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# California Underground Facilities Safe Excavation Board

February 10-11, 2025

## Agenda Item No. 12 Information Item – Public Comments

*Proposed Regulations for Current Area of Notification and Membership Termination Update*

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### **PRESENTER**

Jaime Hastings, Policy Manager

### **AUTHOR**

Tiffany Wynn, Policy Specialist

### **SUMMARY**

At the Board’s direction, staff met with the Ticket Process Committee to develop proposed regulatory language aimed at facilitating an information exchange between the Board, the regional notification centers (RNC), and RNC Members. The proposed language was presented to the public for a 20-day comment period.

### **STRATEGIC PLAN**

2020 Strategic Plan Objective: Improve Accessibility of Buried Infrastructure Location Knowledge and Understanding  
2024 Strategic Activity: Clarify Notification Center Termination Requirements

### **BACKGROUND**

The Dig Safe Act requires that all operators of subsurface installations, except for Caltrans, “become a member of, participate in, and share in the costs of” an RNC.<sup>1</sup> Operators include “any person, corporation, partnership, business trust, public agency, or other entity that owns, operates, or maintains a subsurface installation.”<sup>2</sup> Subsurface installations do not include nonpressurized sewer or drainage lines.<sup>3</sup>

Statute requires an RNC, upon receiving a notice of proposed excavation, to contact “any member, if known, who has a subsurface installation in the area of proposed excavation.”<sup>4</sup>

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<sup>1</sup> [Gov. Code § 4216.1.](#)

<sup>2</sup> [Gov. Code § 4216 \(o\).](#)

<sup>3</sup> [Gov. Code § 4216 \(s\).](#)

<sup>4</sup> [Gov. Code § 4216.2 \(e\).](#)

Statute also identifies members of the RNCs as a source of the Board’s revenue,<sup>5</sup> and the Board has adopted regulations to assess those fees.<sup>6</sup>

In June 2021, the Board received an Idea Register submission from the RNCs 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.<sup>7</sup>

In its *2024 Workplan*,<sup>8</sup> 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,<sup>9</sup> 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 of proposed excavation and therefore not locating or field marking their underground infrastructure.

At its July 2024 meeting,<sup>10</sup> 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.<sup>11</sup> 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,<sup>12</sup> 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. This draft language is included for reference as Attachment A.

## **COMMENT RECEIVED**

Three comments were received and are presented in full in Attachment B.

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<sup>5</sup> [Gov. Code § 4216.16 \(b\)](#).

<sup>6</sup> [California Code of Regulations, Title 19, § 4010](#).

<sup>7</sup> November 9, 2021, Agenda Item No. 8, “[Idea Register Report 2021](#).”

<sup>8</sup> [https://energysafety.ca.gov/wp-content/uploads/2024/03/2024\\_plan\\_final.pdf](https://energysafety.ca.gov/wp-content/uploads/2024/03/2024_plan_final.pdf)

<sup>99</sup> [April 8, 2024](#)

<sup>10</sup> [July 8, 2024](#)

<sup>11</sup> [September 9, 2024](#)

<sup>12</sup> [December 9, 2024](#)

**RECOMMENDATION**

Staff recommends the Board discuss the public comments received, with a focus on stakeholder group concerns and specific feedback on the proposed regulations, to guide potential refinements.

## Attachment A

New definition in §4000(b)- “Area of Notification” means the geospatial polygon or polygons that include all subsurface installations owned, operated, or maintained by an operator in which the operator is required to receive locate request transmissions.

New definition in §4000(b) (moved from §4010(d)(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).

(NEW): 19 CCR 4004: Current Area of Notification and Membership Termination

(a)(1) An operator that is a member of a regional notification center must maintain current areas of notification with its regional notification center or centers.

(2) Regional notification centers must maintain areas of notification received under subparagraph (a)(1) and must provide areas of notification to the Board upon request by the Board. Any notification of change(s) to an operator’s area(s) of notification must be retained by the regional notification center as a record of notification under Government Code Section 4216.2(f).

(b) When a member removes any geospatial area from its area of notification, the member must concurrently provide to the regional notification center the reason(s) the member’s area of notification has been changed.

(c) 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 and basis for the entity’s determination that it is not required to maintain membership pursuant to section 4216.1.

Delete §4010(d)(3)

**Attachment B**

**From:** [Cody West](#)  
**To:** [Underground Safety Board](#)  
**Subject:** Comments: Current Area of Notification and Membership Termination  
**Date:** Friday, December 20, 2024 8:44:03 AM

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Here are some potential legal considerations and issues that could arise from the proposed regulatory language:

1. **Clarity and Specificity:**

- The definitions provided should be precise to avoid ambiguity. For example, "geospatial polygon" should be clearly understood in terms of how it is mapped or identified across different technologies and standards.

2. **Obligations and Accountability:**

- Clear responsibilities for both operators and regional notification centers are important. Potential issues might include disputes over who failed to maintain updated notification areas or provide required records and information.

3. **Record-Keeping Requirements:**

- The requirement for regional notification centers to retain records of notification changes could pose a burden if not clearly defined. The duration for retaining such records needs to align with existing legal requirements and industry practices.

4. **Notification and Compliance:**

- Strict timelines are imposed, such as notifying the Underground Safety Board within 14 business days. This might be challenging if disputes arise regarding membership changes or if contact information is outdated.

5. **Liability and Enforcement:**

- There could be issues regarding liability if an operator or notification center fails to adhere to these rules. The regulation should clarify enforcement mechanisms and penalties for non-compliance.

6. **Data Privacy and Security:**

- Sharing of contact information and other sensitive data must comply with applicable privacy laws. Centers need to secure this information to prevent unauthorized access or misuse.

7. **Transition and Communication:**

- The process for transferring responsibility to another entity should be clearly delineated, including criteria for determining whether an entity must maintain membership.

Thank you,

Cody West

CARCGA Stakeholder

Underground Coordinator



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## Underground Service Alert of Southern California™

December 26, 2024

Office of Energy Infrastructure Safety - Underground Infrastructure Directorate  
715 P Street, 15th Floor  
Sacramento, CA 95814  
Attn: Jaime Hastings, Underground Safety Board

To Whom It May Concern:

Underground Service Alert of Southern California (DigAlert) would like the Underground Safety Board to consider changes and/or further discussions to their proposed rulemaking for "Current Area of Notification and Membership Termination."

DigAlert believes that to reduce confusion the proposed 19 CCR 4004 should be limited to just Current Area of Notification, through sub sections (a) and (b) and another section be added for Membership Termination; or add Current Area of Notification to section 4003 as that deals with Current Contact Information.

There is no definition of "notification record" in 4216 or 19 CCR. Since 2021, DigAlert has interpreted "notification record" in 4216.2(f) as tickets from excavators and electronic positive responses (EPR) from operators to be provided to the board. Due to proprietary reasons, DigAlert's system does not allow for the Area of Notification (AON) to be exported, however, access to a portal to view the current AON can be provided.

4004 (b) would require changes on our system to ask the operator why they are removing geospatial areas for their AON. Are there acceptable reasons for removal? DigAlert only allows full replacement AON, so there may not be any way for the center to know if they removed geospatial areas from their AON. Does DigAlert refuse to take AON replacements if the operator does not provide a reason? As stated, only full replacement files are allowed and if they are removing and adding areas, that could be a safety issue for both excavators and operators if DigAlert refuses to accept changes to AON if a reason is not provided. It is because of these barriers and questions that DigAlert urges further discussions before initiating a formal rulemaking process.

While DigAlert agrees that operators need to provide their current AON. But DigAlert does not agree with asking for reasons why operators are changing their AON and providing that information to the Underground Safety Board.

Should you have any questions, feel free to contact me at 951-808-8113 or [ann@digalert.org](mailto:ann@digalert.org)

Sincerely,

Ann Diamond  
President



January 7, 2024

Chair Amparo Muñoz  
California Underground Safety Board  
Office of Energy Infrastructure Safety  
715 P Street, 20<sup>th</sup> Floor  
Sacramento, CA 95814

**REGARDING: SCCA CONCEPTUAL SUPPORT (NOTE CONCERNS) FOR PROPOSED REGULATORY LANGUAGE FOR AREA OF NOTIFICATION AND MEMBERSHIP TERMINATION CONTAINED IN USB DOCKET #2024-12-PC**

Please be advised that the Southern California Contractors Association (SCCA) generally supports the concept behind the California Underground Safety Board's "Proposed Regulatory Language for Area of Notification and Membership Termination." SCCA is concerned that some of the information requested in the regulation is inconsistent with other record requests contained in the Government Code Section 4216 and is, ultimately, unnecessary.

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 "Area of Notification," or AON, regulation generally prescribes the mandatory process for the regional notification centers to send information regarding a utility operator's AON to the California Underground Safety Board. Additionally, the regulation seeks to add changes to an operator's AON as part of the notification records required to be sent by the regional notification centers each quarter. The proposal also requires the *reason* an operator removes "any geospatial area" from its AON. Finally, the proposal establishes a mandatory requirement for the regional notification centers to notify the USB "when an operator ceases to be a member of the regional notification center."

SCCA members heavily rely on the "Regional Notification Center System" law contained in Government Code Section 4216 for the protection of their workers. Excavating without fully understanding the location of underground utilities represents a tremendous hazard for the construction industry's workforce as well as a risk for the surrounding community. In the spirit of worker and community safety, SCCA supports proposals designed to maximize the efforts to locate and mark all underground utility lines. SCCA therefore supports the concept contained in the AON proposed regulation.

However, the AON proposed regulation seeks information that falls outside the traditional records provided by the regional notification centers to the USB. This inconsistency is most illustrated when analyzing the existing data sent to the USB as required by law and regulation. The USB's Agenda Item No. 15 from its December 9-10, 2024 Staff Report enumerates the records contained in the "Consistency with Existing Law" portion of the report. Those records are listed below:

- GC 4216.2(f) -- Requires the regional notification centers to quarterly report to the USB the “notification” records they’ve received;
- GC 4215.3(c)(2) – Requires the regional notification centers to report on their “technological advances;”
- 19 CCR 4003(b) – Requires regional notification centers to provide “valid and current contact information” of utility operators upon request of the USB; and
- 19 CCR 4010 and 4011 – Requires the regional notification centers to share billing information about utility operators; and
- 19 CCR 4100 – Requires all damage notifications received from the regional notification centers to be sent to the board.

All of the above requirements are objective sets of data already available to the regional notification centers and are administrative in nature. Unfortunately, the proposed AON regulation injects a level of subjectivity into the reporting requirements. This subjectivity is a complete departure from the other objective data sets referenced in the December 9 and 10 USB Staff Report and enumerated above. This concerns SCCA on “slippery slope” grounds.

Requiring the regional notification centers, and in turn the utility operators, to provide the “reason” why a utility operator removed any “geospatial area from its area of notification” creates the possibility for disputes between utility operators and the regional notification center. While the proposed AON regulation certainly does not authorize any party to reject a request to remove any geospatial area from its AON, SCCA is concerned that the failure to provide a “reason” might cause administrative delays, cause confusion for an excavator and ultimately delay a construction project. Perhaps most importantly, SCCA questions the need for the state of California to understand the “reason” for a change when all other statutory and regulatory reporting requirements are objectively based data sets. Requesting the reason is entirely unnecessary.

SCCA supports the concept of minimizing any possibility of dig-ins and conceptually supports the AON regulation in that spirit. However, when the potential for disputes arise for questionable reasons, SCCA becomes concerned for the safety of their workforce. When this occurs, the association examines the reason for the change and weighs the policy benefit with the potential risk. Requiring the “reason” for removing a “geospatial area” simply does not warrant the potential associated risk.

SCCA supports the concepts contained in the USB’s proposed AON regulation but questions the need and inconsistent nature of providing a “reason” for removing a geospatial area.

The association appreciates your consideration of our comments. Should you have any questions, you are encouraged to contact either Clayton Miller at 657 223-0800 or Todd Bloomstine at 916 444-9453.



Charlie Nobles,  
Executive Director

