

State Damage Prevention Law Summary

State: California

(Link to State law provided in Law & Regulation section below)

Summary Date: 8/7/2017

Excavator Requirments	
Excavation: Definition	California Code 4216 As used in this article, the following definitions apply: (g) "Excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of tools, equipment, or explosives in any of the following ways: grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, cable or pipe plowing and driving, or any other way.
Excavator: Definition	California Code 4216 As used in this article, the following definitions apply: (h) Except as provided in Section 4216.8, "excavator" means any person, firm, contractor or subcontractor, owner, operator, utility, association, corporation, partnership, business trust, public agency, or other entity that, with their, or his or her, own employees or equipment performs any excavation.
Excavator Notice to One Call Required (Yes / No)	Yes
Excavator Notice Minimum # Working Days Before Digging	2
Excavator Notice (Specific Language)	California Code 4216.2.(b) Except in an emergency, an excavator planning to conduct an excavation shall notify the appropriate regional notification center of the excavator's intent to excavate at least two working days, and not more than 14 calendar days, before beginning that excavation. The date of the notification shall not count as part of the two-working-day notice. If an excavator gives less notice than the legal excavation start date and time and the excavation is not an emergency, the regional notification center will take the information and provide a ticket, but an operator has until the legal excavation start date and time to respond. However, an excavator and an operator may mutually agree to a different notice and start date. The contact information for operators notified shall be available to the excavator. ... (d) Except in an emergency, every excavator covered by Section 4216.8 planning to conduct an excavation on private property that does not require an excavation permit may contact the appropriate regional notification center if the private property is known, or reasonably should be known, to contain a subsurface installation other than the underground facility owned or operated by the excavator.
Ticket Life (# of days)	28
White-Line Required (Yes / No)	Yes. (California Code 4216.2. (a))
Tolerance Zone	24" (California Code 4216. (u))
Special Digging Requirements Within Tolerance Zone (Specific Language)	California Code 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. (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.
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	Yes. (California Code 4216.4. (a))

Preserve / Maintain Marks Required (Yes / No)	No
Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	Yes. (California Code 4216.3. (d))
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	Yes. (California Code 4216.3. (b))
Special Language Regarding Trenchless Technology (Yes / No)	Yes. (California Code 4216.4)
Separate Locate Request Required for Each Excavator (Yes / No)	Yes. (California Code 4216.2. (b))
Notify Operator of Damage (Yes / No)	Yes. (California Code 4216.4. (c) (1))
Notify One Call Center of Damage (Yes / No)	No
Call 911 if Hazardous Materials Released (Yes / No)	Yes. (California Code 4216.4. (c) (2))
Notice Exemptions (Yes / No)	Yes
Notice Exemptions (Specific Language)	California Code 4216.8. This article does not apply to any of the following persons: (a) An owner of real property who contracts for an excavation project on the property, not requiring a permit issued by a state or local agency, with a contractor or subcontractor licensed pursuant to Article 5 (commencing with Section 7065) of Chapter 9 of Division 3 of the Business and Professions Code. (b) An owner of residential real property, not engaged as a contractor or subcontractor licensed pursuant to Article 5 (commencing with Section 7065) of Chapter 9 of Division 3 of the Business and Professions Code, who as part of improving his or her principal residence or appurtenances thereto is performing or having performed excavation work not requiring a permit issued by a state or local agency. (c) Any person or private entity that leases or rents power operated or power-driven excavating or boring equipment, regardless of whether an equipment operator is provided for that piece of equipment or not, to a contractor or subcontractor licensed pursuant to Article 5 (commencing with Section 7065) of Chapter 9 of Division 3 of the Business and Professions Code, if the signed rental agreement between the person or private entity and the contractor or subcontractor contains the following provision: "It is the sole responsibility of the lessee or renter to follow the requirements of the regional notification center law pursuant to Article 2 (commencing with Section 4216) of Chapter 3.1 of Division 5 of Title 1 of the Government Code. By signing this contract, the lessee or renter accepts all liabilities and responsibilities contained in the regional notification center law."
Operator Response	
Minimum # Days for Operator to Respond After Receiving Notice (Generally)	2
Operator Requirements to Respond to Locate Notification (Specific Language)	[Effective 1/1/2017]: California Code 4216.3. (a) (1) (A) Unless the excavator and operator mutually agree to a later start date and time, or otherwise agree to the sequence and timeframe in which the operator will locate and field mark, an operator shall do one of the following before the legal excavation start date and time: (i) Locate and field mark within the area delineated for excavation and, where multiple subsurface installations of the same type are known to exist together, mark the number of subsurface installations. (ii) To the extent and degree of accuracy that the information is available, provide information to an excavator where the operator's active or inactive subsurface installations are located. (iii) Advise the excavator it operates no subsurface installations in the area delineated for excavation. (B) An operator shall mark newly installed subsurface installations in areas with continuing excavation activity. (C) An operator shall indicate with an "A" inside a circle the presence of any abandoned subsurface installations, if known, within the delineated area. The markings are to make an excavator aware that there are abandoned subsurface installations within that delineated work area.
Minimum Standards for Locator Qualifications (Yes / No)	Yes

Minimum Standards for Locator Qualifications (Specific Language)	<p>California Code 4216. (p) "Qualified person" means a person who completes a training program in accordance with the requirements of Section 1509 of Title 8 of the California Code of Regulations Injury and Illness Prevention Program, that meets the minimum locators training guidelines and practices published in the most recent version of the Best Practices guide of the Common Ground Alliance.</p> <p>California Code 4216.3.(a) (2) Only a qualified person shall perform subsurface installation locating activities. (3) A qualified person performing subsurface installation locating activities on behalf of an operator shall use a minimum of a single-frequency utility locating device and shall have access to alternative sources for verification, if necessary.</p>
Law Specifies Marking Standards Other Than Color (Yes / No)	<p style="text-align: center;">Yes</p>
Law Specifies Marking Standards Other Than Color (Specific Language)	<p>California Code 4216. (n) (1) "Locate and field mark" means to indicate the existence of any owned or maintained subsurface installations by using the guidelines in Appendix B of the "Guidelines for Operator Facility Field Delineation" published in 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. If there is a conflict between the marking practices in the guidelines and this article, this article shall control. (2) "Locate and field mark" does not require an indication of the depth.</p> <p>CGA Best Practice 4-3: Color Code states: Practice Statement: A uniform color code and set of marking symbols is adopted nationwide. Practice Description: A national standard is adopted defining color specifications relevant to facility type and marking symbols for identifying facilities. (See Appendix B, "Uniform Color Code and Marking Guidelines.") 9/ The December 1997 NTSB safety report cites the use of the APWA/ Utility Location and Coordination Council (ULCC) color code as the model example.</p>
Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)	<p style="text-align: center;">No</p>
Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)	<p style="text-align: center;">Yes</p>
Operator Must Locate Abandoned Facilities (Specific Language)	<p>California Code 4216.3. (a) (1) (A) (iii) (C) An operator shall indicate with an "A" inside a circle the presence of any abandoned subsurface installations, if known, within the delineated area. The markings are to make an excavator aware that there are abandoned subsurface installations within that delineated work area....(4) An operator shall amend, update, maintain, and preserve all plans and records for its subsurface installations as that information becomes known. If there is a change in ownership of a subsurface installation, the records shall be turned over to the new operator. Commencing January 1, 2017, records on abandoned subsurface installations, to the extent that those records exist, shall be retained.... (4) An operator shall amend, update, maintain, and preserve all plans and records for its subsurface installations as that information becomes known. If there is a change in ownership of a subsurface installation, the records shall be turned over to the new operator. Commencing January 1, 2017, records on abandoned subsurface installations, to the extent that those records exist, shall be retained.</p>
Positive Response Required - Operator Contact Excavator (Yes / No)	<p style="text-align: center;">Yes</p>
Positive Response Required - Operator Contact Excavator (Specific Language)	<p>Positive response to the excavator is generally not addressed. HOWEVER, in the case of high priority subsurface installations California Code 4216.2 (c) dictates that "When the excavation is proposed within 10 feet of a high priority subsurface installation, the operator of the high priority subsurface installation shall notify the excavator of the existence of the high priority subsurface installation to set up an onsite meeting prior to the legal excavation start date and time or at a mutually agreed upon time to determine actions or activities required to verify the location and prevent damage to the high priority subsurface installation. As part of the meeting, the excavator shall discuss with the operator the method and tools that will be used during the excavation and the information the operator will provide to assist in verifying the location of the subsurface installation. The excavator shall not begin excavating until after the completion of the onsite meeting."</p> <p>Also, California Code 4216.2 (e) states: "If an operator or local agency knows that it has a subsurface installation embedded or partially embedded in the pavement that is not visible from the surface, the operator or local agency shall contact the excavator before pavement removal to communicate and determine a plan of action to protect that subsurface installation and excavator."</p>
Positive Response Required - Operator Contact One Call Center (Yes / No)	<p style="text-align: center;">No</p>

Positive Response Required - Operator Contact One Call Center (Specific Language)	Not addressed
Positive Response - One-Call Automated (Yes / No)	No NOTE: California Code 4216.3. (c) Commencing January 1, 2018, every operator may supply an electronic positive response through the regional notification center before the legal excavation start date and time. The regional notification center shall make those responses available to the excavator.
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)	Not addressed.
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	No
Operator Must Update Information On Locations of Buried Facilities (Specific Language)	Not addressed.
New Facilities Must Be Locatable Electronically (Yes / No)	No
New Facilities Must Be Locatable Electronically (Specific Language)	Not addressed.
Design Request (Yes / No)	No
One Call, Enforcement, and Reporting	
Mandatory One Call Membership (Yes / No)	Yes. (California Code 4216.1.)
One Call Membership Exemptions (Yes / No)	Yes
One Call Membership Exemptions (Specific Language)	California Code 4216 (h) "Operator" means any person, corporation, partnership, business trust, public agency, or other entity that owns, operates, or maintains a subsurface installation. For purposes of Section 4216.1, an "operator" does not include an owner of real property where subsurface facilities are exclusively located if they are used exclusively to furnish services on that property and the subsurface facilities are under the operation and control of that owner. 4216.1. Every operator of a subsurface installation, except the Department of Transportation, shall become a member of, participate in, and share in the costs of, a regional notification center. 4216.5. The requirements of this article apply to state agencies and to local agencies which own or operate subsurface installations, except as otherwise provided in Section 4216.1.
One-Call Law Addresses Board Make-Up (Yes / No)	Yes

<p>One-Call Law Addresses Board Make-Up (Specific Language)</p>	<p>California Code 4216.13. (a) The board shall be composed of nine members, of which seven shall be appointed by the Governor, one shall be appointed by the Speaker of the Assembly, and one shall be appointed by the Senate Committee on Rules. (b) The seven members appointed by the Governor shall be appointed, as follows: (1) Three members shall have knowledge and expertise in the operation of subsurface installations. Of those three members, one shall have knowledge and expertise in the operation of the subsurface installations of a municipal utility. At least one of the three members shall have knowledge and experience in the operation of high priority subsurface installations. (2) Three members shall have knowledge and experience in contract excavation for employers who are not operators of subsurface installations. Of the three members, one member shall be a general engineering contractor, one member shall be a general building contractor, and one member shall be a specialty contractor. For the purposes of this section, the terms "general engineering contractor," "general building contractor," and "specialty contractor" shall have the meanings given in Article 4 (commencing with Section 7055) of Chapter 9 of Division 3 of the Business and Professions Code. (3) One member shall have knowledge and expertise in performing or managing agricultural operations in the vicinity of subsurface installations. (c) The member appointed by the Speaker of the Assembly shall have knowledge and expertise in representing in safety matters the workers employed by contract excavators. (d) The member appointed by the Senate Committee on Rules shall have knowledge and expertise in subsurface installation location and marking and shall not be under the direct employment of an operator. (e) The board may invite two directors of operations of regional notification centers to be nonvoting ex officio members of the board.</p>
<p>Separate Body Designated to Advise Enforcement Authority (Yes / No)</p>	<p>Yes</p>
<p>Separate Body Designated to Advise Enforcement Authority (Specific Language)</p>	<p>Effective July 1, 2018, California Code 4216.19. (a) The [Regional Notification Center System] board shall investigate possible violations of this article. ... (d) If the board, upon the completion of an investigation, finds a probable violation of the article, the board shall transmit the investigation results and any recommended penalty to the state or local agency pursuant to subdivision (c) or (d) of Section 4216.6.</p>
<p>Penalties / Fines Excavators (Yes / No)</p>	<p>Yes</p>
<p>Penalties / Fines Excavators (Specific Language)</p>	<p>California Code 4216.6. (a) (1) Any operator or excavator who negligently violates this article is subject to a civil penalty in an amount not to exceed ten thousand dollars (\$10,000). (2) Any operator or excavator who knowingly and willfully violates any of the provisions of this article is subject to a civil penalty in an amount not to exceed fifty thousand dollars (\$50,000). Effective July 1, 2018, California Code 4216.19. ... (d) If the board, upon the completion of an investigation, finds a probable violation of the article, the board shall transmit the investigation results and any recommended penalty to the state or local agency pursuant to subdivision (c) or (d) of Section 4216.6. (e) Sanctions shall be graduated and may include notification and information letters, direction to attend relevant education, and financial penalties. When considering the issuance of citations and assessment of penalties, the board shall consider all of the following: (1) The type of violation and its gravity. (2) The degree of culpability. (3) The operator's or excavator's history of violations. (4) The operator's or excavator's history of work conducted without violations. (5) The efforts taken by the violator to prevent violation and, once the violation occurred, the efforts taken to mitigate the safety consequences of the violation.</p>
<p>Penalties / Fines Operators (Yes / No)</p>	<p>Yes</p>
<p>Penalties / Fines Operators (Specific Language)</p>	<p>California Code 4216.6. (a) (1) Any operator or excavator who negligently violates this article is subject to a civil penalty in an amount not to exceed ten thousand dollars (\$10,000). (2) Any operator or excavator who knowingly and willfully violates any of the provisions of this article is subject to a civil penalty in an amount not to exceed fifty thousand dollars (\$50,000). Effective July 1, 2018, California Code 4216.19. ... (d) If the board, upon the completion of an investigation, finds a probable violation of the article, the board shall transmit the investigation results and any recommended penalty to the state or local agency pursuant to subdivision (c) or (d) of Section 4216.6. (e) Sanctions shall be graduated and may include notification and information letters, direction to attend relevant education, and financial penalties. When considering the issuance of citations and assessment of penalties, the board shall consider all of the following: (1) The type of violation and its gravity. (2) The degree of culpability. (3) The operator's or excavator's history of violations. (4) The operator's or excavator's history of work conducted without violations. (5) The efforts taken by the violator to prevent violation and, once the violation occurred, the efforts taken to mitigate the safety consequences of the violation.</p>
<p>Penalties / Fines Other (Yes / No)</p>	<p>No</p>
<p>Penalties / Fines Other (Specific Language)</p>	<p>Not addressed.</p>

Enforcement Authority Identified	California Code 4216.6. (b) An action may be brought by the Attorney General, the district attorney, or the local or state agency which issued the permit to excavate, for the enforcement of the civil penalty pursuant to this section. (c) The requirements of this article may also be enforced following a recommendation of the California Underground Facilities Safe Excavation Board by the following agencies, that shall act to accept, amend, or reject the recommendations of the board as follows: (1) The Registrar of Contractors of the Contractors' State License Board shall enforce the provisions of this article on contractors, as defined in Article 2 (commencing with Section 7025) of Chapter 9 of Division 3 of the Business and Professions Code, and telephone corporations, as defined in Section 234 of the Public Utilities Code, when acting as a contractor, as defined in Article 2 (commencing with Section 7025) of Chapter 9 of Division 3 of the Business and Professions Code. Nothing in this section affects the California Public Utilities Commission's existing authority over a public utility. (2) The Public Utilities Commission shall enforce the provisions of this article on gas corporations, as defined in Section 222 of the Public Utilities Code, and electrical corporations, as defined in Section 218 of the Public Utilities Code, and water corporations, as defined in Section 241 of the Public Utilities Code. (3) The Office of the State Fire Marshal shall enforce the provisions of this article on operators of hazardous liquid pipeline facilities as defined in Section 60101 of Chapter 601 of Subtitle VIII of Title 49 of the United States Code. (d) A local governing board may enforce the provisions of this article on local agencies under the governing board's jurisdiction. (e) The California Underground Facilities Safe Excavation Board shall enforce the provisions of this article on persons other than those listed in subdivisions (c) and (d).
Damage Investigation Required by Enforcement Authority (Yes / No)	No. Not by enforcement authorities, however effective July 1, 2018, California Code 4216.19. (a) The [Regional Notification Center System] board shall investigate possible violations of this article. (b) The board may investigate reports of incident events, as defined in paragraph (1) of subdivision (h) of Section 4216.6 and complaints from affected parties and members of the public. (c) In determining whether to pursue an investigation, the board shall consider whether the parties have settled the matter and whether further enforcement is necessary as a deterrent to maintain the integrity of subsurface installations and to protect the safety of excavators and the public. (d) If the board, upon the completion of an investigation, finds a probable violation of the article, the board shall transmit the investigation results and any recommended penalty to the state or local agency pursuant to subdivision (c) or (d) of Section 4216.6.
Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	No. Reference California Code 4216.6. (g) regarding reporting to and by the regional notification centers.
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	No. Reference California Code 4216.6. (g) regarding reporting to and by the regional notification centers.
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	No
Law and Regulation	
Statute / Law (Name & Link)	California Government Code (GOV), Title 1, Division 5, Chapter 3.1, "Protection of Underground Infrastructure [4215 - 4216.9] (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=4216.&lawCode=GOV) Also see One-Call Center Website for Information on State Law.
Date of Last Revision to Statute / Law	2016
Administrative Rules / Regulations (Yes / No)	No
Administrative Rules / Regulations (Name & Link)	For further information, reference: * California Public Utilities Code, Section 955-972, Natural Gas Pipeline Safety Act of 2011. (http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=955.&lawCode=PUC) * California Government Code, Section 51010 - 51019.1, The Elder California Pipeline Safety Act of 1981 (http://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=5.&part=1.&chapter=5.5.&article) * California State Fire Marshal, Pipeline Division (http://osfm.fire.ca.gov/pipeline/pipeline_regulations) * California Public Utilities Commission, Pipeline Safety (http://www.cpuc.ca.gov/General.aspx?id=6762)
State One Call Center(s) (Name & Link)	(1) North -- Underground Service Alert North -- www.usanorth811.org ; (2) South -- Underground Service Alert of Southern Californiat -- www.digalert.org

Miscellaneous Notes

Notes

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State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates

Changes effective November 1, 2017:

* Area of continual excavation ticket means a location where excavation is part of the normal business activities of that location, including but not limited to, agricultural operations and flood control facilities. (4216 Definitions (c))

* In lieu of the notification and locate and field mark requirements of Sections 4216.2 and 4216.3, an excavator may contact a regional notification center to request a continual excavation ticket for an area of continual excavation. The regional notification center shall provide a ticket to the person who contacts the center pursuant to this section and shall notify any member, if known, who has a subsurface installation in the area of continual excavation. The ticket provided to the excavator shall include the contact information for notified operators. (4216.10(a))

* A ticket for an area of continual excavation shall be valid for one year from the date of issuance. The excavator may renew the ticket within two working days either by accessing the regional notification center's Internet Web site or by calling "811" (4216.10 (d))

Changes effective January 1, 2018:

* Members may supply an electronic positive response through the regional notification center before the legal excavation start date and time. The regional notification center shall make those responses available to the excavator. (4216.3 (b))

Changes effective July 1, 2018:

* The [Regional One Call Center] board shall investigate possible violations of this article. (4216.19(a))