ALABAMA UNDERGROUND DAMAGE PREVENTION AUTHORITY ADMINISTRATIVE CODE

CHAPTER 910-X-2 ORGANIZATION

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910-X-2-.01 Duties Of The Authority.

(1) The duties of the Authority are described in Code of Ala. 1975, §37-15-10.1, et seq., and include, but are not limited to the following:

(a) Enforce the provisions of Code of Ala. 1975, §37-15-1-10.2, et seq.

(b) Conduct meetings as described in Code of Ala. 1975, §37-15-10.1 - 10.2, et seq., and the rules adopted by the Authority.

(c) Elect an Executive Committee from among the Authority members as described in Code of Ala. 1975, §37-15-10.1, et seq.

(d) Promulgate rules and regulations to carry out its responsibilities described in Code of Ala. 1975, §37-15-1, et seq.

(e) Enter into contracts as the Authority deems necessary to carry out its responsibilities.

(f) Enter into an interagency agreement with the Attorney General's office to serve as legal counsel.

(g) Oversee the development of, or contract for, the development and administration of the designated training program.

(h) Manage the Underground Damage Prevention Fund created in Code of Ala. 1975, §37-15-10, et seq.

(i) Assess and collect funds as described in Code of Ala. 1975, §37-15-10(e), et seq., as deemed necessary to carry out its responsibilities.

(j) Evaluate and revise the enforcement program process and penalty structure by promulgating rules if the current structure does not meet the purpose and intent of this chapter or federal law.

Author: Underground Damage Prevention Authority
Statutory Authority: Code of Ala. 1975, §§37-15-10.1(h)(1-5).
History: New Rule: Published September 30, 2020; effective November 14, 2020.

910-X-2-.02 Authority Organization.

(1) The Authority shall be composed of a board of underground facility protection stakeholders. The board shall be composed on one subject matter expert representative from each of the following stakeholders. The Authority consists of seventeen members, appointed as follows:

(a) By the Governor:

1. One representative of Alabama County Engineers

2. One representative of the cable television industry

3. One representative of the electric utility industry

4. One representative of the municipal utility operator industry

5. One representative of the natural gas distribution industry

6. One representative of the one call notification center

7. One representative of the professional excavator industry

8. One representative of the professional road builders industry

9. One representative of the land survey industry

10. One representative of the telecommunications industry

11. One representative of the transmission pipeline industry

12. One representative of the utility facility locating industry

13. One representative of the water utility industry

14. One representative of the wastewater industry

(b) By specified entities:

1. One representative of the Alabama Attorney General's Office

2. One representative of the Alabama Public Service Commission– gas pipeline safety

3. One representative of the Alabama Department of Transportation

(2) No member of the board, individually or jointly, shall be civilly liable for acts within the scope of his or her duties as a board member which are made in good faith and are absent unreasonable, wanton, willful, intentional conduct or a violation of federal law.

(3) The members of the Authority board shall serve without compensation.

(4) Nothing in this chapter shall grant the Authority jurisdiction over damage to utilities located above the ground.

(5) Board members shall not participate in any enforcement action decisions pertaining to the entity they represent.

(6) The Authority shall be governed by the Alabama Administrative Procedures Act.
Author: Underground Damage Prevention Authority
Statutory Authority: Code of Ala. 1975, §37-15-10.1 (h), (i), (j), (k), (m).
History: New Rule: Published September 30, 2020; effective November 14, 2020.

910-X-2-.03 Authority Member Terms.

(1) The initial authority board shall be appointed with staggering terms as determined by the Governor.

(2) After the initial appointment, each stakeholder representative shall serve a three-year term.

(3) No person shall be appointed for more than two full consecutive terms with the exception of the following:

(a) Alabama Attorney General's Office

(b) Alabama PSC – gas pipeline safety

(c) Alabama Department of Transportation

(d) One Call Notification Center.

Author: Underground Damage Prevention Authority
Statutory Authority: Code of Ala. 1975, §37-15-10.1(d).
History: New Rule: Published September 30, 2020; effective November 14, 2020.

910-X-2-.04 Officers.

(1) The Authority shall elect a chairman and other officers as the Authority deems necessary.

(2) The officers of the Authority shall be as follows:

(a) Chairman - The Chairman shall preside at all meetings of the Authority and discharge the duties of the presiding officer, shall be the principal executive officer of the Authority, may sign contracts and other instruments authorized by the Authority, except in cases where the Authority shall expressly delegate that authority to another member, and shall perform whatever other duties the Authority may from time to time prescribe. The Chairman may also function as the Chair of the Executive Committee.

(b) Vice-Chairman - The Vice-Chairman shall, in the absence of the Chairman, perform the duties and exercise the powers of the Chairman. The Vice-Chairman shall also perform whatever duties and have whatever powers the Authority may from time to time assign. The Vice-Chairman may also function as the Vice-Chairman of the Executive Committee.

(c) Secretary - The Secretary shall attend all meetings of the Authority and shall keep or cause to be kept, true and complete minutes of the proceedings of those meetings. The Secretary shall give or cause to be given, notice of all meetings of the Authority, shall be the Public Records Compliance Officer and whatever additional duties the Authority may from time to time prescribe.

(d) Treasurer - The Treasurer shall keep full and accurate accounts of receipts and disbursements and shall deposit all Authority monies and other valuable effects in the name and to the credit of the Authority in a depository or depositories designated by the Authority. The Treasurer shall disburse the funds of the Authority and shall render to the Chairman or the Authority, whenever they may require it, an account of the

transactions as Treasurer and the financial condition of the Authority.

(3) Combination of Offices. Nothing herein shall prohibit the combination of the duties of Secretary and Treasurer and those offices being held by one member of the Authority.

(4) Other Officers. Such other officers as are created from time to time by the Authority shall have such duties as may be assigned to them by the Authority in the minutes of meetings duly adopted, or by Resolution of the Authority.

(5) Terms. The term of each office shall be two years. Officers shall not hold a particular office for more than two consecutive two-year terms without a majority vote of the Authority members.
Author: Underground Damage Prevention Authority
Statutory Authority: Code of Ala. 1975, §37-15-10.1(g).
History: New Rule: Published September 30, 2020; effective November 14, 2020.

910-X-2-.05 Authority Operations.

(1) Rule Making Authority. The Authority shall make such rules and regulation as may be necessary to carry out the provisions of the statute.

(2) Meetings and Notice. The Authority shall meet at the location and on the date and time set by the Chairman upon at least five business days' notice provided by United States mail, electronic mail or personal delivery to every Authority member. Scheduled meeting dates, times, and locations shall be published in the Authority's minutes.

(3) The Authority shall meet no more than quarterly based on need relative to the hearing of enforcement proceeding appeals.

(4) Meetings. Members of the Authority board and executive committee may participate in a meeting of the board or committee by means of telephone conference, video conference, or similar communications equipment by means of which all persons participating in the meeting may hear each other at the same time. Participation by such means shall constitute presence in person at a meeting for all purposes.

(5) Quorum. A quorum will be represented from a simple majority of the current Authority Membership.

(6) Voting. All members of the Authority including the Chairman shall be entitled to vote and to make or second motions. A majority vote of those present is required to pass a motion. Members expecting to be absent for a vote may provide written

comments as to their position; however, they may not grant a vote by proxy.

(7) Action without a Meeting. Any action required or permitted may be taken without a meeting if the action is noticed to all Authority Members and approved by a majority of the Members of the Authority. The action must be evidenced by one or more written consents describing the action taken, and delivered to the Secretary for inclusion in the minutes or filed with the appropriate records.

(8) Robert's Rules of Order. The Chairman shall conduct each Authority meeting in accordance with Robert's Rules of Order. Committee meetings of the Authority shall be conducted in a like manner.

Author: Underground Damage Prevention Authority
Statutory Authority: Code of Ala. 1975, §§37-15-10.1(g), (h), (l), 37-15-10.2(i).
History: New Rule: Published September 30, 2020; effective November 14, 2020.

910-X-2-.06 Committees Of The Authority.

(1) The Chairman, with concurrence of the Authority, may from time to time establish and abolish such committees from among the members of the Authority as may be deemed necessary, expedient or to contribute to the performance of the duties of the Authority. The Chairman shall appoint a Chair for each such committee.

(2) The Chairman, with concurrence of the Authority, deems it advantageous or beneficial to the Authority, the Chairman may appoint members to a committee who are not members of the Authority.

(3) A quorum shall be a majority of the committee. The rules relating to the Authority shall apply to all committees.

(4) The Authority Board shall elect an executive committee made up of five representatives from the Authority Board as provide in Code of Ala. 1975, §37-15-10.1, et seq., excluding those entities representing a state agency, who will be responsible for levying civil penalties and taking actions as described in Code of Ala. 1975, §10, 10.1 and 10.2, et seq.

Author: Underground Damage Prevention Authority
Statutory Authority: Code of Ala. 1975, §§37-15-10.1.
History: New Rule: Published September 30, 2020; effective November 14, 2020.

910-X-2-.07 Executive Committee.

(1) The Executive Committee is charged with reviewing the alleged violations complaints and any documentation regarding the complaint and making any needed recommendation for penalty action.

(2) The duties of the Executive Committee include, but are not limited to the following:

(a) Conduct meetings and reviews of alleged violation complaints as described in Code of Ala. 1975, §37-15-10.2, et seq., and the rules promulgated by the Authority.

(b) Determine whether violations have occurred.

(c) Dismiss those complaints in which it determines a violation has not occurred.

(d) Upon finding that a violation has occurred, determine and levy penalties, order training, and otherwise take action as described in Code of Ala. 1975, §37-15-10.2, et seq., and the rules promulgated by the Authority.

(3) An Executive Committee member shall not participate in any discussion or vote on any of the following matters:

(a) One in which the Executive Committee member or the member's employer is the complainant or respondent.

(b) One in which the member reasonably believes that he/she is unable to act impartially and independently as a result of the circumstances related to an alleged violation.

(4) An Executive Committee member disqualified from voting on a matter shall notify all members of the Executive Committee of said disqualification, immediately upon discovery that a basis for disqualification exists. Another Authority member may be appointed to the Executive Committee on a temporary basis to replace the recused Executive Committee Member during the designated complaint hearing.

(5) The term of those serving on the Executive Committee shall be two years. No Executive Committee member shall serve more than two consecutive two-year terms without a majority vote of the Authority members.

Author: Underground Damage Prevention Authority
Statutory Authority: Code of Ala. 1975, §37-15-10.1.
History: New Rule: Published September 30, 2020; effective November 14, 2020.