

SB 1137 FIRST IMPLEMENTATION REGULATIONS

FINAL STATEMENT OF REASONS

REGARDING

TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 4. DEVELOPMENT, REGULATION, AND CONSERVATION OF OIL AND GAS RESOURCES

The Department of Conservation (Department), through its Geologic Energy Management Division (Division), proposes to add various sections within the California Code of Regulations, title 14, division 2, chapter 4, subchapter 2, article 2.5. Specifically, the Division proposes to add sections 1765, 1765.1, 1765.2, 1765.3, 1765.4, 1765.4.1, 1765.5, 1765.5.1, 1765.6, 1765.7, 1765.8, 1765.9, and 1765.10.

INTRODUCTION AND BACKGROUND

Regulation of Oil and Gas Operations Within Health Protection Zones

The Division supervises the drilling, operation, maintenance, and plugging and abandonment of onshore and offshore oil, gas, and geothermal wells, as well as production facilities attendant to oil and gas or injection operations. The Division carries out its regulatory authority under a dual legislative mandate to encourage the wise development of oil and gas resources while preventing damage to life, health, property, and natural resources, including the reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon resources. (Pub. Resources Code, §§ 3011, 3106.)

The Division's staff is comprised of engineers, geologists, and scientists with education and experience in the field of oil and gas exploration and production. Many of the Division's staff are licensed in their respective fields, and most have extensive regulatory and industry backgrounds. The range and depth of expertise within the Division facilitates a thorough and comprehensive approach to regulating all aspects of oil and gas production operations. The Division has utilized this depth of knowledge and expertise to develop these proposed new regulations to ensure that legislative intent is implemented clearly and effectively, and that the regulations do not duplicate or conflict with the Division's existing regulations.

Senate Bill 1137

Finding that a growing body of research showing direct health impacts from proximity to oil extraction, the Legislature passed Senate Bill 1137 (Gonzalez, Chapter 365, Statutes of 2022) (SB 1137) which added sections 3280 to 3291, in an article titled "Health Protection Zones," to the California Public Resources Code (PRC). The Legislature found that such health impacts are disproportionately impacting Black, indigenous, and people of color in California, who are most likely to live in close proximity to oil and gas operations, especially within 3,200 feet of extraction sites. Further, that proximity, especially due to increased air pollution, poses significant health risks. SB 1137 is intended to assist frontline communities by cleaning up pollution, remediating negative health impacts, and addressing increasing impacts of climate change.

This rulemaking does not cover all of SB 1137's provisions, but rather focuses on PRC sections 3280, 3281, 3281.5, 3284, and 3285. In summary, PRC section 3280 provides definitions, including the meaning of "sensitive receptor"; PRC section 3281 prohibits approval of notices of intention within a health protection zone except in limited circumstances; PRC section 3281.5 covers development for nonfossil fuel production and injection and related uses; PRC section 3284 requires, if requested by a property owner or tenant, the operator to conduct water sampling and testing prior to and after drilling operations within a health protection zone; and for wellheads and production facilities within a health protection zone, PRC section 3285 requires the submission of a sensitive receptor inventory and map. For other wellheads and production facilities, section 3285 requires a statement as to whether they are within a health protection zone.

Senate Bill 1137 was signed into law in 2022, with an effective date of January 1, 2023. The Division promulgated emergency regulations shortly thereafter. In February 2023, a referendum advanced by opponents of SB 1137 qualified for the November 2024 ballot, staying the effect of both the SB 1137 legislation and the Division's emergency implementing regulations. However, the referendum proponents withdrew the measure in June 2024, and SB 1137 immediately resumed effect.

The Division's emergency regulations, which include California Code of Regulations, title 14 (CCR), sections 1765 to 1765.10, also immediately resumed effect, and per PRC section 3288, will remain in effect until July 1, 2026.

The purpose of this rulemaking is to replace the emergency regulations that expire July 1, 2026, with permanent regulations that cover the applicable provisions of SB 1137 described above.

Proposed Regulations

The proposed regulations provide a framework for implementing the restrictions and requirements that apply within a health protection zone. These proposed regulations include definitions for “sensitive receptor” and “health protection zone.” They provide a mechanism for measuring distances and additional requirements for operator-submitted notices of intention. The regulations also provide for operator notification to sample and test surface and groundwater before drilling, and outline required notices for new production facilities. They provide guidance for the submission of sensitive receptor inventories and maps, and what must be submitted to demonstrate that a well or facility is not within a health protection zone.

These proposed regulations implement statutory provisions and have significant overlap with the Division’s 2023 emergency regulations, but incorporate lessons learned since the initial implementation of SB 1137. These regulations focus on protecting sensitive receptors from harm by prohibiting well permits, and construction and operation of new production facilities, within health protection zones except where a statutory exception applies.

Stakeholder and Public Input Efforts Preceding This Rulemaking

In developing the proposed regulations, the Division did extensive public outreach to solicit input on the substance and economic impacts of the requirements. These efforts were separate from and in addition to previous workshops and solicitations concerning the SB 1137 emergency regulations in 2022 and the Division’s public health rulemaking initiative starting in late 2019. Most recently, the Division conducted two virtual public workshops on March 19 and 20, 2025, to solicit input on the scope and direction of this rulemaking effort. On February 21, 2025, the Division released a Notice of Public Workshop and Notice of Public Comment Period, inviting participation in the workshops as well as written input through March 21, 2025. In addition, on March 3, the Division made a pre-rulemaking draft available for public comment, soliciting input through March 31, 2025.

Since that time, the Division has carefully reviewed all public comments, as well as input from the State Water Resources Control Board, Regional Water Quality Control Boards, and operators. These proposed regulations have evolved during this pre-rulemaking public process, and reflect lessons learned through implementation of the emergency regulations.

ANTICIPATED BENEFITS (GENERALLY)

The anticipated benefits of the proposed regulations are discussed specifically below. In general, however, this rulemaking action will facilitate implementation of the

restriction and requirements that apply in a health protection zone under SB 1137 and will thereby further the Division's statutory mandates under PRC sections 3011, 3013, 3106, 3203, 3270, 3281, 3281.5, 3284 and 3285 to prevent damage to life, health, property, and natural resources, and to protect public health, public safety, and environmental quality, including the mitigation and reduction of greenhouse emissions associated with oil and gas development.

SPECIFIC PURPOSE AND BENEFIT OF, AND RATIONALE FOR, EACH PROPOSED OR AMENDED REGULATION

The anticipated benefit of each proposed section is discussed specifically below. In general, this rulemaking action is necessary to establish and clarify the regulatory standards applicable to notices of intention and production facilities for oil and gas operations within health protection zones in California to reduce health risks to sensitive receptors.

Article 2.5 Health Protection Zones

Within title, 14, division 2, chapter 4, subchapter 2, the proposed rulemaking would make permanent article 2.5, "Health Protection Zones," in order that the proposed regulations may be easily and accurately referred to as the "Health Protection Zones regulations," and to distinguish from the Division's other regulations that are commonly referenced by the title of the article.

The regulations build on the Division's 2023 emergency regulations structure but incorporate changes necessary to better implement the statutory requirements.

Problem to be Addressed

The statutory provisions of Article 4.6 of the PRC (Health Protection Zones) establish a complex set of restrictions and reporting requirements for notices of intention and new production facilities for oil and gas operations within a health protection zone. Some requirements are specified, while others are left unaddressed and subject to potentially conflicting interpretation. Without a comprehensive regulatory framework in place, it would be administratively burdensome, if not impossible, for the Division to implement its oversight responsibilities on a case-by-case basis.

The problems addressed by each proposed regulation are discussed more specifically below.

Section 1765 – Scope and Purpose

The purpose of section 1765 is to orient operators, the public, and other stakeholders as to the scope and purpose of the regulations within this article, which is to implement and make specific SB 1137 provisions codified in PRC sections 3280, 3281, 3281.5, 3284 and 3285.

Section 1765, Authority and Reference Citation. PRC sections 3013 and 3106 are added as authorities cited and 3011, 3106, 3280, 3281, 3281.5, 3284 and 3285 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2, and section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. Section 3203 applies as it contains requirements for the submission and approval of a notice of intention. Section 3270 gives the Division authority to promulgate regulations that prescribe minimum facility maintenance standards and to access records of maintenance and repair operations, tests, and inspections, maintained by the operator. PRC 3280 provides the applicable statutory definitions. Sections 3281, 3281.5, 3284, and 3285 contain restrictions and requirements that apply to notices of intention within a health protection zone.

Section 1765.1 – Definitions

The definitions in PRC section 3280, especially the terms sensitive receptor and health protection zone, are foundational to other PRC health protection zone requirements addressed in this rulemaking. During the Division's implementation of its emergency regulations, it became apparent that two definitions are susceptible to differing interpretation.

This proposed regulation mostly adopts the definitions in PRC section 3280, but with clarifications necessary to ensure that health protection zone protections and requirements are understood and complied with correctly and consistently.

Section 1765.1, subdivision (a). PRC section 3280, subdivision (a) defines the term "area" to mean surface area, and all measurement of distances is on the surface of the land. The term "land" is not defined and there have been questions whether the term includes water. SB 1137 is intended to protect public health within 3,200 feet, whatever the surface. Adding the term "water" to the definition is necessary to eliminate potential confusion.

Section 1765.1, subdivision (b). PRC section 3280, subdivision (b) defines the term “health protection zone” as the area within 3,200 feet of a sensitive receptor and prescribes from where to measure the 3,200 feet. This proposed subdivision repeats part of that definition but moves the discussion of how to measure to proposed section 1765.2, subdivision (b)(1). Consolidating all health protection zone measurement requirements into a single regulation is necessary to ensure that no requirements are overlooked and that measurements are made properly.

Section 1765.1 subdivision (c). PRC section 3280, subdivision (c) defines the term “sensitive receptor” to mean any of six listed categories. This regulation repeats the definition and categories, largely unchanged, except where necessary to clarify terms susceptible to more than one meaning.

Section 1765.1 subdivision (c)(1)-(5). These subdivisions repeat, without amendment, the definitions of residence, education resource, community resource center, health care facility, and live-in housing defined in PRC section 3280, subdivision (c)(1) through (c)(5).

Section 1765.1, subdivision (c)(6). This subdivision repeats the PRC section 3280, subdivision (c)(6) definition “Any building housing a business open to the public” but clarifies that a building housing a business is open to the public if visitors are regularly permitted on the premises who are not the owner or tenant of the building and are not employees, contractors, service providers, or personal guests of the owner or tenant of the building. This emphasizes the welcoming of the public to access the business building and is necessary to prevent a more restrictive interpretation focused on business hours or seasonal and other temporary operational closures.

Section 1765.1, Authority and Reference Citation. PRC sections 3013 and 3106 are added as authorities cited and 3011, 3106 and 3280 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2, and section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions, while PRC 3280 provides the applicable statutory definitions.

The proposed additions are necessary to implement the provisions of PRC sections 3280, 3281, 3281.5, 3284 and 3285, and will benefit operators and the public by clarifying terms that require greater specificity for effective implementation and promoting transparency in the Division's interpretations. Keeping all six definitions consolidated in one regulation prevents having to toggle between the statute and the regulations to locate defined terms.

Section 1765.2 – Measuring Distances

SB 1137's goal of reducing health risks from proximity to oil and gas development relies upon measuring distances to identify health protection zones. PRC section 3280, subdivision (a), requires measurements based on the surface, but does not specify whether topographical changes are to be accounted for in measuring, and subdivision (b) does not specify whether all or part of a wellhead or production facility must be within 3,200 feet to be considered within a health protection zone. Other measurement requirements are located separately, in PRC section 3285, subdivision (a).

This proposed section is necessary to clarify and consolidate measuring requirements for identification of health protection zones and for sensitive receptor inventory and mapping requirement purposes.

Section 1765.2, subdivision (a). This subdivision specifies that distances shall be measured in feet as horizontal distance, not measured by following the terrain. In areas with topographical variation, measurement following the terrain versus measuring horizontally could lead to significantly different outcomes. Measuring by horizontal distance is necessary to more accurately reflect the distance SB 1137 identified to be relevant to potential health risks.

Section 1765.2, subdivision (b)(1). PRC section 3280, subdivision (b), specifies that a health protection zone shall be measured from the receptor property line unless the receptor building is more than 50 feet from the property line. This subdivision includes that text and collects in one place, along with subdivision (b)(2), necessary guidance for measuring a health protection zone.

Section 1765.2, subdivision (b)(2). PRC section 3280 does not specify to where on a wellhead or production facility a health protection zone should be measured. Production facilities vary greatly in size and shape, depending on facility type. This proposed subdivision is necessary to specify that the measurement to a wellhead or production facility be made directly to the wellhead's or production facility's edge closest to the receptor.

Section 1765.2, subdivision (c). PRC section 3285, subdivision (a)(1)(A), requires that operators provide the latitude and longitude for wellheads and production facilities in the operator's sensitive receptor inventories and maps. There are different tools to determine latitude and longitude, but section 3285 does not specify a particular standard. This subdivision directs that coordinates shall be provided in decimal degrees with an accuracy of plus or minus ten feet using the geodetic datum North American Datum of 1983 (NAD 1983). This provision is necessary to ensure that all operators use the same system for identifying the applicable latitude and longitude coordinates for consistency among submissions and with the Division's records. The NAD 1983

coordinate system is already referenced elsewhere in the Division's regulations, and the allowed deviation in accuracy is deemed reasonable considering the capabilities of the system while still allowing for effective identification of health protection zones.

Section 1765.2, Authority and Reference Citation. PRC sections 3013 and 3106 are added as authorities cited and 3011, 3106, 3280, 3281 and 3285 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2, and section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. Sections 3281 and 3285 both contain requirements that apply based on measuring 3,200 feet from a wellhead location and for production facilities within a health protection zone.

The proposed regulation and each of its subdivisions are necessary to implement PRC sections 3281, 3281.5, 3284, 3285, and will benefit operators, the Division, and the public by clarifying requirements. Accurate and consistent measurement is vital to the Legislature's health protection zone framework, and better ensures that the intent to reduce health risks is consistently implemented.

Section 1765.3 – Additional Requirements for a Notice of Intention

PRC section 3203 requires an operator, before commencing work on a well, to file a written notice of intention. PRC section 3281, subdivision (b), requires that an operator submit a sensitive receptor inventory and map if the wellhead or proposed wellhead is within a health protection zone, or a statement that the wellhead is not located in a health protection zone. Some inventory and map format and content requirements are found in section 3281, but others are in PRC section 3285. Section 3281 does not specify what information should be included in the statement to aid the Division in verifying that there is no sensitive receptor within 3,200 feet of the wellhead.

Further, PRC section 3281, subdivision (a), prohibits the Division from approving a notice of intention within a health protection zone unless one of three enumerated exceptions apply, including subdivision (a)(1), when necessary to prevent or respond to a threat to public health, safety, or the environment. However, the section does not specify what must be submitted to support a request for exception under subdivision (a)(1).

This proposed section is necessary to establish a framework and content requirements for operator exception requests, a submittal process, and documentation to support evaluation of notices of intention in health protection zones.

Section 1765.3, subdivision (a). For a notice of intention for work that is not within a health protection zone, this subdivision directs the operator to the statement requirements of proposed section 1765.9, which is necessary to make the meaning and contents of a "statement" clear and specific.

Section 1765.3, subdivision (b). This subdivision introduces information required when a notice of intention is submitted for a wellhead within a health protection zone.

Section 1765.3, subdivision (b)(1). This subdivision requires operators to submit a sensitive receptor inventory and map consistent with PRC sections 3281, subdivision (b), and section 3285. Operators are directed to proposed sections 1765.7 and 1765.8, where the inventory and mapping requirements of PRC sections 3281 and 3285 are consolidated. Accumulating requirements in regulation is necessary to increase understanding of what is required and decrease the likelihood that required content is overlooked.

Section 1765.3, subdivision (b)(2). PRC section 3281, subdivision (b), prohibits new production facility construction or operation in a health protection zone unless associated with a notice of intention or determined to be necessary to protect public health and safety. The statute is silent about what information an operator must provide when claiming that a new facility is associated with a notice of intention.

This proposed subdivision requires submission of a "New Production Facility Notice" and directs the operator to proposed sections 1765.5 and 1765.5.1 for the notice's content requirements. Submittal of the notice is necessary to support the Division's evaluation of whether a proposed new production facility is associated with an approved notice of intention and therefore permissible.

Section 1765.3, subdivision (b)(3). As noted above, PRC section 3281, subdivision (a), provides three exceptions under which the Division could approve a notice of intention in a health protection zone. PRC section 3281.5 clarifies that the creation of health protection zones and their restrictions do not apply in the context of development for nonfossil fuel production and injection and related uses. The two PRC sections are silent about how an operator would apply for an exception or rely on section 3281.5.

This proposed subdivision requires the operator to identify the basis under which the Division could approve the notice of intention. This documentation is a necessary initial step in the review process and provides transparency to the public about the exception upon which the operator is relying.

Section 1765.3, subdivision (c). This subdivision introduces seven categories of information that an operator must provide to support a PRC section 3281, subdivision (a)(1), exception request claiming work is necessary to prevent or respond to a threat to public health, safety or the environment. Establishing minimum, standardized

evaluation criteria is necessary to inform operators what factors and analysis are of potential relevance for the Division's exception determination.

Section 1765.3, subdivision (c)(1). The operator must describe the threat to public health, safety, or the environment. The Division may or may not already be aware of the situation, so this foundational information may be necessary to understand the threat and evaluate the exception request.

Section 1765.3, subdivision (c)(2). The operator must describe and characterize the magnitude of the risks and harms associated with the threat including the likely populations or protected resources that may be affected. This description is needed to assess whether there is a causal relationship between the stated threat and risks and harms.

Section 1765.3, subdivision (c)(3). The operator must discuss the timing and potential impacts of the threat. This is necessary to inform appropriate timing of any response, whether the threat can be prevented, how long it has been occurring, and whether it will continue if the proposed work is not approved.

Section 1765.3, subdivision (c)(4). The operator must explain how the proposed operations will reduce or eliminate the threat. This is important for the Division's evaluation of whether the work proposed is necessary and will effectively address the threat.

Section 1765.3, subdivision (c)(5). This subdivision requires submittal of any data or engineering studies demonstrating the existence of the threat and the magnitude of potential harms so that the Division has all pertinent information and data available for its evaluation.

Section 1765.3, subdivision (c)(6). The operator must discuss any potential alternative approaches to address the threat and reasons why the alternatives are less effective or not necessary. The discussion of potential alternatives should be technical in nature and the alternatives evaluated for their effectiveness at mitigating the identified threat. This requirement is necessary to encourage consideration and vetting of other possible technical solutions.

Section 1765.3, subdivision (c)(7). This subdivision contemplates an iterative process between an operator and the Division on a case-by-case basis when additional information is necessary to demonstrate the existence of the threat or the efficacy of the proposed solution. This language promotes transparency and accurate expectations regarding potential information needs. Further, flexibility in the information requirements allows the Division to ensure it has whatever data is needed to evaluate a notice of intention for purposes of implementing PRC section 3281.

Section 1765.3, subdivision (d). The Division can waive requirements of subdivision (c) for stated reasons if the Division determines that it has information and documentation necessary to evaluate the threat and proposed operations. As noted previously, a given problem, such as compromised well integrity, may be already known by the Division and well understood with a documented compliance history, the work may already be required by existing oil and gas regulations, and the Division may have ordered the work that is the subject of the notice of intention and the exception request. Waiver flexibility is necessary because subdivision (c) is intended to ensure that the Division gets important information when needed, but not to add extra work with no health, safety or environmental benefit, or cause an unreasonable delay in completion of needed repair. Further, flexibility in the information requirements allows the Division to ensure it has whatever data is needed to evaluate a notice of intention for purposes of implementing PRC section 3281.

Section 1765.3, subdivision (e). Before commencing any work that requires a notice of intention that involves drilling, PRC section 3284 requires operators to contact property owners and tenants within 3,200 feet and offer to sample and test water wells or surface water at least 30 days before and after drilling. This subdivision is necessary to remind affected operators during the notice of intention process to comply with proposed sections 1765.4 and 1765.4.1, which implement PRC section 3284 by establishing requirements for notification, documentation, sampling and testing.

Section 1765.3, subdivision (f). This subdivision exempts notices of intention to plug and abandon or reabandon a well, or to drill an intercept well for that purpose, from this section's additional notice of intention requirements because approvals of notices of intention for such work are exempt under PRC section 3281, subdivision (a)(3), and PRC section 3281.5. Express acknowledgement of this exemption in this section is necessary to avoid confusion about this proposed regulation's applicability, which is in addition to other existing regulations concerning drilling operations.

Section 1765.3, Authority and Reference Citation. PRC sections 3013 and 3106 are added as authorities cited and 3011, 3106, 3203, 3281, 3281.5 and 3285 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2, and section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. Section 3203 applies as it contains requirements for the submission and approval of a notice of intention. Sections 3281, 3281.5, and 3285 contain restrictions and requirements that apply to notices of intention within a health protection zone.

This section and each of its subdivisions are consistent with, and necessary to implement complex and interrelated provisions in PRC sections 3281, 3281.5, 3284 and 3285 for notices of intention. It benefits operators by clarifying expectations for the content of the statement that must be submitted for notices of intention outside of a health protection zone and the content that is required for an exception request for notices of intention within a health protection zone, and by collecting key requirements in a single section. The public, operators, and the Division benefit from transparency in the exception request process which is achieved through a consistent, understandable and effective administrative process.

Section 1765.4 Water Sampling and Testing

SB 1137 added PRC section 3284, which requires that, unless waived by the Division to prevent significant damage to life, health, or natural resources, an operator who plans to drill a well within a health protection zone must first contact property owners and tenants within 3,200 feet of the well and offer to perform water sampling and testing at the request of either. It includes timeframes in which an operator must complete these actions, as well as a requirement that documentation of these efforts be provided to the Division. Finally, PRC section 3284 outlines several requirements for conducting water sampling and testing, including taking water quality measurements before and after drilling.

Section 3284 does not specify what goes into an operator's neighbor notice, how it should be delivered, what "record of delivery" means, what documentation is due to the Division, or when and how to apply for and demonstrate a basis for a waiver of sampling and testing requirements. Proposed sections 1765.4 and 1765.4.1 are necessary to establish and make clear those minimum requirements and an administrative framework for submittal and review, for how and when operators must provide notice, for performing water sampling and testing, documenting notice to the State Water Resources Control Board and appropriate regional water quality control board, sampling and testing documentation, and criteria for requesting a waiver, consistent with PRC section 3284.

Section 1765.4, subdivision (a). This introductory subdivision prohibits drilling until all steps outlined in subdivisions (a)(1)-(6) are completed. PRC section 3284 contains several requirements that must be timed appropriately and completed before work can occur. The proposed subdivision is necessary to ensure that operators are aware of and comply with notice and sampling and testing requirements. Otherwise, the operator will be unauthorized to commence planned drilling operations. Exceptions are found in subdivisions (c) and (d), for emergency situations and plugging and abandonment operations.

Section 1765.4, subdivision (a)(1). This reiterates that when required, notice must be delivered to all property owners and tenants at least 30 days before work commences pursuant to a notice of intention. This is necessary here to ensure that all timing requirements are kept together and not overlooked.

Section 1765.4, subdivision (a)(2). PRC section 3284, subdivision (c), requires operator documentation about the operator's notice efforts to be submitted to the Division. Proposed section 1765.4.1, subdivision (a)(10), described below, establishes the documentation requirements for a declaration of completion of notice. This proposed subdivision (a)(2) reminds operators that the declaration documentation is required to be submitted to the Division before work can commence, so the Division can confirm compliance with PRC section 3824.

Section 1765.4, subdivision (a)(3). In case notice is not initially performed completely or correctly, proposed section 1765.4.1, subdivision (a)(11), repeats the same notice documentation requirements as section 1765.4.1, subdivision (a)(10), but because this would presumably occur after the initial declaration of completion of notice was submitted, this would be a supplemental declaration. This proposed subdivision (a)(3) makes clear that the supplemental notice must have been completed and documentation provided to the Division before work commences. This is necessary for the Division to confirm compliance with PRC section 3824.

Section 1765.4, subdivision (a)(4). PRC section 3284, subdivision (d)(5), requires the operator to give the appropriate regional water quality control board 5 working days' notice so that the board may witness any baseline water sampling. This proposed subdivision (a)(4) reminds operators of that five-day notice requirement, and that before commencing work, a baseline water sample must have been collected for each property owner or tenant who has requested sampling and testing. The subdivision specifies "where applicable" because sampling may not have been requested, the property owner may not have made necessary accommodations for sampling to occur, the Division may have waived the notice in accordance with PRC section 3284, subdivision (d)(7), or relevant authorities may have determined that the water was not an underground source of drinking water and had no beneficial uses.

Section 1765.4, subdivision (a)(5). Proposed subdivision (b) of this section requires that operators submit a declaration of completion of baseline sampling to the Division. This proposed subdivision (a)(5) is necessary to remind operators that the declaration must be provided before commencing work and for the Division to confirm that the testing was performed.

Section 1765.4, subdivision (a)(6). PRC section 3284, subdivision (c), requires operator documentation about the operator's notice efforts to be submitted to the Division, and subdivision (b) outlines requirements for property owner and tenant requests. This

proposed subdivision (a)(6), requires operators to submit notice-related communications with property owners and tenants to the Division before work can commence, so the Division can confirm compliance with PRC section 3824, and if necessary, appropriate authorities are determining whether water must be sampled and tested, and that sampling and testing is complete or is not required.

Section 1765.4, subdivision (b). This subdivision establishes, through a declaration of completion of baseline sampling that includes the information outlined in paragraphs (b)(1) through (b)(3), the timing and content requirements for operator documentation that baseline water sampling was completed. This subdivision is necessary to ensure that operators are aware of and comply with the sampling and testing requirements and enables the Division to effectively evaluate compliance with PRC section 3824.

Section 1765.4, subdivision (b)(1). The Division needs to know the date(s) when baseline sampling and testing was performed to confirm the sampling and testing occurred before work commenced.

Section 1765.4, subdivision (b)(2). The Division needs to know the date(s) that the regional water quality control board and State Water Resources Control Board were notified in connection with each baseline sample. Having the dates of these notices, in conjunction with the date(s) that sampling occurred as required under proposed subdivision (b)(1), enables the Division to determine compliance with sampling and testing requirements including the requirement to provide 5 working days' notice to the boards to witness sampling.

Section 1765.4, subdivision (b)(3). Under PRC section 3284, subdivision (b), an operator is required to perform sampling and testing if the property owner makes timely and necessary accommodations to enable collection of a water sample. If an operator is unable to do sampling and testing because the property owner was unable or unwilling to provide the necessary access to the water source, then the operator must provide a description and timeline of the efforts made to obtain that access. Proposed subdivision (b)(3) is necessary to ensure that the operator makes a diligent effort to access a water source for sampling and by requiring a description and timeline of the operator's efforts, the Division is better able to evaluate compliance.

Section 1765.4, subdivision (c). PRC section 3284, subdivision (d)(7), provides that the Division may waive the requirement of PRC section 3284 if the operator demonstrates that delaying well work to provide required notice and perform sampling and testing is likely to result in significant damage to life, health, or natural resources. This proposed subdivision (c), through its subdivisions (c)(1) through (c)(3), clarifies the required timing and documentation requirements for a waiver request. Requiring operators to make an initial demonstration of significant harm, and by specifying minimum requirements, this

subdivision is necessary to enable the Division to better evaluate potential application of this waiver in a transparent and consistent manner.

Section 1765.4, subdivision (c)(1). If providing notice to sample and test water would delay work and result in significant damage to life, health or natural resources, the operator should know this when the notice of intention is submitted. If instead the waiver request is made a month or two (or more) later, then notice, sampling and testing presumably could have been completed. Also, the Division may be unaware of the seriousness of a situation warranting application of the waiver. By timing the request with the notice of intention, the Division is made aware of the potential urgency, can prioritize its evaluation and better ensure significant damage to life, health, or natural resources is prevented, consistent with PRC section 3824, subdivision (d)(7).

Section 1765.4, subdivision (c)(2). This subdivision specifies the requirements to make a minimum showing through documentation of the risk associated with the delay caused by the sampling and testing process, including a qualitative discussion of the probability that the harm will occur and a rough estimate of the potential magnitude of the impacts of the harm that is likely to result. This provision is necessary to ensure that the sampling and testing requirements are met except when otherwise necessary to prevent significant harm, consistent with PRC section 3284. It is also necessary to clarify any confusion by specifying how operators can make this demonstration, which in turn will ensure that the Division can more effectively and consistently exercise its waiver authority.

Section 1765.4, subdivision (c)(3). Dovetailing with proposed subdivision (c)(2) above, this proposed subdivision specifies that the waiver documentation shall include an analysis of contributing hazards and risk factors, any available data that evidences the details of existing conditions that contribute to the risk, and an analysis of the time sensitivity of that risk. Demonstrating that there is a threat of significant harm is key to whether the Division approves an operator's waiver request, and the supporting analyses and data is relevant and necessary to the Division's evaluation.

Section 1765.4, subdivision (d). A notice of intention to plug and abandon a well within a health protection zone is not subject to the requirements of PRC section 3284, and although the exception for plugging and abandonment of a well is addressed elsewhere in these proposed regulations, this subdivision is necessary for transparency and consistency purposes to also highlight that this exception extends to the sampling and testing requirements of this section. This is consistent with PRC sections 3281, subdivision (a)(3), and 3281.5, and incentivizes plugging and abandonment within health protection zones as an option because the corresponding approval process would be less burdensome.

Section 1765.4, subdivision (e). This subdivision is consistent with, and implements, PRC section 3284, subdivision (b), in requiring that operators collect follow-up water samples for each previously tested water source, no sooner than 30 days, and no later than 60 days, after drilling is complete. Inclusion of this reminder is necessary to highlight this important timing requirement to keep it from being overlooked.

Section 1765.4, subdivision (f). This subdivision implements PRC section 3284, subdivisions (d)(4) through (6), to ensure that operators are aware of and comply with the requirements. It is necessary for efficiency, transparency and consistency to establish a framework and to specify the requirements for documenting and submitting the results of any baseline and follow-up water quality testing.

Section 1765.4, subdivision (f)(1). Having the dates of follow-up sampling enables the Division to determine compliance with sampling and testing requirements, such as completion of both baseline and follow-up sampling, and that the latter was completed no sooner than 30 days, and no later than 60 days, after drilling is complete. In addition, and similar to proposed section 1765.4, subdivision (b)(3), when follow-up testing is unable to be performed, the documentation required by this subdivision enables the Division's evaluation of issues that prevented sampling and whether due diligence was exerted in seeking to do follow-up sampling.

Section 1765.4, subdivision (f)(2). This subdivision is necessary for the Division to confirm operator compliance with the requirement to notify the appropriate water board at least five working days before collecting a sample so that water board staff may witness the sampling.

Section 1765.4, subdivision (f)(3). PRC section 3284, subdivision (d)(4), requires that, within 120 days after drilling, the operator must provide "results" of the baseline and follow-up water quality testing to specified recipients, including the surface property owner and requesting tenant. This proposed subdivision (f)(3) clarifies that results includes both sampling data and analysis, providing clarity and further specificity. Further, identification of the property owner or tenant who made the request is beneficial by drawing operators' attention to this data and analysis requirement, and necessary for the Division to determine compliance with sampling and testing requirements, including in the event an owner or tenant later alleges having made a request and the sample and test not being performed.

Section 1765.4, subdivision (f)(4). This documentation, including the date, of the delivery of the water quality data and analysis transmitted to each relevant property owner and tenant enables the Division to determine compliance with PRC section 3284, subdivision (d)(4).

Section 1765.4, subdivision (f)(5). PRC section 3284, subdivision (d)(6), requires water quality data collected to be submitted in an electronic format that follows the guidelines in CCR, title 23, commencing with section 3890. This proposed subdivision (f)(5) is necessary to create a record of when and how the operator provided the water quality data and analysis and enable the Division to determine compliance with this sampling and testing reporting requirement.

Section 1765.4, subdivision (g). Notification to the appropriate regional water quality control board and the State Water Resources Control Board is necessary to ensure that the relevant authorities receive the notification, both are required to receive the water quality data and analysis under PRC section 3284, subdivision (d)(6), and both are a "relevant" authority to determine under section 3284, subdivision (d)(7), whether a source to be tested is an underground source of drinking water and has no beneficial use.

Section 1765.4, subdivision (h). This subdivision is consistent with, and implements, PRC section 3284, subdivision (d)(7), and is included to keep water sampling and testing requirements together.

Section 1765.4, Authority and Reference Citation. PRC sections 3013 and 3106 are added as authorities cited and 3011, 3106 and 3284 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2, and section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources. Section 3284 requires regulatory oversight for compliance with the water sampling and testing requirements. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions.

This section specifies procedures for operators to complete and document compliance with PRC section 3284 statutory requirements and clarifies what information an operator would need to provide to the Division if seeking a waiver from the water sampling and testing requirements. This section and each of its subdivisions are necessary to provide operators with clear and consistent direction for compliance with the notification requirements of PRC section 3284, and to ensure that the Division receives consistent, sufficiently detailed documentation of compliance from operators to enable effective enforcement oversight.

This section benefits operators, the Division, the State Water Resources Control Board, the regional water quality control boards, and the public by making clearer and more consistent the complex requirements for notification of offers to sample and test water, and exceptions thereto, the required format and content, and witnessing requirements,

all of which increase transparency, consistency and compliance with the statutory requirements.

Section 1765.4.1 Notice to Property Owners and Tenants

As discussed at length above, PRC section 3284 requires that operators offer to provide testing of water wells or surface water to property owners and tenants within a health protection zone when the operator performs drilling-related work authorized by an approved notice of intention on a well located within a health protection zone. If a property owner or tenant wishes to request sampling and testing, PRC section 3284, subdivision (b), prescribes specific requirements and time limits. Further, PRC section 3284, subdivision (c), requires that the operator, before commencing drilling in the health protection zone, provide the Division documentation of the effort to identify and notify property owners and tenants as required.

Following proposed section 1765.4, which contains minimum requirements about when notices must be provided, proposed section 1765.4.1 serves as the source of the required contents, methods of delivery, and recordkeeping obligations regarding or in response to the notice to property owners and tenants. Section 1765.4.1 will promote greater consistency in the application of the statutory requirements and transparency for the public and regulated community. This is also necessary for the Division's effective implementation of PRC section 3284.

Section 1765.4.1, subdivision (a). This subdivision specifies requirements for the operator notice to property owners and tenants required by PRC section 3284 and is necessary to provide clear direction for compliance with notification requirements. Further, it will ensure that the Division receives consistent, sufficiently detailed documentation of compliance from operators to enable effective enforcement oversight.

Section 1765.4.1, subdivision (a)(1). The API number of the well, and the nature, location, duration and timing of the work to be performed is necessary to ensure that the notice is informative and helps property owners and tenants to understand when and where work will be occurring and the nature and extent of the proposed work. Having this information should benefit property owners and tenants to make an informed decision whether to request sampling and testing, consistent with the Legislature's intent.

Section 1765.4.1, subdivision (a)(2). This subdivision repeats the statutory requirement in PRC section 3284, subdivision (a).

Section 1765.4.1, subdivision (a)(3). PRC section 3284, subdivision (b), contains requirements that, without notice from the operator, a property owner or tenant may not otherwise be aware of so, this proposed subdivision is necessary to highlight those

requirements and require their inclusion in the operator's notice. This benefits both the operator and the requestor by flagging certain statutory conditions on sampling and testing requests.

Section 1765.4.1, subdivision (a)(3)(A) through (a)(3)(D). The requirement in each of these proposed subdivisions is required by PRC 3284, subdivision (b). They include: (a)(3)(A) a request for sampling and testing be made in writing; (a)(3)(B) that the request must be delivered to the operator within 20 days from the date notice is provided; (a)(3)(C) the notice recipient must keep a record of delivery of the request to the operator, which the Division has clarified includes writing by electronic mail; and (a)(3)(D) the surface property owner must make necessary accommodations to enable the collection of a water sample within 10 days of the request being provided to the operator. Although a tenant may make a request for sampling, the statute requires that the surface property owner makes necessary accommodations to enable the collection of a water sample within 10 days from the date notice is provided. The necessary accommodations may or may not include allowing the tenant to facilitate collection.

Section 1765.4.1, subdivision (a)(3)(E). PRC section 3824, subdivision (d)(4), discussed previously, requires the operator to provide test data and analysis to the requester within a certain timeframe. Unless otherwise provided in the notice, a property owner or tenant may be unaware of or confused about when, and if, they will be provided those results and therefore may not choose to make a request for sampling and testing in the first place. By requiring the inclusion of this information, notice recipients will be better able to make an informed decision.

Section 1765.4.1, subdivision (a)(3)(E). Depending on the formality of a notice and on the property owner's or tenant's familiarity with oil and gas operations, the notice recipient may be unclear whether they must respond. PRC section 3284 does not require any response from a property owner or tenant not wishing to act on the sampling and testing offer. This section is necessary to ensure the property owner and tenant are aware that they do not have to respond.

Section 1765.4.1, subdivision (a)(4). This section requires that the operator must include an email address that property owners and tenants may use to make a sampling and testing request. This is necessary to ensure that email is an available means by which the property owner or tenant can make a request in writing with a record of delivery.

Section 1765.4.1, subdivision (a)(5). This proposed subdivision prohibits operators from asking, even on a voluntary basis, for acknowledgement of receipt of notice except where expressly required by subdivision (a)(10) of this section. Some operator notices have requested acknowledgment through document return requests with signatures. Again, PRC section 3284 does not require any response from a property owner or

tenant not wishing to act on the sampling and testing offer. This prohibition in this subdivision is necessary to avoid potentially burdening notice recipients. These proposed regulations already require that operator notices are properly delivered, and that service is documented, so additional acknowledgment is redundant. Moreover, this prohibition better ensures that property owners and tenants are not discouraged from requesting sampling and testing by additional requirements created by the operator, even if stated to be voluntary. In addition, by cross-referencing proposed subdivision (a)(9), operators would be alerted to an exception to the general restriction against asking for acknowledgment of receipt.

Section 1765.4.1, subdivision (a)(6). This proposed subdivision, through its further four subdivisions (A) through (D), specifies acceptable, commonly used means for operators to choose from for required delivery of notice. This is necessary to provide clarity for operators, for transparency to the public about the ways in which notice may be provided, and to enable the Division to better evaluate compliance with PRC section 3284.

Section 1765.4.1, subdivision (a)(7). PRC section 3284 contains timing requirements, such as the 30 days' notice discussed above, the 20 days for a request to sample and the 10 days to make necessary accommodations for sampling, tying off the date that notice is provided. Therefore, this proposed subdivision, through its four subdivisions (A) through (D), is necessary to specify when notice is deemed to have been delivered, depending on the means the operator used in accordance with proposed subdivision (a)(6). The timeframe for personal delivery would begin when the notice is delivered. From there, additional days are built in to avoid unreasonably and unfairly shortening timelines for property owners and tenants to make requests if other methods of delivery that take longer were used. Specifying when notice is effective provides transparency and consistency while enabling the Division to better evaluate compliance and eliminate uncertainty for both operators and notice recipients as to when the statutory time limits in PRC section, subdivision (b), start and end.

Section 1765.4.1, subdivision (a)(8). This proposed subdivision makes clear the PRC section 3284 requirement that notice be given to "the property owner" and prescribes where to obtain owner information. If the property owner mailing address is other than at the property that is within 3,200 feet of a wellhead, the notice must go to both locations, if capable of receiving mail. This dual notice is appropriate because the property within the health protection zone may be occupied by a tenant, and it is necessary to notice both locations to ensure that surface property owners receive the statutorily mandated notice. This ensures that tenants are also receiving notice as property owners may not choose or know to forward the notice to their tenants. By requiring this mailing to be addressed only to the current resident, this increases the likelihood that the current tenant will understand that they are an intended recipient.

Section 1765.4.1, subdivision (a)(9). Identifying tenants is more complicated, burdensome, and potentially intrusive than identifying property owners. This subdivision acknowledges those difficulties and the necessity of allowing notice to be addressed to a non-specific addressee.

Section 1765.4.1, subdivision (a)(10). This provides an additional, optional means for an operator to give notice to tenants of a medium to large residential or commercial property by leaving a copy of the notice at each individual residential or commercial unit within the residential or commercial property between the hours of 8:00am and 6:00pm, with some person not less than 18 years of age who provides a signature acknowledging receipt of the notice. This specification is necessary to exclude leaving a printed copy in a common lobby as a sole means of notice because otherwise such notices could be removed by the property owner, manager, tenant or other person, thereby depriving building tenants from receiving statutorily required notice. The provided additional option is necessary because it may be infeasible or an unreasonable burden on operators to attempt personal delivery on each individual or entity that legally holds the right to occupy or possess an individual unit, and the offered personal delivery is potentially more expedient and less expensive than other methods. In addition, allowing personal delivery to be completed by leaving the notice with a person 18 years or older, between the hours of 8:00am and 6:00pm, is consistent with the legal standard for substituted service of legal documents.

Section 1765.4.1, subdivision (a)(11). The operator documentation requirement found in PRC section 3284, subdivision (c), was introduced above in proposed section 1765.4, subdivision (a)(2), which cross-references this proposed subdivision (a)(11). This proposed subdivision, through seven of its own subdivisions, is necessary to specify the timing, format and content of operator notice documentation. Requiring submission of the required declaration within 5 days of the last required notice being delivered is important given the truncated time available for Division review. PRC section 3284, subdivision (b), requires that any required notice be provided at least 30 days before commencing drilling. Accordingly, the Division would effectively have 25 calendar days to evaluate compliance with the notice requirements.

Section 1765.4.1, subdivision (a)(11)(A). Knowing which well the notice was provided for, and its location is imperative for determining whether notice was provided to property owners and tenants within 3,200 feet.

Section 1765.4.1, subdivisions (a)(11)(B) and (a)(11)(C). Having a list of all notices provided, itemized by the County's Assessor Parcel Number for the property and the name of each surface property owner and tenant notified or indication that the addressee was unspecified, is necessary to enable effective Division oversight.

Section 1765.4.1, subdivisions (a)(11)(D) through (a)(11)(F). These subdivisions prescribe information documentation requirements regarding delivery methods of providing each notice, the address where notice was given, the date each notice was delivered, and the date each notice was deemed delivered in accordance with proposed subdivision (a)(7) of this section. This information is necessary to ensure compliance with PRC section 3284 and to enable effective Division oversight.

Section 1765.4.1, subdivisions (a)(11)(G). Requiring submittal of representative copies of the notices that were provided is necessary to confirm that notices contained required content and did not contain prohibited content.

Section 1765.4.1, subdivision (a)(12). As discussed above in proposed section 1765.4, this proposed subdivision requires a supplemental declaration of notice that contains the information required by proposed subdivision (a)(11) if further notices are required after submittal of the original declaration of completion of notice. Health protection zones vary in potential notice recipient density, and some may have many property owners and tenants. This number may periodically change in the event of a surface property being subdivided or individual residential or commercial units becoming occupied, unoccupied, or changing legal ownership. For these or other reasons, it may be necessary for an operator to supplement its original declaration if additional notices are provided, and this subdivision makes clear those supplemental declarations follow the same process as the original declaration.

Section 1765.4.1, subdivision (a)(13) and subdivisions (a)(13)(A) through (C). Requiring the operator to retain copies of the three categories of specified documents and information is necessary for operators to demonstrate, and the Division to evaluate, compliance with PRC section 3284.

Section 1765.4.1, subdivision (a)(14). This subdivision specifies how long the records required by proposed subdivision (a)(13) of this section should be kept, and that the records specified for retention shall be made available to the Division promptly upon request. A reasonable retention period is appropriate and necessary to enable the Division to audit the representations made in operator declarations and, if an owner or tenant later claims they did not receive notice, for the Division to conduct a review. This provision supports Division oversight and necessary information should be available if needed.

Section 1765.4.1, Authority and Reference Citation. PRC sections 3013 and 3106 are added as authorities cited and 3011, 3106 and 3284 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2, and section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources. Section 3011 confirms that the Division's purposes

include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. Section 3284 applies as it contains requirements for providing notice offering to perform water sampling and testing.

This section and each of its subdivisions, in combination with proposed section 1765.4, are necessary to provide operators with a clear and consistent direction for compliance with the notification requirements of PRC section 3284, further the Division's statutory mandates, and ensure that the Division receives consistent, sufficiently detailed documentation of compliance from operators to enable effective enforcement oversight.

Section 1765.5 Required Notice for New Production Facilities

Production facility is defined in CCR section 1760, subdivision (r). PRC section 3281, subdivision (b), prohibits the construction or operation of a new production facility within a health protection zone, unless associated with an approved notice of intention pursuant to PRC section 3281, subdivision (a), or the Division determines necessary to protect public health and safety subject to certain exceptions. Proposed section 1765.3, discussed above, addressed requirements for production facilities associated with a notice of intention, and cross-references this proposed section's requirements.

This proposed section 1765.5 creates a framework for when a notice for new production facilities would be required, consistent with PRC section 3281, subdivision (b). Related proposed section 1765.5.1 specifies the informational contents of this notice. Sections 1765.5 and 1765.5.1 are necessary to ensure the Division consistently receives timely prior notice and sufficient information to effectively enforce compliance with the general prohibition against constructing and operating new production facilities in health protection zones and determine if an exception applies.

Section 1765.5, subdivision (a)(1)-(2). As noted, PRC section 3281, subdivision (b), prohibits construction or operation of a new production facility within a health protection zone unless associated with a notice of intention determined by the Division to meet one of the exceptions under PRC section 3281, subdivision (a), or as necessary to protect public health and safety. Repetition here helps to orient operators and the public to this general prohibition, but the exceptions are broken into separate proposed subdivisions ((a)(1) and (a)(2)) for clarity and because they are subject to differing requirements.

Section 1765.5, subdivision (b). This proposed subdivision requires operators to submit a New Production Facility Notice containing information specified in proposed section 1765.5.1 to the Division prior to construction or operation of a new production facility, even on a temporary basis, within a health protection zone. It notes that this

requirement is an element of, not a replacement to, the Division's larger production facility regulatory framework. By cross-referencing proposed section 1765.5.1, the contents of the notice are made clear and specific, and by cross-referencing proposed subdivision (c) of this section the operator is alerted to exceptions to this general requirement.

Section 1765.5, subdivision (c). This proposed subdivision identifies when a New Production Facility Notice is not required to help operators understand and comply with New Production Facility Notice requirements.

Section 1765.5, subdivision (c)(1). The PRC section 3281, subdivision (b), prohibition only applies to new production facilities within a health protection zone, so this subdivision makes clear that a New Production Facility Notice is not required for a newly constructed or operated production facility that is not within 3,200 feet of a sensitive receptor. Because existing statutes and regulations contain production facility reporting requirements unrelated to health protection zone requirements, it is necessary to state that this exception does not relieve an operator of any other production facility notification or reporting requirement, including but not limited to PRC section 3270. This eliminates confusion and speculation as to which authority controls.

Section 1765.5, subdivision (c)(2). This subdivision excepts from the New Production Facility Notice requirement equipment that is not attendant to oil and gas production or injection operations, because SB 1137 is concerned with proximity of sensitive receptors to oil and gas operations.

Section 1765.5, subdivision (c)(3). For consistency with PRC section 3281, it is necessary to distinguish between "new" and "existing" production facilities, as these terms may be unclear. Operators are subject to maintenance and repair requirements under the Division's existing regulations, and certain changes made to existing production facilities, such as replacing a leaking tank in conformance with existing requirements, may create confusion whether the Division would consider the equipment as new. Specifying when a notice is not required draws the necessary distinction between new production facilities versus changes to existing ones, makes clear the Division's expectations, and ensures effective implementation of PRC section 3281. This subdivision specifies that no New Production Facility Notice is required for the alteration, repair, modification, relocation or replacement of an existing production facility if the outlined criteria is met. If the specified criteria is not met, a New Production Facility Notice would be required to enable the Division's review and determination whether the facility is indeed existing or new. If new, its construction or operation would be prohibited unless it meets an exception.

Section 1765.5, subdivision (c)(3)(A). If the production facility serves a different purpose than the purpose of the altered, repaired, modified, relocated or replaced equipment,

a New Production Facility Notice is required. This proposed subdivision is appropriate and necessary as it will enable the Division to audit representations in operator records collected and maintained pursuant to proposed subdivision (c)(3)(F).

Section 1765.5, subdivision (c)(3)(B). After an alteration, repair, modification, relocation or replacement of an existing production facility, it is reasonable to expect that the production facility would be interconnected in the same manner and therefore a strong indicator that it is not construction or operation of a “new” production facility. In addition, including this criterion is also appropriate and necessary to enable the Division to audit representations in operator records collected and maintained pursuant to proposed subdivision (c)(3)(F).

Section 1765.5, subdivision (c)(3)(C). This proposed subdivision includes as criteria that the production facility will continue to be located within the same secondary containment, if applicable. Not all production facilities require secondary containment but if they do, continued location within the same secondary containment is a strong indicator of whether the production facility was existing prior to any changes made. Proposed subdivision (c)(3)(F)'s record collection and retention requirements facilitate a Division audit to confirm the production facility is not new. The benefit is implementation of PRC section 3281 while promoting transparency and uniform criteria.

Section 1765.5, subdivision (c)(3)(D). This proposed subdivision includes as criteria that a production facility cannot be moved from outside a health protection zone into a health protection zone. That would trigger the requirement for a New Production Facility Notice. Proposed subdivision (c)(3)(F)'s record collection and retention requirements facilitate a Division audit to confirm the production facility previously existed and is not new to the health protection zone.

Section 1765.5, subdivision (c)(3)(E). This provision is necessary to ensure that an existing production facility is being replaced, not a new production facility added to the existing number, and when the replacement production facility is brought into service, the replaced production facility shall be deemed Out-of-Service and comply with CCR section 1773.5's decommissioning requirements. Proposed subdivision (c)(3)(F)'s record collection and retention requirements facilitate a Division audit to confirm the replacement production facility replaced an existing production facility. The benefit is implementation of PRC section 3281 while promoting transparency and uniform criteria.

Section 1765.5, subdivision (c)(3)(F). The framework for existing facilities in this proposed section relies in part on operator recordkeeping, so this proposed subdivision specifies that demonstrative records must be kept. This requirement facilitates a Division audit to confirm that no new production facility will be constructed or operated within a health protection zone.

Section 1765.5, subdivision (c)(3)(F)(i). Existing production facility recordkeeping regulations requires an operator to maintain records of construction, installation, maintenance and other activities for the life of a production facility. As a result, there is potential ambiguity whether records relating to the replaced facility must be kept. This proposed subdivision is necessary to clarify that records for both the replaced facility and the replacement facility must be kept for the life of the replacement facility.

Section 1765.5, subdivision (c)(3)(F)(ii). To provide clear instruction to operators about how long to retain the records required by this proposed subdivision, it is necessary to cross-reference the production facility recordkeeping requirements of CCR section 1777.3, subdivisions (a)(1) and (a)(2).

Section 1765.5, subdivision (c)(4). As noted above, PRC section 3281, subdivision (b), provides that “[n]o new production facilities shall be constructed or operated in a health protection zone unless...determined by the division to be necessary to protect public health and safety.” Utilizing temporary production facilities for the reasons specified is necessary to protect public health and safety. Additionally, notices of intention for plugging and abandonment work are excepted under section 3281, subdivision (a)(3), and temporary facilities needed to accomplish the plugging and abandonment, and related decommissioning would be associated with such notices of intention. Limiting the duration ensures that temporary equipment will not remain permanently on site, effectively becoming a new production facility. Discretion to extend, on a case-by-case basis, the 60-day limitation period is necessary and beneficial because some response and cleanup activities, and larger plugging and abandonment projects, take longer so flexibility is needed.

Section 1765.5, Authority and Reference Citation. PRC sections 3013, 3106, and 3270 are added as authorities cited and 3011, 3106, 3270, and 3281 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2; section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources; and section 3270 gives the Division authority to promulgate regulations that prescribe minimum facility maintenance standards and to access records of maintenance and repair operations, tests, and inspections, maintained by the operator. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. Section 3281 contains requirements that apply based on when new production facilities may be constructed and operated within a health protection zone.

This proposed section 1765.5 and each of its subdivisions are necessary to implement the Division's mandates in PRC sections 3011, 3106, 3270, and 3281, by specifying minimum requirements for notices of new production facilities within a health protection

zone to ensure that no new production facilities are constructed or operated unless associated with a notice of intention or necessary to protect public health and safety.

Section 1765.5 promotes consistency and transparency in the application of the statutory requirements and benefits public health by furthering the Legislature's SB 1137 health and safety goals.

Section 1765.5.1 Contents of a New Production Facility Notice

This proposed section specifies the informational contents for the New Production Facility Notice, referenced in proposed section 1765.5, to be provided to the Division. Both sections 1765.5 and 1765.5.1 are necessary to ensure that the Division will consistently receive timely prior notice and sufficient information to effectively enforce compliance with the general prohibition against constructing and operating new production facilities in health protection zones and determine if an exception applies.

Section 1765.5.1, subdivision (a). This provision introduces two proposed subdivisions specifying information necessary for the Division's review to determine compliance with PRC section 3281, subdivision (b).

Section 1765.5.1, subdivision (a)(1). The basic information required by (a)(1)(A) through (a)(1)(E) of this proposed subdivision is necessary to facilitate the Division's review of whether an exception applies to the new production facility proposed to be built within a health protection zone. Minimum criteria and consistent documentation benefits the Division's review and increases transparency of decision-making.

Section 1765.5.1, subdivision (a)(2). The sensitive receptor inventory and map required by this proposed subdivision will facilitate the Division's evaluation of whether to approve a proposed production facility, and the specific location and proximity to a sensitive receptor is information necessary for the Division's consideration. In addition, by cross-referencing proposed sections 1765.7 and 1765.8, the required sensitive receptor information is made clear and specific.

Section 1765.5.1, subdivision (b). As noted previously, PRC section 3281, subdivision (b), contemplates new production facilities within a health protection zone when associated with a notice of intention approved under section 3281, subdivision (a). This proposed provision and the basic information required by proposed subdivisions (b)(1) through (b)(3) are necessary to identify the content for the notice when an operator asserts this exception applies and ensures that the Division has relevant information to decide consistent with PRC section 3281, subdivision (b).

Section 1765.5.1, subdivision (c). PRC section 3281, subdivision (b), also contemplates new production facilities within a health protection zone when necessary to protect

public health and safety. This proposed provision through its subdivisions (c)(1) through (c)(7) is necessary to establish a framework and content requirements for demonstrating whether this exception is appropriate under the specific circumstances at issue.

Section 1765.5.1, subdivision (c)(1). This proposed subdivision is appropriate and necessary to require the operator to make an initial demonstration of the threat to public health and safety so that the Division will be better able to evaluate potential application of the public health and safety exception in a transparent and consistent manner.

Section 1765.5.1, subdivision (c)(2). This proposed subdivision requires the operator to provide a description and characterization of the magnitude of the risks and harms associated with the threat, including the likely populations affected. This is necessary to ensure the Division has all pertinent information available for its evaluation.

Section 1765.5.1, subdivision (c)(3). This proposed subdivision requires the operator to include a discussion of the timeframe of the threat, including potential short- and long-term impacts of the threat. This is necessary to inform the timing of any response, whether the threat can be prevented, how the timeframe is important for the Division's evaluation, how long the threat has been occurring, and whether it will continue to occur if the proposed production facility is not approved.

Section 1765.5.1, subdivision (c)(4). This proposed subdivision requires the operator to provide an explanation of how the proposed operations will reduce or eliminate the threat. This is necessary for the Division's evaluation as it will assist in assessing whether the proposed production facility is necessary to and will effectively address the threat.

Section 1765.5.1, subdivision (c)(5). This proposed subdivision requires the operator to submit any data or engineering studies demonstrating the existence of the threat and the magnitude of potential harms so that the Division has all pertinent information and data available for its evaluation.

Section 1765.5.1, subdivision (c)(6). As proposed, this proposed subdivision requires the operator to discuss any potential alternatives to address the threat and reasons why the alternatives are less effective or not necessary to address the threat. The discussion of potential alternatives should be technical in nature and the alternative evaluated for their effectiveness at mitigating the identified threat. This requirement is necessary to encourage consideration and vetting of other possible technical solutions.

Section 1765.5.1, subdivision (c)(7). This proposed subdivision contemplates an iterative process between an operator and the Division on a case-by-case basis when additional information is necessary to demonstrate the existence of the threat or the

efficacy of the proposed solution. This language promotes transparency and accurate expectations regarding potential information needs. Further, flexibility in the information requirements allows the Division to ensure it has whatever data is needed to evaluate a new production facility for purposes of implementing PRC section 3281.

Section 1765.5.1, subdivision (d). The Division developed the framework in proposed subdivision (c) of this section so that the Division has consistent and complete information to determine whether a production facility is necessary for public health and safety. The waiver provision in subdivision (d) provides necessary flexibility to ensure that the Division gets important information when needed without adding extra work with no health, safety, or environmental benefit, or causing an unnecessary delay in completion of needed work. The Division should be able to waive requirements of subdivision (c) if the given threat is known and understood, potentially well-documented already, the production facility is already required by existing oil and gas regulations or other health and safety-based regulations, or when the Division ordered the work necessitating the production facility.

Section 1765.5.1, Authority and Reference Citation. PRC sections 3013, 3106, and 3270 are added as authorities cited and 3011, 3106, 3270, 3281 and 3285 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2; section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources; and section 3270 gives the Division authority to promulgate regulations that prescribe minimum facility maintenance standards and to access records of maintenance and repair operations, tests, and inspections, maintained by the operator. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. Section 3281 contains requirements that apply based on when new production facilities may be constructed and operated within a health protection zone. Section 3285 contains requirements that apply based on the submission and contents of sensitive receptor inventories and maps.

Proposed section 1765.5.1 and each of its subdivisions are necessary to implement PRC sections 3011, 3106, 3270, and 3281 by specifying the minimum required contents for a New Production Facility Notice which, in turn, is necessary for the Division's effective implementation of PRC section 3281, subdivision (b)'s prohibition on construction and operation of new production facilities within a health protection zone.

This section benefits operators by making clear and understandable what is necessary to be submitted to the Division for the new production facility exceptions in PRC section 3281, subdivision (b). Having a straightforward and consistent process will benefit the

Division in its review, and implementing PRC section 3281, subdivision (b), will benefit the public through a reduction of new production facilities within health protection zones.

Section 1765.6 Annual Submission of Sensitive Receptor Inventory and Map

PRC section 3285 requires every operator by July 1, 2025, and annually thereafter, to submit to the Division a sensitive receptor inventory and map. Some content is prescribed, but some terms require greater specificity for effective implementation. Section 3285, subdivision (c), requires that the Division review no less than 30 percent of inventories and maps annually, and all current inventories and maps are to be made available to the public on the Division's website. Without further guidance, the inventories and maps the Division would receive could be highly variable, potentially incomplete, and challenging to view, review and comprehend.

This proposed section 1765.6, in conjunction with proposed sections 1765.7 through 1765.9, is necessary to provide operators with clear direction for compliance and to ensure that the annual submission information the Division receives is sufficiently complete and consistent in content.

Section 1765.6, subdivision (a). This introductory subdivision is consistent with PRC section 3285, subdivision (b), in requiring submission of an annual sensitive receptor inventory and map, with up-to-date information no more than 90 days old and as identified in proposed subdivisions (a)(1) through (a)(3).

Section 1765.6, subdivision (a)(1). This directs the operator to the sensitive receptor inventory requirements of proposed section 1765.7, which is necessary to make the meaning and contents of "sensitive receptor inventory" clear and specific.

Section 1765.6, subdivision (a)(2). This directs the operator to the sensitive receptor map requirements of proposed section 1765.8, which is necessary to make the meaning and contents of "sensitive receptor map" clear and specific.

Section 1765.6, subdivision (a)(3). PRC section 3285, subdivision (a)(2), requires an operator statement as to whether their wellheads and production facilities are within 3,200 feet of a sensitive receptor, i.e., are within a health protection zone. This proposed subdivision directs the operator to proposed section 1765.9, subdivision (a), which articulates the requirements for a statement that an operator's wellheads and production facilities are not located within a health protection zone and is necessary to make the meaning and contents of a required "statement" clear and specific.

Section 1765.6, Authority and Reference Citation. PRC sections 3013, 3106, and 3270 are added as authorities cited and 3011, 3106, 3270, and 3285 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may

be necessary to carry out the purposes of division 2; section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources; and section 3270 gives the Division authority to promulgate regulations that prescribe minimum facility maintenance standards and to access records of maintenance and repair operations, tests, and inspections, maintained by the operator. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. Section 3285 contains requirements for the annual submission of sensitive receptor inventories and maps, and a mandate for the Division to review no less than 30% of those inventories and maps.

Proposed section 1765.6 and each of its subdivisions are necessary to implement PRC sections 3011, 3106, 3270, and 3285 by specifying and clarifying the required contents for the annual submission of a sensitive receptor inventory and map, to provide operators with clear direction for compliance and to ensure annual submission information is sufficiently complete and consistent in content.

This section benefits operators by making clear and understandable what is necessary to be submitted to the Division and benefits the public and the Division because consistent annual submission information will facilitate the Division's timely and orderly enforcement of compliance with health protection zone requirements.

Section 1765.7 Content and Formal Specifications for Sensitive Receptor Inventories

As just discussed, as part of the process for identifying health protection zones and enforcing related requirements, PRC sections 3281 and 3285 require that operators submit inventories and maps of sensitive receptors to the Division in specific situations. This includes (1) an annual submission with respect to all of the operator's wells and production facilities; (2) when seeking approval of a notice of intention, with respect to the particular well or wells that are the subject of the notice; and (3) when seeking approval for a new production facility within a health protection zone. The inventories and maps are the core informational materials required from operators to confirm whether wells and production facilities are located within a health protection zone.

This section 1765.7 specifies the content and format of the required inventories, and the following section 1765.8 specifies the content and format of the required maps, with distinctions based on the submission requirement the map and inventory are intended to satisfy. Also, while PRC 3285 identifies the inventory and map as separate, but complementary, documents, certain provisions may be unclear as to whether a requirement applies to one or both.

Section 1765.7, subdivision (a). This introductory subdivision would require that the sensitive receptor inventory conform to the content specifications identified in proposed subdivisions (a)(1) through (a)(4).

Section 1765.7, subdivision (a)(1). The scope of a sensitive receptor inventory may vary depending on the reason for the submission and this proposed subdivision introduces the three reasons: a notice of intention (subdivision (a)(1)(A)), a New Production Facility Notice (subdivision (a)(1)(B)), or an annual inventory (subdivision (a)(1)(C)). Consolidating sensitive receptor inventory requirements in one section is necessary to help ensure they are not overlooked and to promote greater compliance.

PRC section 3285, subdivision (a)(2) allows an operator to stop adding sensitive receptors once "sufficient" sensitive receptors have been identified to enable the determination that the wellhead or production facility is within a health protection zone. Only one sensitive receptor within 3,200 feet of the wellhead or production facility is sufficient to create a health protection zone that encompasses all or part of the wellhead or production facility. Identification of further sensitive receptors is therefore unnecessary.

Section 1765.7, subdivision (a)(1)(A). Accordingly, proposed subdivision (a)(1)(A) limits an inventory's scope to identification of at least one sensitive receptor based on the wellhead location.

Section 1765.7, subdivision (a)(1)(B). Also accordingly, proposed subdivision (a)(1)(B) limits an inventory's scope to identification of at least one sensitive receptor based on the production facility location.

Section 1765.7, subdivision (a)(1)(C). This proposed subdivision defines the scope of the annually required inventory with respect to wellheads and production facilities.

Section 1765.7, subdivisions (a)(1)(C)(i) through (a)(1)(C)(iii). This proposed subdivision makes clear that the PRC section 3285 inventory is to cover each wellhead and production facility location within a health protection zone. Identification of one sensitive receptor within 3,200 feet of the wellhead or production facility is sufficient.

Section 1765.7, subdivision (a)(2). PRC section 3285, subdivision (a)(1), requires a list of sensitive receptors in the inventory but generally does not describe what information is required in the list. This proposed subdivision is necessary to make clear the specific content to give meaning to the list requirement. Requiring consistent descriptions of sensitive receptors allows for easier tracking and is less likely to lead to confusion as to what structure or another feature is being referenced. It is also necessary to ensure the Division has all pertinent information available to determine compliance.

Section 1765.7, subdivision (a)(2)(A). A unique identifier such as a street address is necessary for clear identification of the sensitive receptor referenced in the inventory.

Section 1765.7, subdivision (a)(2)(B). This requirement is from PRC section 3285, subdivision (a)(1)(B), but clarifies that “type” of sensitive receptor means the categories of sensitive receptors defined in PRC section 3281, subdivision (c). Otherwise, there could be confusion and inconsistent references used between operators to describe similar sensitive receptors.

Section 1765.7, subdivision (a)(2)(C). Latitude and longitude of the sensitive receptor is required here because PRC section 3285, subdivision (a)(1)(A), requires the distance from the sensitive receptor to each wellhead or production facility but only specifies that latitude and longitude are required for the wellhead and production facility. Precise location information for both ends is necessary to obtain a reliable measurement.

Section 1765.7, subdivision (a)(2)(D). This requirement is also from PRC section 3285, subdivision (a)(1)(A), but is necessary to repeat here to ensure inventory requirements are kept together and not overlooked.

Section 1765.7, subdivision (a)(3). This proposed subdivision lists descriptive information specific to and required for each wellhead in the inventory. As with the sensitive receptor information in proposed subdivision (a)(2), requiring consistent descriptions of wellheads here allows for easier tracking and is less likely to lead to confusion as to what is being referenced, and is necessary to ensure the Division has all pertinent information available to determine compliance. The benefit is implementation of PRC sections 3281 and 3285 while at the same time promoting transparency and uniform criteria.

Section 1765.7, subdivision (a)(3)(A). This requirement is from PRC section 3285, subdivision (a)(1)(A), but is necessary to repeat here to ensure inventory requirements are kept together and not overlooked.

Section 1765.7, subdivision (a)(3)(B). The name of the well is a useful way to crosscheck in case an API number is transposed, or a digit is missing in the Division's records or in the submitted inventory.

Section 1765.7, subdivision (a)(3)(C). Identification of the well type facilitates the Division's understanding of which well is being referenced and makes inventory review easier.

Section 1765.7, subdivision (a)(3)(D). This requirement is implicitly required by PRC section 3285, subdivision (a)(1), but is necessary to repeat here to ensure inventory requirements are kept together and not overlooked. Because of the format

requirements of this section, having the field as a sortable or searchable entry facilitates the Division's review and makes the inventories more useful to the public who may be interested only in wells located in a nearby oil or gas field.

Section 1765.7, subdivision (a)(3)(E). This requirement is from PRC section 3285, subdivision (a)(1)(A), but is necessary to repeat here to ensure inventory requirements are kept together and not overlooked.

Section 1765.7, subdivision (a)(4). This proposed subdivision provides that each production facility shall have an entry that provides all the following descriptive information: (A) unique identifier, (B) type of production facility, (C) name of the oil and gas field, and (D) latitude and longitude coordinates for the facility, which for pipelines is for the segment that is nearest to the sensitive receptor closest to the pipeline. As above, requiring consistent descriptions of production facilities here allows for easier tracking and is less likely to lead to confusion. It is also necessary to ensure the Division has all pertinent information available to determine compliance. The benefit is implementation of PRC sections 3281 and 3285 while at the same time promoting transparency and uniform criteria.

Section 1765.7, subdivision (a)(4)(A). This requirement is from PRC section 3285, subdivision (a)(1)(A), but is necessary to repeat here to ensure inventory requirements are kept together and not overlooked.

Section 1765.7, subdivision (a)(4)(B). Identification of the type of production facility facilitates the Division's understanding of what well is being referenced and makes inventory review easier.

Section 1765.7, subdivision (a)(4)(C). This requirement is implicitly required by PRC section 3285, subdivision (a)(1), but is necessary to repeat here to ensure inventory requirements are kept together and not overlooked. Because of the format requirements of this section, having the field as a sortable or searchable entry facilitates the Division's review and makes the inventories more useful to the public who may be interested only in production facilities located in a nearby oil or gas field.

Section 1765.7, subdivision (a)(4)(D). This requirement is from PRC section 3285, subdivision (a)(1)(A), but is necessary to repeat here to ensure inventory requirements are kept together and not overlooked. Because of the potentially complex and large sizes of pipeline facilities, and interest in not overwhelming an inventory with data points, it is necessary to specify more specifically from where latitude and longitude for pipelines should be measured.

Section 1765.7, subdivision (b). PRC section 3285 does not specify inventory format, so this proposed subdivision is necessary to avoid confusion about the acceptable file

type for this submission and to ensure that the data is easily accessible by the Division and members of the public, including being compliant with all requirements of the federal Americans with Disabilities Act of 1990. The benefit will be consistency in submission and accessibility of data. The specified format was chosen so that information could be easily provided, filtered and sorted.

Section 1765.7, subdivision (c). PRC section 3281, subdivision (b), provides that “[i]f the inventory or map includes any personally identifiable information, the operator shall submit a second [redacted] version....” Further, that “[i]nventories and maps with no personally identifiable information shall be made available to the public in compliance with Section 3234.” Although concerns about inclusion of personally identifiable information is not expressly prohibited by PRC section 3285, it should be interpreted consistently with PRC section 3281. This proposed subdivision 1765.7 is therefore necessary to ensure that a sensitive receptor inventory protect the privacy of individuals, consistent with PRC section 3281, subdivision (b).

Section 1765.7, Authority and Reference Citation. PRC sections 3013, 3106, and 3270 are added as authorities cited and 3011, 3106, 3234, 3270, 3281 and 3285 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2; section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources; and section 3270 gives the Division authority to promulgate regulations that prescribe minimum facility maintenance standards and to access records of maintenance and repair operations, tests, and inspections, maintained by the operator. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. Except as provided, section 3234 provides that well records filed with the Division are public records. PRC section 3281 contains requirements that apply based on when new production facilities may be constructed and operated within a health protection zone. PRC section 3285 contains requirements that apply based on the submission and contents of sensitive receptor inventories and maps.

This section and each of its subdivisions are necessary to implement the Division's mandates, and inventory requirements of PRC sections 3281 and 3285, and to ensure that when the Division receives information about sensitive receptors, wells, and production facilities it is sufficiently complete, organized, and in a usable format. Complete, organized, readily usable inventory information will be essential for the Division to review notices of intention, New Production Facility Notices, and annual sensitive receptor submissions in a timely manner, to enable the Division's effective enforcement of compliance with requirements related to health protection zones. Consistent and complete information will also benefit the public wanting to access inventory information that is predictable, consistent across operators, and

understandable. The regulated community also benefits from clear and comprehensive guidance through this proposed section and its implementation of PRC sections 3281 and 3285.

Section 1765.8 Content and Formal Specifications for Sensitive Receptor Maps

As discussed above, as part of the process for identifying health protection zones and enforcing related requirements, PRC sections 3281 and 3285 require that operators submit inventories and maps of sensitive receptors to the Division in specific situations. This includes (1) an annual submission with respect to all the operator's wells and production facilities; (2) when seeking approval of a notice of intention, with respect to the well or wells that are the subject of the notice; and (3) when seeking approval for a new production facility within a health protection zone. The inventories and maps are the core informational materials required from operators to confirm whether wells and production facilities are located within a health protection zone.

This section 1765.8 specifies the content and format of the required maps, and the previous section 1765.7 specifies the content and format of the required inventories, with distinctions based on the submission requirement the map and inventory are intended to satisfy. Also, while PRC 3285 identifies the inventory and map as separate, but complementary, documents, certain provisions may be unclear as to whether a requirement applies to one or both.

Section 1765.8, subdivision (a). This introductory subdivision would require that the sensitive receptor map conform to the content specifications identified in proposed subdivisions (a)(1) through (a)(2).

Section 1765.8, subdivision (a)(1). As described, a sensitive receptor map is required in three scenarios: with a notice of intention, with a New Production Facility Notice, and annually as required by PRC section 3285. Moreover, as addressed by proposed subdivision (a)(1)(A) through (a)(1)(C), the required scope of these maps varies. As such, proposed subdivision (a)(1) is necessary to clarify and consolidate the sensitive receptor map requirements to ensure they are not overlooked and to promote greater operator compliance.

PRC section 3285, subdivision (a)(2), allows an operator to stop adding sensitive receptors once "sufficient" sensitive receptors have been identified to enable the determination that the wellhead or production facility is within a health protection zone. Only one sensitive receptor within 3,200 feet of the wellhead or production facility is sufficient to create a health protection zone. Identification of further sensitive receptors is therefore unnecessary.

Section 1765.8, subdivision (a)(1)(A). Accordingly, proposed subdivision (a)(1)(A) limits a map's scope when submitted with a notice of intention to identification of at least one sensitive receptor based on the wellhead location.

Section 1765.8, subdivision (a)(1)(B). Also accordingly, proposed subdivision (a)(1)(B) limits a map's scope when submitted with a New Production Facility Notice to identification of at least one sensitive receptor based on the production facility location.

Section 1765.8, subdivision (a)(1)(C). This proposed subdivision defines the scope of the annually required sensitive receptor map with respect to wellheads and production facilities and explains that identification of at least one sensitive receptor within 3,200 feet of the wellhead or production facility is sufficient.

Section 1765.8, subdivision (a)(2). PRC section 3285, subdivision (c), requires maps to show each sensitive receptor's location relative to the wellheads and facilities. This proposed subdivision (a)(2) is necessary for guidance about how to consistently identify the precise location of a wellhead or production facility, including a pipeline. Requiring consistent markers makes locating and identifying wellheads and production facilities easier, less likely to cause confusion, and ensures that the Division has all pertinent information available to determine compliance.

Section 1765.8, subdivision (b). This introductory proposed subdivision and its related subdivisions prescribe format specifications for sensitive receptor maps and is necessary to avoid confusion about acceptable format and to ensure that maps contents and format are consistent and understandable, both for the Division's review and for the public once the maps are made available online.

Section 1765.8, subdivision (b)(1). Limiting map layout size is necessary so that map files are not too large for the public to view, print, or download.

Section 1765.8, subdivision (b)(2). A map legend is necessary to orient the reader and explain the meaning of symbols, colors and other visual elements the operator has used to represent data required in its map.

Section 1765.8, subdivision (b)(3). This guidance is an important reminder that a map must be readily usable and understandable to the reader.

Section 1765.8, subdivision (b)(4). Establishing a maximum scale for the required maps is crucial to establishing the level of detail, accuracy and precision without the scale being too large for the map's information to be accessible, legible, and understandable.

Section 1765.8, subdivision (b)(4)(A). A larger scale is necessary for maps submitted with a notice of intention or New Production Facility Notice because more detail is necessary for the Division's effective review and determination whether an exception applies. The location of the well or facility is very specific and narrowly focused.

Section 1765.8, subdivision (b)(4)(B). A smaller scale is sufficient for annual maps which are useful in determining whether a wellhead or production facility is within a health protection zone. The chosen scale is striking a balance between having enough detail for the purpose and minimizing the number of maps in a submittal.

Section 1765.8, subdivision (b)(5). The Portable Document Format file is one of the most common formats, is platform independent, universally accessible, compact, widely supported, and it can preserve formatting and layout. Therefore, it is a good choice for online sharing and review. As required by the statute, maps must comply with all requirements of the federal Americans with Disabilities Act of 1990. All the above reasons help to ensure long-term usability.

Section 1765.8, subdivision (c). This proposed subdivision permits necessary flexibility so that maps are consistently submitted in a legible, usable, and compliant size and format even as they become more complex and portray more features. This ensures the Division can effectively review map submissions and maps are sufficiently detailed and understandable to the public.

Section 1765.8, subdivision (d). Requiring a larger-scale overview map showing how separate maps relate is necessary to enable multiple maps are interpreted correctly by the Division and the public and that the relationship between sensitive receptors and oil and gas infrastructure is understandable.

Section 1765.8, subdivision (e). As discussed in proposed section 1765.7, PRC section 3281, subdivision (b), provides that "[i]f the inventory or map includes any personally identifiable information, the operator shall submit a second [redacted] version...." Further, that "[i]nventories and maps with no personally identifiable information shall be made available to the public in compliance with Section 3234." Although concerns about inclusion of personally identifiable information is not addressed by PRC section 3285, it should be interpreted consistently with PRC section 3281. This proposed subdivision 1765.8 is therefore necessary to ensure that a sensitive receptor map protect the privacy of individuals, consistent with PRC section 3281, subdivision (b).

Section 1765.8, Authority and Reference Citation. PRC sections 3013, 3106, and 3270 are added as authorities cited and 3011, 3106, 3234, 3270, 3281 and 3285 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2; section 3106 requires supervision of the development of oil and gas resources while preventing damage to

life, health, property, and natural resources; and section 3270 gives the Division authority to promulgate regulations that prescribe minimum facility maintenance standards and to access records of maintenance and repair operations, tests, and inspections, maintained by the operator. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. Except as provided, section 3234 provides that well records filed with the Division are public records. PRC section 3281 contains requirements that apply based on when new production facilities may be constructed and operated within a health protection zone. PRC section 3285 contains requirements that apply based on the submission and contents of sensitive receptor inventories and maps.

This proposed section and each of its subdivisions are necessary for the Division's effective implementation of the above mandates generally, and more specifically PRC sections 3281 and 3285, and to clarify and establish content and format requirements for sensitive receptor maps. The regulated community will benefit from clarification of expectations and consistency in the application of the statutory requirements. The public will also benefit through access to information that is accessible, legible and understandable.

Section 1765.9 Determination that a Location is Not Within a Health Protection Zone

This proposed section specifies the process and informational requirements applicable when an operator seeks to demonstrate that a well or production facility is not within the boundaries of a health protection zone. This determination that a location is not within a health protection zone, and to be verified by the Division, is required by PRC sections 3281, subdivision (b), and similarly by 3285, subdivision (a)(2), and requires a component of the procedures for notices of intention and annual sensitive receptor inventory and map submissions set forth in other sections of the proposed regulations. Those other sections include a cross-reference to this proposed section. Consequently, this section is necessary to specify what information is sufficient and clarify how the determination will be made, and to ensure that the information the Division receives in this context is consistent and sufficiently complete.

Section 1765.9, subdivision (a). This introductory provision starts the required "statement" framework for operators seeking to demonstrate that a location is not within a health protection zone.

Section 1765.9, subdivision (a)(1). This subdivision requires the operator statement to identify features within 3,200 feet of the wellhead or production facility location. This information is necessary to document what the operator evaluated to determine that there are no sensitive receptors within 3,200 feet and is required for the Division's review and verification. The term features is used rather than the sensitive receptor categories

because if it was obvious that there was a school, for example, within 3,200 feet, there should be no question the wellhead or production facility is within a health protection zone. Identifying features that are possibly ambiguous better ensures that any potential sensitive receptors are identified and evaluated. The specific kinds of features are identified to clarify the scope of the requirement and will result in more effective implementation of statute.

Section 1765.9, subdivision (a)(1)(A). The features to be identified include buildings because each of the defined sensitive receptors in PRC section 3280, subdivision (c) and propose regulation section 1765.1, subdivision (c), contemplate buildings.

Section 1765.9, subdivision (a)(1)(B). The Division may have previously investigated and confirmed the existence of a sensitive receptor or confirmed a feature as a potential sensitive receptor, and the operator statement should include such features and the determination that was reached.

Section 1765.9, subdivision (a)(2). The Division must be able to correctly identify the feature being referred to in an operator statement so that the Division can verify whether the feature is a sensitive receptor. The feature's physical address is the most reliable information to ensure that there is shared understanding and agreement about the feature being verified.

Section 1765.9, subdivision (a)(3). More than a bare statement that a feature is not a sensitive receptor is necessary to understand the basis of that determination. The use of a building, for example, may not be immediately apparent from the exterior, and it would be important to know what effort was made to confirm that it did not house a business open to the public, for example. Without such specifics, the Division would not have sufficient information to verify what the operator determined.

Section 1765.9, subdivision (a)(4). This subdivision is necessary to establish acceptable file formats readily available for use, easy to submit to and be reviewed by the Division, and not too large or otherwise inaccessible for the public to view, print, or download.

Section 1765.9, subdivision (b). As discussed in several proposed regulations, PRC section 3281, subdivision (b) requires the Division to verify that a wellhead is not in a health protection zone before approving a notice of intention under PRC section 3203. This subdivision establishes a process for the Division's review of the operator statement and informs the regulated community and public what to expect if the Division agrees that there is no sensitive receptor within 3,200 feet of the wellhead location. This effectively implements section 3281 and promotes public transparency.

Section 1765.9, subdivision (c). This requirement derives from PRC section 3285, subdivision (c), which mandates that the Division will review for completeness and

accuracy not less than 30 percent of the inventories and maps submitted annually and notify operators of any discrepancies. Evaluation of statements under this section helps confirm that the inventories and maps of wellheads and production facilities in health protection zones are complete and that no sensitive receptor that would put another wellhead or production facility in a health protection zone was overlooked.

Section 1765.9, subdivision (d). This proposed subdivision provides that if the Division finds that the location is within a health protection zone or the operator has not sufficiently demonstrated that the location is not within a health protection zone, then by default, the location is within a health protection zone. Without this regulation, it would be unclear whether a health protection zone exists. Clearly stating how a health protection zone is established, either because the Division has determined that the well or production facility is located within a health protection zone or because the operator has failed to demonstrate otherwise, is necessary to promote greater consistency in the application of statutory requirements and transparency for the public and regulated community.

Section 1765.9, Authority and Reference Citation. PRC sections 3013, 3106, and 3270 are added as authorities cited and 3011, 3106, 3270, 3281 and 3285 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2; section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources; and section 3270 gives the Division authority to promulgate regulations that prescribe minimum facility maintenance standards and to access records of maintenance and repair operations, tests, and inspections, maintained by the operator. Section 3011 confirms that the Division's purposes include the protection of public health and safety and environmental quality, including the reduction and mitigation of greenhouse gas emissions. PRC section 3281 contains requirements that apply based on when a notice of intention within a health protection zone may be approved by the Division. PRC section 3285 contains requirements that apply based on the submission and contents of sensitive receptor inventories and maps.

This section and each of its subdivisions are necessary to implement these statutory mandates including the verification requirement of PRC sections 3281 and 3285 to ensure that the information CalGEM receives in this context is consistent and sufficiently complete so that no sensitive receptor is overlooked.

Clarification about what is expected in a statement that a wellhead or production facility is outside of a health protection zone and about how determinations will be made, benefits the regulated community because the Division's expectations and process is made clear, and benefits the public to understand the process and feel confident that the Division is undertaking an informed review.

Section 1765.10 Underground Gas Storage Facilities in the Health Protection Zone

PRC section 3281, subdivision (d), expressly excludes underground gas storage wells and attendant production facilities from compliance with the various requirements related to health protection zones. This section clarifies the scope of that exclusion.

Section 1765.10, subdivision (a). This subdivision restates the exception from PRC section 3281, subdivision (d).

Section 1765.10, subdivision (b). Other wells are necessary to the safe and effective operation of underground gas storage projects, and if not covered by the exception, the exception for gas storage wells would be rendered meaningless. This subdivision specifies what wells and attendant production facilities are included, because not every well or production facility operated by an underground gas storage operator falls within the exclusion, only wells and facilities that meet the definitions in proposed subdivisions (b)(1) and (b)(2).

Section 1765.10, subdivision (b)(1). PRC section 3403.5 authorizes the Division to impose an assessment charge annually on underground gas storage operators and the calculation is based in part on the operator's wells. Section 3403.5, subdivision (d)(2), defines "wells" to include all wells associated with an underground gas storage facility except those that have been plugged and abandoned" and the Division confirms that the "associated" wells to be assessed are actually and appropriately associated with the underground gas storage project, that is, necessary to and supportive of the project. Accordingly, this proposed subdivision's inclusion of the same wells is necessary to ensure that the Legislature's exception intent is implemented clearly and effectively.

Section 1765.10, subdivision (b)(2). This proposed subdivision similarly points to an existing definition, namely, "underground gas storage project" as defined in CCR section 1726.1, subdivision (a)(6). In addition to limiting this exception's application to only wells approved for use in an underground gas storage project, this proposed provision addresses the term "attendant production facilities." By cross-referencing section 1726.1, subdivision (a)(6), the meaning of attendant production facilities is made clear and specific.

Section 1765.10, Authority and Reference Citation. PRC sections 3013 and 3106 are added as authorities cited and 3011, 3106, 3180, 3281 and 3403.5 as authorities referenced. Section 3013 gives the Division the authority to adopt rules and regulations which may be necessary to carry out the purposes of division 2; and section 3106 requires supervision of the development of oil and gas resources while preventing damage to life, health, property, and natural resources. Section 3011 confirms that the Division's purposes include the protection of public health and safety and

environmental quality, including the reduction and mitigation of greenhouse gas emissions. PRC section 3180 authorizes the Division to promulgate regulations for gas storage wells and facilities, and section 3281, subdivision (d) exempts underground gas storage wells and attendant production facilities from compliance with various health protection zone requirements. PRC section 3403.5 confirms that the Division's purpose includes supervising underground gas storage facilities to ensure the protection of the gas reserve and the environment.

This proposed section is necessary to implement the PRC section 3181 underground gas storage exception and benefits operators and the Division by clarifying what wells and facilities are included and that the exception is associated with the underground gas storage project, not the underground gas storage operator.

ALTERNATIVES CONSIDERED

No reasonable alternative to the regulations would be more effective in carrying out the purpose for which the action is proposed. No reasonable alternative would be as effective as and less burdensome to affected private persons than the proposed action, nor would it be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

While developing the proposed regulations, the Division considered various alternative approaches and suggestions. No alternative considered by the Division would be more effective in carrying out the purposes of the proposed regulations or would be equally effective but less burdensome to affected private persons and small businesses than the proposed regulations. The alternatives considered include the following:

- The Division considered but rejected clarifying the definition of park as a sensitive receptor to be an area within a ¼ mile of another education resource or residence receptor, instead relying on the statutory definition.
- The Division considered but rejected a qualification on buildings or structures to meet the definition of "residence" but the qualification caused more confusion than it improved clarity.
- The Division considered but rejected specifying that a stratigraphic well drilled to gather geologic information is a basis for approving an NOI. A stratigraphic well can be for nonfossil fuel production and injection and related uses but it can also be fossil fuel related, so each well will be considered individually.
- The Division considered but rejected requiring a sensitive receptor inventory to identify the sensitive receptor nearest the wellhead location or production facility. Any sensitive receptor within 3,200 feet of the wellhead or production facility creates a health protection zone, so knowing the nearest is not necessary

or beneficial. Also, determining which sensitive receptor was nearest could be difficult in locations with many nearby sensitive receptors.

- The Division considered but rejected defining “production facility” in relation to the New Production Facility Notice requirement but production facility is already defined in existing regulations applicable to health protection zones.
- The Division considered but rejected requiring water sampling before work is commenced for any notice of intention within a health protection zone. PRC section 3284 contemplates sampling before and after drilling, and each provision specifying when sampling should occur is based around the start to or completion of drilling.
- The Division considered but rejected limiting water sampling to drilling through previously unexposed rock or formation. Operators sometimes refer to operations as “drilling” when the work does not actually include drilling. The qualifier “unexposed rock or formation” was suggested to distinguish between drilling and non-drilling work, but there was significant confusion among the regulated community and the public about what unexposed rock or formation meant.
- The Division considered but rejected language that measurements may be made from the geometric center of the location of the production facility, except if measuring from the edge of the production facility would bring the production facility into a health protection zone. The provision created confusion as to what geometric center means and it was more straightforward to measure from the edge of the production facility.
- The Division considered but rejected limitations on changes to existing production facilities. PRC section 3281 prohibits construction or operation of new production facilities.
- The Division considered but rejected excepting, from new production facility notice requirements, new or temporary production facilities required by federal, state, or local law. The exception was intended to account for production facilities required for health, safety or environmental benefit, but the proposal caused confusion and concern whether it would unintentionally allow new production facilities with no health, safety or environmental benefit.
- The Division considered but rejected adding criteria or documentation that would be used to determine whether a time extension for a temporary facility should be authorized. Given the variability of scenarios where more time may be necessary to respond to a spill or leak, or to complete plugging and abandonment operations, the scenario and rationale will be evaluated on a case-by-case basis.
- The Division considered but rejected requiring new production facility notices for all new production facilities in the state, not just within health protection zones, but it would be burdensome and beyond the scope of SB 1137.
- The Division considered but rejected requiring the documentation for a health and safety exception request without an opportunity for the Division to waive any requirements, even where the documentation is entirely unnecessary. The

waiver option creates administrative efficiencies that should expedite the Division's review and the operator's completion of work needed to prevent or respond to a threat.

- The Division considered but rejected requiring annual sensitive receptor inventories and maps to identify all sensitive receptors within 3,200 feet of each wellhead or production facility. PRC section 3285 expressly contemplates some number less than all being potentially sufficient. It only takes one sensitive receptor within 3,200 feet to put the well or production facility into a health protection zone, so requiring more is potentially burdensome, without practical or legal benefit.
- The Division considered but rejected as unnecessary requiring physical addresses for sensitive receptors inventories. Sensitive receptor latitude and longitude coordinates and other identifying information are sufficient and required instead.
- The Division considered but rejected requiring operators seeking to demonstrate that a location is not within a health protection zone to include in the required statement to the Division all "parks" including all outdoor areas for recreation, and whether or not officially designated as a park. These provisions of the emergency regulations caused confusion, since parks are sensitive receptors, but not all outdoor areas for recreation are parks. The Division will consider outdoor areas for recreation on a case-by-case basis.
- The Division considered but rejected providing a definition for surface water. PRC section 3284, subdivision (d)(7), allows for relevant authorities to determine that sampling is not required if the water is not USDW or of beneficial use.
- The Division considered but rejected creating a process to appeal a denial of an notice of intention. The statute does not require an appeal process and CalGEM works to resolve disputes informally, when possible.
- The Division considered but rejected requiring all wells in a health protection zone with mechanical integrity concerns plugged and abandoned. Plugging and abandonment is an alternate remedial action if a rework is inadequate to effectively address an identified threat to public health, safety, and the environment.
- The Division considered but rejected creating a set of guidelines for the types of NOIs and production facilities that would, or would not, be truly necessary under PRC section 3281, subdivisions (a)(1) and (b). The safety exceptions focus on necessity, not specific types of work or equipment.
- The Division considered but rejected a seven-day period for notice for water sampling and testing under PRC section 3284. The statute specifies a minimum of 30 days.
- The Division considered but rejected incorporating by reference a mandatory document for operators to use to contact neighbors and offer sampling and testing. The regulations contain a detailed framework specifying required content, timing, format and means to comply with the contact requirements.

- The Division considered but rejected requiring operators to affirmatively identify in their statement that a wellhead or production facility location is not in a health protection zone, areas open to the public for outdoor recreation and explain why the area is not a park. The requirement created confusion for operators and the public who felt it modified the definition of a park as a sensitive receptor.
- The Division considered but rejected providing a procedure for water sampling and testing nonresponses (such as multiple contacts). The notice for property owners and tenants should be sufficient to alert neighbors to the operator's sampling and testing offer.

CONSISTENCY WITH COMPARABLE FEDERAL REGULATION OR STATUTE

The proposed regulations are an administrative framework for implementing specific and express requirements of SB 1137 and certain related statutes. The proposed regulations are not inconsistent or incompatible with federal statutes and regulations.

ECONOMIC IMPACTS

The Department has completed an Economic Impact Assessment for the proposed rulemaking action, which is included in this Initial Statement of Reasons as "Attachment A." The Department has determined that the adoption of these regulations will not have a significant statewide adverse economic impact directly affecting business. No alternative considered by the Department would be more effective in carrying out the purposes of the proposed regulations or would be as effective but less burdensome to affected private persons than the proposed regulations.

The Department has made the following determinations:

- The proposed regulations will not affect the creation of new jobs within the State of California.
- The proposed regulations will not create new businesses nor eliminate businesses within the State of California.
- The proposed regulations will not affect expansion of businesses currently doing business within the State of California.
- The proposed regulations will benefit the health and welfare of California residents, worker safety, and the environment.
- The proposed regulations will most likely not affect the ability of businesses within California to compete with businesses in other states.

In addition to satisfying the statutory goals, the Department has determined that the

proposed regulations will result in nonmonetary benefits, such as the protection of public health and safety, worker safety, and the environment, and transparency in business and government. Specifically, the benefits of these regulations are:

- Using clearer language and specifying formatting and content requirements leads to less speculation by operators which in turn leads to a higher rate of compliance, and for documentation that must be posted online, promotes consistency and readability for the interested public.
- The additional costs to operators from proposed sections 1765.3, 1765.5, and 1765.9 will increase the likelihood that public health, safety, and environmental benefits from SB 1137 will be realized.

LOCAL MANDATE DETERMINATION

The adoption of this rulemaking does not impose a mandate on local agencies or school districts.

DOCUMENTS RELIED UPON

The Department relied upon the following documents in proposing this rulemaking action:

- The Department's Economic Impact Assessment and STD 399 for the proposed regulations.