California Underground Facilities Safe Excavation Board
("Dig Safe Board")

February 9, 2021

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

Review and Approval of Board Policies

PRESENTER

Tony Marino, Executive Officer

SUMMARY

Of the seven Board policies subject to review in 2021, staff proposes the Board amend one to update the legislative framework to include 2020 statutory changes.

BACKGROUND

At its first meeting in January 2018, the Board adopted organizational, responsibility and accountability, governance, and compliance policies as well as adopting a legislative framework. In adopting these policies, the Board also adopted monitoring frequencies of one to three years, when these policies would be re-evaluated.

DISCUSSION

Seven of the Board's policies are up for review in 2021. Of these, five constitute the legislative framework and are reviewed annually for changes to state and federal statutes and federal regulations. On December 27, 2020, President Trump signed the Protecting our Infrastructure of Pipelines and Enhancing Safety ("PIPES") Act of 2020, but this measure did not affect Sections 60116 or 60134(b) of Title 49 of the United States Code, which is found in Policies L-01 and L-02, nor did it make other changes affecting the Board's work. The California Legislature, on the other hand, passed SB 865 (Hill) which was signed by the Governor on September 29, 2020 (Chapter 307), creating requirements for damage notification, GIS of newly-installed subsurface installations, ticket delivery to the Board by one-call centers, use of penalty money, the establishment of the Board under the Office of Energy Infrastructure Safety, and other various changes. Additionally, the existing statute has two versions of Government Code §4216.7—one which applied before July 1, 2020, and did not consider area of continual tickets, and one which applied on and after that date, including area of continual excavation. The first is now inoperative.

Staff proposes updating Policy L-03 ("California's Dig Safe Law") to include the updates that SB 865 made to Article 2 of Chapter 3.1 of Division 5 of Title 1 of the California Government Code.

Staff proposes that other policies subject to review this year need not be amended. Table 1 includes a list of all the policies subject to review and briefly describes proposed amendments where applicable.

***Table 1**: List of Board policies subject to review in 2021 and brief descriptions of staff recommendations for change, where applicable.*

No.	Policy Number and Title	Proposed Changes
1	L-01: 49 USC 60116 – Public Education Programs	No change
2	L-01.a: 49 CFR 192.614, 49 CFR 195.422 – Damage prevention program	No change
3	L-02: 49 USC 60134(b) – Damage Prevention Program Elements	No change
4	L-02.a: 49 CFR 198.55 - What criteria will PHMSA use in evaluating the effectiveness of State damage prevention enforcement programs?	No change
5	L-03: California's Dig Safe Law	Add SB 865 (2020) requirements to Gov't Code § 4216, 4216.2, 4216.3, 4216.4, 4216.6, 4216.12, and 4216.17. Remove version of 4216.7 rendered inoperative on July 1, 2020.
6	B-05: Enforcement Philosophy	No change
7	G-02: Election of Board Chair and Vice-Chair	No change

RECOMMENDATION

Staff proposes the Board make the above-mentioned changes to its policies.

ATTACHMENTS

A. Amended Policy L-03 ("California's Dig Safe Law")

B. Resolution No. 21-02-01 amending Policy L-03