

RESOLUTION NO. 19-07-02

RESOLUTION OF THE CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD APPROVING THE ADOPTION OF THE REGULATIONS FOR THE AREA OF CONTINUAL EXCAVATION RENEWAL TICKET REQUIREMENT AND AB 1914 IMPLEMENTATION PURSUANT TO THE DIG SAFE ACT OF 2016 AND AUTHORIZING RULEMAKING PROCEEDINGS

WHEREAS, pursuant to the Dig Safe Act of 2016 (SB 661, Chapter 809, Statutes of 2016) (the “Act”), codified under Government Code section 4216 et seq. (the “statute”), the California Underground Facilities Safe Excavation Board (the “Board”) is mandated to coordinate education and outreach activities that encourage safe excavation practices, develop certain standards for safe excavation practices, investigate possible violations of the statute, enforce the statute on specified persons, and recommend enforcement to the Registrar of Contractors of the Contractors State License Board, the Public Utilities Commission, and the Office of the State Fire Marshal;

WHEREAS, the Board must adopt regulations to implement the statute relative to area of continual excavation ticket renewal and use of equipment other than hand tools within the tolerance zone prior to determination of the exact location of a subsurface installation;

WHEREAS, pursuant to Government Code section 4216.10, the Board must develop a continual excavation ticket renewal process;

WHEREAS, pursuant to Government Code section 4216.4(a)(2)(C), on or before July 1, 2020, the Board is required to adopt regulations to implement the use of power-operated or boring equipment prior to the determination of the exact location of a subsurface installation; and

WHEREAS, Government Code section 4216.22 provides that the Board may prescribe rules and regulations as may be necessary or proper to carry out the purposes and intent of the Act and to exercise the powers and duties conferred upon it by the Act;

THEREFORE, BE IT RESOLVED by the California Underground Facilities Safe Excavation Board as follows:

Section 1. The proposed regulations for the area of continual excavation renewal ticket requirement and AB 1914 implementation, are hereby approved in substantially the form submitted to the Board by staff. The Executive Officer is hereby authorized, for and on behalf of the Board, to proceed as required by the

Administrative Procedure Act to adopt the proposed regulations and submit the proposed regulations with the supporting documentation required by law to the Office of Administrative Law.

Section 2. The Executive Officer is hereby authorized, for and on behalf of the Board, to take such actions, including making or causing to be made such changes to the proposed regulations as may be required for approval thereof by the Office of Administrative Law, and to execute and deliver any and all documents, including STD. 399 and STD. 400, that the Executive Officer may deem necessary or advisable in order to effectuate the purposes of this resolution.

Section 3. This resolution shall take effect immediately upon approval.

Date of Adoption: _____

CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD
PROPOSED RULEMAKING SCHEDULE
 (Area of Continual Excavation Ticket Renewal and AB 1914 Implementation)
 July 15, 2019

Regulatory Process	Deadline
Present proposed regulations to Board for approval	July 2019
Internal review/approval (State Fire Marshal, CAL FIRE, Resources Agency, etc.)	July-October 2019
Submit to Office of Administrative Law (“OAL”) for Regulatory Notice Register	October 2019
Notice is published in the CA Regulatory Notice Register and 45-day public written comment period begins	October 2019
Close of public written comment period. Public hearing scheduled or will be held if member of the public requests a public hearing in writing at least 15 days before comment period closes (Gov. Code section 11346.8).	December 2019
Present to Board for approval if there are any public comments or substantive changes to the regulations	December 2019/ January 2020
Internal review/approval (State Fire Marshal, etc.)	December 2019/ January 2020
Submit to OAL for approval (30 working days to review)	February 2020
Effective date of regulations if approved by OAL	July 1, 2020

DRAFT TEXT OF PROPOSED REGULATIONS

California Code of Regulations Title 19. Public Safety

Division 4. California Underground Facilities Safe Excavation Board

Section 4003. Valid and Current Contact Information for Members of Regional Notification Centers

(a) Members of regional notification centers shall maintain valid and current contact information, including phone number, email, and address, with the appropriate regional notification center, and shall promptly inform the appropriate regional notification center of any changes to the contact information.

(1) Each member shall provide at least one valid and current contact that includes the name, telephone number, and email address of an individual or business unit that can reach a person authorized to respond to inquiries regarding the determination of the exact location of subsurface installations operated by the member.

(b) Regional notification centers shall provide updated contact information for their members to the Board upon request by the Board.

NOTE: Authority cited: Sections 4216.4 and 4216.22, Government Code. Reference: Sections 4216.1 and 4216.12, Government Code.

Chapter 4. Area of Continual Excavation Article 1. General

Section 4305. Persons Eligible to Work Under a Continual Excavation Ticket

An excavator who contacts a regional notification center to request a continual excavation ticket shall communicate information about the extent of the area of excavation, the location of subsurface infrastructure within the area of continual excavation, and the type of work described within the continual excavation ticket to all workers, including any subcontractors, authorized by the excavator to perform work within the area of continual excavation.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: [4216.4216.10](#), and [4216.12](#), Government Code.

Section 4310. Continual Excavation Ticket Renewal Reminder Notifications

- (a) In response to a request from an excavator for a continual excavation ticket, a regional notification center shall provide the excavator with a continual excavation ticket and information or tools to assist the excavator with renewing the ticket.
- (b) (1) If the excavator requesting a continual excavation ticket has provided electronic contact information to the regional notification center and the excavator has granted the regional notification center permission to use the electronic contact information ~~for the purpose of providing to provide~~ a reminder notification in advance of ticket expiration, the regional notification center shall use the excavator's electronic contact information to provide one or more notifications to the excavator as a reminder to alert the excavator of the need to renew the ticket.
- (2) At least one reminder notification shall be sent no earlier than two months before ticket expiration and no later than ten days prior to ticket expiration. The reminder notification shall include the continual excavation ticket number and expiration date of the ticket. The reminder notification may include a hyperlink or other means by which the excavator may access a portal for electronic ticket renewal.
- (c) For the purposes of this section "electronic contact information" means an email address, a short message service (SMS) number, or another means of electronic communication offered by a regional notification center.

NOTE: Authority cited: Sections 4216.10 and 4216.22, Government Code. Reference: 4216.10 and 4216.12, Government Code.

Section 4345. Onsite Meeting and Plan Following Renewal of a Continual Excavation Ticket Near High Priority Subsurface Installations

An excavator may continue excavation pursuant to an Area of Continual Excavation Agreement (Agricultural Operations) or an Area of Continual Excavation Agreement (Flood Control Facilities) for thirty days following the renewal of a continual excavation ticket to allow the excavator and the operator of the high priority subsurface installation to set up an onsite meeting at a mutually agreed upon time to renew or to develop and agree to a new area of continual excavation plan pursuant to Section 4351 or Section 4361.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: 4216.10 and 4216.12, Government Code.

Chapter 5. Pre-Excavation Responsibilities
Article 1. Responsibilities of Excavators

Section 4401. Valid and Current Contact Information for Excavators Using the Regional Notification Centers

(a) When notifying a regional notification center of intent to excavate pursuant to Government Code section 4216.2, subdivision (b) or Government Code section 4216.10, subdivision (a), an excavator shall provide the contact information of a person knowledgeable in the proposed excavation activities so that an operator may contact the person regarding excavation activities that may occur around subsurface installations in the area of proposed excavation.

(1) The contact information shall include a name, telephone number, and, an email address, or both.

(2) The contact information shall be accurate during the period in which the ticket is valid. If either the person knowledgeable in the proposed excavation activities or the contact information for the person knowledgeable in the proposed excavation activities changes during the period in which the ticket is valid, the excavator shall provide updated contact information to the regional notification center.

NOTE: Authority cited: Section 4216.22, Government Code. Reference: Sections 4216.2, 4216.3, 4216.4, and 4216.10, Government Code.

Section 4501. Use of Equipment Other Than Hand Tools to Determine the Exact Location of a Subsurface Installation

(a) An excavator may use equipment other than hand tools within the tolerance zone of a subsurface installation for the purpose of determining the exact location of the subsurface installation if all of the following conditions are satisfied:

(1) The operator has responded to the excavator with a locate and field mark as provided in Government Code section 4216.3, subdivision (a)(1)(A)(i).

(2) The equipment conforms to the requirements as specified in subdivision (b) and has not been modified to function outside those requirements.

(3) The field mark does not indicate a subsurface installation facility-type classified under the orange category of the “Guidelines for Operator Facility Field Delineation” in Appendix B of the most recent version of the Best Practices Guide of the Common Ground Alliance and in conformance with the

uniform color code of the American Public Works Association.

(4) The field mark as identified using abbreviations in the “Guidelines for Operator Facility Field Delineation” in Appendix B of the most recent version of the Best Practices Guide of the Common Ground Alliance does not indicate street lighting or traffic signal.

(5) The excavator has classified the soil within the tolerance zone as Type A or Type B, as ~~provided~~ ~~defined~~ in Appendix A of Section 1541.1 of Title 8.

(b) An excavator may use equipment other than hand tools within the tolerance zone of a subsurface installation for the purpose of determining the exact location of a subsurface installation consistent with the requirements of subdivision (a) if the equipment and the equipment’s manner of use conform to the following ~~requirements~~ ~~parameters~~:

(1) Equipment configuration and specifications:

(A) The tool shall be a handheld percussive pneumatic, electric, or hydraulic hammer that drives a bit.

(B) The tool weight without accessory shall not exceed ~~40~~ ~~30~~-lbs.

(C) The bit used shall be no less than ~~4~~ ~~5.5~~ inches wide, have a rounded edge, and present no sharp surfaces.

(2) Manner of equipment use:

(A) The equipment must be used according to the manufacturer’s instructions.

(B) The bit edge shall be placed parallel, not perpendicular, to the orientation of the subsurface installation as indicated by the field mark.

~~(c) If the use of equipment other than hand tools as defined in this section is not effective in exposing the subsurface installation for the purpose of determining the exact location of the subsurface installation, the excavator shall contact the operator of the subsurface installation to determine how to proceed in a manner that protects the safety of the excavator and of the public and maintains the integrity of the subsurface installation. An excavator may use equipment other than hand tools that does not conform to the parameters in subdivision (b) if the excavator and operator agree in writing on the equipment to be used and the manner in which it will be used.~~

(c) An excavator shall request consultation with the operator of the subsurface installation to determine how to safely proceed if the use of hand tools, or equipment other than hand tools as permitted in this section, is not a safe and effective means of determining the exact location of the subsurface installation. The operator of the subsurface installation shall respond to such a request within two working days not including the date the operator received the request and shall discuss with the excavator how the excavator can safely and effectively proceed. An excavator may use equipment other than as permitted in subdivisions (a) and (b), if the excavator and operator agree in writing upon the equipment to be used and the manner in which it will be used.

(d) This section shall not apply to the use of a vacuum excavation device, which is determined by Government Code 4216.4, subdivision (a)(2)(A).

NOTE: Authority cited: Sections 4216.4 and 4216.22, Government Code. Reference: Sections 4216.2, 4216.3, 4216.4, 4216.10, and 4216.12, Appendix A of Section 1541.1 of Title 8.