

§ 113-389. Definitions.

Unless the context otherwise requires, the words defined in this section shall have the following meaning when found in this law:

- (1) "Base fluid" shall mean the continuous phase fluid type, such as water, used in a hydraulic fracturing treatment.
- (1a) "Commission" shall mean the North Carolina Oil and Gas Commission.
- (1b) "Department" shall mean the Department of Environmental Quality.
- (1c) "Division" shall mean the Division of Energy, Mineral, and Land Resources of the Department of Environmental Quality.
- (2) "Field" shall mean the general area which is underlaid or appears to be underlaid by at least one pool; and "field" shall include the underground reservoir or reservoirs containing crude petroleum oil or natural gas, or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; "field," unlike "pool," may relate to two or more pools.
- (3) "Gas" shall mean all natural gas, including casing-head gas, and all other hydrocarbons not defined as oil in subdivision (7).
- (3a) "Hydraulic fracturing additive" shall mean any chemical substance or combination of substances, including any chemical or proppants, which is intentionally added to a base fluid for purposes of preparing a hydraulic fracturing fluid or treatment of a well.
- (3b) "Hydraulic fracturing fluid" shall mean the fluid, including the applicable base fluid and all hydraulic fracturing additives, used to perform a hydraulic fracturing treatment.
- (3c) "Hydraulic fracturing treatment" shall mean all stages of the treatment of a well by the application of hydraulic fracturing fluid under pressure that is expressly designed to initiate or propagate fractures in a target geologic formation to enhance production of oil and gas.
- (4) "Illegal gas" shall mean gas which has been produced within the State of North Carolina from any well during any time that well has produced in excess of the amount allowed by any rule, regulation or order of the Department, as distinguished from gas produced within the State of North Carolina from a well not producing in excess of the amount so allowed, which is "legal gas."
- (5) "Illegal oil" shall mean oil which has been produced within the State of North Carolina from any well during any time that that well has produced in excess of the amount allowed by rule, regulation or order of the Department, as distinguished from oil produced within the State of North Carolina from a well not producing in excess of the amount so allowed, which is "legal oil."
- (6) "Illegal product" shall mean any product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal oil or illegal gas or from any product thereof, as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.
- (6a) "Lessee" shall mean the person entitled under an oil and gas lease to drill and operate wells.
- (6b) "Lessor" shall mean the owner of subsurface oil or gas resources who has executed a lease and who is entitled to the payment of a royalty on production.
- (7) "Oil" shall mean crude petroleum oil, and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production

methods, and which are not the result of condensation of gas after it leaves the reservoir.

- (7a) "Oil and gas developer or operator" or "developer or operator" shall mean a person who acquires a lease for the purpose of conducting exploration for or extracting oil or gas.
- (7b) "Oil and gas operations" or "activities" shall mean the exploration for or drilling of an oil and gas well that requires entry upon surface estate and the production operations directly related to the exploration or drilling.
- (8) "Owner" shall mean the person who has the right to drill into and to produce from any pool, and to appropriate the production either for himself or for himself and others.
- (9) "Person" shall mean any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind.
- (10) "Pool" shall mean an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure which is completely separated from the other zone in the structure is covered by the term "pool" as used herein.
- (11) "Producer" shall mean the owner of a well or wells capable of producing oil or gas, or both.
- (12) "Product" means any commodity made from oil or gas and shall include refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casing-head gasoline, natural gas gasoline, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas, whether hereinabove enumerated or not.
- (12a) "Proppant" shall mean sand or any natural or man-made material that is used in a hydraulic fracturing treatment to prop open the artificially created or enhanced fractures once the treatment is completed.
- (12b) "Surface owner" means the person who holds record title to or has a purchaser's interest in the surface of real property.
- (13) "Tender" shall mean a permit or certificate of clearance for the transportation of oil, gas or products, approved and issued or registered under the authority of the Department.
- (14) "Waste" in addition to its ordinary meaning, shall mean "physical waste" as that term is generally understood in the oil and gas industry. It shall include:
 - a. The inefficient, excessive or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner which results, or tends to result, in reducing inefficiently the quantity of oil or gas ultimately to be recovered from any pool in this State.
 - b. The inefficient storing of oil, and the locating, spacing, drilling, equipping, operating or producing of any oil or gas well or wells in a manner causing, or tending to cause, unnecessary or excessive surface loss or destruction of oil or gas.
 - c. Abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate,

- and unratable withdrawals causing undue drainage between tracts of land.
- d. Producing oil or gas in such manner as to cause unnecessary water channelling or coning.
 - e. The operation of any oil well or wells with an inefficient gas-oil ratio.
 - f. The drowning with water of any stratum or part thereof capable of producing oil or gas.
 - g. Underground waste however caused and whether or not defined.
 - h. The creation of unnecessary fire hazards.
 - i. The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount which is necessary in the efficient drilling or operation of the well.
 - j. Permitting gas produced from a gas well to escape into the air.
- (15) "Water supply" shall mean any groundwater or surface water intended or used for human consumption; household purposes; or farm, livestock, or garden purposes. (1945, c. 702, s. 9; 1973, c. 1262, s. 86; 1977, c. 771, s. 4; 1989, c. 727, s. 218(59); 1997-443, s. 11A.119(a); 2011-276, s. 3(a); 2012-143, s. 2(b); 2014-4, s. 4(c); 2015-241, s. 14.30(u).)