

SB0146S01 compared with SB0146

~~{deleted text}~~ shows text that was in SB0146 but was deleted in SB0146S01.

inserted text shows text that was not in SB0146 but was inserted into SB0146S01.

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Senator Ronald M. Winterton proposes the following substitute bill:

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

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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.

For the purpose of this chapter:

- (1) "Board" means the Board of Oil, Gas, and Mining.
- (2) "Correlative rights" means the opportunity of each owner in a pool to produce the owner's just and equitable share of the oil and gas in the pool without waste.
- (3) "Condensate" means hydrocarbons, regardless of gravity, that:
 - (a) occur naturally in the gaseous phase in the reservoir; and
 - (b) are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.
- (4) "Consenting owner" means an owner who, in the manner and within the time frame established by the board in rule, consents to the drilling and operation of a well and agrees to bear the owner's proportionate share of the costs of the drilling and operation of the well.
- (5) "Crude oil" means hydrocarbons, regardless of gravity, that:

~~[(a) occur naturally in the liquid phase in the reservoir; and]~~
~~[(b) are produced and recovered at the wellhead in liquid form.]~~

 - (a) are produced at the wellhead in liquid form; and
 - (b) (i) occur naturally in the liquid phase in the reservoir; or
(ii) are produced through enhanced recovery operations authorized by the board in accordance with Subsection 40-6-5(3)(c).
- (6) "Division" means the Division of Oil, Gas, and Mining.
- (7) (a) "Gas" means natural gas, as defined in Subsection (10), natural gas liquids, as defined in Subsection (11), other gas, as defined in Subsection (17), or any mixture of them.
 - (b) "Gas" does not include any gaseous or liquid substance processed from coal, oil shale, or tar sands.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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- (i) the cash proceeds received from the sale of the oil and gas; or
- (ii) the cash value of the oil and gas.

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

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

- (i) occur naturally in the gaseous phase in the reservoir; or
- (ii) are injected into the reservoir in connection with pressure maintenance, gas cycling, or other secondary or enhanced recovery projects.

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

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

- (a) to drill into and produce from a reservoir; and
- (b) to appropriate the oil and gas produced for that person or for that person and others.

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

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

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

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

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

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

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

- (a) overlying privately owned oil and gas resources;
- (b) upon which oil and gas operations are conducted; and
- (c) owned by a surface land owner.

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

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

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

- (a) surface land;
- (b) crops on the surface land; and
- (c) existing improvements on the surface land.

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

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

result in:

- (i) loss of the surface land owner's crops on the surface land;
- (ii) loss of value of existing improvements owned by the surface land owner on the surface land; and
- (iii) permanent damage to the surface land.

(29) "Waste" means:

- (a) the inefficient, excessive, or improper use or the unnecessary dissipation of oil or gas or reservoir energy;
- (b) the inefficient storing of oil or gas;
- (c) the locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes:

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

- (ii) unnecessary wells to be drilled; or
- (iii) the loss or destruction of oil or gas either at the surface or subsurface; or
- (d) the production of oil or gas in excess of:

(i) transportation or storage facilities; or

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

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produced.

~~{ Section 2. Section 59-5-101 is amended to read:~~

~~59-5-101. Definitions:~~

~~As used in this part:~~

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

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

~~(3) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.~~

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

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

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

~~(7) "Enhanced recovery project" means:~~

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

~~(i) augmenting reservoir energy;~~

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

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

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

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

~~(i) natural gas;~~

~~(ii) natural gas liquids; or~~

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

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

~~(9) "Incremental production" means that part of production, certified by the Division of~~

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~~Oil, Gas, and Mining, which is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production:~~

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

~~—— (11) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods:~~

~~—— (12) (a) "Oil" means:~~

~~—— (i) crude oil;~~

~~—— (ii) condensate; or~~

~~—— (iii) any mixture of crude oil and condensate:~~

~~—— (b) "Oil" does not include:~~

~~—— (i) solid hydrocarbons[.]; or~~

~~—— (ii) tar sands produced at the wellhead in liquid form through enhanced recovery operations:~~

~~—— (13) "Oil or gas field" means a geographical area overlying oil or gas structures. The boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and Division of Oil, Gas, and Mining under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining:~~

~~—— (14) "Oil shale" means a group of fine black to dark brown shales containing bituminous material that yields petroleum upon distillation:~~

~~—— (15) "Operator" means any person engaged in the business of operating an oil or gas well, regardless of whether the person is:~~

~~—— (a) a working interest owner;~~

~~—— (b) an independent contractor; or~~

~~—— (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:~~

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

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~~out of production, or any other interest in the oil or gas produced or extracted from an oil or gas well in the state, or in the proceeds of this production:~~

~~—— (17) (a) Subject to Subsections (17)(b) and (c), "processing costs" means the reasonable actual costs of processing oil or gas to remove:~~

~~—— (i) natural gas liquids; or~~

~~—— (ii) contaminants.~~

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

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

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

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

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

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

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

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

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

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

~~—— (b) approved by the division as a recompletion.~~

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

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

~~—— (22) "Solid hydrocarbons" means:~~

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~~—— (a) coal;~~

~~—— (b) gilsonite;~~

~~—— (c) ozocerite;~~

~~—— (d) elaterite;~~

~~—— (e) oil shale;~~

~~—— (f) tar sands; and~~

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

~~—— (23) "Stripper well" means:~~

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

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

~~—— (24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon and require further processing other than mechanical blending before becoming finished petroleum products:~~

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

~~—— (b) If transportation costs are determined on the basis of an arm's-length contract, transportation costs are the actual costs:~~

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

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

~~—— (B) overhead costs directly attributable and allocable to the operation and maintenance; and~~

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

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

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

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- ~~—— (i) carbon dioxide removal;~~
- ~~—— (ii) compression;~~
- ~~—— (iii) dehydration;~~
- ~~—— (iv) gathering;~~
- ~~—— (v) separating;~~
- ~~—— (vi) treating; or~~
- ~~—— (vii) a process similar to Subsections (25)(d)(i) through (vi), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~
- ~~—— (26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.~~
- ~~—— (27) "Well or wells" means any extractive means from which oil or gas is produced or extracted, located within an oil or gas field, and operated by one person.~~
- ~~—— (28) "Wildcat well" means an oil and gas producing well which is drilled and completed in a pool, as defined under Section 40-6-2, in which a well has not been previously completed as a well capable of producing in commercial quantities.~~
- ~~—— (29) "Working interest owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.~~
- ~~—— (30) (a) "Workover" means any downhole operation that is:~~
 - ~~—— (i) conducted to sustain, restore, or increase the producibility or serviceability of a well in the geologic intervals in which the well is currently completed; and~~
 - ~~—— (ii) approved by the division as a workover.~~
- ~~—— (b) "Workover" does not include operations that are conducted primarily as routine maintenance or to replace worn or damaged equipment.~~

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