

SENATE BILL NO. 426

INTRODUCED BY J. SMALL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF NATURAL GAS; AMENDING SECTION 15-36-303, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-36-303, MCA, is amended to read:

**"15-36-303. (Temporary) Definitions.** As used in this part, the following definitions apply:

- (1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.
- (2) "Department" means the department of revenue provided for in 2-15-1301.
- (3) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process.
- (4) "Existing enhanced recovery project" means an enhanced recovery project that began development before January 1, 1994.
- (5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of oil that would not otherwise be recovered. The project must be developed after December 31, 1993.
- (6) "Gross taxable value", for the purpose of computing the oil and natural gas production tax, means the gross value of the product as determined in 15-36-305.
- (7) "Horizontal drain hole" means that portion of a wellbore with 70 degrees to 110 degrees deviation from the vertical and a horizontal projection within the common source of supply, as that term is defined by the board, that exceeds 100 feet.
- (8) "Horizontally completed well" means:
  - (a) a well with one or more horizontal drain holes; or

1 (b) any other well classified by the board as a horizontally completed well.

2 (9) "Incremental production" means:

3 (a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery  
4 recompleted as a horizontally completed well, or by an expanded enhanced recovery project, which volume of  
5 production is in excess of the production decline rate established under the conditions existing before:

6 (i) commencing the recompletion of a well as a horizontally completed well;

7 (ii) expanding the existing enhanced recovery project; or

8 (iii) commencing a new enhanced recovery project; or

9 (b) in the case of any project that had no taxable production prior to commencing the enhanced  
10 recovery project, all production of oil from the enhanced recovery project.

11 (10) "Natural gas" or "gas" means all natural gas gasses and other fluid hydrocarbons as produced  
12 at the wellhead and not defined as oil under 82-1-111, except gasses used in tertiary oil production, other than  
13 oil, produced at the wellhead.

14 (11) "New enhanced recovery project" means an enhanced recovery project that began  
15 development after December 31, 1993.

16 (12) "Nonworking interest owner" means any interest owner who does not share in the exploration,  
17 development, and operation costs of the lease or unit, except for production taxes.

18 (13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that  
19 are produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the  
20 wellhead.

21 (14) "Operator" or "producer" means a person who produces oil or natural gas within this state or  
22 who owns, controls, manages, leases, or operates within this state any well or wells from which any marketable  
23 oil or natural gas is extracted or produced.

24 (15) (a) "Post-1999 stripper well" means an oil well drilled on or after January 1, 1999, that produces  
25 more than 3 barrels but fewer than 15 barrels a day for the calendar year immediately preceding the current  
26 year if the average price for a barrel of crude oil reported and received by the producer for Montana oil  
27 marketed during a calendar quarter is less than \$30. If the price of oil is equal to or greater than \$30 a barrel in  
28 a calendar quarter, there is no stripper tax rate in that quarter.

1 (b) The average price for a barrel is computed by dividing the sum of the daily price for a barrel of  
2 west Texas intermediate crude oil for the calendar quarter by the number of days on which the price was  
3 reported in the quarter.

4 (c) Production must be determined by dividing the amount of production from a lease or unitized  
5 area for the year immediately preceding the current calendar year by the number of producing wells in the lease  
6 or unitized area and then dividing the resulting quotient by 365.

7 (16) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that  
8 produces oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately  
9 preceding the first month of qualifying as a post-1999 well.

10 (17) (a) "Pre-1999 stripper well" means an oil well that was drilled before January 1, 1999, that  
11 produces more than 3 barrels a day but fewer than 10 barrels a day.

12 (b) Production must be determined by dividing the amount of production from a lease or unitized  
13 area for the year immediately preceding the current calendar year by the number of producing wells in the lease  
14 or unitized area and then dividing the resulting quotient by 365.

15 (18) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

16 (19) "Primary recovery" means the displacement of oil from the earth into the wellbore by means of  
17 the natural pressure of the oil reservoir and includes artificial lift.

18 (20) "Production decline rate" means the projected rate of future oil production, extrapolated by a  
19 method approved by the board, that must be determined for a project area prior to commencing a new or  
20 expanded enhanced recovery project or the recompletion of a well as a horizontally completed well. The  
21 approved production decline rate must be certified in writing to the department by the board. In that certification,  
22 the board shall identify the project area and shall specify the projected rate of future oil production by calendar  
23 year and by calendar quarter within each year. The certified rate of future oil production must be used to  
24 determine the volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).

25 (21) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a  
26 well drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally  
27 completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during  
28 the 5 years immediately preceding the first month of qualifying production.

1 (b) Qualifying production does not include oil production from a horizontally recompleted well.

2 (22) "Secondary recovery project" means an enhanced recovery project, other than a tertiary  
3 recovery project, that commenced or was expanded after December 31, 1993, and meets each of the following  
4 requirements:

5 (a) The project must be certified as a secondary recovery project to the department by the board.  
6 The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

7 (b) The property to be affected by the project must be adequately delineated according to the  
8 specifications required by the board.

9 (c) The project must involve the application of secondary recovery methods that can reasonably be  
10 expected to result in an increase, determined by the board to be significant in light of all the facts and  
11 circumstances, in the amount of oil that may potentially be recovered. For purposes of this part, secondary  
12 recovery methods include but are not limited to:

13 (i) the injection of water into the producing formation for the purposes of maintaining pressure in  
14 that formation or for the purpose of increasing the flow of oil from the producing formation to a producing  
15 wellbore; or

16 (ii) any other method approved by the board as a secondary recovery method.

17 (23) "Stripper natural gas" means the natural gas produced from any well that produces less than  
18 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year.  
19 Production must be determined by dividing the amount of production from a lease or unitized area for the year  
20 immediately preceding the current calendar year by the number of producing wells in the lease or unitized area  
21 and by dividing the resulting quotient by 365.

22 (24) "Stripper well exemption" or "stripper well bonus" means petroleum and other mineral or crude  
23 oil produced by a stripper well that produces 3 barrels a day or less. Production from this type of well must be  
24 determined as provided in subsection (15)(c).

25 (25) "Tertiary recovery project" means an enhanced recovery project, other than a secondary  
26 recovery project, using a tertiary recovery method that meets the following requirements:

27 (a) The project must be certified as a tertiary recovery project to the department by the board. The  
28 certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

1 (b) The property to be affected by the project must be adequately delineated in the certification  
2 according to the specifications required by the board.

3 (c) The project must involve the application of one or more tertiary recovery methods that can  
4 reasonably be expected to result in an increase, determined by the board to be significant in light of all the facts  
5 and circumstances, in the amount of crude oil that may potentially be recovered. For purposes of this part,  
6 tertiary recovery methods include but are not limited to:

7 (i) miscible fluid displacement;

8 (ii) steam drive injection;

9 (iii) micellar/emulsion flooding;

10 (iv) in situ combustion;

11 (v) polymer augmented water flooding;

12 (vi) cyclic steam injection;

13 (vii) alkaline or caustic flooding;

14 (viii) carbon dioxide water flooding;

15 (ix) immiscible carbon dioxide displacement; and

16 (x) any other method approved by the board as a tertiary recovery method.

17 (26) "Well" or "wells" means a single well or a group of wells in one field or production unit and  
18 under the control of one operator or producer.

19 (27) "Working interest owner" means the owner of an interest in an oil or natural gas well or wells  
20 who bears any portion of the exploration, development, and operating costs of the well or wells. (Terminates  
21 December 31, 2021, 2022, 2023, and 2024, on occurrence of contingency until December 31, 2025--secs. 13,  
22 14, Ch. 559, L. 2021.)

23 **15-36-303. (Temporary -- effective on occurrence of contingency) Definitions.** As used in this  
24 part, the following definitions apply:

25 (1) "Board" means the board of oil and gas conservation provided for in 2-15-3303.

26 (2) "Department" means the department of revenue provided for in 2-15-1301.

27 (3) "Enhanced recovery project" means the use of any process for the displacement of oil from the  
28 earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or

1 biological process.

2 (4) "Existing enhanced recovery project" means an enhanced recovery project that began  
3 development before January 1, 1994.

4 (5) "Expanded enhanced recovery project" or "expansion" means the addition of injection wells or  
5 production wells, the recompletion of existing wells as horizontally completed wells, the change of an injection  
6 pattern, or other operating changes to an existing enhanced recovery project that will result in the recovery of  
7 oil that would not otherwise be recovered. The project must be developed after December 31, 1993.

8 (6) "Gross taxable value", for the purpose of computing the oil and natural gas production tax,  
9 means the gross value of the product as determined in 15-36-305.

10 (7) "Horizontal drain hole" means that portion of a wellbore with 70 degrees to 110 degrees  
11 deviation from the vertical and a horizontal projection within the common source of supply, as that term is  
12 defined by the board, that exceeds 100 feet.

13 (8) "Horizontally completed well" means:

14 (a) a well with one or more horizontal drain holes; or

15 (b) any other well classified by the board as a horizontally completed well.

16 (9) "Incremental production" means:

17 (a) the volume of oil produced by a new enhanced recovery project, by a well in primary recovery  
18 recompleted as a horizontally completed well, or by an expanded enhanced recovery project, which volume of  
19 production is in excess of the production decline rate established under the conditions existing before:

20 (i) commencing the recompletion of a well as a horizontally completed well;

21 (ii) expanding the existing enhanced recovery project; or

22 (iii) commencing a new enhanced recovery project; or

23 (b) in the case of any project that had no taxable production prior to commencing the enhanced  
24 recovery project, all production of oil from the enhanced recovery project.

25 (10) "Natural gas" or "gas" means all natural gas gasses and all other fluid hydrocarbons as  
26 produced at the wellhead and not defined as oil under 82-1-111, other than oil, produced at the wellhead.

27 (11) "New enhanced recovery project" means an enhanced recovery project that began  
28 development after December 31, 1993.

1           (12) "Nonworking interest owner" means any interest owner who does not share in the exploration,  
2 development, and operation costs of the lease or unit, except for production taxes.

3           (13) "Oil" means crude petroleum or mineral oil and other hydrocarbons, regardless of gravity, that  
4 are produced at the wellhead in liquid form and that are not the result of condensation of gas after it leaves the  
5 wellhead.

6           (14) "Operator" or "producer" means a person who produces oil or natural gas within this state or  
7 who owns, controls, manages, leases, or operates within this state any well or wells from which any marketable  
8 oil or natural gas is extracted or produced.

9           (15) "Post-1999 well" means an oil or natural gas well drilled on or after January 1, 1999, that  
10 produces oil or natural gas or a well that has not produced oil or natural gas during the 5 years immediately  
11 preceding the first month of qualifying as a post-1999 well.

12           (16) "Pre-1999 well" means an oil or natural gas well that was drilled before January 1, 1999.

13           (17) "Primary recovery" means the displacement of oil from the earth into the wellbore by means of  
14 the natural pressure of the oil reservoir and includes artificial lift.

15           (18) "Production decline rate" means the projected rate of future oil production, extrapolated by a  
16 method approved by the board, that must be determined for a project area prior to commencing a new or  
17 expanded enhanced recovery project or the recompletion of a well as a horizontally completed well. The  
18 approved production decline rate must be certified in writing to the department by the board. In that certification,  
19 the board shall identify the project area and shall specify the projected rate of future oil production by calendar  
20 year and by calendar quarter within each year. The certified rate of future oil production must be used to  
21 determine the volume of incremental production that qualifies for the tax rate imposed under 15-36-304(5)(e).

22           (19) (a) "Qualifying production" means the first 12 months of production of oil or natural gas from a  
23 well drilled after December 31, 1998, or the first 18 months of production of oil or natural gas from a horizontally  
24 completed well drilled after December 31, 1998, or from a well that has not produced oil or natural gas during  
25 the 5 years immediately preceding the first month of qualifying production.

26           (b) Qualifying production does not include oil production from a horizontally recompleted well.

27           (20) "Secondary recovery project" means an enhanced recovery project, other than a tertiary  
28 recovery project, that commenced or was expanded after December 31, 1993, and meets each of the following

1 requirements:

2 (a) The project must be certified as a secondary recovery project to the department by the board.

3 The certification may be extended only after notice and hearing in accordance with Title 2, chapter 4.

4 (b) The property to be affected by the project must be adequately delineated according to the  
5 specifications required by the board.

6 (c) The project must involve the application of secondary recovery methods that can reasonably be  
7 expected to result in an increase, determined by the board to be significant in light of all the facts and  
8 circumstances, in the amount of oil that may potentially be recovered. For purposes of this part, secondary  
9 recovery methods include but are not limited to:

10 (i) the injection of water into the producing formation for the purposes of maintaining pressure in  
11 that formation or for the purpose of increasing the flow of oil from the producing formation to a producing  
12 wellbore; or

13 (ii) any other method approved by the board as a secondary recovery method.

14 (21) "Stripper natural gas" means the natural gas produced from any well that produces less than  
15 60,000 cubic feet of natural gas a day during the calendar year immediately preceding the current year.

16 Production must be determined by dividing the amount of production from a lease or unitized area for the year  
17 immediately preceding the current calendar year by the number of producing wells in the lease or unitized area  
18 and by dividing the resulting quotient by 365.

19 (22) (a) "Stripper oil" means the oil produced from any well that produces more than 3 barrels but  
20 fewer than 15 barrels a day for the calendar year immediately preceding the current year if the average price for  
21 a barrel of west Texas intermediate crude oil during a calendar quarter is less than \$30. If the price of oil is  
22 equal to or greater than \$30 a barrel in a calendar quarter, there is no stripper tax rate in that quarter.

23 (b) The average price for a barrel is computed by dividing the sum of the daily price for a barrel of  
24 west Texas intermediate crude oil for the calendar quarter by the number of days on which the price was  
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25 (i) miscible fluid displacement;

26 (ii) steam drive injection;

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