adverse effects.

“SEC. 16. The Secretary of the Interior is directed to report annually to the Congress on the matters contained in this Act.

“SEC. 17. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.”.

