



**NOTICE TO OPERATORS
2023-01**

January 6, 2023

REGULATORY REQUIREMENTS FOR OPERATOR COMPLIANCE WITH SENATE BILL 1137

The California Geologic Energy Management Division (CalGEM) is issuing this notice to inform operators that the requirements established by Senate Bill 1137 (Gonzalez, Chapter 365, Statutes of 2022), adding Public Resources Code sections (PRC) 3280 through 3291, went into effect January 1, 2023.

On January 6, 2023, CalGEM's emergency regulations to support implementation of these requirements were approved by the Office of Administrative Law, filed with the Secretary of State, and made effective the same day. These emergency regulations establish specific requirements for operators to comply with the law, including providing CalGEM with information needed to confirm operators comply with the law. The SB 1137 First Emergency Implementation Regulations can be found here:

<https://www.conservation.ca.gov/calgem/Pages/Oil,-Gas,-and-Geothermal-Rulemaking-and-Laws.aspx>.

All operators are required to comply with the provisions established by Senate Bill 1137 and the SB 1137 First Emergency Implementation Regulations. Failure to do so may result in enforcement action.

The SB 1137 First Emergency Implementation Regulations describe additional information required from operators to support review of notices of intention (NOIs) submitted under Public Resources Code (PRC) section 3203. This notice to operators (NTO) provides further guidance for how operators can submit the information to CalGEM. **Unless and until CalGEM receives the necessary additional information, CalGEM's review of the NOI will not proceed, regardless of the date on which the NOI was submitted.**

This NTO also provides guidance for operators who have not commenced work within a health protective zone (HPZ), pursuant to an NOI approved by CalGEM before January 1, 2023, on how to demonstrate compliance with SB 1137's requirements for notice and water testing for owners and tenants of property within 3200 feet. Finally, this NTO provides guidance on reporting proposed new production facilities within an HPZ.

Please note that the health protection zones, and the related restrictions and requirements, do not apply in the context of development of nonfossil fuel production and injection and related uses. In addition, some NOIs do not require additional information to demonstrate compliance with SB 1137, and do not require neighbor notice and offer of water testing. Under PRC sections 3281 (a), 3281.5, and as clarified in

the SB 1137 First Emergency Regulations, NOIs to plug and abandon or re-abandon a well, including for intercept wells necessary for plug and abandonment, can be approved without the additional information described in the SB 1137 First Emergency Regulations.¹ Under PRC 3281 (d), underground gas storage wells and their attendant production facilities are also not subject to the requirements established by SB 1137. **The following guidance does not apply to these NOIs.**

NOIs Submitted to CalGEM After January 6, 2023

All operators who submit an NOI to perform well work after January 6, 2023 are required to provide additional information as part of their NOI submittal in accordance with the requirements set forth in California Code of Regulations, title 14, sections (CCR) 1765.3, 1765.7, 1765.8, and 1765.9. CalGEM will not approve these NOIs unless operators submit this information and CalGEM confirms that the NOI complies with the new requirements established by PRC 3281. Operators can submit this requisite information according to the following instructions:

Instructions for Uploading Required Information to Support Compliance with SB 1137

To upload the required information to support compliance with SB 1137 into WellSTAR, operators should follow the instructions below:

- 1) In the Notice of Intent online form, navigate to the "Document Upload" step, click "Actions," and select "Add New."
- 2) Select the appropriate document type to be uploaded, which includes:
 - a. Sensitive Receptor(s) Map for Notice
 - b. Sensitive Receptor(s) Inventory for Notice
 - c. Sensitive Receptor(s) Statement for Notice
 - d. Exception Statement (PRC 3284)
 - e. Neighbor Notification Waiver Request (PRC 3284)

¹ Section 3281 .5. (a) provides that "The Legislature finds and declares that development of oil and gas fields into nonfossil fuel production and injection and related uses, including, but not limited to, housing, recreation, and commercial development, may have plugged and abandoned wells or may require existing oil and gas wells to be plugged and abandoned, or re-plugged and abandoned, to current statutory and regulatory standards, and that the creation of health protection zones, and the related restrictions and requirements of this article, do not apply in the context of development for nonfossil fuel production and injection and related uses." Section 3281 .5(b) provides that CalGEM "may approve notices of intention pursuant to Section 3203 to public and private entities who own, purchase, or lease land containing idle-deserted or previously plugged and abandoned wells for the purposes of those public and private entities plugging and abandoning, or re-plugging and abandoning, those oil and gas wells so development of nonfossil fuel production and injection and related uses can proceed. This may include, without limitation, a notice of intention to drill or rework an intercept well, if needed to plug and abandon or re-plug and abandon another well on the condition that the intercept well is itself plugged and abandoned. The public and private entities, as well as any lessees, tenants, or other occupants, shall not engage in oil or gas development or production or injection or related uses for which they have submitted a notice of intention pursuant to this subdivision."

- 3) Add an appropriate document description in the description field, upload the relevant file using the “Browse” button, and then click the “Upload” button to complete the document upload.
- 4) Repeat these steps for each applicable requisite document.

To support operator compliance, CalGEM developed a template operators may use if they are required to submit a sensitive receptor inventory as part of their NOI or as part of a new production facility notification in accordance with CCR 1765.7. The template can be found at: <https://www.conservation.ca.gov/calgem/Pages/SB1137.aspx>.

NOIs Submitted to CalGEM Before January 6, 2023

NOIs submitted to CalGEM that have not received approval as of January 1, 2023, are subject to the requirements established by SB 1137. **As of January 1, 2023, all NOIs under review by CalGEM, require operators to submit additional information before CalGEM can complete its review of the NOI.** The operator must demonstrate that CalGEM can approve the NOI. For each NOI, the operator must submit information in compliance with the SB 1137 First Emergency Implementation Regulations adopted January 6.

For CalGEM to continue its review of these NOIs, operators must provide CalGEM with the additional information set forth in CCR 1765.3, 1765.7, 1765.8, and 1765.9. Operators who wish for CalGEM to continue its review of their NOI must request their NOI(s) be returned in the WellSTAR system. Operators must then update their NOI form with the requisite additional information and can do so by following the instructions above on uploading additional documentation in WellSTAR.

NOIs Approved Prior to January 1, 2023, but for which Well Work Has Not Commenced

Effective January 1, 2023, SB 1137 requires that before commencing any work that requires a notice of intention under PRC 3203 in a Health Protection Zone (HPZ), operators must provide notification to all tenants and property owners within a 3,200-foot radius of the wellhead and offer to sample and test water wells or surface water on their property (PRC 3284). This law applies to all work performed within an HPZ, regardless of when the NOI was approved. Thus, it includes work commenced on or after January 1, 2023, on an NOI approved before January 1, 2023.

If an operator has an NOI for well work that was approved prior to January 1, 2023, but for which well work has not commenced, and the operator believes the well to not be in an HPZ, the operator must submit a statement verifying the well is not in an HPZ in accordance with CCR 1765.9 before well work commences. The statement can be provided by using the Document Upload online form in WellSTAR. Using this form, select “Well” in the “Category” field, click “Actions” and select “Add New” to add a new and upload a new document type. The statement should identify the associated permit number.

If an operator has an NOI for well work that was approved prior to January 1, 2023, but for which well work has not commenced, and the operator believes the well is located in an HPZ, the operator must comply with the noticing of property owner and tenant requirements in PRC 3284, and the specific requirements detailing how to carry out and document that notification and water sampling and testing in CCR 1765.4 and 1765.4.1. The declaration of completion of neighbor notice and the summary of water testing performed shall be uploaded into WellSTAR using the Document Upload Form. The document types to be uploaded include "Declaration of Neighbor Notice" and "Summary of Water Testing." The online form shall be associated to the appropriate well or facility with the permit number specified.

When an operator is conducting water sampling pursuant to PRC 3284 and CCR 1765.4, the operator must provide notification to the appropriate regional water quality board and State Water Resources Control Board (State Water Board) at least five days prior to collecting any baseline water samples. For questions regarding providing this notice and providing subsequent water quality data to the State Water Board's GeoTracker Information System, please contact WB-DWQ-HPZoneSampling@waterboards.ca.gov. Operators cannot commence work until at least five working days after providing CalGEM with the declaration of completion of notice and, if testing is requested, the date(s) of baseline testing performed, as specified in CCR 1765.4 (a).

Failure to comply with these requirements for noticing and documentation of water sampling and testing may result in enforcement action.

NOIs Approved Prior to January 1, 2023, for which Well Work Has Commenced

If operators have an NOI that was approved prior to January 1, 2023, and well work under that NOI commenced prior to January 6, 2023, no additional actions are required to be taken by the operator in connection with the NOI to comply with PRC 3281 or 3284.

Operators Constructing or Operating New Production Facilities

Effective January 6, 2023, before constructing or operating a new production facility of the types listed in CCR 1765.5(a), operators must provide notice to CalGEM that meets the content requirements detailed in CCR 1765.5.1.

A Notice of New Production Facility is required regardless of whether the production facility appears to be located inside or outside of an HPZ; this is to allow CalGEM to confirm, at minimum, the location of the production facility relative to any HPZ in order to ensure compliance with the new limitations described in PRC 3281 (b).

A Notice of New Production facility is not required when undertaking repairs or replacements of production facilities, provided that certain conditions apply and are appropriately documented, as detailed in CCR 1765.5(c).

Operators can submit their Notice of New Production Facility by email or mail to the appropriate district office:

Central District: CalGEMCentralEnvironmental@conservation.ca.gov

Southern District: CalGEMSouthern@conservation.ca.gov

Northern District: CalGEMNorthern@conservation.ca.gov

Mail addresses can be found for each District on the following webpage:
https://www.conservation.ca.gov/calgem/Pages/calgem_contacts.aspx

If production facilities are to be constructed or operated in association with well work requiring an NOI and located within an HPZ, operators should provide the information identified in CCR 1765.3(b)(2) as part of the NOI.

All operators are required to comply with the provisions established by Senate Bill 1137 and the SB 1137 First Emergency Implementation Regulations, including the requirement to provide notice prior to constructing or operating a new production facility in California, and failure to do so may result in enforcement action.

If you have any questions or concerns regarding compliance with this notice, please contact CalGEM Headquarters at (916) 445-9686 for referral to SB1137 Implementation or SB1137Implementation@conservation.ca.gov.

Sincerely,



Uduak-Joe Ntuk

State Oil and Gas Supervisor