

**CHAPTER 10—HELIUM GAS**

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**§§ 161 to 164. Omitted****Editorial Notes****CODIFICATION**

Act Mar. 3, 1925, ch. 426, 43 Stat. 1110, as completely amended, renumbered, and revised by Pub. L. 86-777, Sept. 13, 1960, 74 Stat. 918, is classified to section 167 et seq. of this title.

Section 161, acts Mar. 3, 1925, ch. 426, §1, 43 Stat. 1110; Mar. 3, 1927, ch. 355, 44 Stat. 1387; Sept. 1, 1937, ch. 895, 50 Stat. 885, authorized Secretary of the Interior to acquire and reserve helium-gas lands and to produce and store helium gas. See section 3 of act Mar. 3, 1925, as amended by Pub. L. 86-777, which is classified to section 167a of this title.

Section 162, acts Feb. 12, 1925, ch. 225, title I, 43 Stat. 908; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501, authorized Navy Department to acquire helium-gas lands and to produce and experiment with helium gas.

Section 163, acts Mar. 3, 1925, ch. 426, §2, 43 Stat. 1111; Mar. 3, 1927, ch. 355, 44 Stat. 1387; Sept. 1, 1937, ch. 895, 50 Stat. 886, authorized Bureau of Mines to produce helium gas. See section 4 of act Mar. 3, 1925, as amended by Pub. L. 86-777, which is classified to section 167b of this title.

Section 164, acts Mar. 3, 1925, ch. 426, §3, 43 Stat. 1111; Mar. 3, 1927, ch. 355, 44 Stat. 1387; Sept. 1, 1937, ch. 895, 50 Stat. 886, related to disposal of helium by sale, upon request of Army or Navy or other Federal Government agencies, or for medicinal, scientific or commercial use, to deposit and use of funds obtained by sale of gas, and to an annual report to Congress by Secretary of the Interior on said funds. See section 6 of act Mar. 3, 1925, as amended by Pub. L. 86-777, which is classified to section 167d of this title.

**§ 165. Repealed. Aug. 26, 1954, ch. 937, title V, § 542(a)(13), 68 Stat. 861**

Section, acts Mar. 3, 1925, ch. 426, §4, 43 Stat. 1111; Mar. 3, 1927, ch. 355, 44 Stat. 1388; Sept. 1, 1937, ch. 895, 50 Stat. 887, related to exportation of helium gas. See section 2778 of Title 22, Foreign Relations and Inter-course.

**§ 166. Omitted**

Section, acts Mar. 3, 1925, ch. 426, §5, 43 Stat. 1111; Mar. 3, 1927, ch. 355, 44 Stat. 1388; Sept. 1, 1937, ch. 895, 50 Stat. 887; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501, authorized Secretaries of Army and Navy to designate representatives to cooperate with Department of the Interior to effectuate the purposes of this chapter, and gave them the right of access to plants,

data, and accounts. See section 7 of act Mar. 3, 1925, as amended by Pub. L. 86-777, which is classified to section 167e of this title.

**§ 167. Definitions**

In this chapter:

**(1) Cliffside Field**

The term “Cliffside Field” means the helium storage reservoir in which the Federal Helium Reserve is stored.

**(2) Federal Helium Pipeline**

The term “Federal Helium Pipeline” means the federally owned pipeline system through which helium for the Federal Helium Reserve may be transported.

**(3) Federal Helium Reserve**

The term “Federal Helium Reserve” means helium reserves owned by the United States.

**(4) Federal Helium System**

The term “Federal Helium System” means—

- (A) the Federal Helium Reserve;
- (B) the Cliffside Field;
- (C) the Federal Helium Pipeline; and
- (D) all other infrastructure owned, leased, or managed under contract by the Secretary for the storage, transportation, withdrawal, enrichment, purification, or management of helium.

**(5) Federal user**

The term “Federal user” means a Federal agency or extramural holder of one or more Federal research grants using helium.

**(6) Low-Btu gas**

The term “low-Btu gas” means a fuel gas with a heating value of less than 250 Btu per standard cubic foot measured as the higher heating value resulting from the inclusion of noncombustible gases, including nitrogen, helium, argon, and carbon dioxide.

**(7) Person**

The term “person” means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, or State or political subdivision.

**(8) Priority pipeline access**

The term “priority pipeline access” means the first priority of delivery of crude helium under which the Secretary schedules and ensures the delivery of crude helium to a helium refinery through the Federal Helium System.

**(9) Qualified bidder****(A) In general**

The term “qualified bidder” means a person the Secretary determines is seeking to purchase helium for their own use, refining, or redelivery to users.

**(B) Exclusion**

The term “qualified bidder” does not include a person who was previously determined to be a qualified bidder if the Secretary determines that the person did not meet the requirements of a qualified bidder under this chapter.

**(10) Qualifying domestic helium transaction**

The term “qualifying domestic helium transaction” means any agreement entered

into or renegotiated agreement during the preceding 1-year period in the United States for the purchase or sale of at least 15,000,000 standard cubic feet of crude or pure helium to which any holder of a contract with the Secretary for the acceptance, storage, delivery, or redelivery of crude helium from the Federal Helium System is a party.

#### (11) Refiner

The term “refiner” means a person with the ability to take delivery of crude helium from the Federal Helium Pipeline and refine the crude helium into pure helium.

#### (12) Secretary

The term “Secretary” means the Secretary of the Interior.

(Mar. 3, 1925, ch. 426, § 2, as added Pub. L. 86-777, § 2, Sept. 13, 1960, 74 Stat. 918; amended Pub. L. 113-40, § 2, Oct. 2, 2013, 127 Stat. 534.)

### Editorial Notes

#### PRIOR PROVISIONS

A prior section 2 of act Mar. 3, 1925, authorized Bureau of Mines to produce helium gas and was classified to section 163 of this title, prior to the general amendment of this chapter by Pub. L. 86-777.

#### AMENDMENTS

2013—Pub. L. 113-40 amended section generally. Prior to amendment, section defined “Secretary”, “person”, “helium-bearing natural gas”, and “helium-gas mixture”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-777, § 3, Sept. 13, 1960, 74 Stat. 923, provided that: “The amendment made by this Act [enacting this section and sections 167a to 167n of this title] shall become effective on March 1, 1961.”

#### SHORT TITLE OF 2013 AMENDMENT

Pub. L. 113-40, § 1, Oct. 2, 2013, 127 Stat. 534, provided that: “This Act [see Tables for classification] may be cited as the ‘Helium Stewardship Act of 2013’.”

#### SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-273, § 1, Oct. 9, 1996, 110 Stat. 3315, provided that: “This Act [amending sections 167a to 167d, 167f, 167j, and 167m of this title] may be cited as the ‘Helium Privatization Act of 1996’.”

#### SHORT TITLE OF 1960 AMENDMENT

Pub. L. 86-777, § 1, Sept. 13, 1960, 74 Stat. 918, provided that: “This Act [enacting this section, sections 167a to 167n of this title, and provisions set out as notes below] may be cited as the ‘Helium Act Amendments of 1960’.”

#### SHORT TITLE

Section 1 of act Mar. 3, 1925, as added by Pub. L. 86-777, § 2, provided that: “This Act [enacting this section, sections 167a to 167n of this title, and provisions set out as a note below] may be cited as the ‘Helium Act’.”

#### REGULATIONS

Pub. L. 113-40, § 9, Oct. 2, 2013, 127 Stat. 544, provided that: “The Secretary of the Interior shall promulgate such regulations as are necessary to carry out this Act [see Tables for classification] and the amendments made by this Act, including regulations necessary to prevent unfair acts and practices.”

#### SEPARABILITY

Act Mar. 3, 1925, ch. 426, § 20, formerly § 17, as added Pub. L. 86-777, § 2, Sept. 13, 1960, 74 Stat. 923, renumbered § 20, Pub. L. 113-40, § 6(2), Oct. 2, 2013, 127 Stat. 540, provided that: “If any provision of this Act [enacting this section, sections 167a to 167n of this title, and provisions set out as a note above], 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.”

#### EXISTING AGREEMENTS

Pub. L. 113-40, § 8, Oct. 2, 2013, 127 Stat. 544, provided that:

“(a) IN GENERAL.—This Act [see Tables for classification] and the amendments made by this Act shall not affect or diminish the rights and obligations of the Secretary of the Interior and private parties under agreements in existence on the date of enactment of this Act [Oct. 2, 2013], except to the extent that the agreements are renewed or extended after that date.

“(b) DELIVERY.—No agreement described in subsection (a) shall affect or diminish the right of any party that purchases helium after the date of enactment of this Act in accordance with section 6 of the Helium Act (50 U.S.C. 167d) (as amended by section 5) to receive delivery of the helium in accordance with section 5(e)(2) of the Helium Act (50 U.S.C. 167c(e)(2)) (as amended by section 4).”

#### SEVERANCE PACKAGE FOR HELIUM OPERATIONS EMPLOYEES

Pub. L. 106-113, div. B, § 1000(a)(3) [title I, § 112], Nov. 29, 1999, 113 Stat. 1535, 1501A-157, provided that:

“(a) Employees of Helium Operations, Bureau of Land Management, entitled to severance pay under 5 U.S.C. 5595, may apply for, and the Secretary of the Interior may pay, the total amount of the severance pay to the employee in a lump sum. Employees paid severance pay in a lump sum and subsequently reemployed by the Federal Government shall be subject to the repayment provisions of 5 U.S.C. 5595(i)(2) and (3), except that any repayment shall be made to the Helium Fund.

“(b) Helium Operations employees who elect to continue health benefits after separation shall be liable for not more than the required employee contribution under 5 U.S.C. 8905a(d)(1)(A). The Helium Fund shall pay for 18 months the remaining portion of required contributions.

“(c) The Secretary of the Interior may provide for training to assist Helium Operations employees in the transition to other Federal or private sector jobs during the facility shut-down and disposition process and for up to 12 months following separation from Federal employment, including retraining and relocation incentives on the same terms and conditions as authorized for employees of the Department of Defense in section 348 of the National Defense Authorization Act for Fiscal Year 1995 [Pub. L. 103-337, 10 U.S.C. 1597 note].

“(d) For purposes of the annual leave restoration provisions of 5 U.S.C. 6304(d)(1)(B), the cessation of helium production and sales, and other related Helium Program activities shall be deemed to create an exigency of public business under, and annual leave that is lost during leave years 1997 through 2001 because of 5 U.S.C. 6304 (regardless of whether such leave was scheduled in advance) shall be restored to the employee and shall be credited and available in accordance with 5 U.S.C. 6304(d)(2). Annual leave so restored and remaining unused upon the transfer of a Helium Program employee to a position of the executive branch outside of the Helium Program shall be liquidated by payment to the employee of a lump sum from the Helium Fund for such leave.

“(e) Benefits under this section shall be paid from the Helium Fund in accordance with section 4(c)(4) of the Helium Privatization Act of 1996 [probably means the

Helium Act, which is classified to section 167b(c)(4) of this title]. Funds may be made available to Helium Program employees who are or will be separated before October 1, 2002 because of the cessation of helium production and sales and other related activities. Retraining benefits, including retraining and relocation incentives, may be paid for retraining commencing on or before September 30, 2002.

“(f) This section shall remain in effect through fiscal year 2002.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 105-277, div. A, § 101(e) [title I, § 112], Oct. 21, 1998, 112 Stat. 2681-231, 2681-254.

Pub. L. 105-83, title I, § 113, Nov. 14, 1997, 111 Stat. 1562.

## **§ 167a. Authority of Secretary**

### **(a) Extraction and disposal of helium on Federal lands**

#### **(1) In general**

The Secretary may enter into agreements 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 October 9, 1996, except to the extent that such agreements are renewed or extended after October 9, 1996.

### **(b) Storage, transportation, and sale**

The Secretary may store, transport, and sell helium only in accordance with this chapter.

### **(c) Extraction of helium from deposits on Federal land**

All amounts received by the Secretary from the sale or disposition of helium on Federal land shall be credited to the Helium Production Fund established under section 167d(e) of this title.

(Mar. 3, 1925, ch. 426, § 3, as added Pub. L. 86-777, § 2, Sept. 13, 1960, 74 Stat. 918; amended Pub. L. 104-273, § 3, Oct. 9, 1996, 110 Stat. 3315; Pub. L. 113-40, § 3, Oct. 2, 2013, 127 Stat. 535.)

## **Editorial Notes**

### **PRIOR PROVISIONS**

A prior section 3 of act Mar. 3, 1925, related to disposal of helium by sale, use of funds so obtained, and reports to Congress on such uses and was classified to section 164 of this title, prior to the general amendment of this chapter by Pub. L. 86-777.

### **AMENDMENTS**

2013—Subsec. (c). Pub. L. 113-40 added subsec. (c).

1996—Pub. L. 104-273 amended section generally. Prior to amendment, section enumerated various aspects of Secretary's authority, including provisions in subsec. (a) relating to conserving, producing, buying, and selling helium, in subsec. (b) relating to helium on public domain, and in subsec. (c) relating to contract price for helium.

### **§ 167b. Storage, transportation, and withdrawal of crude helium**

#### **(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 October 9, 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 October 9, 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 chapter before October 9, 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 chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

##### **(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 167d(e) of this title.

##### **(4) Costs**

All costs associated with such sale and disposal (including costs associated with termi-