

**Oppose the Dent-Higgins-Esty Amendment to H.R. 527**  
**Amendment Preserves the Current Monopoly over Federal Helium Supply by**  
**Delaying Implementation of the Bill, the Creation of a Market-Based System and a**  
**Proper Return to Taxpayers**

Dear Colleague,

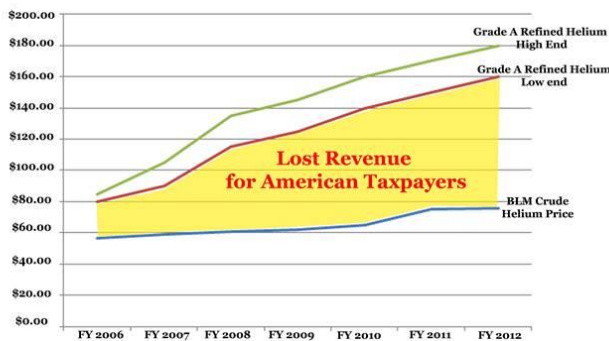
We urge you to vote NO on the Dent-Higgins-Esty amendment to HR 527, the Responsible Helium Administration and Stewardship Act.

**This amendment is an attempt to gut the bill.** It would seek to preserve the current monopoly over our federal helium supply of just four helium refiners who currently receive an automatic share of the taxpayers' helium reserve based on a formula granted in 2000. These companies did not compete for this soon-to-end allotment, it was simply granted to them by a decision of the bureaucracy. For over a decade, as the price of helium climbed, these four companies have profited from below-market prices. This amendment would grant these four companies special treatment by extending them several years of special access to the Federal Helium Reserve while locking out any other companies from even competing or bidding to pay the taxpayers a higher price for this precious resource.

**This amendment is an attempt to keep the current monopoly for four companies in place.** To be clear, H.R. 527 does not alter or end these refiners' contracts. Under existing law and the very terms of the refiners' contracts, the entire current helium program will come to an end on October 1, 2013 when the Interior Department's authority to fund and operate the Reserve will expire. After the existing program ends, H.R. 527 would establish a new program to sell off the remaining helium in the federal reserve at market prices based on competition to ensure a fairer return for taxpayers. The Dent-Higgins-Esty amendment is an attempt to allow these four refining companies to avoid competition and receive a continued automatic share of helium until as late as 2018. The amendment would keep in place the current system that has not been run in a market

fashion, which has cost the taxpayers hundreds of millions of dollars in lost revenue.

**Lost Taxpayer Revenue under Current Federal Helium Program**



“Specifically, we found that BLM does not have the capability needed to identify and maintain market value prices for its helium reserve”  
 -Department of Interior, Inspector General Report

As the below chart derived from Bureau of Land Management (BLM) data clearly shows, over the last few years the price of refined helium has climbed significantly. Meanwhile, the lack of competition in the federal program and the inability of BLM to adequately price helium has resulted in a growing gap between the prices these four companies pay for federal helium and the much, much higher price for refined

helium charged by the same companies to their customers. This may be good for these four companies but it is a bad deal for American taxpayers and businesses.

**The contracts in question include language making them subject to future changes of law.** As previously stated, the very contracts that it is inaccurately claimed the Dent-Higgins-Esty amendment would protect contain specific clauses stating the contracts between BLM and the refiners will expire when the program ends in October, and the contracts specifically provide that Congress may make changes even before expiration. For example, Section 3.2 of the contracts states:

***“Contract is made contingent upon the Congress making the necessary appropriations or authorizations for expenditures hereunder after the current fiscal year has expired. In the event such appropriations or authorizations as may be necessary to carry out this Contract are not made, Company hereby releases United States from all liability due to failure of the Congress to make such appropriations or authorizations.”***

**The bill would not violate property rights guaranteed by the Constitution.** The bill does nothing to affect any helium already purchased by refiners that is currently being stored in the reserve. The bill expressly allows the refiners to retrieve and utilize this already purchased helium; it simply does not renew their expiring automatic claim to purchase a specific percentage of more helium each time a future federal sale occurs.

**The bill will not cause disruption of helium supplies or lack of access for federal users.** It should be made very clear, that over 20 [organizations](#) and companies, representing hi-tech manufacturers of semiconductors, aerospace technologies, life-saving medical devices, chemicals, fiber optics, and scientific researchers **are calling for prompt action to pass H.R. 527,** the *Responsible Helium Administration and Stewardship Act*. These organizations employ millions of Americans and represent crucial sectors of the U.S. economy and the research community.

Please join us in voting NO on the Dent-Higgins-Esty Amendment.

Sincerely,

Doc Hastings (WA-04)  
Chairman  
House Committee on Natural Resources

Rep. Ed Markey (MA-05)  
Ranking Member  
House Committee on Natural Resources

Rep. Bill Flores (TX-17)  
House Committee on Natural Resources

Rep. Rush Holt (NJ-12)  
House Committee on Natural Resources

For more information, please contact Tim Charters ([Tim.Charters@mail.house.gov](mailto:Tim.Charters@mail.house.gov)) with the Natural Resources Committee Majority Staff or Morgan Gray ([Morgan.Gray@mail.house.gov](mailto:Morgan.Gray@mail.house.gov)) with the Natural Resources Committee Minority Staff if you have any questions.

April 25, 2013

The Honorable Doc Hastings  
Chairman  
House Natural Resources Committee  
1203 Longworth House Office Building  
Washington, DC 20515

The Honorable Edward Markey  
Ranking Member  
House Natural Resources Committee  
2108 Rayburn House Office Building  
Washington, DC 20515

**Re: Opposition to the Dent Amendment to H.R. 527, the *Responsible Helium Administration and Stewardship Act***

Dear Chairman Hastings and Ranking Member Markey:

We the undersigned—Airgas, American Air Liquide, and Matheson Trigas (“Non-Refiners”)—write to express our concerns about the amendment being offered by Rep. Charlie Dent (R-PA). Collectively, we serve a substantial portion of the end-user market in the U.S. While our companies have differing views on the various provisions of H.R. 527, we are united in our opposition to the Dent amendment. We strongly urge its defeat.

Under current law, three large companies (the helium “Refiners”) have almost exclusive access to the helium in the Federal Helium Reserve. Since new legislation is needed in order for the Federal Helium Reserve and pipeline to continue operations, H.R. 527 makes changes that would open up access to the Reserve, thereby increasing market forces and increasing the return to the U.S. taxpayer on the helium sold from the Reserve. The Dent amendment, on the other hand, perpetuates the status quo, giving the three Refiners a continuing distorted market advantage over others in the industry that would not exist in a free market. It undermines the goals we all share—ensuring a stable and reliable helium supply, increasing access to the Federal Helium Reserve, and providing an appropriate return to the U.S. taxpayer on a taxpayer-owned resource.

The Dent amendment is very broadly worded and gives the Refiners far greater protections than currently provided for in their existing contracts with BLM. By strengthening these

Chairman Hastings  
Ranking Member Markey  
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contracts and perpetuating them for years to come, the Dent amendment essentially renders meaningless H.R. 527 because the contracts—as extended by this language—will largely prevent BLM from delivering product to anyone other than Refiners. Thus, even if a Non-Refiner could purchase crude helium in an auction, the Non-Refiner will not be able to take delivery.

By strengthening and extending these contracts for many years into the future, the Dent amendment leaves in place the same anti-competitive system that the DOI Inspector General determined in 2008 potentially cost taxpayers more than \$100 million.

For the same reasons, even expressly limiting the Dent amendment to extending all contracts through 2015, as the Dent amendment’s description incorrectly states, should be rejected. Any delayed implementation of H.R. 527—which already contains a grace period—provides more time to draw down the taxpayer-owned resource by the same three companies who have enjoyed almost exclusive access for nearly 20 years and reduces the return to U.S. taxpayers.

Through the 1996 Helium Privatization Act which governs the operation of the Reserve and pipeline system today, Congress intended the Federal Helium Reserve to end in 2014. Therefore, Refiners had no expectation that contracts would run beyond that date. Moreover, the BLM standard contract states that contract performance is contingent upon acts of Congress. The Dent amendment perpetuates the closed market that has benefitted the Refiners for many years at the expense of the American taxpayer. This is antithetical to the open access and market transparency goals of the bill, as well as the recommendations of numerous studies by the General Accounting Office and the National Academy of Sciences.

For these reasons, we urge the defeat of the Dent amendment.

Sincerely,

