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U.S. House of Representatives Committee on Natural Resources
"The Past, Present and Future of the Federal Helium Program"
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Mr. Chairman and Members of the Committee, I am Tom Thoman and I serve as the Division President of Gases Production for Airgas, Inc., headquartered in Radnor, Pennsylvania. I had the honor of addressing a subcommittee of this panel last July regarding the impact of helium supply shortages on our economy, and I thank you for the opportunity to testify before many of you again, this time on the specifics of the Federal helium program.

As many of the Committee Members heard last year, we are at a crucial point in addressing how the Nation will treat this critical, but diminishing, natural resource. In my testimony today, I intend to briefly revisit the supply constraints affecting our business and our customers, while focusing the majority of my testimony on recommendations for how best to alleviate the situation – including suggestions regarding the bill H.R. 527.

Before addressing a few key points in the bill, let me first express Airgas' appreciation for the significant efforts that have been made by this Committee and its staff. Rather than taking the easy road of maintaining the status quo, you have evidenced through this bill your willingness to tackle the difficult issues and to try and remedy a distorted market that has historically been closed to all but a few participants.

Founded in 1982, Airgas operates the largest domestic infrastructure and supply chain for delivering helium in the U.S., with more than 80,000 customers accounting for 22% of the domestic market. We are therefore in a unique position to attest to both the vital role that this limited resource plays in our economy, and the disruptive effects that the current shortage is having on our customers.

Airgas serves a diverse customer base. Our customers include OEM manufacturers that use helium in the airbags we have in our cars and trucks; hospitals, clinics and nursing homes where helium is mixed with oxygen to provide life-saving breath for asthma sufferers; research, analytical, environmental, and government labs where helium is used as a carrier gas in chromatography; the aeronautical and aerospace industries that use helium for leak detection; welders who use a blend of helium to produce shielding gases when building and repairing nuclear facilities; hospitals and clinics where much-needed maintenance supplies of liquid helium are used to cool MRI and NMR equipment; diving companies that use helium to produce diving gases for offshore, deepwater work on oil platforms and drilling rigs; and the Federal government that uses helium in weather monitoring and defense applications. Uses like these represent the lion's share of our helium business.

As you well know, the Helium Privatization Act of 1996 established a pricing mechanism based on debt repayment and a sales construct whereby the taxpayer-owned crude helium can effectively only enter the marketplace after first being allocated to one of the three companies with pre-existing refining facilities on the BLM pipeline. Taken together, the restricted access to the resource and the manufactured price have created a warped situation where a substantial amount of U.S. sourced helium, much of which is owned by U.S. taxpayers, is being sold overseas while our domestic end-user community is suffering from extended supply shortages.

Mr. Chairman, it is clear from H.R. 527 that the Committee is well aware of the numerous flaws in the existing regime for sales of taxpayer-owned helium from the Federal Helium Reserve, and how that faulty regime underpins the problems we now face. Those flaws have been accurately and repeatedly documented by the National Academy of Sciences, the GAO, and the Department of Interior's Inspector General.

Well intended as the reforms set forth in H.R. 527 are, we believe they fall short of what is needed in the U.S. marketplace. My goal is to emphasize the importance of including four critical elements in the bill, the absence of any one of which could well result in a worse situation for U.S. helium markets than the situation we confront today. In fact, from the perspective of the U.S. helium market we serve, a continuation of the status quo, with the addition of pricing measures like those in last year's Senate Bill 2374, would be preferable to a flawed bill that fails to adequately address each of these issues.

First, the bill must recognize the capital intensive nature of this business and the need for certainty of supply. The current bill provides that auctions must be held no less frequently than two times each fiscal year. While we understand that frequent auctions may be more reactive to price changes in the marketplace, such a policy would undermine the ability of refiners and bidders to effectively utilize their assets and serve their customers. Airgas' typical contract with its end-user customers extends for a five-year term. Agreements with our suppliers are even longer. One reason for this is that the physical assets required to transport and store helium are very expensive and are generally acquired only to meet the need of a new, long-term customer. With auctions occurring two times a year, we would have no way of knowing from period to period whether we would have product to meet our contractual obligations to our customers. In addition, neither Airgas nor other potential bidders would be incented to make the investment necessary to serve or continue to serve the end-user market. Airgas therefore asks that you consider staggered auctions providing for multi-year supply commitments. In the first auction, the BLM could agree to sell 2-, 3- and 4-year supplies and in subsequent years the auctions would replace those expiring that year. During intervening years, the helium being sold under a multi-year commitment could be subject to a CPI or other formulaic cost adjustment.

Second, the bill will fail in its mission if refiners are not obligated to refine for winning bidders that have the infrastructure to serve the U.S. market and to do so at a cost plus tolling fee that will enable those winning bidders to be competitive. This is critical because the refiners and those who might like to bid are now, and will continue to be, competitors. Without mandatory tolling at a reasonable cost, no party other than a refiner will be able to risk bidding on the helium at an auction. This is not a lot to require of the refiners. After all, since at least 1996 they have enjoyed a virtual monopoly that has repaid any investment they made many times over.

Third, the bill must thwart opportunities for market manipulation and disruption by imposing immediate storage fees and mandating the prompt removal of all acquired helium. Otherwise, supply chains will be disrupted and winning bidders will be in a position to choke off supply and drive-up prices to customers suddenly unable to get product from their previous supplier. A bill which provides for an allocation methodology based on a bidder's share of the U.S. end-user market, with pricing determined by measures like those you have proposed in this bill, would best address the market disruption/manipulation issue and would also provide a better opportunity for U.S. businesses and researchers to get the helium they need. We think the House should seriously consider such a fair and straight-forward approach.

Fourth, and perhaps most critical, the bill should provide that all helium that is owned by the U.S. taxpayer or that has benefited from use of the federal pipeline and/or storage facility be designated to meet domestic demand before it can be exported. We believe that such a provision is justified by the fact that this is a taxpayer owned, strategic resource which is currently undersupplied in the domestic market. We are not proposing a ban on exports; we are merely proposing that steps be taken to assure that this vital resource is prioritized to serve domestic needs.

Airgas firmly believes that unless this bill (i) addresses the capital intensive nature of this business and its need for certainty of supply by providing for multi-year supply commitments, subject to CPI or other formulaic price increases; (ii) mandates tolling at reasonable rates for the benefit of winning bidders that do not have refining capacity on the pipeline; (iii) protects against market disruption and manipulation; and (iv) provides that helium that is owned by the U.S. taxpayer or that has traveled through or been stored in the Federal system be applied to domestic needs first, our customers and other U.S. businesses that rely on this vital resource will continue to suffer from unsustainable supply disruptions.