STATE OF CALIFORNIA
OFFICE OF ENERGY INFRASTRUCTURE SAFETY
UNDERGROUND FACILITIES SAFE EXCAVATION BOARD

NOTICE OF PROPOSED RULEMAKING ACTION

California Code of Regulations
TITLE 19. Public Safety
DIVISION 4. California Underground Facilities Safe Excavation Board
CHAPTER 1: General

EXPENSE CAP
AMENDMENT of section 4010

The Office of Energy Infrastructure Safety's Underground Facilities Safe Excavation Board (Underground Safety Board) proposes to adopt and amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

A public hearing on this proposed regulatory action has not been scheduled. However, a hearing will be held if a written request for a public hearing from any interested person, or their authorized representative, is received no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments relevant to the proposed rulemaking action. **The written comment period begins October 30, 2026, and closes December 15, 2026. To ensure your comment will be considered, it must be received by December 15, 2026 at 5:00 p.m.** Comments received during the written comment period will be considered and responded to as part of the rulemaking file and are subject to disclosure under the Public Records Act (Gov. Code Section 7920.000, et seq.).

Written comments should be directed to:

Email:
digboard@energysafety.ca.gov
Please reference "Expense Cap" in the subject line.

US Mail postmarked no later than December 15, 2026, to:
Underground Safety Board
Attn: Jaime Hastings
715 P St, 15th Floor
Sacramento, CA 95814

AUTHORITY AND REFERENCE

Authority: Section 4216.22, Government Code.
Reference: Sections 4216, 4216.5, Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations and Effect of the Proposed Action:

811 is a national call-before-you-dig phone number in the United States that connects users to local utility location services. In California, those calls are directed to one of two regional notification centers (RNCs). All operators (one who owns, operates, or maintains a subsurface installation), except for the California Department of Transportation, must be a member of an RNC. California Government Code section 4216 through 4216.24 covers the California regional notification system.

This 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.

In 2020, the Board's regulations included a $7,000,000 cap on its annual fee amount. 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, there is not currently a deadline by which the fee must be paid by operators nor is there a late fee imposed if payment is late. This amendment would remedy that.

Anticipated Benefits of the Proposed Regulations

The proposed regulations are designed to allow the Board to collect sufficient fees to cover its budget. Creation of a due date and late fees will encourage operators to pay the required fees in a timely manner.

Evaluation of Inconsistency/Incompatibility with Existing State Regulations

The only existing state regulations concerning the regional notification system are in division 4, title 19 of the California Code of Regulations. After careful evaluation, the Board has determined that the proposed changes are not inconsistent or incompatible with existing regulations – other than those being amended in this action.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

1. Mandate on local agencies or school districts: None.
2. Cost or savings to any state agency: None.
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
4. Other nondiscretionary cost or savings imposed on local agencies: None.
5. Cost or savings in federal funding to the state: None.
6. Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: This proposal will not have a significant adverse economic impact on business, including the ability of California businesses to compete with businesses in other states.
7. Significant effect on housing costs: None.
8. Cost impacts on a representative private person or business: This rulemaking would allow the Board to impose higher fees to cover the costs appropriated to the Board by the Legislature.

Results of the Economic Impact Analysis/Assessment

The Board concludes that it is unlikely that the proposal will (1) eliminate any jobs, (2) create any jobs, (3) create any new businesses, (4) eliminate any existing businesses, or (5) result in the expansion of businesses currently doing business within the state. The proposed regulations will likely benefit the welfare of California residents by incorporating accountability for payment of fees by operators and by allowing the Board to balance its budget. These actions will support the Board in enforcing the Dig Safe Law which would ultimately help protect the health and welfare of California residents and this will likely help increase worker safety. The proposed regulations are not anticipated to result in direct benefits to the state's environment.

Small Business Determination

The proposed regulations will affect a small business if a small business is an operator of underground facilities. The Board's fee is only charged to operators who receive more than 500 locate request transmissions in a year. The impact on all businesses, including small ones, will be commensurate with their volume of locate request transmissions. The RNCs are non-profit entities (one is a public benefit corporation and the other is a mutual benefit corporation) and thus are not considered "small businesses" under Government code section 11342.610, subdivision (b)(6).

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed rulemaking action may be directed to:

David Peffer
Office of Energy Infrastructure Safety
715 P St., 15th Floor
Sacramento, CA 95814
Phone: (279) 599-1504
Email: david.peffer@energysafety.ca.gov

Or

Carolyn Frank
Office of Energy Infrastructure Safety
715 P St., 15th Floor
Sacramento, CA 95814
Phone: (279) 336-1751
Email: Carolyn.Frank@energysafety.ca.gov

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Board will make the entire rulemaking file, including all information upon which this rulemaking action is based, available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of the Notice of Proposed Action, the proposed text of the regulations, the Initial Statement of Reasons, and the STD. 399. Please direct requests to inspect or copy the rulemaking file to the contact person listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes substantive modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before adopting the regulations as revised. Please direct requests for copies of any modified text to the contact person listed above or check the website listed below and download a copy directly. If substantive modifications are made, the Board will accept written comments on the modified regulations for 15 days after the date on which the modifications are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Board will make copies of the Final Statement of Reasons available. Please direct requests for a copy of the Final Statement of Reasons to the contact person listed above or check the website listed below and download a copy directly.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications illustrated, as well as the Final Statement of Reasons, when completed, and modified text, if any, may be accessed via the internet at: https://energysafety.ca.gov/what-we-do/underground-safety-board/rulemaking/