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

February 11, 2019

Agenda Item No. 5 (Information Item) – Staff Report

Discussion on Implementation of AB 1914

Presenter

Jennifer Reed, Policy Analyst

Background

AB 1914 was signed into law on September 23, 2018, amending Section 4216.4 of the Government Code to allow for the use of power-operated or boring equipment within the tolerance zone prior to determining the exact location of subsurface installations. This exception is to take effect beginning July 1, 2020 under circumstances and conditions to be determined by the Board through regulations.

The Board faces a statutory deadline of July 1, 2020 for adopting regulations on this matter.

Discussion

The Board is seeking a diversity of stakeholder input regarding development of regulations to implement AB 1914.

Initial discussion on the scope of implementing AB 1914 was introduced by staff at the November 2018 Board meeting.

Concerns raised during public comment included:

- Vibration effects of equipment and effects on soil
- How to determine and regulate variables in relation to variety of tools and their use
- Dangers of incorrect use of boring tools
- Possibility of damaging facilities with hand tools
- Many tools can be used safely, but all can also be used unsafely

<u>Questions for Consideration</u>

What are the candidate conditions under which an AB 1914 exception may be exercised?

What are the candidate techniques which may be employed for those AB 1914 candidate conditions?

Should there be notification or approval requirements for each of the candidate techniques proposed for use in AB 1914 candidate conditions? If so, what types of notification or approval requirements would be appropriate?

What do stakeholders see as the primary risks and benefits of the AB 1914 exception?

Attachments: AB 1914 (Flora, Chapter 708, Statutes of 2018)
Proposed Rulemaking Schedule

STATE OF CALIFORNIA
LEGISLATIVE COUNSEL BUREAU
AUTHENTICATED
ELECTRONIC LEGAL MATERIAL

Assembly Bill No. 1914

CHAPTER 708

An act to amend Section 4216.4 of the Government Code, relating to state government.

[Approved by Governor September 23, 2018. Filed with Secretary of State September 23, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1914, Flora. Underground installations: excavations.

Existing law requires an excavator planning to conduct any excavation to contact the appropriate regional notification center before beginning that excavation, as specified. Existing law, if an excavation is within the tolerance zone of a subsurface installation, requires the excavator to determine the exact location of the subsurface installations in conflict with the excavation using specified tools, except as otherwise provided.

This bill, beginning July 1, 2020, would authorize an excavator to use certain equipment prior to determining the exact location of the subsurface installations, and would require the California Underground Facilities Safe Excavation Board, on or before July 1, 2020, to adopt regulations to implement this provision.

The people of the State of California do enact as follows:

SECTION 1. Section 4216.4 of the Government Code is amended to read:

4216.4. (a) (1) Except as provided in paragraph (2), if an excavation is within the tolerance zone of a subsurface installation, the excavator shall determine the exact location of the subsurface installations in conflict with the excavation using hand tools before using any power-driven excavation or boring equipment within the tolerance zone of the subsurface installations. In all cases the excavator shall use reasonable care to prevent damaging subsurface installations.

(2) (A) An excavator may use a vacuum excavation device to expose subsurface installations within the tolerance zone if the operator has marked the subsurface installation, the excavator has contacted any operator whose subsurface installations may be in conflict with the excavation, and the operator has agreed to the use of a vacuum excavation device. An excavator shall inform the regional notification center of his or her intent to use a vacuum excavation device when obtaining a ticket.

(B) An excavator may use power-operated or boring equipment for the removal of any existing pavement only if there is no known subsurface installation contained in the pavement.

(C) Beginning July 1, 2020, an excavator may use power-operated or boring equipment, as determined by the board, prior to determining the exact location of subsurface installations. The board shall adopt regulations to implement this paragraph on or before July 1, 2020.

(3) An excavator shall presume all subsurface installations to be active, and shall use the same care around subsurface installations that may be inactive as the excavator would use around active subsurface installations.

(b) If the exact location of the subsurface installation cannot be determined by hand excavating in accordance with subdivision (a), the excavator shall request the operator to provide additional information to the excavator, to the extent that information is available to the operator, to enable the excavator to determine the exact location of the installation. If the excavator has questions about the markings that an operator has placed, the excavator may contact the notification center to send a request to have the operator contact the excavator directly. The regional notification center shall provide the excavator with the contact telephone number of the subsurface installation operator.

(c) (1) An excavator discovering or causing damage to a subsurface installation, including all breaks, leaks, nicks, dents, gouges, grooves, or other damage to subsurface installation lines, conduits, coatings, or cathodic protection, shall immediately notify the subsurface installation operator. The excavator may contact the regional notification center to obtain the contact information of the subsurface installation operator. If the operator is unknown and the damage or discovery of damage occurs outside the working hours of the regional notification center, the excavator may follow the instructions provided by the regional notification center through its Internet Web site or the telephone line recorded message.

(2) An excavator shall call 911 emergency services upon discovering or causing damage to either of the following:

(A) A natural gas or hazardous liquid pipeline subsurface installation in which the damage results in the escape of any flammable, toxic, or corrosive gas or liquid.

(B) A high priority subsurface installation of any kind.

(d) Each excavator, operator, or locator shall communicate with each other and respect the appropriate safety requirements and ongoing activities of the other parties, if known, at an excavation site.

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CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD
PROPOSED RULEMAKING SCHEDULE
(Implementation of AB 1914)
February 11, 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-Sept. 2019
Submit to Office of Administrative Law ("OAL") for publication in the CA 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	Dec. 2019 / Jan. 2020
Internal review/approval (State Fire Marshal, etc.)	Dec. 2019 / Jan. 2020
Submit to OAL for approval (30 working days to review)	March 2020
Effective date of regulations if approved by OAL	July 1, 2020