

STATE OF CALIFORNIA
OFFICE OF ENERGY INFRASTRUCTURE SAFETY
TITLE 19. PUBLIC SAFETY
DIVISION 4. CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD

ADD SECTION 4004- AREA OF NOTIFICATION
AMEND SECTIONS 4000- DEFINITIONS, 4010- FEES, AND 4011- FEE COLLECTION

INITIAL STATEMENT OF REASONS

Background

California’s excavation regional notification system (the Dig Safe Law) is found in Government (Gov.) Code section 4216 – *et seq.* The law established a regional notification system to provide underground facility operators with advance warning of nearby excavations for the purpose of protecting those installations from damage and for the safety of the excavators and the public. An operator is an entity that owns, operates, or maintains any underground pipeline, conduit, duct, wire, or other structure, except nonpressurized sewerlines, nonpressurized storm drains, or other nonpressurized drain lines. All operators must be a member of a regional notification center (RNC). There are two RNCs in California.

An operator must give an RNC the general location of its underground facilities. When the RNC receives notice that an excavation will take place within that area, it informs the operator, and the operator must then perform its facility location duties as required by the Dig Safe Law. This system increases the ability of an excavator to safely excavate in the area, protecting not just the facilities and the excavator, but the public as well. The California Underground Facilities Safe Excavation Board (the Board) is charged with investigating possible violations of the Dig Safe Law.

Problem Statement

The Dig Safe Law requires an RNC to notify any member who has a subsurface installation in the area of proposed excavation. This notification is defined in regulation as a “locate request transmission.” However, the area where the subsurface installations are located does not have an official term and each RNC uses a slightly different name when referring to that area. Each member can add or remove underground facilities from their notification area. If underground facilities stay in the ground but are no longer part of a member’s notification area, it is

imperative for worker and public safety that those facilities be accounted for in a different member's notification area. Currently, there is no formal oversight for checking the status of existing facilities when those facilities are removed from an area of notification.

Reason/benefits for the changes

These regulations provide a statewide uniform term "area of notification" for the area where an operator is required to receive locate request transmissions and formally set the requirements for the RNCs and their members. Operators are required to provide their area of notification information to the RNCs and keep it updated. The RNCs are required to maintain that information as a "record." In addition, when a member removes an area from their area of notification, the member must provide the RNC with the reason for the reduction. The choices for the member are limited to the most common causes with a catch-all "other" option where members can provide details on the basis for the reduction. And finally, the RNC must provide the Board with the member's statement of changes so the Board can investigate facility responsibility when needed to enforce the Dig Safe Law. These regulations will facilitate accurate information for use within the regional notification system and support the Board's mandate to enforce the Dig Safe Law.

Specific purpose and necessity of each section

Section 4000 Definitions

This section defines key terms that are used in the proposed regulations. The definitions are necessary to avoid any confusion that might result if these terms were not defined and to ensure uniform application throughout the regulations.

Section 4000, subdivision (a). No change.

Section 4000, subdivision (b) is amended:

Add the term "area of notification" and its definition. This term is used in the new section 4004 and describes certain data that members provide the RNCs: geospatial data indicating the geospatial area(s) in which the member should receive locate request transmissions. This term is added to the definitions section for clarity and economy.

Add the term "locate request transmission" and its definition. This term is being moved from section 4010, subdivision (d)(3) and cleaned up to remove outdated language. The definition will now read: "Locate request transmission" means the notification provided by a regional

notification center to an operator to locate and field mark in response to a new ticket.” The language “as identified in Gov. Code section 4216.2, subdivision (e) or to a new ticket created to replace an expired ticket, as identified in Gov. Code section 4216.2, subdivision (i)” is not necessary. These subdivisions of the law do not define “new” tickets and do not clarify the law. Removing these portions will have no legal significance. Including this definition in the definition section is necessary for ease of reference and clarity.

Section 4004 is added:

Subdivision (a)(1) requires operators to provide current areas of notification to the RNCs. This is needed to ensure that RNCs have the most recent information available to identify and notify the appropriate operators when an excavation is scheduled to occur within an operator’s area of notification. It also provides the Board with sufficient information to evaluate adherence to Gov. Code 4216.1 and other sections of the Dig Safe Law.

Subdivision (a)(2) clarifies that an operator’s area of notification is a “record” of an operator’s subsurface installations. Designating this information as a record requires operators to meet the obligations associated with records under the Dig Safe Law. Gov. Code section 4216.3, subdivision (a)(4) requires that an operator amend, update, maintain, and preserve all plans and records for its subsurface installations as that information becomes known. In addition, if there is a change in ownership of a subsurface installation, records must be turned over to the new operator. This clarification is needed to provide continuity and clarity for operators, excavators, and the RNCs. The RNC notification system requires up-to-date information on the location of subsurface facilities to facilitate safe excavation.

Subdivision (a)(3) requires RNCs to maintain the operator area of notification that they receive under 4004, subdivision (a)(1). This makes certain the implied requirement for the RNCs to maintain the areas of notification. Area of notification records are a fundamental component of the RNC system. These important records must be maintained to preserve the integrity of the RNC system.

Subdivision (b)(1) requires an member that removes any geospatial area from its area of notification to concurrently disclose the reason for the reduction to the RNC. The member must choose one of the following options: 1) the member removed all subsurface installations from the ground in that area, 2) the member sold all subsurface installations in that area, 3) the member never had any subsurface installations in that area and is reducing the member’s buffer

zone; or 4) “other.” If an operator chooses “other,” it must provide a reason why the member no longer needs to be notified by the RNC of proposed excavation in that geospatial area. This information is necessary for the Board to be able to effectively enforce compliance with the Dig Safe Law. This information also facilitates accuracy in the RNC system and supports public and worker safety.

Subdivision (b)(2) requires RNCs to retain member statements of area of notification changes and to provide the Board with those statements every 14 business days. It also indicates that these statements are “records” within the meaning of section 4216.2, subdivision (f). This provision requires the information sent to the RNCs be treated appropriately and maintained for three years. The requirement for the RNCs to provide the Board with those member statements allows the Board to follow up with the member and determine the outcome of responsibility for any underground facilities, thus helping with enforcement and supporting public and worker safety.

Section 4010 Fees

Section 4010, subdivision (d)(3) is amended to delete the definition of “locate request transmission.” The definition has been moved to section 4000, subdivision (b), the definitions subdivision. The definition will be amended to read: “Locate request transmission” means the notification provided by a regional notification center to an operator to locate and field mark in response to a new ticket.” The language “as identified in Gov. Code section 4216.2, subdivision (e) or to a new ticket created to replace an expired ticket, as identified in Gov. Code section 4216.2, subdivision (i)” is not necessary. These subdivisions of the law do not define “new” tickets and do not clarify the law. Removing these portions will have no legal significance. Including this definition in the definition section is necessary for ease of reference and clarity.

Section 4011 Fee Collection

Section 4011, subdivision (d)(2)(A) is amended to delete the reference to section 4010, subdivision (d)(3) as the location of the definition of “locate request transmission” and point to the new location in section 4000, subdivision (b). This is a technical change to move the definition into the definition section and is needed to keep the regulation up-to-date and relevant.

Section 4011, subdivision (e) is deleted. This subdivision is a conditional statement that describes how an RNC should invoice its members for the Board’s fees if certain conditions were

met in the year 2022. This subdivision is outdated and no longer needed. This is a technical change and is needed to keep the regulation up-to-date and relevant.

Economic Impact Assessment

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Board determined that the adoption of these regulations will not lead to the creation or elimination of jobs in California. The proposed regulations impose few new or revised duties or burdens on operators or RNCs. Rather, the adoption of these regulations will primarily affect the Board's ability to enforce the Dig Safe Law. These changes are not expected to lead to job growth or shrinkage.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

It is not expected that the proposed regulations will create or eliminate jobs in California. The proposed regulations impose very few additional reporting requirements on the affected industry.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Board has determined that the regulations will not have any impact on fostering or inhibiting the growth of existing businesses. As discussed above, the primary focus and consequence of the regulations is on keeping the RNC system supplied with updated information and supporting the Board in fulfilling its enforcement obligations under the Dig Safe Law.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The proposed regulations will benefit the welfare of California residents by incorporating accountability for changes that involve the transfer of responsibilities for underground facilities. These actions will support the Board in enforcing the Dig Safe Law which would then ultimately protect the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety:

The draft regulations would not directly benefit worker safety because they do not regulate worker safety. However, the regulations will support the Board in its efforts to enforce the Dig Safe Law, and this will likely lead to an increase in worker safety.

(f) Benefits of the Regulation of the State’s Environment:

The draft regulations would not directly benefit the state’s environment because it does not regulate the environment.

The regulation is not anticipated to have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with other businesses in California.

Alternatives

The Board has determined that adding new provisions to title 19, California Code of Regulations, division 5.0, chapter 3.1, article 2 is the most effective and least burdensome approach to solving the stated problems. This is because the proposed regulations improve existing practices and policies in a manner that most efficiently and effectively enhances safety. The Board considered not adopting the regulations. However, without the regulations, the regional notification system will continue to lack the necessary enforceable requirements related to information accuracy, member asset status, and Dig Safe Law enforcement.

The Board developed these regulations after considering input from staff and stakeholders.

September 2024 draft language: RNCs keep and share all changes to areas of notification.

During the September 2024 public board meeting, the Board considered requiring the RNCs to retain all notifications of any changes to members’ geospatial data as a “record of notification” under Gov. Code section 4216.2, subdivision (f). Public comment noted that given the large volume of data this would cover the requirement was overly burdensome for the RNCs. The Board agreed that although this information would be beneficial to the Board’s enforcement efforts, the burden for the RNCs outweighed the value to the Board.

December 2024: Members must give a reason for removing geospatial territory.

During the December 2024 and April 2025 board meetings, the Board considered language that would be less labor-intensive for the RNCs than the September 2024 language, in that the RNCs would not be required to keep and maintain notification of all changes but only those changes that removed territory from a member’s geospatial data. Although more limited in the data the RNCs would need to maintain and provide to the Board, this language was still thought to be overly burdensome for the RNCs. The volume of data would still create storage issues and possibly involve added expenses for personnel to manage the data.

The Board invites interested persons to present statements or arguments with respect to alternatives to the regulations during the written comment period.

Alternatives which would lessen any adverse impact on small business

The Board finds that no reasonable alternatives were presented to, or considered by, the Board, that would lessen any adverse impact on small businesses. Some operators may be “small businesses,” however, the proposed regulations are the most effective and least burdensome way to regulate changes to areas of notification. The operators should already be keeping their underground facility locations current with the RNCs. The added requirement to provide a reason for an area adjustment is de minimis given that the operator should already have a reason for the change and merely has to report it to the RNC. The RNCs are nonprofit entities, with one being a mutual benefit corporation and the other a public benefit corporation. Gov. Code, § 11342.610, subdivision (b)(6) indicates that nonprofits are exempt from the definition of “small business.”

Documents Relied Upon

The Board relied on the following technical, theoretical, or empirical studies, reports, or similar documents in proposing these regulations:

- Staff Report: 811 Notification Center Membership Termination Processes, April 2024
- Staff Report: 811 Notification Center Membership Termination Processes, July 2024
- Staff Report: 811 Notification Center Membership Termination Processes, September 2024
- Staff Report: Proposed Regulations for Current Area of Notification and Membership Termination, December 2024
- Notice of Public Comment period, December 2024
- Public Comment, West, December 20, 2024
- Public Comment, DigAlert, December 26, 2024
- Public Comment, Nobles, January 07, 2025
- Staff Report: Proposed Regulations for Current Area of Notification and Membership Termination, February 2025
- Staff Report: Proposed Regulations for Current Area of Notification and Membership Termination, July 2025

Duplication or Conflict with Federal Regulations

The Board has not found any unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as this proposed rulemaking action.