



**NOTICE TO OPERATORS
2023-03**

February 3, 2023

SUSPENSION OF SENATE BILL 1137 REQUIREMENTS

The California Geologic Energy Management Division (CalGEM) is issuing this notice to inform operators that the provisions of Senate Bill 1137 (Gonzalez, Chapter 385, Statutes of 2022) are stayed by operation of law pending a vote on a referendum against that legislation. As a result, the emergency regulations implementing Senate Bill 1137, found in California Code of Regulations, title 14, sections 1765 through 1765.10, are also suspended by operation of law.

Senate Bill 1137 added Article 4.6, titled "Health Protection Zones," to Chapter 1 of Division 3 of the Public Resources Code, spanning sections 3280 through 3291. These statutory provisions expressly authorized CalGEM to adopt emergency regulations for the specific purpose of implementing their new requirements as a legislatively deemed emergency. (Pub. Resources Code, § 3288.) On January 1, 2023, these new statutory provisions became effective.

On January 6, 2023, the Office of Administrative Law approved the adoption of emergency regulations proposed by CalGEM for the purpose of implementing certain provisions of the new statutory requirements added by Senate Bill 1137. These emergency regulations, titled "SB 1137 First Emergency Implementation Regulations," consist of sections 1765 through 1756.10, are located within a newly created Article 2.5, titled "Health Protection Zones," in Subchapter 2, Chapter 4, Division 2, Title 14 of the California Code of Regulations. The SB 1137 First Emergency Implementation Regulations were filed with the Office of the Secretary of State on January 6, 2023, and became effective that same day.

Opponents of Senate Bill 1137 initiated a referendum challenge to the bill. On February 3, 2023, the Secretary of State certified that a sufficient number of signatures had been submitted for the referendum to become duly qualified for the ballot. The effectiveness of a statute challenged in its entirety by a duly qualified (or "valid") referendum is stayed until it has been approved by the voters at the required election. (*Assembly of State of Cal. v. Deukmejian* (1982) 30 Cal.3d 638, 656; Cal. Const., art. II, §§ 9, 10.) Thus, by operation of law, the implementation of Senate Bill 1137's statutory provisions is stayed as of February 3, 2023, until the referendum challenge has been resolved by a vote of the electorate.

Because Senate Bill 1137's statutory provisions are stayed, and because Senate Bill 1137 provided a necessary component of the authorization of the SB 1137 First Emergency Implementation Regulations, those emergency regulations are suspended as a matter of law as well, and will remain suspended for as long as the underlying Senate Bill 1137 statutory provisions lack legal effect. The sole function of the SB 1137 First Emergency

Implementation Regulations is to implement the specific requirements and prohibitions of Senate Bill 1137, and for as long as those statutes are stayed, the implementing regulations do not have effect or meaning.

To avoid undue confusion, CalGEM will add a new section, 1765.11, to title 14 of the California Code of Regulations as a change without regulatory effect, pursuant to the process described in California Code of Regulations, title 1, section 100 ("Section 100"). The purpose of Section 1765.11 is to ensure that the public is aware that by operation of law, the regulatory effect of California Code of Regulations, title 14, sections 1765 through 1765.10 is suspended.

To carry out this suspension, the following guidance is provided to operators regarding the issuance and review of Notices of Intention (NOIs):

NOIs Approved Prior to February 3, 2023

For NOIs approved prior to February 3, 2023, additional actions are not required to be taken by the operator in connection with the NOI in order to comply with the provisions established by SB 1137, including PRC 3281 or 3284.

NOIs Submitted to CalGEM for Review

NOIs submitted to CalGEM that have not received approval are no longer subject to the requirements established by SB 1137. If operators already provided additional information to support evaluation of compliance with SB 1137, no additional action is needed; CalGEM will continue its review without requiring compliance with SB 1137.

NOIs that were returned in the WellSTAR system for operators to update with the requisite additional information under SB 1137 can be resubmitted in WellSTAR. Since these NOIs are no longer subject to the requirements established by SB 1137, CalGEM can continue its review of the NOI without the additional information.

Operators Constructing or Operating New Production Facilities

A Notice of New Production Facility is no longer required before constructing or operating a new production facility.

If you have any questions or concerns regarding this notice, please contact CalGEM Headquarters at (916) 445-9686 for referral to SB1137 Implementation or SB1137implementation@conservation.ca.gov.

Sincerely,


Gabe Tiffany

State Oil and Gas Supervisor