

1 STATE OF CALIFORNIA
2 OFFICE OF ENERGY INFRASTRUCTURE SAFETY
3 CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD
4

5 California Code of Regulations
6 TITLE 19. Public Safety
7 DIVISION 4. California Underground Facilities Safe Excavation Board
8 CHAPTER 1: General
9

10 PROPOSED TEXT
11

12 **§4000. Definitions.**
13

14 (a) The definitions in this section are supplementary to those under Government Code section
15 4216.
16

17 (b) The following definitions shall apply wherever the terms are used throughout this division:

18 “Act” means the Dig Safe Act of 2016 (SB 661, Chapter 809, Statutes of 2016) and article 2 of
19 chapter 3.1 of division 5 of title 1 of the Government Code (commencing with section 4216).

20 “Agreement” as the term is used in the Area of Continual Excavation Agreement (Agricultural
21 Operations) means the Area of Continual Excavation Agreement (Agricultural Operations)
22 between an excavator and operator.

23 “Agreement” as the term is used in the Area of Continual Excavation Agreement (Flood Control
24 Facilities) means the Area of Continual Excavation Agreement (Flood Control Facilities) between
25 an excavator and operator.

26 “Area of Continual Excavation Agreement (Agricultural Operations)” means the Area of
27 Continual Excavation Agreement--Agricultural Operations (Form No. ACE Agreement 01 (09-01-
28 2023)), which is available on the Board’s website: energysafety.ca.gov.

29 “Area of Continual Excavation Agreement (Flood Control Facilities)” means the Area of
30 Continual Excavation Agreement--Flood Control Facilities (Form No. ACE Agreement 02 (09-01-
31 2023)), which is available on the Board’s website: energysafety.ca.gov.

32 “Area of Notification” means the geospatial polygon or polygons that include all subsurface
33 installations owned, operated, or maintained by an operator in which the operator is required
34 to receive locate request transmissions.

35 “Business day” means a weekday Monday through Friday from 8:00 a.m. to 5:00 p.m.,

36 excluding State of California observed holidays under Government Code section 19853.
37 “Damage” means any damage to a subsurface installation caused by excavation or excavation
38 related work, including breaks, leaks, nicks, dents, strikes, gouges, grooves, cracks, or punctures
39 to a subsurface installation.
40 “Farm Owner/Lessee” as the term is used in the Area of Continual Excavation Agreement
41 (Agricultural Operations), means “excavator” as defined in Government Code section 4216,
42 subdivision (h).
43 “Flood control facility” means an engineered basin operated by a state or local agency, used for
44 the temporary slowing and storing of storm water runoff and for which regular removal of
45 debris is required.
46 “Investigator” means an investigator under the California Underground Facilities Safe
47 Excavation Board.
48 “Locate request transmission” means the notification provided by a regional notification center
49 to an operator to locate and field mark in response to a new ticket. ~~as identified in Government~~
50 ~~Code section 4216.2, subdivision (e) or to a new ticket created to replace an expired ticket, as~~
51 ~~identified in Government Code section 4216.2, subdivision (i).~~
52 “One-call center” as the term is used in the Area of Continual Excavation Agreement
53 (Agricultural Operations) and the Area of Continual Excavation Agreement (Flood Control
54 Facilities) means “regional notification center” as defined in Government Code section 4216,
55 subdivision (q).
56 “Record” means records related, pertaining, or relevant to any damage or probable violation of
57 the Act or this division. Such “records” include any document, email, photograph, electronic
58 recording, map, drawing including computer-aided designs, film, microfiche, tape, disc, flash
59 drive, book, log, journal, global positioning system (“GPS”) coordinates, design plan, ticket,
60 previous incident documentation, soil sample, writing as defined in Evidence Code section 250,
61 or any other tangible or intangible material of any kind.
62 “Respondent” means the excavator or operator who has been issued a notice of probable
63 violation.
64 “Staff” means the staff of the California Underground Facilities Safe Excavation Board.
65 “Utility” as the term is used in the Area of Continual Excavation Agreement (Agricultural
66 Operations), means “high priority subsurface installation” as defined in Government Code
67 section 4216, subdivision (j).
68 “Utility Owner” as the term is used in the Area of Continual Excavation Agreement (Agricultural
69 Operations), means “operator” as defined in Government Code section 4216, subdivision (o).
70

71 Note: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216, 4216.1,
72 4216.2, ~~4216.3~~4216.3, 4216.10, and 4216.16, Government Code.

73

74 **§ 4004. Area of Notification.**

75

76 (a)(1) An operator that is a member of a regional notification center must maintain current
77 areas of notification with its regional notification center or centers.

78

79 (2) An operator must amend, update, maintain, and preserve records of its area(s) of
80 notification pursuant to Government Code section 4216.3(a)(4).

81

82 (3) Regional notification centers must maintain current areas of notification received under
83 subparagraph (a)(1).

84

85 (b) (1) When a member removes any geospatial area from its area of notification, the member
86 must concurrently submit a statement to the regional notification center that includes at least
87 one of the following explanations for the reductions in the member’s area of notification:
88 removal from the ground of all of the member’s subsurface installations in that geospatial area;
89 reducing the size of the buffer zone around the member’s subsurface installations in that
90 geospatial area; sale of all of the member’s subsurface installations in that geospatial area; or
91 other. If the member chooses “other” as an explanation, they must also describe the reason for
92 removing each geospatial area from its area of notification.

93

94 (2) All statements of change(s) to an operator’s area(s) of notification must be retained by the
95 regional notification center as a record of notification pursuant to Government Code section
96 4216.2(f). Notwithstanding 4216.2(f), regional notification centers are required to provide the
97 Board with statements of changes to areas of notification every fourteen (14) business days.

98

99 Authority cited: Section 4216.22, Government Code. Reference: Sections 4216, 4216.1, 4216.2,
100 4216.3, 4216.10, and 4216.16, Government Code.

101

102 **§ 4010. Fees.**

103

104 (a) (1) Each member of a regional notification center as defined in Government Code, section
105 4216, subdivision (q) who receives 500 or more locate request transmissions in the calculation

106 year shall pay a fee to support the operational expenses of the California Underground Facilities
107 Safe Excavation Board as provided in the following formula:

108 $Fee = (\text{member locate request transmissions} / \text{statewide locate request transmissions}) \times$
109 $\text{Board operational expenses}$

110

111 (2) In the formula above:

112

113 (A) "member locate request transmissions" represents the number of locate request
114 transmissions the member of the regional notification center received in the calculation year;

115

116 (B) "statewide locate request transmissions" is the total number of locate request transmissions
117 issued by the regional notification centers in the calculation year, not including those locate
118 request transmissions issued to members who received less than 500 locate request
119 transmissions in the calculation year; and

120

121 (C) "Board operational expenses" is the sum of the estimated operational expenses, including
122 any loan repayment, of the California Underground Facilities Safe Excavation Board in the billing
123 year, subject to the State Budget Act and not to exceed the amount listed in subdivision (e).

124

125 (b) The Board shall post the following to its website by March 1 of each year,

126

127 (1) The Board operational expenses for the upcoming billing year, not to exceed the amount
128 listed in subdivision (e).

129

130 (2) The statewide locate request transmissions from the recently ended calculation year, the
131 member locate request transmissions for each member of a regional notification center from
132 the calculation year, and the amount of regulatory fees to be paid by each member of a
133 regional notification center in the upcoming billing year.

134

135 (c) (1) A member shall remit payment to the regional notification center who issued the invoice
136 to the member.

137

138 (2) A member who fails to pay the fee within 90 days of the date the invoice was issued
139 pursuant to Section 4011 is subject to a late fee of 5% the amount of the fee, in addition to the
140 fee due on the invoice.

141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175

(d) For purposes of this section, the following terms have the following meanings:

(1) "Billing year" means the July 1 to June 30 period in which the Legislature authorizes expenditures in the State Budget Act.

(2) "Calculation year" means the January 1 to December 31 calendar year before the beginning of the billing year.

~~(3) "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, as identified in Government Code section 4216.2, subdivision (e) or to a new ticket created to replace an expired ticket, as identified in Government Code section 4216.2, subdivision (i).~~

(e) The value of the estimated operational expenses in subdivision (a)(2)(C), subject to the State Budget Act, shall not exceed the following amounts for the following time periods:

(1) \$7 million for each calendar year 2019, 2020, and 2021.

(2) \$2.5 million for the period of January 1, 2022 to June 30, 2022.

(3) \$7.0 million for the billing year that begins on July 1, 2022 and for each billing year thereafter.

(f) For the period of January 1, 2022 to June 30, 2022, the fee shall be calculated pursuant to subdivision (a) with the following modifications:

(1) The calculation year shall be January 1, 2021 to June 30, 2021.

(2) The billing year shall be January 1, 2022 to June 30, 2022.

(3) The Board operational expenses shall be as identified in subdivision (e) paragraph(2).

Note: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216, 4216.1, 4216.2, 4216.3 and 4216.16, Government Code.

176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210

§ 4011. Fee Collection.

(a) A regional notification center shall collect the fee described in Section 4010 from its members on the Board’s behalf. A regional notification center shall send an invoice to a member on the same billing cycle it uses to send the invoice to the member for dues to pay the operating costs of the regional notification center pursuant to Government Code 4216.1.

(1) A regional notification center shall use one of the following two methods when invoicing to their members for the fee:

(A) A line item on the invoice that the regional notification center sends to a member to collect member dues.

(B) An invoice dedicated to the fee.

(i) A regional notification center shall send an invoice to a member for the fee at substantially the same time as the regional notification center sends an invoice to the member for dues to pay the operating costs of the regional notification center.

(2) A regional notification center shall make reasonable efforts to inform members of past due balances and account credits.

(3) An invoice sent pursuant to this subdivision shall include the “member locate request transmissions,” “statewide total locate request transmissions,” and “Board operational expenses,” as defined in Section 4010 subdivision (a).

(4) A regional notification center may use the Board seal on an invoice requesting a member pay the Board’s fee, a statement informing a member of balance due for the Board’s fee, or communication informing a member of the consequences of late payment or nonpayment of the Board’s fee, if the document contains the following language:

“Use of the seal of the California Underground Facilities Safe Excavation Board is authorized pursuant to Section 4011 of Title 19 of the California Code of Regulations.”

(5) If using the member contact information available to it, a regional notification center is

211 unable to provide an invoice for the fee to a member, the regional notification center shall
212 inform the Board.

213

214 (b) (1) A regional notification center shall reissue an invoice to a member who has not paid an
215 invoice within 90 days of receipt. The regional notification center shall include the 5% late fee
216 described in Section 4010 subdivision (c)(2).

217

218 (2) Prior to reissuing the invoice pursuant to paragraph (1), the regional notification center shall
219 send a reminder to the member of the unpaid invoice no later than 30 days before reissuing the
220 invoice that includes the 5% late fee. The reminder will notify the member of the date at which
221 the 5% late fee applies.

222

223 (c) A regional notification center shall remit to the California Underground Facilities Safe
224 Excavation Board the fee revenues that it collected prior to January 1, April 1, July 1, and
225 October 1 each year. The regional notification center shall remit the fee revenues within 15
226 days of the dates above.

227

228 (d) A regional notification center shall provide the following information to the Board
229 electronically:

230

231 (1) On or before the 15th day of each month, information about invoices for the fee issued and
232 payments received in the previous month, including the following:

233

234 (A) For each member, the invoice number, invoice due date, amount of the regulatory fee, and
235 the applicable email or physical address the invoice was sent to.

236

237 (B) For each member, the invoice number, payment date, amount of payment received,
238 identifying information about the payment such as check, ACH, or other payment identification
239 number.

240

241 (C) A copy of any invoice to collect the fee sent.

242

243 (2) On or before the 15th day of the month following each calendar quarter described in
244 subdivision (c), regional notification center membership information about the following:

245

246 (A) The number of locate request transmissions, as defined in Section 4000 subdivision (b),
247 ~~4010 subdivision (d)(3)~~, each member received in the recently-ended quarter.

248

249 (B) The membership of the regional notification center, including the member identification
250 code, any member identification sub-code.

251

252 (C) Contact information for each member, including the names, phone numbers, and email
253 addresses for the general contact and billing contact.

254

255 (3) Information provided pursuant to paragraphs (1) and (2), except for subparagraph (C) in
256 paragraph (1), shall be provided in tabular form, each of entry of which shall include the
257 member name, member identification code, and any member identification sub-code.

258

259 ~~(e) Notwithstanding the requirement in subdivision (a) for a regional notification center to send~~
260 ~~an invoice to a member on the same billing cycle it uses to send the member an invoice to~~
261 ~~collect dues to pay the operating costs, if a regional notification center does not send an invoice~~
262 ~~to a member for dues during the period of January 1, 2022 to June 30, 2022, the regional~~
263 ~~notification center shall send an invoice to the member prior to March 1, 2022 to collect the fee~~
264 ~~for the six-month billing period described in Section 4010, subdivision (f).~~

265

266 **Credits**

267 Note: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216, 4216.1,
268 4216.2, 4216.3 and 4216.16, Government Code.