

111TH CONGRESS
1ST SESSION

H. R. 611

To provide for marginal well production preservation and enhancement.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 21, 2009

Mr. BOREN introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for marginal well production preservation and enhancement.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Marginal Well Produc-
5 tion Preservation and Enhancement Act”.

1 **SEC. 2. TAX TREATMENT FOR PROLONGED MARGINAL PRO-**
2 **DUCTION.**

3 (a) INCREASE IN PERCENTAGE DEPLETION FOR OIL
4 AND NATURAL GAS PRODUCED FROM MARGINAL PROP-
5 erties.—

6 (1) IN GENERAL.—Paragraph (6) of section
7 613A(c) of the Internal Revenue Code of 1986 (re-
8 lating to oil and natural gas produced from marginal
9 properties) is amended to read as follows:

10 “(6) OIL AND NATURAL GAS PRODUCED FROM
11 MARGINAL PROPERTIES.—

12 “(A) IN GENERAL.—Except as provided in
13 subsection (d)—

14 “(i) the allowance for depletion under
15 section 611 shall be computed in accord-
16 ance with section 613 with respect to the
17 taxpayer’s marginal production of domestic
18 crude oil and domestic natural gas, and

19 “(ii) 27.5 percent shall be deemed to
20 be specified in subsection (b) of section
21 613 for purposes of subsection (a) of that
22 section.

23 “(B) COORDINATION WITH OTHER PRO-
24 Duction OF DOMESTIC OIL AND NATURAL
25 GAS.—For purposes of this subsection—

1 “(i) no allowance for depletion shall
2 be allowed by reason of paragraph (1) with
3 respect to the taxpayer’s marginal produc-
4 tion of domestic crude oil and domestic
5 natural gas, and

6 “(ii) such production shall not be
7 taken into account—

8 “(I) in determining under para-
9 graph (1) how much of the taxpayer’s
10 depletable oil quantity or depletable
11 natural gas quantity has been used, or

12 “(II) for purposes of applying
13 subparagraph (A), (B), or (C) of
14 paragraph (7).

15 “(C) MARGINAL PRODUCTION.—The term
16 ‘marginal production’ means domestic crude oil
17 or domestic natural gas which is produced dur-
18 ing any taxable year from a property which—

19 “(i) is a stripper well property for the
20 calendar year in which the taxable year be-
21 gins, or

22 “(ii) is a property substantially all of
23 the production of which during such cal-
24 endar year is heavy oil.

“(D) STRIPPER WELL PROPERTY.—For purposes of this paragraph, the term ‘stripper well property’ means, with respect to any calendar year, any property with respect to which the amount determined by dividing—

“(i) the average daily production of domestic crude oil and domestic natural gas from producing wells on such property for such calendar year, by

“(ii) the number of such wells, is 15 barrel equivalents or less.

“(E) HEAVY OIL.—For purposes of this paragraph, the term ‘heavy oil’ means domestic crude oil produced from any property if such crude oil had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

“(F) NONAPPLICATION OF TAXABLE INCOME LIMIT WITH RESPECT TO MARGINAL PRODUCTION.—The second sentence of subsection (a) of section 613 shall not apply to so much of the allowance for depletion as is determined under subparagraph (A).”.

(2) CONFORMING AMENDMENTS.—

1 (A) Section 613A(c)(3) of the Internal
 2 Revenue Code of 1986 (defining depletable oil
 3 quantity) is amended to read as follows:

4 “(3) DEPLETABLE OIL QUANTITY.—For pur-
 5 poses of paragraph (1), the taxpayer’s depletable oil
 6 quantity shall be 1,000 barrels.”.

7 (B) Subparagraphs (A) and (B) of section
 8 613A(c)(7) of such Code are each amended by
 9 striking “or (6), as the case may be”.

10 (3) EFFECTIVE DATE.—The amendments made
 11 by this subsection shall apply to taxable years begin-
 12 ning after December 31, 2008.

13 (b) 1-YEAR EXTENSION OF SUSPENSION OF TAX-
 14 ABLE INCOME LIMIT.—Section 613A(c)(6)(H)(ii) of the
 15 Internal Revenue Code of 1986 (relating to temporary sus-
 16 pension of taxable income limit with respect to marginal
 17 production) is amended by striking “2010” and inserting
 18 “2011”.

19 **SEC. 3. OIL AND GAS WELLS AND PIPELINE FACILITIES**
 20 **TECHNICAL AMENDMENT.**

21 Section 112(n)(4)(A) of the Clean Air Act (42 U.S.C.
 22 7412(n)(4)(A)) is amended by striking “this section” and
 23 inserting “this Act”.

1 **SEC. 4. NATIONAL RESPONSE SYSTEM.**

2 Section 311(j) of the Federal Water Pollution Control
3 Act (33 U.S.C. 1321(j)) is amended by striking paragraph
4 (1) and inserting the following:

5 “(1) SYSTEM.—

6 “(A) DEFINITION OF WASTEWATER
7 TREATMENT FACILITY.—In this paragraph, the
8 term ‘wastewater treatment facility’ includes
9 produced water from an oil production facility.

10 “(B) REGULATIONS.—Consistent with the
11 National Contingency Plan required under sub-
12 section (d), as soon as practicable after the ef-
13 fective date of this section, and from time to
14 time thereafter, the President shall promulgate
15 regulations consistent with maritime safety and
16 marine and navigation laws—

17 “(i) establishing methods and proce-
18 dures for removal of discharged oil and
19 hazardous substances;

20 “(ii) establishing criteria for the de-
21 velopment and implementation of local and
22 regional oil and hazardous substance re-
23 moval contingency plans;

24 “(iii) establishing procedures, meth-
25 ods, and requirements and other require-
26 ments for equipment to prevent discharges

1 of oil and hazardous substances from ves-
2 sels and from onshore facilities and off-
3 shore facilities (other than wastewater
4 treatment facilities), and to contain those
5 discharges; and

6 “(iv) governing the inspection of ves-
7 sels carrying cargoes of oil and hazardous
8 substances and the inspection of those car-
9 goes in order to reduce the likelihood of
10 discharges of oil from vessels in violation
11 of this section.

12 “(C) SMALL FACILITIES.—In carrying out
13 clause (iii) of subparagraph (B), not later than
14 1 year after the date of enactment of that
15 clause, the Administrator shall establish proce-
16 dures, methods, and equipment requirements
17 and other requirements for, and consider the
18 cost-effectiveness of those requirements on,
19 small facilities (including agricultural and oil
20 production facilities) to prevent discharges from
21 facilities and offshore facilities, and to contain
22 those discharges, by developing regulations
23 based on storage volume and capacity that, with
24 respect to those small facilities—

1 “(i) apply to any facility the total oil
 2 storage capacity of which is at least 1,320
 3 gallons but less than 50,000 gallons, and
 4 at which no single tank exceeds a nominal
 5 capacity of 21,000 gallons; and

6 “(ii) establish minimal requirements
 7 and plans by eliminating engineer certifi-
 8 cation, flow lines, loading and unloading
 9 areas, integrity testing, and other require-
 10 ments, as determined by the Adminis-
 11 trator, that do not take into consideration
 12 and meet cost-effectiveness standards.”.

13 **SEC. 5. RECOVERY PERIOD FOR DEPRECIATION OF PROP-**
 14 **ERTY USED TO INJECT QUALIFIED TERTIARY**
 15 **INJECTANTS.**

16 (a) IN GENERAL.—Section 168(e)(3)(A) of the Inter-
 17 nal Revenue Code of 1986 (defining 3-year property) is
 18 amended by striking “and” at the end of clause (ii), by
 19 striking the period at the end of clause (iii) and inserting
 20 “, and”, and by adding at the end the following new
 21 clause:

22 “(iv) any qualified tertiary injectant
 23 property.”.

24 (b) QUALIFIED TERTIARY INJECTANT PROPERTY.—
 25 Section 168(e) of the Internal Revenue Code of 1986 (re-

1 relating to classification of property) is amended by adding
 2 at the end the following new paragraph:

3 “(9) QUALIFIED TERTIARY INJECTANT PROP-
 4 ERTY.—The term ‘qualified tertiary injectant prop-
 5 erty’ means—

6 “(A) any property—

7 “(i) the principal use of which is to
 8 inject any tertiary injectant as a part of a
 9 tertiary recovery method (as defined in sec-
 10 tion 193(b)(3)), or

11 “(ii) which is a pipeline used to carry
 12 any tertiary injectant in connection with
 13 such tertiary recovery method, and

14 “(B) which has a class life of more than 4
 15 years.”.

16 (c) ALTERNATIVE SYSTEM.—The table contained in
 17 section 168(g)(3)(B) of the Internal Revenue Code of
 18 1986 is amended by inserting after the item relating to
 19 subparagraph (A)(iii) the following new item:

 “(A)(iv) 7”.

20 (d) EFFECTIVE DATE.—The amendments made by
 21 this section shall apply to property placed in service after
 22 the date of the enactment of this Act, in taxable years
 23 ending after such date.

○