

110TH CONGRESS  
2D SESSION

# S. 3395

To provide for marginal well production preservation and enhancement.

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IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Mr. INHOFE introduced the following bill; which was read twice and referred  
to the Committee on Finance

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## 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”.

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

8       (a) INCREASE IN PERCENTAGE DEPLETION FOR OIL  
9       AND NATURAL GAS PRODUCED FROM MARGINAL PROP-  
10       ERTIES.—

1           (1) IN GENERAL.—Paragraph (6) of section  
 2           613A(c) of the Internal Revenue Code of 1986 (re-  
 3           lating to oil and natural gas produced from marginal  
 4           properties), as amended by this Act, is amended to  
 5           read as follows:

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

8           “(A) IN GENERAL.—Except as provided in  
 9           subsection (d)—

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

15           “(ii) 27.5 percent shall be deemed to  
 16           be specified in subsection (b) of section  
 17           613 for purposes of subsection (a) of that  
 18           section.

19           “(B) COORDINATION WITH OTHER PRO-  
 20           DUCTION OF DOMESTIC OIL AND NATURAL  
 21           GAS.—For purposes of this subsection—

22           “(i) no allowance for depletion shall  
 23           be allowed by reason of paragraph (1) with  
 24           respect to the taxpayer’s marginal produc-

tion of domestic crude oil and domestic  
natural gas, and

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

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

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

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

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

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

“(D) STRIPPER WELL PROPERTY.—For  
purposes of this paragraph, the term ‘stripper  
well property’ means, with respect to any cal-

endar 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 IN-  
COME LIMIT WITH RESPECT TO MARGINAL PRO-  
DUCTION.—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.—

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

“(3) DEPLETABLE OIL QUANTITY.—For purposes of paragraph (1), the taxpayer’s depletable oil quantity shall be 1,000 barrels.”.

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

(3) **EFFECTIVE DATE.**—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2008.

(b) 1-YEAR EXTENSION OF SUSPENSION OF TAX-  
ABLE INCOME LIMIT.—Section 613A(c)(6)(H) of the In-  
ternal Revenue Code of 1986 (relating to temporary sus-  
pension of taxable income limit with respect to marginal  
production) is amended by striking “2008” and inserting  
“2009”.

16 SEC. 3. OIL AND GAS WELLS AND PIPELINE FACILITIES  
17 TECHNICAL AMENDMENT.

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

**21 SEC. 4. NATIONAL RESPONSE SYSTEM.**

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

“(1) SYSTEM.—

1                   “(A)    DEFINITION    OF    WASTEWATER  
2                   TREATMENT FACILITY.—In this paragraph, the  
3                   term ‘wastewater treatment facility’ includes  
4                   produced water from an oil production facility.

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

12                   “(i) establishing methods and proce-  
13                   dures for removal of discharged oil and  
14                   hazardous substances;

15                   “(ii) establishing criteria for the de-  
16                   velopment and implementation of local and  
17                   regional oil and hazardous substance re-  
18                   moval contingency plans;

19                   “(iii) establishing procedures, meth-  
20                   ods, and requirements and other require-  
21                   ments for equipment to prevent discharges  
22                   of oil and hazardous substances from ves-  
23                   sels and from onshore facilities and off-  
24                   shore facilities (other than wastewater

1 treatment facilities), and to contain those  
2 discharges; and

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

9 “(C) SMALL FACILITIES.—In carrying out  
10 clause (iii) of subparagraph (B), not later than  
11 1 year after the date of enactment of that  
12 clause, the Administrator shall establish proce-  
13 dures, methods, and equipment requirements  
14 and other requirements for, and consider the  
15 cost-effectiveness of those requirements on,  
16 small facilities (including agricultural and oil  
17 production facilities) to prevent discharges from  
18 facilities and offshore facilities, and to contain  
19 those discharges, by developing regulations  
20 based on storage volume and capacity that, with  
21 respect to those small facilities—

22 “(i) apply to any facility the total oil  
23 storage capacity of which is at least 1,320  
24 gallons but less than 50,000 gallons, and

at which no single tank exceeds a nominal capacity of 21,000 gallons; and

“(ii) establish minimal requirements and plans by eliminating engineer certification, flow lines, loading and unloading areas, integrity testing, and other requirements, as determined by the Administrator, that do not take into consideration and meet cost-effectiveness standards.”.

**SEC. 5. RECOVERY PERIOD FOR DEPRECIATION OF PROPERTY USED TO INJECT QUALIFIED TERTIARY INJECTANTS.**

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

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

(b) QUALIFIED TERTIARY INJECTANT PROPERTY.—Section 168(e) of the Internal Revenue Code of 1986 (relating to classification of property) is amended by adding at the end the following new paragraph:



1           “(8) QUALIFIED TERTIARY INJECTANT PROP-  
 2           PERTY.—The term ‘qualified tertiary injectant prop-  
 3           erty’ means—

4                   “(A) any property—

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

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

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

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

                  “(A)(iv) ..... 7”.

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

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