

Public Law 86-777

AN ACT

September 13, 1960
[H. R. 10548]

To amend the Helium Act of March 3, 1925, as amended, for the defense, security, and the general welfare of the United States.

Helium Act of
Amendments
1960.

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."

50 USC 161 et
seq.
Citation.

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:

Definitions.

"(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—

Helium conser-
vation.
Right to acquire
land, make con-
tracts, etc.

"(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.

Reservation
rights.

41 Stat. 437.
30 USC 22-263
passim.

Helium produc-
tion.
Maintenance, op-
eration, etc.

"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.

Licensing rules
and regulations.

"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.

"Helium."

"(b) Each license shall be issued for a specified period to be determined by the Secretary, but not exceeding 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.

Suspension in
time of war.

"(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. 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.

Purchase by
Government agen-
cies.

"(b) The Secretary is authorized to sell helium for Federal, medical, scientific, and commercial uses in such quantities and under such terms and conditions as he determines.

Sale.

"(c) Sales of 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:

Prices.

"(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;

72 Stat. 864.

"(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.

"(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.

"(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.

Medical pur-
poses.

"(f) All moneys received under this Act, including moneys from sale of helium or other products resulting from helium operations 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.

Production fund.

"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.

Condemnation
proceedings.

"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.

Rules and regu-
lations.
Promulgation.

"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.

60 Stat. 237.

"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.

"Agency pro-
ceeding" and
"agency action".
License.
Hearing.

"(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.

15 USC 717c,
717d.

"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.

Production fund
loan.

"(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 purchase 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 purchases of obligations of the Secretary hereunder.

Notes, bonds,
etc.
Issuance.

40 Stat. 288.
31 USC 774.

"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.

Violation.
Penalty.

"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.

Proceedings under
Attorney General
of U. S.

"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.

Individual enterprise in develop-
ing helium.

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

Report to Congress.

"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."

Severability
clause.

SEC. 3. The amendment made by this Act shall become effective on March 1, 1961.

Effective date.

Approved September 13, 1960.