



NOTICE TO OPERATORS

NTO 2023-08

July 31, 2023

CALGEM'S BONDING AND FINANCIAL SECURITY PROGRAM IMPLEMENTATION OF PUBLIC RESOURCES CODE SECTION 3205.3

The Geologic Energy Management Division (CalGEM) of the California Department of Conservation is issuing this notice to inform oil and gas operators that CalGEM is implementing the requirements of Public Resources Code (PRC) §3205.3 (see attachment A). This section was added to the code in 2019 by Assembly Bill 1057 (Limón, chapter 771), which intended to address concerns that as oil production continues to decline, oil and gas infrastructure could be orphaned, potentially leaving taxpayers to address the risks and cover the costs of plugging and abandoning wells, decommissioning attendant facilities, and remediating sites.

This statute authorizes CalGEM to require operators to provide additional financial security beyond the statutory minimums established in PRC §3204 based on CalGEM's evaluation of the risk that an operator may desert its wells and the potential threats the operator's wells pose to life, health, property, and natural resources. The required amount of additional security will be based on CalGEM's estimation of the reasonable costs to the State for properly plugging and abandoning all the operator's wells and decommissioning any attendant production facilities in accordance with PRC § 3208, or \$30 million, whichever is less.

CalGEM will begin contacting operators who may be required to post additional financial security mechanisms in the third quarter of 2023. This notice will include a preliminary estimate of the operator's abandonment costs, a proposed additional financial security requirement, and, as applicable, a description of specific criteria used to estimate the risk of desertion and environmental harm.

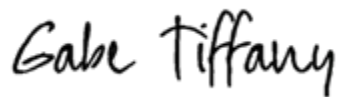
Operators receiving such notice will have an opportunity to submit their cost estimates for plugging, abandonment, and decommissioning of their wells and attendant production facilities and meet with CalGEM staff to discuss proposed additional financial security requirements. The additional security the operator provides could be an indemnity bond, a form of deposit described in Section 995.710 of the Code of Civil Procedure, or any other means of financial assurance approved by CalGEM. As needed, CalGEM will work with operators on their compliance obligations and may accept a combination of financial assurances, including a binding work plan to reduce asset retirement obligations, a sinking fund, or other equally effective assurances approved by the Supervisor. Additionally, after new financial security requirements are in place, an operator may petition CalGEM to reevaluate the operator's risk or cost estimate.

Additional information on bonding and financial security can be found at:
<https://www.conservation.ca.gov/calgem/Pages/Bonding-and-Financial-Security-Program.aspx>.

For questions or concerns, please contact:

Mail: Bonding and Financial Security Unit
California Department of Conservation
715 P Street, MS-1803
Sacramento, CA 95814

Email: calgembondingandfinancialsecurity@conservation.ca.gov



Gabe Tiffany
Acting State Oil and Gas Supervisor

Attachment A: AB 1057 / PRC 3205.3.

Public Resources Code section 3205.3.

(a) The division may require an operator filing an individual indemnity bond pursuant to Section 3204 or a blanket indemnity bond pursuant to Section 3205, as applicable, to provide an additional amount of security acceptable to the division based on the division's evaluation of the risk that the operator will desert its well or wells and the potential threats the operator's well or wells pose to life, health, property, and natural resources. The additional security required by the division shall not exceed the lesser of the division's estimation of the reasonable costs of properly plugging and abandoning all of the operator's wells and decommissioning any attendant production facilities in accordance with Section 3208, or thirty million dollars (\$30,000,000).

(b) When making an estimation under this section of the reasonable costs of properly plugging and abandoning an operator's well or wells and decommissioning any attendant production facilities, the division shall provide the operator with an opportunity to submit the operator's own estimation and shall consider all of the following:

- (1) The depth of the well or wells.
- (2) The accessibility and surroundings of the well or wells and any attendant production facilities.
- (3) Available information about the condition of the well or wells and any attendant production facilities.
- (4) Available information about the cost to plug and abandon a comparable well or wells.
- (5) Available information about the cost to decommission production facilities comparable to the production facilities attendant to the well or wells.
- (6) The operator's cost estimates, if provided.
- (7) Whether the operator is a public utility gas corporation, as defined in subdivision (a) of Section 216 of the Public Utilities Code.
- (8) Any other information that the division determines to be relevant to the estimation of cost.

(c) The division, in evaluating the risk that the operator will desert its well or wells and the potential threats the operator's well or wells pose to life, health, property, and natural resources, shall consider all of the following:

- (1) The difference between the estimation of reasonable costs of plugging and abandonment under subdivisions (a) and (b) and the total amount of indemnity bonds or other financial assurances in place to ensure funding of the plugging and abandonment of the operator's well or wells.
- (2) The level of current production from the well or wells.
- (3) Available information regarding estimated reserves remaining in place associated with the well or wells.
- (4) Whether the well or wells are "critical," are "environmentally sensitive," or are in an "urban area," as those terms are defined by the division in regulation.

- (5) To the extent that relevant information is available to the division, the financial status of the operator and the operator's financial capacity to plug and abandon all of the operator's wells.
- (6) The past record of compliance by the operator with the division.
- (7) The number of idle wells to be covered by the indemnity bond and the operator's record of compliance with the requirements of Section 3206 and the division's regulations related to the management of idle wells.
- (8) Whether the operator's well or wells are subject to any bonding or financial assurance requirements by a local government.
- (9) Whether the operator's well or wells are already subject to additional bond coverage by the division pursuant to Section 3270.4.
- (10) Any other information that the division determines to be relevant to the evaluation of the risk.

(d) The division shall provide the operator with notice of the requirement to provide additional security, and the notice shall be served by personal service or certified mail. The operator shall provide the additional security within 180 days of service of notice. The notice shall include an explanation of the division's estimation of the reasonable costs to plug and abandon the operator's well or wells and of the basis for the decision to require the operator to provide additional security. The requirements of this subdivision shall also apply to any subsequent increase in the amount of additional security required under subdivision (e).

(e) The division shall increase or decrease the amount of additional security required under this section to account for changed circumstances or new information. The operator may, at any time, petition the division to reevaluate the division's evaluation of the risk or cost estimates, and the division shall respond to the petition in writing within 60 days of receipt of the petition.

- (f) (1) An operator shall provide additional security required under this section in the form of an indemnity bond, a form of deposit described in Section 995.710 of the Code of Civil Procedure, or any other equally effective means of financial assurance approved by the division. Examples of equally effective means of financial assurance that the division may consider for approval include a letter of credit, a corporate guarantee, a trust fund, or a demonstration of self-insurance.
- (2) The division may only approve self-insurance as an equally effective means of financial assurance if the operator provides detailed financial information demonstrating to the division's satisfaction that, based on the considerations under subdivision (c), the risks associated with the operator's potential for desertion of its well or wells are low. If the division approves self-insurance as an equally effective means of financial assurance, at least once every five years the operator shall update the supporting financial information and the division shall reevaluate whether self-insurance continues to be an equally effective means of financial assurance. If an operator provides financial information to the division under this section that is not otherwise publicly available, the division shall maintain the information as confidential.

- (g) (1) Any two or more operators may elect to enter into a liability sharing agreement.
- (2) Operators that elect to participate in a liability sharing agreement shall be jointly and severally liable for all amounts owed under this chapter by all other operators that participate in the liability sharing agreement.
- (3) The division shall treat all operators that participate in a liability sharing agreement as a single operator when requiring additional security under this section, except that the additional security required by the division shall not exceed the lesser of the division's estimation of the reasonable costs of plugging and abandoning all of the participating operators' wells and decommissioning any attendant production facilities in accordance with Section 3208, or thirty million dollars (\$30,000,000).
- (4) A liability sharing agreement is formed when all of the participants have provided the division written notice of intent to participate in the liability sharing agreement with express acknowledgment of all other participants in the agreement.
- (5) An operator may elect to withdraw from a liability sharing agreement at any time, but all participants in the liability sharing agreement, including the withdrawing participant, shall continue to be jointly and severally liable for all amounts owed under this chapter for a period of five years after the withdrawal.