

**WRITTEN TESTIMONY OF SCOTT KALTRIDER
VICE PRESIDENT BUSINESS MANAGEMENT & HELIUM
PRAXAIR, INC.**

BEFORE THE

**COMMITTEE ON NATURAL RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES**

HEARING ON

**HR 527: THE RESPONSIBLE HELIUM ADMINISTRATION
AND STEWARDSHIP ACT**

HEARING DATE: FEBRUARY 14, 2013

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Good morning Chairman Hastings, Ranking Member Markey and Members of the Committee. My name is Scott Kaltrider and I am the Vice President of Business Management & Helium for Praxair, Inc., the largest industrial gas company in North and South America and one of the largest worldwide. Praxair is headquartered in Danbury, Connecticut and employs approximately 10,000 people in more than 500 facilities across the United States. The company manufactures, sells, and distributes atmospheric, process, and specialty gases. Praxair products, services, and technologies bring productivity and environmental benefits to a wide range of industries including aerospace, chemicals, food and beverage, electronics, healthcare, manufacturing, and metals among others. We have operations, employees, or customers in every state represented on this Committee.

Praxair has been in the helium business for nearly 100 years serving both private and federal government users. We supplied the helium used by NASA to launch space shuttles into orbit, the helium-oxygen breathing mixtures used by Navy sailors while performing deep-dive operations, and the helium used by the Air Force each time a Delta 4-Heavy is launched to provide our intelligence community with the information necessary to protect our citizens.

Our long-term planning coupled with investments in a robust supply chain and a diverse set of crude and refined helium sources have made us a world leader in refined helium production and distribution. We have about \$500 million invested in plants and equipment required to access, process, refine, and deliver to market helium sourced from the Federal Reserve operated by the BLM.

I would like to thank this Committee for the opportunity to appear at today's hearing on the Responsible Helium Administration and Stewardship Act (RHASA). I would also like to thank the Chairman for directing his attention to the important work of reauthorizing the Federal Helium Program. Many vitally important industrial, medical, and scientific processes depend on reliable helium supplies. Since the Federal Helium Reserve currently accounts for 50-percent of the U.S. helium supply and will likely be depleted by 2018-20, it is critically important that the program be concluded in a careful and thoughtful manner. While program improvements are surely necessary, any improvements should be

practically grounded and serve the best interests of manufacturers who rely on a predictable supply of helium.

As a threshold observation, I am sure that there is unanimous agreement that any legislative proposal must (1) obtain fair market value of federally sourced crude helium and (2) do so through a transparent mechanism that will avoid disrupting the helium supply chain. While I believe that RHASA was drafted with this intention squarely in mind, its effect would be to place counterproductive limits on the role of helium refiners. Its practical effect would be to disrupt the helium industry's ability to meet the helium demands of our hundreds of customers throughout the country. It is my hope that through my testimony today, and the many subsequent conversations with you and your staff that will undoubtedly take place, we will be able to fashion a policy that avoids these pitfalls.

The Federal Helium Program was created in 1925 to guarantee the availability of helium for national defense purposes. As a result, the United States constructed a helium extraction and purification plant outside of Amarillo, Texas that began operations in 1929. In the 1960's, as the demand for helium increased, Congress responded by encouraging private natural gas producers to separate crude helium from natural gas and sell it to the government. The Federal government ended this program in 1973 and opened the reserve to private capital and development. This action spurred the creation of a private helium sector in which certain industrial gas companies made the decision to invest in liquid helium refining facilities. Praxair did make such investments and other companies opted not to do so. By the mid-1990s, private demand for helium became significantly greater than government demand because of advances in research, technology and medical diagnostic equipment.

In 1996, under the Republican-led House and Senate, Congress passed the Helium Privatization Act, which directed the federal government to exit the helium market. The Privatization Act directed the BLM to shutdown federal helium refining operations and dismantle the facility by 1999. It also called for the sale of crude helium reserves to begin in the year 2005 and to be concluded by December 31, 2014. The Privatization Act provided minimum selling prices, adjusted for inflation, for crude helium so that adequate revenue would be generated to repay the government's investment in the Reserve and the construction costs of the related infrastructure. The Secretary of the Interior was provided the discretion to increase price over the minimum price set by the Privatization Act. The price charged for BLM helium has been a point in controversy. Without assessing the validity of claims that price was set too low, let me just say that neither Praxair nor any refiner has had any role in making BLM pricing determinations.

Pursuant to regulations adopted to implement the Privatization Act, the BLM sells crude helium from the Federal Reserve in two annual phases or "sales." In the first sale (called the Allocated Sale), 94% of the crude helium is offered for sale in set percentages to each company that has refining capacity on the reserve system. This includes Praxair. The percentage allocated to each refiner is based on that refiner's refining capacity. Refining capacity is, of course, a function of the respective capital investments in plants and equipment made by each refiner. It is important to note that the helium sold during the

Allocated Sale is explicitly meant for current consumption. By prioritizing and contractually guaranteeing set volume to the refiners, such as Praxair, it ensures that refined product will be delivered to the end market in real time and, therefore, minimize market disruptions. Critically, this provides the market with the certainty necessary to execute long-term contracts with end users and to provide them with the confidence of knowing that their helium needs will be met. Thousands of jobs depend on our customers' abilities to secure a constant and stable supply of helium. The Act and its regulations recognize the essential role that the refiners play in the effective operation of the BLM helium system.

While the Privatization Act envisioned the entire reserve being sold by 2015, this has not yet occurred. Rather, reserves continue to exist such that the BLM can continue to sell helium for medical and commercial purposes for approximately 5-7 more years based on current consumption. That is, of course, why we are discussing the program today. To be clear, there is no new helium to be sourced from the BLM's reserve. The supply is finite. It is in the nation's interest to promote the orderly wind-up of the government's role in the helium business.

RHASA fails to recognize the refiners' critical role. As described in more detail below, the proposal will result in a 15.5%-100% reduction in the amount of helium that Praxair could purchase. Similar reductions would be imposed on all other refiners. This would effectively undermine the value of our investments totaling \$500 million made to efficiently process, refine, and distribute the helium to our customers. It is important to note, that the BLM's value to the public is maximized by having efficient refining and distribution capability. In 1996, Congress explicitly designed the program to ensure that helium is apportioned and efficiently brought to market to the benefit as many end users as possible. Refiners perform this function by drawing from a variety of public and private helium sources—thus not relying exclusively on the BLM. RHASA undermines this imperative by establishing a program under which a distributor can be awarded 100% or more of the helium required for their customers which will result in total reliance on the BLM system and the stranding of helium in inefficient places. American manufacturers cannot operate on the resulting supply volatility risked by RHASA.

The proposal specifically seeks to reform the Helium Program through a 100% semi-annual auction that contains additional layers of governmental administration, such as significant private reporting and recordkeeping mandates, none of which had previously existed. For example, HR 527 grants the Secretary of Interior unlimited authority to develop a helium market surveillance program and does not guarantee adequate that sensitive commercial information will be protected. Under the label of "equal pipeline access," RHASA threatens to disrupt pre-existing contracts relating to pipeline allocation that Praxair has negotiated with the BLM and do not expire for many years. While I question the prudence of materially reinventing the program in the twilight of its existence, I am deeply concerned with the construction of the experimental auction system that will ultimately lead to significant disruptions in the global helium market adversely impacting federal agencies like NASA and the Air Force, medical research and service providers, and manufacturers.

A 100% auction is impractical. Only a few companies made the necessary and prudent business decisions to invest in helium transport logistics. Indeed, only 5 companies have the ability to take delivery of 10% or more of the BLM's helium supply from a liquid helium pipeline plant in Texas, Oklahoma, or Kansas to an end user in Idaho or North Carolina or a launch pad in California. Failing to take into account supply chain capabilities when designing any auction, let alone a 100% auction, will result in stranded helium and deprive US manufacturing and service providers of an important feed stock.

RHASA is described as a “free-market plan to prevent a global helium shortage” but in reality it is something very different. It will not bring any new or additional helium molecules to the market that will mitigate the current supply and demand imbalance that exists. Rather, in an effort to increase the number of bidders at each semi-annual auction to maximize price, RHASA redistributes the same volume of helium to a wider group of purchasers—purchasers who have not invested in the infrastructure to process, refine, and distribute helium to those end users who need helium to support their operations. Although an auction may appear on its surface to be rooted in free market principles, the design and scale of this particular auction would compromise stability in the global helium supply chain while also breaching public/private contracts, and, most importantly, make US manufacturers less competitive on a global basis.

There have been allegations that America's private helium industry has not diligently identified and developed new and private sources of helium. This is not correct. Since the Helium Privatization Act was passed, there have been robust private helium extraction projects developed to meet demand. Further, the equivalent of about 30% of the current global helium capacity will come online this year from new projects in the US and abroad. Praxair has and will continue to invest tens of millions of dollars in the United States to develop additional helium supply. As with all projects of this scale and complexity, these ambitious plans face headwinds which this bill should address, like permitting difficulties and delays. The key to increasing helium supplies is in the development of additional natural gas reserves, specifically those containing helium, since as we all recognize a majority of natural gas reserves don't contain helium. Without an incentive to co-develop the natural gas, the feasibility of helium sourcing is compromised.

Praxair is committed to working with the Committee to accomplish our shared goal—reauthorization of the Federal Helium Program in a manner that brings fair market value to the U.S. taxpayer and does not disrupt the global helium supply chain. We believe this can be done. We have been working with a broad array of stakeholders to modify the proposed auction in a way that would be acceptable to all interested parties.

A 100% auction is not necessary to arrive at a fair and transparent price. What is feasible and effective, however, is that a commercially significant amount of helium be sold through an auction in blocks that are truly useful and deliverable.

It is imperative for the auction to be meaningful and well designed. A meaningful and well designed auction will attract potential buyers that are knowledgeable, qualified, and

possess the capital capacity to manage the resulting award. Further, a valid auction must have a market-based mechanism to obtain a fairly priced tolling agreement from a pipeline refiner. Congress can drive competition among pipeline refiners for a tolling agreement by working with the refiners to set aside a portion of the current pipeline allocation for access by parties bidding on the blocks of helium ultimately set aside. Congress should not promote access to pipeline refining through a mandate, whether direct or indirect.

The contours of our proposal are:

- A 3-phase draw down of the Federal Helium Reserve to prevent disruption in the global helium market.
- Sale price supported by the combination of an annual auction of commercially significant blocks of helium, data collection and analysis of private helium transactions.
- A pro rata “special pipeline allocation” equal to the percentage awarded through an auction that ensures that winning bidders who do not have refining capacity will be able to take possession.

An auction must have guard rails to ensure that federal agencies and grantees, manufacturers and medical service providers are not injured. An auction design must therefore ensure a predictable and prudent drawdown while other new domestic and/or international sources of helium can be brought to market. It must also ensure supply chain stability so that end users can enjoy the certainty of long-term contracting with their suppliers.

We thank the Committee for considering our views. RHASA is a good starting point for discussion and we are confident that with the types of modifications outlined earlier we will have a product that can be supported by all stakeholders.