

California Underground Facilities

Safe Excavation Board

Item #6j-n

Agenda Item – Resolution

DATE: January 9, 2018

TO: Members, Underground Facilities Safe Excavation Board

FROM: Tony Marino, Executive Officer

SUBJECT: Board Policies: Responsibilities and Accountabilities

BACKGROUND:

Many state and federal agencies have responsibilities for the safety of excavation in the vicinity of subsurface installations. The California Underground Facilities Safe Excavation Board is accountable to the Governor, the Legislature, and the people of California through a number of mechanisms.

DISCUSSION:

Several state and federal agencies have responsibility for safe excavation around buried infrastructure. The California Underground Facilities Safe Excavation Board (Board) is expected to play a central role in the coordination of activities to fulfil this responsibility.

- The federal Pipeline and Hazardous Materials Safety Administration (PHMSA, under the Department of Transportation) and Occupational Health and Safety Administration (OSHA, under the Department of Labor) have promulgated regulations and each have vested some of their authority with the states. Congress has authorized PHMSA to certify state pipeline safety programs¹ and OSHA to approve state plans for standard development and enforcement.² The CPUC and OSFM each have certified state pipeline safety programs, and the Division of Occupational Safety and Health under the Department of Industrial Relations (Cal/OSHA) exercises its jurisdiction through an approved state plan. Cal/OSHA develops consensus standards through the Occupational Safety & Health Standards Board (OSHSB) and adopts those standards through regulation. OSHA and Cal/OSHA develop training programs and guidance documents to specific types of activities, such as excavation.
- The state's Department of Consumer Affairs exists to protect consumers by providing a safe and fair marketplace through oversight, enforcement, and licensure of professions. The department houses 41 boards including the

¹ 49 USC 60105.

² 29 USC 667.

Contractors' State License Board (CSLB) licenses and regulates the state's construction industry.

- The state's two regional notification centers, though incorporated as 501(c)(6) non-profit corporations, have responsibility outlined in statute to accept excavation notifications from excavators and forward the information to subsurface installation operators. These one-call centers also have data retention requirements.
- The California Underground Facilities Safe Excavation Board (Board) has statutory responsibility to investigate accidents, developed subsurface facility-specific excavation safety standards, and coordinate the state's education and outreach programs for safe excavation work around subsurface facilities. The Board also has a statutory obligation to make recommendations to the Legislature.

To coordinate the efforts of these actors, a safe dig implementation team may need to be organized with representatives of these entities. Coordination would likely be manifest through policy documents such as memoranda of understanding.

Other, non-governmental entities also participate in the excavation safety space.

Several industry groups set standards:

1. Common Ground Alliance (Best Practices)
2. American Petroleum Institute (Recommended Practice 1162: Public Awareness Programs for Pipeline Operators)
3. National Utility Locators Association (Professional Competence Standards for Locating Technicians)
4. American Society of Civil Engineers (ASCE 38-02: Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data)

Additionally the California Regional Common Ground Alliance is a 501(c)(6) non-profit organization dedicated to promoting effective underground damage prevention practices in California.

A number of entities have oversight responsibility for the state's program for safe excavation around subsurface installations.

- The Governor, Senate Rules Committee, and Speaker of the Assembly oversee the Board, CPUC, CSLB, OSFM, and OSHSB through their appointments.
- The Legislature has multiple relevant standing and select committees with jurisdiction. The Board is subject to legislative review beginning January 1, 2020.³

³ GOV § 4216.12(c).

- PHMSA annually determines the effectiveness of state damage prevention programs.

RECOMMENDATION:

Adopt attached policies regarding the Board and executive officer responsibilities and accountabilities.

ATTACHMENTS:

- 1) Resolution
- 2) Responsibilities and Accountabilities A-01: Responsibilities of the Board
- 3) Responsibilities and Accountabilities A-02: Responsibilities of Board Members
- 4) Responsibilities and Accountabilities A-03: Responsibilities of the Executive Officer
- 5) Responsibilities and Accountabilities A-04: Accountability to the Legislature
- 6) Responsibilities and Accountabilities A-05: Coordination with State and Federal Agencies

CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD

RESOLUTION No. 18-01-03

A RESOLUTION OF THE CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD ADOPTING POLICIES REGARDING THE BOARD AND EXECUTIVE OFFICER RESPONSIBILITIES AND ACCOUNTABILITIES

Whereas several state and federal agencies have responsibility for safe excavation around buried infrastructure and the California Underground Facilities Safe Excavation Board is expected to play a central role in the coordination of activities to fulfil this responsibility; and

Whereas the Board is accountable to the Governor and Legislature by a number of mechanisms; and

Whereas safety objectives can only be accomplished with the clear assignment of responsibilities to actors who will carry them out and clear lines of accountability;

Be it resolved that the Board adopts as policies A-01, A-02, A-03, A-04, and A-05, outlining Board and executive officer responsibilities and accountabilities.

I certify that this resolution was adopted by the California Underground Facilities Safe Excavation Board at its business meeting on January 9, 2018, the following Members approving it:

/s/ Anthony R Marino

ANTHONY R. MARINO
Executive Officer

Category:	Responsibilities and Accountabilities	Policy Number:	A-01
Title:	Responsibilities of the Board		
Adopted:	DRAFT	Resolution:	
Revision:			

Pursuant to its authority granted by the Legislature of the State of California, the California Underground Facilities Safe Excavation Board serves as a governing body for Board staff as well as a policy and regulatory body.

- Improve the safety of excavation around subsurface installations within the state consistent with legislative direction, which charged the Board with all of the following:
 - Coordinate the state’s education and outreach activities that encourage safe excavation practices.
 - Develop standards relevant to safety practices in excavating around subsurface installations and procedures and guidance in encouraging those practices.
 - Investigate complaints and accidents to determine their causes.
 - Enforce safe excavation laws and regulations, or refer investigations to state and local agencies with authority to enforce them.
- Periodically review the state of safety in excavation around subsurface installations in California and the resources available to staff and stakeholders to address identified problems, and determine objectives and actions for improvement.
- Using the Board’s processes for periodic review, set clear performance expectations for staff and monitor staff’s efforts to accomplish objectives.
- Make recommendations to the Legislature for improving the safety of excavation around subsurface installations through the Legislature’s power of legislation, budget action, and oversight.
- Evaluate the performance of the Executive Officer.

Monitoring Method: Board
 Frequency: Annual

Category:	Responsibilities and Accountabilities	Policy Number:	A-02
Title:	Responsibilities of Board Members		
Adopted:	DRAFT	Resolution:	
Revision:			

California Underground Facilities Safe Excavation Board members are public officials as defined by the California Constitution and are appointed by the Governor, Senate, or Assembly to serve in the interest of the state's residents. The responsibilities of each Board member are as follows:

- Prepare for, attend, and participate in the Board's regular business meetings and other public functions that the Board uses to conduct its business.
- Be informed about the Board's policies, processes, and program activities.
- Review agenda and supporting materials prior to board meetings.
- Lead or co-lead policy inquiries on behalf of the Board.
- Inform others about the organization.
- Protect the public's interest by maintaining compliance with the word and spirit of ethics and transparency laws, including the Political Reform Act and the Bagley-Keene Open Meeting Act.
- Represent the Board to the California Legislature, to the public, and to groups with an interest in the Board's actions.

Monitoring Method: Board
Frequency: Annual

Category:	Responsibilities and Accountabilities	Policy Number:	A-03
Title:	Responsibilities of the Executive Officer		
Adopted:	DRAFT	Resolution:	
Revision:			

The Executive Officer is appointed by the Governor and executes Board direction through management of Underground Facilities Safe Excavation Board staff. The Executive officer shall:

- Conduct his or her work in compliance with the law, in a fair, competent and inclusive manner, and with the purpose of maximizing the value of the Board to Californians.
- Achieve the results established by the Board within the appropriate and ethical standards of business conduct set by the Board.
- Exercise prudent judgment in the use of resources allocated to the Board.
- Interact with other government agencies and the public pursuant to policies and decisions adopted by the Board.
- Have authority to act expeditiously and in coordination with other agencies of the State of California and United States in emergencies endangering the public health, safety, and the environment.
- Oversee the preparation of the Annual Report to the Governor and Legislature.
- Have the authority to represent the Board before the Legislature.
- Establish further policies, make decisions, take actions, establish practices, and develop activities in accordance with statutory authority, Board policies, and Board decisions.

Monitoring Method: Board
Frequency: Annual

Category:	Responsibilities and Accountabilities	Policy Number:	A-04
Title:	Accountability to the Legislature		
Adopted:	DRAFT	Resolution:	
Revision:			

The authority of the California Underground Facilities Safe Excavation Board comes from the people of California through their representatives in the Legislature. The Board is accountable to the Legislature in the following ways:

- Senate and Assembly appointees are accountable to their respective appointing houses to exercise the professionalism and good judgment befitting their positions.
- The annual Budget Act, which determines the authorized funding for the Board.
- Periodic legislative review, such as scheduled for January 1, 2020, or after by subdivision (c) of Government Code § 4216.12.
- The Annual Report to the Governor and Legislature, pursuant to Government Code § 4216.23.
- An inquiry by standing, sub-, and select committees with jurisdiction over the Board's activities, and inquiry by individual members. The inquiry may take the form of meeting requests, written requests for information, and informational and oversight hearings. The inquiry may come at any time and with little notice.

Monitoring Method: Staff
Frequency: Biennial

Category:	Responsibilities and Accountabilities	Policy Number:	A-05
Title:	Coordination with State and Federal Agencies		
Adopted:	DRAFT	Resolution:	
Revision:			

The California Underground Facilities Safe Excavation Board must collaborate with other state and federal agencies to advance its mission. In particular, the Board communicates with the following agencies:

- The Contractors' State License Board, the California Public Utilities Commission, and the Office of the State Fire Marshal in the enforcement of the state's laws for safe excavation around subsurface installations. Additionally, the Board assists the California Public Utilities Commission, and the Office of the State Fire Marshal in their oversight of the federally-mandated damage prevention programs natural gas and hazardous liquid pipeline operators. The Board will explore areas of further collaboration with these agencies.
- The Division of Occupational Safety and Health (Cal/OSHA) within the Department of Industrial Relations, as well as the Occupational Safety and Health Standards Board.
- The federal Pipeline and Hazardous Materials Safety Administration, who sets minimum natural gas and hazardous liquid pipeline safety requirements, delegates oversight of those requirements to the California Public Utilities Commission, and the Office of the State Fire Marshal, and evaluates state damage prevention programs for purposes of awarding federal funding to state programs.

The Board will seek areas of beneficial cooperation with these and other federal, state, and local agencies and will respect their policies and decisions.

Monitoring Method: Board
Frequency: Annual