California Underground Safety Board

November 9-10, 2026

Agenda Item No. 22 Information Item - Staff Report

Proposed Membership Termination Regulations - Public Comment Analysis

PRESENTER
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AUTHOR
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SUMMARY

In July 2025, the California Underground Safety Board (Board) voted to initiate formal rulemaking for proposed regional notification center (RNC) Membership Termination regulations. The Board held a public comment period from July 10 to September 8, 2026, to obtain stakeholder feedback on the proposed regulations. Two comments were received. This staff report provides an analysis of the public comments received.

STRATEGIC PLAN

2020 Strategic Plan Objective: Improve Accessibility of Buried Infrastructure Location Knowledge and Understanding

2024 Strategic Activity: Clarify Notification Center Termination Requirements

BACKGROUND

In June 2021[1], the Board received an Idea Register submission from the Regional Notification Centers with a safety concern regarding "facility operators that become a member not in good-standing due to non payment for regional notification invoices or quit membership." The RNCs recommended they themselves should notify the Board of any members who cancel their memberships or whose memberships are terminated due to non-payment, and the Board should consider following up with these members. In its 2024 Workplan, the Board adopted the strategic activity to "clarify notification center termination requirements" and included developing regulatory language on member termination and initiating the rulemaking process. At its April 2024 meeting, the Board discussed issues associated with operators seeking to terminate membership from the RNCs. The Board identified several safety concerns, including those associated with the appropriate operators not being notified

[1] November 9, 2021, Agenda Item No. 8, "Idea Register Report 2021

of proposed excavation and therefore not locating or field marking their underground infrastructure. At its July 2024 meeting, the Board discussed information presented and directed staff to work with the Ticket Process Committee to develop proposed regulatory language to facilitate the needed information exchange identified by previous staff reports. Staff presented proposed regulatory language for discussion at the September 2024 Board meeting. Based on public comments and Board discussion, staff discussed the proposed language with stakeholders and the Ticket Process Committee in October 2024 to refine and develop the currently proposed regulatory language. At its December 2024 meeting, the Board was presented with modified regulations based on previous Board discussion, staff meetings with the RNCs, and Ticket Process Committee input. The draft regulations were presented for a 20-day public comment period, that ran from December 19, 2024, until January 8, 2025, to receive further stakeholder feedback. The Dig Safe Law established the Board and the Board's budget is supported by a fee charged to operators. Each RNC administers the Board's fee for its members. The Board's fee is apportioned in a manner consistent with how the RNCs bill their members for their own fees: based on the number of locate request transmissions a member receives. Only members with 500 or more locate request transmissions per year are part of the fee-paying pool of members.

The Board must prepare its annual budget and calculate operator fees in a manner that allows it to coordinate with the RNCs invoicing practices and provide operators with some advance notice of the fee amounts for the coming year. The Board prepares and publishes its fee calculations for the next fiscal year (July – June) by the prior March 1.

Currently, when a member terminates their membership with an RNC after the Board has published its fee apportionment but before the start of the fiscal year when the invoice is due, the Board does not collect that fee. Given that the Board's fee is only paid by operators with more than 500 locate request transmissions, not recovering a portion of the Board's fees can have a significant impact.

Obligations in the Proposed Membership Termination Regulations

The proposed regulations require an RNC to inform the Board when an operator ceases to be a member, and they provide a means for the Board to recover fees from the new operator of the affected facilities:

- An RNC must notify the Board within 14 business days when an operator ceases to be a member of that RNC.
- The notice must include: 1) the most recent contact information for the former member, 2) if known, the identity of the new entity responsible for the affected underground facilities, and 3) the reason the former member gave for determining that it no longer needed to be a member of that RNC.
- When an operator ends its membership after the Board has calculated its prorated fee but before the fee is due, the new operator of the affected facilities will be charged the fee that had been attributed to the former operator.

Development of the Regulations

The Board's work began with concerns about unregulated membership termination and evolved to include the collection of fees when a membership is terminated during a specific

timeframe, which meant the Board was unable to collect the fee apportioned to that member.

Staff reports presented to the Board include:

- **April 2024**[2]: Staff brought the issue of unregulated termination to the Board's attention, with specific case examples that raised unanswered safety questions.
- **July 2024**[3]: Discussion focused on the shapefile as a critical part of the issue. The Board directed staff to develop regulatory language.
- **September 2024**[4]: Staff presented a first draft of regulatory language for Board feedback.
- **December 2024**[5]: Staff amended the regulatory language based on the September feedback and opened a public comment period. The draft regulations were presented for a 20-day public comment period that ran from December 19, 2024, until January 8, 2025. Three public comments were received: Southern California Contractors Association (SCCA), Underground Service Alert of Southern California (DigAlert), and a California Regional Common Ground Alliance (CARCGA) stakeholder.
- **April 2025**[6]: Staff presented public comments from stakeholders collected during the 20-day comment period.
- **July 2025**[7]: Staff presented amended language, and the Board voted to initiate formal rulemaking.

Administrative Process

- The regulatory package was sent to the Office of Administrative Law (OAL) on June 30, 2026, and accepted on July 3.
- The Notice of Proposed Action was published in the California Regulatory Notice Register[8] on July 10, 2026 (Notice File Number Z2026-0630-05[9]).
- The Notice of Proposed Action was posted on the Board's website and distributed via GovDelivery to stakeholders.
- The comment period ran from July 10 through September 8, 2026.

Public Notice and Comments Received

The Board posted the proposed text, the Initial Statement of Reasons, and Notice of Proposed Rulemaking on its rulemaking page[10]. Its Education and Outreach staff contacted various stakeholders to make this known. The Board's staff received written comments from two organizations:

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[2] April 2024 Staff Report
[3] July 2024 Staff Report
[4] September 2024 Staff Report
[5] December 2024 Staff Report
[6] April 2025 Staff Report
[7] July 2025 Staff Report
[8] Notice Register
[9] Membership Termination OAL Notice File Number Z2026-0630-05
[10] Underground Safety Board Rulemaking Page

- DigAlert, July 22, 2026
- SCCA, September 1, 2026

DISCUSSION
The following includes an analysis and response for each public comment:

1. Commenter: Underground Service Alert of Southern California (DigAlert) – July 22, 2026

Comment 1.1 (Operational Process Continuity):
The commenter stated that its current operational process requires a terminating member to complete required documentation, and DigAlert subsequently transmits a notice to the Board as the termination occurs. The commenter requested clarification on whether this existing process satisfies the requirements of the proposed regulations, or if additional compliance obligations will be imposed on RNCs.

Response:
The Board accepts this comment. A comparative evaluation of the proposed regulations obligations and the commenter's existing membership termination system confirmed that the current process satisfies the requirements of the proposed regulations. The regulations do not impose additional operational or administrative obligations on RNCs beyond these existing workflows. No changes to the regulatory text were made in response to this comment.

Comment 1.2 (Fee Apportionment Upon Transfer of Responsibility):
The commenter noted uncertainty regarding fee liability when ownership or operational responsibility of subsurface installations is transferred from one terminating member to another. Specifically, the commenter indicated that if the successor operator assuming responsibility does not possess an established apportionment for the upcoming billing year, it is unclear how the assessment should be calculated and assigned. The commenter recommended revising the text to expressly state that the operator assuming responsibility shall be responsible for the published apportionment assigned to the terminated member, in addition to any apportionment already assigned to the successor operator.

Response:
The Board rejects this comment and the proposed text modification. The proposed regulatory text addresses this scenario by establishing that the successor operator is responsible for any fee portion pursuant to Government Code section 4010(a)(1). Under section 4010(a)(1), a member is legally responsible for paying an apportioned fee if they receive 500 or more locate request transmissions during the calculation year.

For the purpose of clarity, the assessment calculation is mathematically defined as follows: 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))

Because the mechanism for capturing transfers is already legally accounted for under section 4010(a)(1), the suggested text addition is unnecessary. No changes to the regulatory text were made in response to this comment.

Comment 1.3 (Liability for Upcoming Annual Billing Cycle):
The commenter questioned whether a terminating operator should remain responsible for paying that billing year's assessment. The commenter noted that because apportionments are based on activity from the preceding year, they directly reflect the terminating member's own participation and usage during that period. The commenter made a suggestion that assigning responsibility to the terminating operator may therefore provide a more direct connection between the assessed fees and the activities that generated them.

Response:
The Board rejects this comment. The Board has evaluated this issue and determined that an entity should not be billed or subjected to mandatory fee assessments for an upcoming fiscal year's billing period if they are not a current, active member at the start of that specific billing period. No changes to the regulatory text were made in response to this comment.

Comment 1.4 (Private Apportionment Determinations):
The commenter requested clarification on whether the responsibility for assessments is intended to be determined privately between the terminating operator and the successor operator. The commenter suggested that the regulation should explicitly state this to prevent disputes and inconsistent interpretations.

Response:
The Board rejects this comment and the recommendation. The fee liability owed by the successor operator is identical to the fee the Board originally determined and calculated for the terminating operator. The RNC will bill the successor operator directly for this calculated amount. Consequently, there is no regulatory or administrative component that requires private determination, allocation, or negotiation between the contracting parties. No changes to the regulatory text were made in response to this comment.

Comment 1.5 (Mid-Year Membership Terminations):
The commenter requested clarification regarding membership terminations that occur during an active billing year. Specifically, the commenter asked who remains responsible for outstanding assessments that have already been billed but remain unpaid, who is responsible for future payments due during the remainder of the billing year, whether responsibility automatically transfers to a successor operator, and whether the terminating member remains liable for all outstanding obligations if no successor operator exists.

Response:
The Board rejects this comment. The proposed regulations are not intended to resolve potential issues during an active billing year. Since the annual regulatory billing cycle commences on July 1, any member who terminates after this date remains liable for all

payments and assessments throughout the remainder of that active billing year. No changes to the regulatory text were made in response to this comment.

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2. Commenter: Southern California Contractors Association (SCCA) – September 1, 2026

Comment 2.1 (General Clarity and Field Safety Concerns):
The commenter mentioned the Board should take great care avoiding confusion on the administrative responsibilities of the transfer of ownership from one utility operator to another so that the specific details concerning responsibility for outstanding liabilities, for future payments, and other similar details are clearly understood. The commenter stated that a lack of explicit clarity on these components could cause confusion, which could impact locate and mark operations in the field and has the potential of placing worker health and physical property at risk.

Response:
The Board rejects this comment. While the Board acknowledges the commenter's emphasis on field safety and clarity, the commenter provided generalized feedback regarding potential confusion but did not submit specific textual revisions, actionable alternative language, or concrete examples of confusion in the proposed regulations. No changes to the regulatory text were made in response to this comment.

RECOMMENDATION

Staff recommend the Board direct staff to finalize the regulatory process with the Office of Administrative Law.

ATTACHMENT

Attachment A: Proposed Membership Termination Regulations - Public Comments

Underground Service Alert
of Southern California™

July 22, 2026

Underground Safety Board
Attn: Jaime Hastings
715 P St, 15th Floor
Sacramento, CA 95814

Via Email - digboard@energysafety.ca.gov

Re: Member Termination

Dear Underground Safety Board,

On behalf of Underground Service Alert of Southern California (DigAlert), we respectfully submit the following comments and requests for clarification regarding the proposed requirements contained in Section 4005.

Currently, when a DigAlert member terminates its membership, the terminating member completes the required documentation, which DigAlert forwards to the Underground Safety Board as the termination occurs. We would appreciate clarification as to whether this existing process satisfies the requirements of the proposed regulation or whether additional reporting obligations will be imposed on notification centers.

In addition, Section 4005(b) appears to create uncertainty regarding the responsibility for apportionment assessments when ownership or operational responsibility for underground facilities is transferred from a terminating member to another operator.

For example, if the operator assuming responsibility for the terminated member's facilities does not have an established apportionment for the upcoming billing year, it is unclear how the assessment should be calculated and assigned. The proposed language could benefit from additional clarification. One possible approach would be to expressly state that the operator assuming responsibility for the terminated member's facilities shall be responsible for the published apportionment assigned to the terminated member, in addition to any apportionment already assigned to the successor operator.

Alternatively, consideration should be given to whether the terminating operator should remain responsible for that billing year's assessment. Because apportionments are generally based upon activity from the preceding year, the terminating member's assessment reflects its own participation and usage during that period. Assigning responsibility to the terminating operator may therefore provide a more direct connection between the assessed fees and the activities that generated them.

The proposed regulation also leaves unanswered whether the allocation of responsibility for assessments is intended to be determined privately between the terminating operator and the successor operator. If that is the intent, the regulation should clearly state so in order to avoid disputes and inconsistent interpretations.

Further clarification is also needed regarding situations in which a member terminates during an active billing year. Specifically:

- Who remains responsible for any outstanding assessments that have already been billed but not yet paid?

- Who is responsible for future payments due during the remainder of the billing year?
- Does responsibility automatically transfer to the successor operator, if one exists?
- If there is no successor operator, does the terminating member remain liable for all outstanding obligations?

Providing clear guidance on these scenarios within the regulation would help ensure consistent administration and prevent confusion among members, regional notification centers, and the Underground Safety Board.

Thank you for the opportunity to provide these comments. We appreciate the Board's consideration of these questions and respectfully request clarification regarding the implementation and financial responsibility provisions of Section 4005 prior to adoption of the final regulations.

Sincerely,



Ann Diamond
President

SCCA
SOUTHERN CALIFORNIA CONTRACTORS ASSOCIATION

Paul Marshall President, *DRS Contracting*
J.D. Nanci Vice President, *EBS General Engineering*
Rob Manning Treasurer, *Ames Construction*
Roberto Mora Secretary, *Western Paving Contractors*
Gus Madrigal Immediate Past President, *Alcorn Fence Company*
Charlie Nobles Executive Director, *SCCA*

August 27, 2026

Chair Bill Johns
California Underground Safety Board
Office of Energy Infrastructure Safety
715 P Street, 20th Floor
Sacramento, CA 95814

RE: Member Termination Regulation; SCCA Support

Dear Chair Johns:

Please be advised that the Southern California Contractors Association (SCCA) supports the California Underground Service Board's "Member Termination" proposed regulation. Please note our concern explained below.

By way of background, SCCA is a trade association of union engineering contractors that was established in 1974. SCCA members annually complete about 12 million personnel hours of public works construction. Its members include a wide range of businesses from large general contractors to small subcontractors. All SCCA contractors are signatory to the operating engineers, laborers, carpenters and/or the teamsters unions. SCCA members build public and private infrastructure throughout the region and the state.

The proposed regulation establishes a process for the reapportionment of fees assessed on a regional notification center (RNC) member that terminates their participation with the RNC. The intent of the proposed regulation is to ensure stable funding for the USB operations.

SCCA presumes most termination scenarios are transfers of underground utility ownership from one utility operator to another. The proposed regulation seems reasonable provided the details of the responsibility for outstanding liabilities, for future payments, and other similar details are clearly understood. The lack of clarity on those questions could lead to confusion which, in turn, could impact locate and mark operations in the field. The USB should take great care in avoiding confusion on these administrative responsibilities because this type if confusion has the potential to place worker health and property damage at risk.

SCCA appreciates the USB's consideration.

Sincerely,



Charlie Nobles
Executive Director
Southern California Contractors Association