

DIVISION OF OIL, GAS, AND MINING AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronald M. Winterton

House Sponsor: _____

LONG TITLE

General Description:

This bill amends definitions related to oil production.

Highlighted Provisions:

This bill:

- ▶ amends the definitions of "crude oil" and "oil" to clarify regulatory authority over tar sands production;
- ▶ clarifies that tar sands are exempt from state severance tax; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

40-6-2, as last amended by Laws of Utah 2020, Chapter 375

59-5-101, as last amended by Laws of Utah 2009, Chapter 344

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **40-6-2** is amended to read:

40-6-2. Definitions.



28 For the purpose of this chapter:

29 (1) "Board" means the Board of Oil, Gas, and Mining.

30 (2) "Correlative rights" means the opportunity of each owner in a pool to produce the
31 owner's just and equitable share of the oil and gas in the pool without waste.

32 (3) "Condensate" means hydrocarbons, regardless of gravity, that:

33 (a) occur naturally in the gaseous phase in the reservoir; and

34 (b) are separated from the natural gas as liquids through the process of condensation
35 either in the reservoir, in the wellbore, or at the surface in field separators.

36 (4) "Consenting owner" means an owner who, in the manner and within the time frame
37 established by the board in rule, consents to the drilling and operation of a well and agrees to
38 bear the owner's proportionate share of the costs of the drilling and operation of the well.

39 (5) "Crude oil" means hydrocarbons, regardless of gravity, that:

40 ~~[(a) occur naturally in the liquid phase in the reservoir; and]~~

41 ~~[(b) are produced and recovered at the wellhead in liquid form.]~~

42 (a) are produced at the wellhead in liquid form; and

43 (b) (i) occur naturally in the liquid phase in the reservoir; or

44 (ii) are produced through enhanced recovery operations authorized by the board in
45 accordance with Subsection [40-6-5\(3\)\(c\)](#).

46 (6) "Division" means the Division of Oil, Gas, and Mining.

47 (7) (a) "Gas" means natural gas, as defined in Subsection (10), natural gas liquids, as
48 defined in Subsection (11), other gas, as defined in Subsection (17), or any mixture of them.

49 (b) "Gas" does not include any gaseous or liquid substance processed from coal, oil
50 shale, or tar sands.

51 (8) "Illegal oil" or "illegal gas" means oil or gas that has been produced from any well
52 within the state in violation of this chapter or any rule or order of the board.

53 (9) "Illegal product" means any product derived in whole or in part from illegal oil or
54 illegal gas.

55 (10) (a) "Natural gas" means hydrocarbons that occur naturally in the gaseous phase in
56 the reservoir and are produced and recovered at the wellhead in gaseous form, except natural
57 gas liquids as defined in Subsection (11) and condensate as defined in Subsection (3).

58 (b) "Natural gas" includes coalbed methane gas.

59 (11) "Natural gas liquids" means hydrocarbons, regardless of gravity, that are separated
60 from natural gas as liquids in gas processing plants through the process of condensation,
61 absorption, adsorption, or other methods.

62 (12) "Nonconsenting owner" means an owner who does not, after written notice and in
63 the manner and within the time frame established by the board in rule, consent to the drilling
64 and operation of a well or agree to bear the owner's proportionate share of the costs.

65 (13) (a) "Oil" means crude oil, as defined in Subsection (5), condensate, as defined in
66 Subsection (3), or any mixture of them.

67 (b) "Oil" does not include, except as provided in Subsection (13)(c), any gaseous or
68 liquid substance processed from coal, oil shale, or tar sands.

69 (c) "Oil" includes tar sands produced at the wellhead in liquid form through enhanced
70 recovery operations authorized by the board in accordance with Subsection [40-6-5\(3\)\(c\)](#).

71 (14) "Oil and gas operations" means to explore for, develop, or produce oil and gas.

72 (15) (a) "Oil and gas proceeds" means any payment that:

73 (i) derives from oil and gas production from any well located in the state;

74 (ii) is expressed as a right to a specified interest in the:

75 (A) cash proceeds received from the sale of the oil and gas; or

76 (B) the cash value of the oil and gas; and

77 (iii) is subject to any tax withheld from the payment pursuant to law.

78 (b) "Oil and gas proceeds" includes a royalty interest, overriding royalty interest,
79 production payment interest, or working interest.

80 (c) "Oil and gas proceeds" does not include a net profits interest or other interest the
81 extent of which cannot be determined with reference to a specified share of:

82 (i) the cash proceeds received from the sale of the oil and gas; or

83 (ii) the cash value of the oil and gas.

84 (16) "Operator" means a person who has been designated by the owners or the board to
85 operate a well or unit.

86 (17) (a) "Other gas" means nonhydrocarbon gases that:

87 (i) occur naturally in the gaseous phase in the reservoir; or

88 (ii) are injected into the reservoir in connection with pressure maintenance, gas cycling,
89 or other secondary or enhanced recovery projects.

90 (b) "Other gas" includes hydrogen sulfide, carbon dioxide, helium, and nitrogen.

91 (18) "Owner" means a person who has the right:

92 (a) to drill into and produce from a reservoir; and

93 (b) to appropriate the oil and gas produced for that person or for that person and others.

94 (19) "Payor" means the person who undertakes to distribute oil and gas proceeds to the
95 persons entitled to them, whether as the first purchaser of that production, as operator of the
96 well from which the production was obtained, or as lessee under the lease on which royalty is
97 due.

98 (20) "Person" means the same as that term is defined in Section [68-3-12.5](#) and includes
99 an operator or owner as used in this chapter.

100 (21) "Pool" means an underground reservoir containing a common accumulation of oil
101 or gas or both. Each zone of a general structure that is completely separated from any other
102 zone in the structure is a separate pool. "Common source of supply" and "reservoir" are
103 synonymous with "pool."

104 (22) "Pooling" means the bringing together of separately owned interests for the
105 common development and operation of a drilling unit.

106 (23) "Producer" means the owner or operator of a well capable of producing oil and
107 gas.

108 (24) "Product" means any commodity made from oil and gas.

109 (25) "Surface land" means privately owned land:

110 (a) overlying privately owned oil and gas resources;

111 (b) upon which oil and gas operations are conducted; and

112 (c) owned by a surface land owner.

113 (26) (a) "Surface land owner" means a person who owns, in fee simple absolute, all or
114 part of the surface land as shown by the records of the county where the surface land is located.

115 (b) "Surface land owner" does not include the surface land owner's lessee, renter,
116 tenant, or other contractually related person.

117 (27) "Surface land owner's property" means a surface land owner's:

118 (a) surface land;

119 (b) crops on the surface land; and

120 (c) existing improvements on the surface land.

121 (28) "Surface use agreement" means an agreement between an owner or operator and a
122 surface land owner addressing:

123 (a) the use and reclamation of surface land owned by the surface land owner; and
124 (b) compensation for damage to the surface land caused by oil and gas operations that

125 result in:

126 (i) loss of the surface land owner's crops on the surface land;

127 (ii) loss of value of existing improvements owned by the surface land owner on the
128 surface land; and

129 (iii) permanent damage to the surface land.

130 (29) "Waste" means:

131 (a) the inefficient, excessive, or improper use or the unnecessary dissipation of oil or
132 gas or reservoir energy;

133 (b) the inefficient storing of oil or gas;

134 (c) the locating, drilling, equipping, operating, or producing of any oil or gas well in a
135 manner that causes:

136 (i) a reduction in the quantity of oil or gas ultimately recoverable from a reservoir
137 under prudent and economical operations;

138 (ii) unnecessary wells to be drilled; or

139 (iii) the loss or destruction of oil or gas either at the surface or subsurface; or

140 (d) the production of oil or gas in excess of:

141 (i) transportation or storage facilities; or

142 (ii) the amount reasonably required to be produced as a result of the proper drilling,
143 completing, testing, or operating of a well or otherwise utilized on the lease from which it is
144 produced.

145 Section 2. Section **59-5-101** is amended to read:

146 **59-5-101. Definitions.**

147 As used in this part:

148 (1) "Board" means the Board of Oil, Gas, and Mining created in Section [40-6-4](#).

149 (2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.

150 (3) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally
151 in the gaseous phase in the reservoir that are separated from the natural gas as liquids through

152 the process of condensation either in the reservoir, in the wellbore, or at the surface in field
153 separators.

154 (4) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in
155 the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

156 (5) "Development well" means any oil and gas producing well other than a wildcat
157 well.

158 (6) "Division" means the Division of Oil, Gas, and Mining established under Title 40,
159 Chapter 6, Board and Division of Oil, Gas, and Mining.

160 (7) "Enhanced recovery project" means:

161 (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a
162 reservoir for the purpose of:

163 (i) augmenting reservoir energy;

164 (ii) modifying the properties of the fluids or gases in a reservoir; or

165 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and
166 gas through the joint use of two or more well bores; and

167 (b) a project initially approved by the board as a new or expanded enhanced recovery
168 project on or after January 1, 1996.

169 (8) (a) "Gas" means:

170 (i) natural gas;

171 (ii) natural gas liquids; or

172 (iii) any mixture of natural gas and natural gas liquids.

173 (b) "Gas" does not include solid hydrocarbons.

174 (9) "Incremental production" means that part of production, certified by the Division of
175 Oil, Gas, and Mining, which is achieved from an enhanced recovery project that would not
176 have economically occurred under the reservoir conditions existing before the project and that
177 has been approved by the division as incremental production.

178 (10) "Natural gas" means those hydrocarbons, other than oil and other than natural gas
179 liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and
180 are produced and recovered at the wellhead in gaseous form.

181 (11) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas,
182 regardless of gravity, that are separated in gas processing plants from the natural gas as liquids

183 at the surface through the process of condensation, absorption, adsorption, or other methods.

184 (12) (a) "Oil" means:

185 (i) crude oil;

186 (ii) condensate; or

187 (iii) any mixture of crude oil and condensate.

188 (b) "Oil" does not include:

189 (i) solid hydrocarbons[-]; or

190 (ii) tar sands produced at the wellhead in liquid form through enhanced recovery

191 operations.

192 (13) "Oil or gas field" means a geographical area overlying oil or gas structures. The

193 boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and

194 Division of Oil, Gas, and Mining under Title 40, Chapter 6, Board and Division of Oil, Gas,

195 and Mining.

196 (14) "Oil shale" means a group of fine black to dark brown shales containing

197 bituminous material that yields petroleum upon distillation.

198 (15) "Operator" means any person engaged in the business of operating an oil or gas

199 well, regardless of whether the person is:

200 (a) a working interest owner;

201 (b) an independent contractor; or

202 (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the

203 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

204 Rulemaking Act.

205 (16) "Owner" means any person having a working interest, royalty interest, payment

206 out of production, or any other interest in the oil or gas produced or extracted from an oil or gas

207 well in the state, or in the proceeds of this production.

208 (17) (a) Subject to Subsections (17)(b) and (c), "processing costs" means the

209 reasonable actual costs of processing oil or gas to remove:

210 (i) natural gas liquids; or

211 (ii) contaminants.

212 (b) If processing costs are determined on the basis of an arm's-length contract,

213 processing costs are the actual costs.

214 (c) (i) If processing costs are determined on a basis other than an arm's-length contract,
215 processing costs are those reasonable costs associated with:

216 (A) actual operating and maintenance expenses, including oil or gas used or consumed
217 in processing;

218 (B) overhead directly attributable and allocable to the operation and maintenance; and

219 (C) (I) depreciation and a return on undepreciated capital investment; or

220 (II) a cost equal to a return on the investment in the processing facilities as determined
221 by the commission.

222 (ii) Subsection (17)(c)(i) includes situations where the producer performs the
223 processing for the producer's product.

224 (18) "Producer" means any working interest owner in any lands in any oil or gas field
225 from which gas or oil is produced.

226 (19) "Recompletion" means any downhole operation that is:

227 (a) conducted to reestablish the producibility or serviceability of a well in any geologic
228 interval; and

229 (b) approved by the division as a recompletion.

230 (20) "Research and development" means the process of inquiry or experimentation
231 aimed at the discovery of facts, devices, technologies, or applications and the process of
232 preparing those devices, technologies, or applications for marketing.

233 (21) "Royalty interest owner" means the owner of an interest in oil or gas, or in the
234 proceeds of production from the oil or gas who does not have the obligation to share in the
235 expenses of developing and operating the property.

236 (22) "Solid hydrocarbons" means:

237 (a) coal;

238 (b) gilsonite;

239 (c) ozocerite;

240 (d) elaterite;

241 (e) oil shale;

242 (f) tar sands; and

243 (g) all other hydrocarbon substances that occur naturally in solid form.

244 (23) "Stripper well" means:

245 (a) an oil well whose average daily production for the days the well has produced has
246 been 20 barrels or less of crude oil a day during any consecutive 12-month period; or

247 (b) a gas well whose average daily production for the days the well has produced has
248 been 60 MCF or less of natural gas a day during any consecutive 90-day period.

249 (24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon
250 and require further processing other than mechanical blending before becoming finished
251 petroleum products.

252 (25) (a) Subject to Subsections (25)(b) and (c), "transportation costs" means the
253 reasonable actual costs of transporting oil or gas products from the well to the point of sale.

254 (b) If transportation costs are determined on the basis of an arm's-length contract,
255 transportation costs are the actual costs.

256 (c) (i) If transportation costs are determined on a basis other than an arm's-length
257 contract, transportation costs are those reasonable costs associated with:

258 (A) actual operating and maintenance expenses, including fuel used or consumed in
259 transporting the oil or gas;

260 (B) overhead costs directly attributable and allocable to the operation and maintenance;
261 and

262 (C) depreciation and a return on undepreciated capital investment.

263 (ii) Subsection (25)(c)(i) includes situations where the producer performs the
264 transportation for the producer's product.

265 (d) Regardless of whether transportation costs are determined on the basis of an
266 arm's-length contract or a basis other than an arm's-length contract, transportation costs
267 include:

268 (i) carbon dioxide removal;

269 (ii) compression;

270 (iii) dehydration;

271 (iv) gathering;

272 (v) separating;

273 (vi) treating; or

274 (vii) a process similar to Subsections (25)(d)(i) through (vi), as determined by the
275 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative

276 Rulemaking Act.

277 (26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

278 (27) "Well or wells" means any extractive means from which oil or gas is produced or
279 extracted, located within an oil or gas field, and operated by one person.

280 (28) "Wildcat well" means an oil and gas producing well which is drilled and
281 completed in a pool, as defined under Section 40-6-2, in which a well has not been previously
282 completed as a well capable of producing in commercial quantities.

283 (29) "Working interest owner" means the owner of an interest in oil or gas burdened
284 with a share of the expenses of developing and operating the property.

285 (30) (a) "Workover" means any downhole operation that is:

286 (i) conducted to sustain, restore, or increase the producibility or serviceability of a well
287 in the geologic intervals in which the well is currently completed; and

288 (ii) approved by the division as a workover.

289 (b) "Workover" does not include operations that are conducted primarily as routine
290 maintenance or to replace worn or damaged equipment.