California Underground Facilities Safe Excavation Board

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Agenda Item No. 20 (Information Item) – Staff Report

Electronic Positive Response (EPR) Enforcement Audits Update

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SUMMARY
Since January 2021, operators have been legally required to provide an electronic positive response (EPR) through the regional notification centers before the legal excavation start date and time. The EPR provides the status of an operator's obligations regarding locating and field marking within the delineated excavation area to the excavator.

To evaluate potential compliance concerns, staff analyzed operator EPR data from California's two regional notification centers for March and June 2026. The review focused on system-generated 999 EPR codes, which indicate that an electronic positive response was not recorded by the legal start date and time. While a 999 code may indicate a missing or untimely response, it does not establish that a violation occurred and requires further investigation.

Staff reviewed recorded 999 EPR activity and opened 82 audit investigations, including 58 investigations from the March review and 24 additional investigations from the June review. Staff found recurring 999 activity, including high volumes associated with a relatively small number of operator member codes.

The audit investigations are ongoing and will determine whether violations of EPR requirements occurred and identify factors contributing to the recorded 999 activity. Staff will continue EPR enforcement audits in 2027.

Strategic Plan

2020 Strategic Plan Objective: Improve Compliance by Reaching Parties in Effective Ways
2026–2027 Workplan Activity: Enforcement Audits.[1]

BACKGROUND

Legal Requirement

[1] Underground Safety Board, 2026–2027 Workplan, Investigations and Enforcement, Enforcement Audits, p. 11

Beginning January 1, 2021, Assembly Bill 1166 (Levine, Chapter 453, Statutes of 2019) required operators to submit an EPR through the regional notification center before the legal excavation start date and time.[2] The EPR provides the status of an operator's obligations regarding locating and field marking within the delineated excavation area.[3] The Board adopted emergency regulations in 2020 that allowed operators to request a one-year extension and granted extensions to all applicants by December 2020. Operators receiving an extension were required to comply beginning January 1, 2022. By 2026, operators had more than four years to comply, including those granted extensions.[4, 5]

Common Ground Alliance Data

The Common Ground Alliance (CGA) collects underground facility damage information through its Damage Information Reporting Tool (DIRT). The 2025 DIRT Report lists "Facility not marked because of no response from the operator/contract locator" as the seventh of the top 10 root causes and damage drivers, accounting for 4.2% of the damage reports.[6] This national data provides context for the importance of timely operator responses, but does not measure California EPR compliance or establish that a ticket with a 999 EPR code resulted in damage.

The CGA data does not measure California EPR compliance but does identify the lack of operator or contract-locator response as a recurring damage driver. This broader safety concern reinforces the importance of evaluating California-specific compliance information, including compliance concerns identified through previous Board advisory letter outreach efforts.

Compliance Concerns and Previous EPR Advisory Letter Outreach

In May 2021, after reviewing EPR data for January through March 2021, staff sent advisory letters to nearly 400 operators notifying them that they were 100% non-compliant with the electronic positive response requirement. At its September 2022 meeting, the Board discussed the significant non-compliance that remained among utility operators in early 2022, with 26% of DigAlert members providing the mandatory electronic response fewer than 10% of the times in which it was required. In addition, the compliance rates of the operators that received advisory letters in 2021 had remained largely unchanged.[7]

On December 11, 2023, staff sent 469 letters to operators who had 50% or more tickets with no response by the legal start date and time based on DigAlert data for January through June 2023.

At its April 8, 2024, meeting, staff provided the Board with an update on the 126 operator responses received in response to the December 2023 advisory letter. The responses reflected

[2] Government Code § 4216.3(c)(1)(A)
[3] Government Code § 4216.3(a)(1)(A)
[4] Staff Report: Electronic Positive Response Advisory Letters, , April 8, 2024
[5] Operators with Approved Extensions to the Requirement to Provide Electronic Positive Response
[6] 2025 DIRT Data Summary & Trends, Damage Drivers & Root Cause Summaries
[7] Staff Report: Analysis of Electronic Positive Response Usage, September 13, 2022

several recurring issues:

- 6 respondents reported that assets had been transferred, management had changed, or the facilities had been abandoned;
- 11 contacts were no longer employed by the organization or no longer served in the relevant role;
- 55 respondents did not understand the identified concern or requested instructions;
- 12 requested assistance concerning service-area boundaries or shapefiles; and
- 15 reported that they had made or planned to make corrections.

Despite two rounds of advisory outreach, subsequent investigations continued to identify indications of potential EPR noncompliance. Staff therefore developed the EPR enforcement audit initiative to use regional notification center data to identify and prioritize potential compliance concerns for investigation.

EPR Enforcement Audit Update

Staff analyzed the regional notification center data from March and June 2026 to evaluate operator compliance with the EPR requirement and identify operator member codes for EPR enforcement audits. Applying the methodology described below, staff opened 82 EPR audit investigations: 58 based on the March review and 24 additional investigations based on the June review.

EPR Enforcement Audit Methodology

The purpose of the EPR compliance audit review is to identify patterns of potential EPR compliance concerns and prioritize operator member codes for enforcement audit investigation.

A system-generated 999 EPR code means the regional notification center did not record an electronic positive response by the legal start date and time. The code may indicate a missing or late response, but further investigation is necessary to determine whether a violation occurred.

Staff analyzed operator 999 EPR data provided by California's two regional notification centers for March and June 2026. Staff selected two separate review periods to assess whether high volumes of recorded 999 EPR codes occurred consistently over time rather than as isolated events. Reviewing multiple periods also allowed staff to identify operator member codes associated with recurring recorded 999 activity.

The regional notification centers provided ticket records containing system-generated 999 codes, as well as ticket and revision numbers, priority type, legal start date and time, member code information, and operator contact information. Staff grouped the data by operator member code and calculated the number of recorded 999 EPR entries associated with each member code. Staff then ranked member codes from highest to lowest based on the volume of recorded 999 entries. This information was used to identify the operator member codes for the audit.

The March review established the initial audit group. During the June review, staff increased the selection threshold to accommodate current investigator staffing levels and excluded operator member codes already selected in March to evaluate additional high-volume member codes.

A member code is an identifier used for regional notification-center operations and does not necessarily correspond to a single operator. Some operators may have multiple member codes associated with different service areas or operations. As a result, the findings in this report describe operator member codes rather than verified counts of distinct operators.

Staff established numerical thresholds to identify operator member codes for audit investigation. For the March 2026 review, staff selected member codes associated with more than 250 recorded 999 EPR entries. The March review resulted in the selection of 58 operator member codes for investigation.

For the June 2026 review, staff selected member codes associated with more than 300 recorded 999 EPR entries and excluded member codes previously selected during the March review. Staff increased the June threshold from 250 to 300 recorded 999 codes because of investigation staffing levels and because staff had already selected the highest-volume member codes during the March review. The higher threshold, combined with excluding previously selected member codes, allowed staff to identify additional high-volume member codes while avoiding duplicate investigations of the same entities. This approach identified 24 additional operator member codes for investigation.

The audit selection methodology allows for the inclusion of operator member codes that have been previously audited. An operator member code currently undergoing or having completed an audit may be selected for future audits to evaluate compliance.

Analysis of Regional Notification Center EPR Data

Staff analyzed regional notification center data from March and June 2026 to identify patterns of potential EPR compliance concerns. The analysis measured the number of operator member codes associated with system-generated 999 EPR codes and the concentration of those codes among selected member codes.

The March and June 2026 analyses also identified the following:

March 2026:

- 2,039 operator member codes had at least one system-generated 999 EPR code.
- 132,475 tickets (including revisions) had one or more 999s listed on the ticket.

June 2026:

- 1,959 operator member codes had at least one system-generated 999 EPR code.
- 119,773 tickets (including revisions) had one or more 999s listed on the ticket.

Staff also evaluated operators with high volumes of recorded 999 EPR entries to understand

the concentration of potential non-compliance.

Audit period	Operators identified	Already included in March audit	Newly included in current audit	Total recorded 999 Entries for the Operators Identified
March 2026	10	Not applicable	10	60,980 This accounts for approximately 46% of the 132,475 tickets with a 999 EPR.
June 2026	9	7	2	51,689 This accounts for approximately 43% of the 119,773 tickets with a 999 EPR.

Table 1: Operators With More Than 1,000 Recorded Entries

The analysis shows that recorded 999 activity was concentrated among a relatively small number of operator member codes. In both review periods, a small group of operators accounted for more than 40 percent of all tickets containing a recorded 999 code. The recurrence of several operator member codes across both review periods suggests that the identified activity was not limited to isolated incidents and may reflect continuing compliance concerns. However, the data alone cannot determine whether violations occurred. The ongoing audit investigations will evaluate the circumstances associated with each selected operator member code and determine whether sufficient evidence exists to support a violation occurred.

Staff also reviewed the highest number of recorded 999 EPR entries associated with a single operator member code to better understand the distribution of recorded 999 EPRs identified during the audits.

Audit Period	Highest Overall Count	Audit Analysis
March 2026	41,997	Included in March audit
June 2026	38,925	Operator already included in March audit
June 2026, newly selected operators only	2,708	Highest count among operators selected in June audit

Table 2: Highest Number of Recorded 999 EPR Entries Associated with a Single Operator Member Code

The operator with the highest number of recorded 999 EPR entries identified during the June review had already been selected as part of the March audit.

Findings

Based on the analysis, staff opened 82 EPR audit investigations, including 58 audit investigations from the March review and 24 audit investigations from the June review. These

investigations are currently underway to determine whether violations of EPR requirements occurred. Staff anticipates presenting Notices of Probable Violation resulting from these audits in 2027.

The March and June reviews identified patterns of recorded 999 EPR activity that warranted further investigation. While the analysis cannot determine whether violations occurred, it identified a relatively small number of operator member codes associated with disproportionately high volumes of recorded 999 codes, including several that appeared in both review periods. These findings show how audit data can help staff focus investigative resources on recurring compliance concerns. Staff opened 82 audit investigations to determine whether violations of EPR requirements occurred and to better understand the causes of the recorded 999 activity.

NEXT STEPS

Staff will continue conducting EPR enforcement audits in 2027.