

Committee on Natural Resources

Rob Bishop Chairman
Mark-Up Memorandum

July 24, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff
Subcommittee on Energy and Mineral Resources (x5-9297)

Mark-Up: **H.R. 3279 (Rep. Paul Cook)**, To amend the Mineral Leasing Act to provide that extraction of helium from gas produced under a Federal mineral lease shall maintain the lease as if the helium were oil and gas.
July 25 & 26, 2017; 1324 Longworth HOB

H.R. 3279 (Rep. Paul Cook), “*Helium Extraction Act of 2017*”

Summary of the Bill

H.R. 3279 amends the Mineral Leasing Act to allow helium extraction from gas on federal lands under the same lease terms as oil and gas. The United States is currently the world’s largest supplier of helium, but the impending closure of the Bureau of Land Management’s Federal Helium Reserve in 2021 threatens to throw the stability of the domestic helium market into question. Introduced on July 18, 2017 by Congressman Paul Cook, the *Helium Extraction Act* works to alleviate some of these supply concerns by facilitating the production of helium on federal lands, while simultaneously providing a fair return to the taxpayer.

A companion bill to H.R. 3279, S.1572, was introduced in the Senate on July 18, 2017 by Senator Orrin Hatch. It has been referred to the Senate Committee on Energy and Natural Resources.

Background

Refined helium continues to serve as an essential component of America’s economy, particularly in the fields of medicine, science, and defense. Liquefying at the ultra-low temperature of 4.2 °K (-452 °F), helium’s unique properties as a coolant and nonreactive, nonflammable gas make it irreplaceable in these and other industries.¹

Historically, much of the American demand for helium has been satisfied by the Federal Helium Reserve (“Federal Reserve” or “Reserve”). According to the Bureau of Land Management (BLM), the Reserve provides “enough helium to meet more than 40 percent of

¹ American Physical Society, Materials Research Society, and American Chemical Society, *Responding To The U.S. Research Community’s Liquid Helium Crisis* (Oct. 2016).

domestic demand for the gas.”² First developed in 1926 to keep up with global advancements in military technologies, the Federal Reserve is maintained by a reservoir and pipeline system spanning Oklahoma, Kansas, and the panhandle of Texas.

In 2013, Congress passed the Helium Stewardship Act (“HSA”) with broad bipartisan support, thus avoiding a closure of the Reserve and the immense market shortages that would have followed. The HSA presented a competitive, free market approach to sell off the remaining helium in the Federal Reserve, such that by fiscal year 2021, all helium would be auctioned by the BLM to interested buyers.

Acknowledging the vital role of helium in our space, defense, and medical research and development endeavors, one of the principal aims of the HSA was to ensure continued access to federal helium users at a fair price, including federal grant recipients. The House Natural Resources Committee bill report on the HSA articulated this intention, directing a portion of helium be preserved for federal use “when the remaining Reserve volume equals 3 billion cubic feet,” and continuing “until the recoverable helium in the reserve is expended.”³

Unfortunately, major concerns remain regarding the future of our domestic helium supply. The BLM has interpreted the language in the HSA to require the disposal of the Federal Helium Reserve in its entirety, including the 3 billion cubic feet designated for federal users. The helium supply for researchers is already in a state of “crisis,” with end-user prices for helium increasing by as much as 250 percent in the last six years.⁴ As the single largest producer of helium in the world, uncertainty in the American market could have far-reaching impacts on global supply as well.

The “Helium Extraction Act of 2017” ensures a domestic supply of helium will be made available in the near future, while also providing the Federal treasury with a significant revenue source.

Major Provisions/Analysis of H.R. 0000

Section 2:

Amends the Mineral Leasing Act to authorize the BLM to lease land for helium production in areas where natural gas production is not financially viable.

² News Release, Bureau of Land Management, BLM Announces a Proposed Plan and Schedule for FY 2016 Sale and Auction of Federally Owned Helium (June 15, 2015),

http://www.blm.gov/nm/st/en/info/news_releases0/2015/june/blm_announces_a_proposed.html.

³ H. COMM. ON NATURAL RESOURCES, RESPONSIBLE HELIUM ADMINISTRATION AND STEWARDSHIP ACT, 113th Cong. (2013) (H. Rept. 113-42).

⁴ American Physical Society, Materials Research Society, and American Chemical Society, *supra* at iv.

Effect on Current Law (Ramseyer)

Showing current law as amended by Helium Extraction Act of 2017 [Discussion Draft]

[new text is highlighted in yellow; text to be deleted is bracketed and highlighted in blue]

Mineral Leasing Act [30 U.S.C. 181]:

§181. Lands subject to disposition; persons entitled to benefits; reciprocal privileges; helium rights reserved

Deposits of coal, phosphate, sodium, potassium, oil, oil shale, gilsonite (including all vein-type solid hydrocarbons), or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding lands acquired under the Appalachian Forest Act, approved March 1, 1911 (36 Stat. 961), and those in incorporated cities, towns, and villages and in national parks and monuments, those acquired under other Acts subsequent to February 25, 1920, and lands within the naval petroleum and oil-shale reserves, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this chapter to citizens of the United States, or to associations of such citizens, or to any corporation organized under the laws of the United States, or of any State or Territory thereof, or in the case of coal, oil, oil shale, or gas, to municipalities. Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this chapter.

The term "oil" shall embrace all nongaseous hydrocarbon substances other than those substances leasable as coal, oil shale, or gilsonite (including all vein-type solid hydrocarbons).

The term "combined hydrocarbon lease" shall refer to a lease issued in a special tar sand area pursuant to [section 226 of this title](#) after November 16, 1981.

The term "special tar sand area" means (1) an area designated by the Secretary of the Interior's orders of November 20, 1980 (45 FR 76800–76801) and January 21, 1981 (46 FR 6077–6078) as containing substantial deposits of tar sand.

The United States reserves the ownership of and the right to extract helium from all gas produced from lands leased or otherwise granted under the provisions of this chapter, under such rules and regulations as shall be prescribed by the Secretary of the Interior: *Provided further*, That in the extraction of helium from gas produced from such lands it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof, and that extraction of helium from gas produced from such lands shall maintain the lease as if the extracted helium were oil and gas.