



Area of Continual Excavation: Creation & Development Background

Date Effective:

July 1, 2020

Legislative Background:

Like most states across the nation, few of California's farmers call before they dig. When California's safe digging law was up for revision in 2016, lawmakers prioritized creating rules farmers could comply with. The effort followed a deadly 2015 gas explosion on a high-pressure transmission line, killing one and injuring two others. Lawmakers wanted to be sure any changes to the law would protect farmers, while also addressing issues many ag-groups reported with shallow depths of some facilities located under their fields. In response, lawmakers created a one-year Area of Continual Excavation (ACE) ticket available to farmers and certain flood control operators, and charged the Underground Safety Board with implementing it through regulations.

Rulemaking Process:

Throughout the rulemaking process, the Board spent substantial time traveling the state to learn from farmers, operators, and the one-call centers to ensure its regulations were consistent with common sense and experience. Members and staff were surprised to learn from multiple farming groups about the strained relationships they had with underground facility owners and the impacts those relationships were having on their ability to conduct everyday farming operations. Because of this, the Board paid significant attention to designing a process that created and promoted relationships between farmers and utility owners, and fostered open communication from both sides.

Main Issues Addressed:

DEPTH OF FACILITIES

Problem: Most everyday farming excavation activities only go to a depth of about 18-inches, which in most cases is shallow enough to be within the depth of cover of an underground facility as outlined by the Department of Transportation's (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) Depth of Cover Regulations which require underground facilities to be buried 30-48 inches in the ground, depending on their location. However, farmers have reported lines as shallow as six-inches and want operators to provide the depth of their facilities to help them avoid hitting the lines. Many operators say they initially bury their facilities to the required depth outlined by PHMSA, but that doesn't mean the facility will remain buried at that depth. They pointed to excavation activities and erosion as some of the reasons for this, and told the Board they were not comfortable providing depth information because they don't know the exact depth.



Solution: To address this issue, the Board created a process that requires farmers and facility operators to discuss how deep the facility is. While it is still the farmer's responsibility to determine depth, the Board's regulations invite facility owners to disagree and bring their own information to the onsite meeting to reach a shared understanding of the facility location.

CONSISTENCY IN THE PROCESS

Problem: Prior to the Board's regulations taking effect, the onsite meeting process between operators and farmers was inconsistent. One had a tailored policy for farmers, some had a standard form they used for all onsite meetings with excavators, others had a standard fact sheet for excavation near high priority facilities, and the rest had no standard process in place. This led to confusion and frustration among farmers who told the Board they wanted a consistent process so they knew what was expected of them.

Solution: To address this issue, the Board created a standard form to be used by all farmers and operators in the development and discussion of an ACE Plan and Agreement. The creation of the form was based off the information included in existing operator forms and feedback received from operators and farmers about the onsite meeting process.

Who Regulations Apply To:

- **Farmers** — The ACE Ticket can only be used for everyday agricultural practices like tilling, disking, cultivating, planting, harvesting, etc. Cannot be used for one-time activities like digging fence posts.
- **Flood Control** — The ACE Ticket can only be used for excavation on an engineered basin operated by a state or local agency used for the temporary slowing and storing of storm water runoff where regular debris removal is required.
- **High Priority Facility Operators** — It is required to locate and mark facilities and participate in onsite meeting with farm or flood control representative, and sign off on ACE Agreement Form if high priority facility is present on farmland.
- **Non-High Priority Facility Operators**—It is required to locate and mark facilities. These operators can choose to call an onsite meeting with farm or flood control representative, and sign off on ACE Agreement Form if non-high priority facilities are present on farmland.

Other Facts:

- California is only one of two states, along with Connecticut, to adopt a one-year excavation ticket for agriculture and flood control.

