
California Underground Facilities Safe Excavation Board

February 9-10, 2026

Agenda Item No. 18 (Action Item) – Staff Report

Fee Regulation

PRESENTER

Brittney Branaman, Executive Officer

SUMMARY

There are four fee related regulatory issues for the Board’s consideration. First, the Board needs to remove the expense cap that was self-imposed in 2022. Second, as noted in the *Fee Regulation* staff report¹ presented at the November 2025 Board meeting, a clear deadline is needed for payment of Board fees and penalties. Third, the Board should address a fee loss that can occur from member termination by adding a subsection (b) to section 4005. Section 4005 – *Member Termination* reaches back to the July 2025 Board meeting² when the Board approved moving forward with rulemaking for this new section. The fourth and final amendment issue is a technical clean up to remove outdated sections. Staff have drafted amendments to the regulations to address these four issues.

Strategic Plan

2020 Strategic Plan Objective: Build Board Operations to Achieve Compliance, Reporting, and Operational Excellence in a Resource-Efficient Manner

Proposed Regulatory Amendments

1. Expense Cap (amend section 4010)

Issue

The self-imposed fixed dollar cap on expenditures is preventing the Board from avoiding a fiscal deficit as it does not reflect the increased Board’s necessary expenditure. This issue was discussed during the November 2025 meeting.

Proposed Amendment

The Board should delete the fixed dollar cap by deleting the reference to subdivision (e) where the fixed dollar cap is defined.

¹ [Item 38 Fee Regulation.pdf](#), Board Meeting, November 17-18, 2025.

² [Item 27 Proposed Regulations for Area of Notification and Membership Termination.pdf](#), Board Meeting, July 14-15, 2025.

Underline is used for insertions and **~~strikethrough~~** is used for deletions.

Cal Code Reg., title 19 section 4010(a)(2)(C) is amended:

“Board operational expenses” is the sum of the estimated operational expenses, including any loan repayment, of the California Underground Facilities Safe Excavation Board in the billing year, subject to the State Budget Act, ~~and not to exceed the amount listed in subdivision (e).~~

Cal Code Reg., title 19 section 4010(b)(1) is amended:

(b) The Board shall post the following to its website by March 1 of each year,
(1) The Board operational expenses for the upcoming billing year, ~~not to exceed the amount listed in subdivision (e).~~

2. Fee Payment Timing Clarification

Issue

While the fee regulation requires members to remit payment and provides for a late fee if payment is not timely, it does not specify a firm deadline tied to the start of the billing year.

Proposed Amendment

Staff proposes clarifying that members must pay all invoices and applicable late fees issued during the billing year before the start of the upcoming billing year.

Underline is used for insertions and **~~strikethrough~~** is used for deletions.

Cal Code Reg., title 19 section 4010(c)(3) is added:

(3) A member shall pay all invoices and late fees issued during the billing year before the start of the upcoming billing year.

3. Membership Termination Post Fee Apportionment

Issue

If an RNC member terminates its membership or transfers subsurface installations after the fee is apportioned and the spreadsheet is published but before the billing year begins or payment is made the Board does not collect those apportioned fees. During the July 2025 Board meeting, the Board approved a resolution to allow staff to begin official rulemaking. However, staff identified this billing gap and propose amendments to the previously approved section 4005 language. Section 4005 is not in regulation and official rulemaking has not begun.

Proposed Amendment

Staff proposes clarifying that, when membership termination results from the sale or

transfer of subsurface installations, the fee apportioned to the former member would be added to the fee of the new operator for the upcoming billing year. This approach limits fee recalculations to the entities involved and promotes fee stability.

These are edits to language the Board approved in the July 2025 meeting. **Underline** is used for insertions and **strikethrough** is used for deletions. Section 4010(a)(1) is amended to include a directing reference to new section 4005(b) and indicates an exception to normal billing processes.

Underline is used for insertions and **strikethrough** is used for deletions.

Cal Code Reg., title 19 section 4010(a)(1) is amended:

4010 (a)(1) Except as provided in 4005(b), each ~~Each~~ (no other change)

Cal Code Reg., title 19 section 4005(b) is added:

If the termination of an entity's membership occurs between the publication of the fee spreadsheet pursuant to Section 4010 and the beginning of the billing year, and the basis for the entity's determination that it is not required to maintain membership pursuant to section 4216.1 is the sale or transfer of subsurface installations, the new operator of the affected subsurface installations shall have its fee calculated as provided in the following formula:

Fee = (fee apportioned to terminated entity for the upcoming billing year pursuant to 4010(a)(1)) + (fee apportioned to any new operator of affected subsurface installations for the upcoming billing year pursuant to 4010(a)(1))

In this formula, the fee apportioned to any new operator of affected subsurface installations and the fee apportioned to the terminated entity shall be the amount listed in the Board's fee spreadsheet published pursuant to 4010(b).

4. Technical Clean Up

19 CCCR 4005(a) Add a notation that there is now a subsection (a). Change "assets" to "subsurface installations." See Attachment A for redline.

19 CCR 4010 (e) and (f) delete. These sections contain information related to 2019 through 2022 billing and are no longer relevant. See Attachment A for redline.

RECOMMENDATION

Staff recommend that the Board review the draft regulatory amendments, approve the resolution, and direct staff to proceed with the rulemaking process.

Attachment A: Draft Regulation Markup

Attachment B: Draft Resolution No. 26-02-01

ATTACHMENT A

DRAFT REGULATION MARKUP

Underline is used for insertions and ~~strikethrough~~ is used for deletions

Cal Code Reg., title 19 section 4010 is amended:

(a)(1) Except as provided in 4005(b), each ~~Each~~ member of a regional notification center as defined in Government Code, section 4216, subdivision (q) who receives 500 or more locate request transmissions in the calculation year shall pay a fee to support the operational expenses of the California Underground Facilities Safe Excavation Board as provided in the following formula:

Fee = (member locate request transmissions / statewide locate request transmissions) X Board operational expenses

(2) In the formula above:

(A) “member locate request transmissions” represents the number of locate request transmissions the member of the regional notification center received in the calculation year;

(B) “statewide locate request transmissions” is the total number of locate request transmissions issued by the regional notification centers in the calculation year, not including those locate request transmissions issued to members who received less than 500 locate request transmissions in the calculation year; and

(C) “Board operational expenses” is the sum of the estimated operational expenses, ~~including any loan repayment,~~ of the California Underground Facilities Safe Excavation Board in the billing year, subject to the State Budget Act, ~~and not to exceed the amount listed in subdivision (e).~~

(b) The Board shall post the following to its website by March 1 of each year,

(1) The Board operational expenses for the upcoming billing year, ~~not to exceed the amount listed in subdivision (e).~~

(2) The statewide locate request transmissions from the recently ended calculation year, the member locate request transmissions for each member of a regional notification center from the calculation year, and the amount of regulatory fees to be paid by each member of a regional notification center in the upcoming billing year.

(c)(1) A member shall remit payment to the regional notification center who issued the invoice to the member.

(2) A member who fails to pay the fee within 90 days of the date the invoice was issued pursuant to Section 4011 is subject to a late fee of 5% the amount of the fee, in addition to the fee due on the invoice.

(3) A member shall pay all invoices and late fees issued during the billing year before the start of the upcoming billing year.

(d) For purposes of this section, the following terms have the following meanings:

(1) “Billing year” means the July 1 to June 30 period in which the Legislature authorizes expenditures in the State Budget Act.

(2) “Calculation year” means the January 1 to December 31 calendar year before the beginning of the billing year.

(3) “Locate request transmission” means the notification provided by a regional notification center to an operator to locate and field mark in response to a new ticket, as identified in Government Code section 4216.2, subdivision (e) or to a new ticket created to replace an expired ticket, as identified in Government Code section 4216.2, subdivision (i).

~~(e) The value of the estimated operational expenses in subdivision (a)(2)(C), subject to the State Budget Act, shall not exceed the following amounts for the following time periods:~~

~~—(1) \$7 million for each calendar year 2019, 2020, and 2021.~~

~~—(2) \$2.5 million for the period of January 1, 2022 to June 30, 2022.~~

~~(3) \$7.0 million for the billing year that begins on July 1, 2022 and for each billing year thereafter.~~

~~(f) For the period of January 1, 2022 to June 30, 2022, the fee shall be calculated pursuant to subdivision (a) with the following modifications:~~

~~—(1) The calculation year shall be January 1, 2021 to June 30, 2021.~~

~~—(2) The billing year shall be January 1, 2022 to June 30, 2022.~~

~~—(3) The Board operational expenses shall be as identified in subdivision (e) paragraph (2).~~

Cal Code Reg., title 19 section 4005 is added/amended:

This underline and strikethrough represent edits to language the Board approved in the July 2025 meeting. Section 4005 is not an active regulation. When rulemaking begins, this entire section will be underlined as “new language.”

(a) When an operator ceases to be a member of a regional notification center, the regional notification center must notify the Underground Safety Board within fourteen (14) business days. The notification must include the most recent contact information of the former member and, if known, the identity of the entity accepting the operator responsibility of affected ~~assets~~ subsurface installations and basis for the entity’s determination that it is not required to maintain membership pursuant to section 4216.1.

(b) If the termination of an entity’s membership occurs between the publication of the fee spreadsheet pursuant to Section 4010 and the beginning of the billing year, and the basis for the entity’s determination that it is not required to maintain membership pursuant to section 4216.1 is the sale or transfer of subsurface installations, the new operator of the affected subsurface installations shall have its fee calculated as provided in the following formula:

Fee = (fee apportioned to terminated entity for the upcoming billing year pursuant to 4010(a)(1)) + (fee apportioned to any new operator of affected subsurface installations for the upcoming billing year pursuant to 4010(a)(1))

In this formula, the fee apportioned to any new operator of affected subsurface installations and the fee apportioned to the terminated entity shall be the amount listed in the Board's fee spreadsheet published pursuant to 4010(b).

Attachment B

Resolution to authorize Office of Administrative Law Rulemaking Proceedings

CALIFORNIA FACILITIES SAFE EXCAVATION BOARD

RESOLUTION NO. 26-02-01

RESOLUTION of the CALIFORNIA UNDERGROUND SAFETY BOARD APPROVING THE ADOPTION OF REGULATIONS PROVIDING FOR PAYMENT OF THE BOARD'S FEE, MEMBERSHIP TERMINATION, TECHNICAL CLEAN UP, AND DELEGATION OF REGULATORY AUTHORITY TO THE EXECUTIVE OFFICER

WHEREAS, Government Code section 4216.16 authorizes the Board to obtain funding for its operational expenses from a fee charged to members of the regional notification centers, not to exceed the reasonable regulatory cost incident to enforcement of the Dig Safe Act of 2016 (Gov. Code section 4216 et seq.), and apportioned in a manner consistent with formulas used by the regional notification centers; and

WHEREAS, Government Code Section 4216.22 grants the Board authority to prescribe rules and regulations as may be necessary or proper to carry out the purposes and intent of the Act and to exercise the powers and duties conferred upon it by the Dig Safe Act of 2016 (Gov. Code section 4216 et seq.);

now, therefore be it resolved,

That the California Underground Facilities Safe Excavation Board adopts the regulatory language for and delegates to the Executive Officer the responsibility and rulemaking authority to certify, submit, and prosecute to completion, the regulations providing for payment of the Board's fee, member termination, and technical clean up as approved at the February 9, 10, 2026, Board business meeting.

This delegated authority includes executing such affirmations, certifications, and oaths on behalf of the Board that may be required for filing and to effectuate non-substantive changes to the regulations that may be required to fulfill such responsibilities.

Date of adoption: _____

I hereby certify that the attached resolution is a true and exact copy of Resolution No. 26-02-01 as approved by the California Underground Facilities Safe Excavation Board on February ____, 2026; **Resolution of the California Underground Facilities Safe Excavation Board approving the adoption of regulations providing for payment of the Board's fee, membership termination, technical clean up, and delegation of regulatory authority to the Executive Officer.**

Brittney Branaman,
Executive Officer

William Johns,
Chair

Date: *(to be dated in certification and here when signed)*