
California Underground Facilities Safe Excavation Board

January 10-11, 2022

Agenda Item No. 4 (Action Item) – Staff Report

Review and Approval of Board Policies

Presenters

Tony Marino, Executive Officer

Summary

Staff Proposes to amend the Board's Legislative Framework Policy Number L-03, California's Dig Safe Law, to reflect statutory changes.

Background

During its first meeting in January 2018, the Board adopted policies relating to organization; responsibility and accountability; governance; compliance; and legislative framework. The legislative framework policies restate the text of certain regulations and statutes, and the Board re-evaluates those policies annually.

Discussion

On January 1, 2022, two substantive changes to California's Regional Notification Center System law¹ took effect.

Senate Bill 297 (2021), chaptered on October 5, 2021, added this penalty provision to Government Code section 4216.6(a)(3):

- (3) Any operator or excavator who knowingly and willfully violates any of the provisions of this article in a way that results in damage to a gas or hazardous liquid pipeline subsurface installation and that results in the escape of any flammable, toxic, or corrosive gas or liquid is subject to a civil penalty in an amount not to exceed one hundred thousand dollars (\$100,000).

¹ Government Code sections 4216 - 4217

Assembly Bill 930 (2021), chaptered on September 16, 2021, added this provision for award of attorney fees and costs to Government Code section 4216.7:

- (g) A court or arbitrator shall award reasonable attorney's costs and fees, including expert witness fees, to an excavator if either of the following apply:
 - (1) The court or arbitrator determines that an excavator is not liable for damages to a subsurface installation for a reason described in subdivision (d).
 - (2) The excavator makes an offer to settle the matter that is not accepted and the plaintiff fails to obtain a more favorable judgment or award.

Staff proposes updating Policy L-3 to reflect the changes to Government Code sections 4216.6 and 4216.7.

Other legislative framework policies that are subject to review this year need not be changed.

Recommendation

Staff recommends that the Board approve amended Policy L-03.

Attachments

- A. Amended Policy L-03
- B. Resolution No. 22-01-01 amending Policy L-03