STATE OF CALIFORNIA

OFFICE OF ENERGY INFRASTRUCTURE SAFETY

TITLE 19. PUBLIC SAFETY

DIVISION 4. CALIFORNIA UNDERGROUND FACILITIES SAFE EXCAVATION BOARD

AMEND SECTION 4010 - FEES

INITIAL STATEMENT OF REASONS

Background

California's Dig Safe Law, Government (Gov.) Code §4216 – *et seq.* established a regional notification system to provide operators that own, operate, or maintain subsurface installations, with advance warning of nearby excavations for the purpose of protecting those installations from damage and for the safety of the excavators and the public. There are two regional notification centers (RNCs) in California that provide that function. All operators must be a member of an RNC.

The Dig Safe Law also established the California Underground Facilities Safe Excavation Board (Board). The Board must coordinate education and outreach activities, develop standards, investigate possible violations, and enforce the Dig Safe Law. The Board's budget is supported by a fee charged to operators. Upon its creation, the Board was given a start-up loan by the legislature. It is through the RNCs that the Board collects its fees.

Problem Statement

In 2020, the Board's regulations included a $7,000,000 cap on its annual fee amount. At the time that the cap was imposed, the Board had only recently paid off its startup loan and therefore did not need to collect the level of revenue it had collected in prior years. Since the imposition of the expense cap, the Legislature has increased the Board's appropriations to provide for increased costs. A fixed-dollar cap is no longer a reasonable inclusion in the Board's

regulations governing apportionment of its necessary revenue. Without sufficient revenue, the Board will be in a structural budget imbalance. This requires corrective action; the Board must remove its self-imposed expense cap.

Further, current regulations do not provide a due date by which the Board's fee must be paid. This makes the payment of the fee difficult to enforce.

Reason/benefits for the changes

Removing the self-imposed budget cap will allow the Board to avoid a fiscal structural deficit. Establishing a due date for the fee and a late fee for noncompliance will allow the Board to enforce payment of the fee.

Specific purpose and necessity of each section

Section 4010. Fees

AMEND subdivision (a)(2)(C)

Subdivision (a)(2)(C) is amended to remove the self-imposed expense cap. This allows the Board to collect sufficient revenue and avoid a structural budget deficit.

AMEND subdivision (b)(1)

Subdivision (b)(1) is amended to remove the self-imposed expense cap. This allows the Board to collect sufficient revenue and avoid a structural budget deficit.

ADD subdivision (c)(3)

Subdivision (c)(3) is added to provide a deadline for the payment of the Board's fees. Having a specified deadline provides clarity and aids in the enforcement of fee payments.

AMEND subdivision (e)

Subdivision (e) is amended to remove outdated language that restricted the Board's operational expense for certain years. Subdivision (e) is also amended to add language to allow the Board to

spend the amounts appropriated to it by the Legislature. Removing outdated language provides clarity. Adding the language provides the needed revenue for the Board to function as required.

DELETE subdivision (f)

Subdivision (f) is deleted in its entirety to remove outdated language that transitioned the Board to its current posting and billing schedule. Removing outdated language provides clarity and helps keep the regulations concise.

Economic Impact Assessment

The regulation is not anticipated to have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with other businesses in California.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Board determined that the adoption of these regulations will not lead to the creation or elimination of jobs in California. Rather, the adoption of these regulations will primarily affect the Board's ability to enforce the Dig Safe Law. These changes are not expected to lead to job growth or shrinkage.

(b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

It is not expected that the proposed regulations will create or eliminate jobs in California. The proposed regulations impose very few additional reporting requirements on the affected industry.

(c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Board has determined that the regulations will not have any impact on fostering or inhibiting the growth of existing businesses. As discussed above, the primary focus and consequence of the regulations is on ensuring the Board has funds necessary to fulfill its enforcement obligations under the Dig Safe Law.

(d) Benefits of the Regulation to the Health and Welfare of California Residents:

The proposed regulations will benefit the welfare of California residents by ensuring the Board has sufficient funding so it can enforce the Dig Safe Law which ultimately protects the health and welfare of California residents.

(e) Benefits of the Regulation to Worker Safety:

The draft regulations would not directly benefit worker safety because they do not regulate worker safety. However, the regulations will support the Board in its efforts to enforce the Dig Safe Law, and this will likely lead to an increase in worker safety.

(f) Benefits of the Regulation of the State's Environment:

The draft regulations would not directly benefit the state's environment because it does not regulate the environment.

Alternatives

There are no reasonable alternatives available at this time.

Alternatives which would lessen any adverse impact on small business

There are no reasonable alternatives available at this time.

Documents Relied Upon

The Department relied on the following technical, theoretical, or empirical studies, reports, or similar documents in proposing these regulations:

- Staff Report: Fee Regulation, November 2025
- Staff Report: Fee Regulation, February 2026
- State Budget 2025-26

Duplication or Conflict with Federal Regulations

The Board has not found any unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as this proposed rulemaking action.