

**TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION**

Control 910 Department or Agency Underground Damage Prevention Authority  
Rule No. 910-X-1  
Rule Title: General Provisions  
X New \_\_\_\_\_ Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference \_\_\_\_\_

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? N/A

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule? No

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Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

*Annette R. Leburn*

Signature of certifying officer \_\_\_\_\_

Date 07/21/2020

(DATE FILED)  
(STAMP)

APA-2

**Underground Damage Prevention Authority**

**NOTICE OF INTENDED ACTION**

AGENCY NAME: Underground Damage Prevention Authority

RULE NO. & TITLE: Chapter 910-X-1 General Provisions

INTENDED ACTION: Establish New Rule

SUBSTANCE OF PROPOSED ACTION:

To define the general provisions of the establishment of the Underground Damage Prevention Authority and the definition used in relation to the proposed rules.

TIME, PLACE, MANNER OF PRESENTING VIEWS: All interested parties may submit data, view, or arguments concerning the proposed new rule to the Underground Damage Prevention Authority in writing through the close of business on September 4, 2020 to the acting secretary of the Underground Damage Prevention Authority at the following: Annette R. Reburn, Executive Director, Alabama 811 3104 Bates Lane Fultondale, AL 35068 Phone: 205-731-3209 Fax: 205-731-3249 Email: areburn@al811.com

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: September 4, 2020

CONTACT PERSON AT AGENCY:

Annette R. Reburn, Executive Director, Alabama 811  
3104 Bates Lane Fultondale, AL 35068 Phone: 205-731-3209 Fax:  
205-731-3249 Email: areburn@al811.com



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Annette R Reburn, Secretary



5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
  
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
  
7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:
  
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
  
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
  
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:

**\*\*Additional pages may be used if needed.**

**TRANSMITTAL SHEET FOR  
BUSINESS ECONOMIC IMPACT STATEMENT  
(Section 41-22-5.1)**

Control No. 910 Department/Agency Underground Damage Prevention Authority

Rule No. 910-X-1

Rule Title: General Provisions

X New \_\_\_\_\_ Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference \_\_\_\_\_

Attached is a Business Economic Impact Statement filed pursuant to Section 41-22-5.1, Code of Alabama 1975.



Signature of Filing Officer \_\_\_\_\_

Date 7/21/2020

(DATE FILED)  
(STAMP)

**Underground Damage Prevention Authority  
Administrative Rules**

**Chapter 910-X-1  
General Provisions**

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- 910-X-1-.01 Purpose and Statutory Authority**  
**910-X-1-.02 Definitions**

**910-X-1-.01 Purpose and Statutory Authority**

This chapter establishes the Underground Damage Prevention Authority and its Executive Committee, as created under Ala. Code § 37-15-10.1, et seq., for the purpose of enforcing Ala. Code § 37-15-1-10.2, et seq., and for reviewing penalty provisions and the adequacy of the enforcement process. The Authority and its enforcement activities are not intended to be funded by appropriations from the state budget.

**Author:** Underground Damage Prevention Authority

**Statutory Authority:** Code of Ala. 1975, § 37-15-10.1, et seq., § 37-15-10.2, et seq.

**History: New Rule:** Filed \_\_\_\_\_; effective \_\_\_\_\_.

**910-X-1-.02 Definitions**

- (1) Terms in these rules shall be the same definition as found in Ala. Code § 37-15-2, et seq., or defined below:
- (a) Authority - The Underground Damage Prevention Authority created under Ala. Code § 37-15-10.1, et seq.
  - (b) Authority Board - The Underground Damage Prevention Board created under Ala. Code § 37-15-10.1, et seq.
  - (c) Damage - Includes, but is not limited to, the substantial weakening of structural or lateral support of an underground facility, penetration or destruction of any underground facility's protective coating, housing or other protective device, and the severance (partial or complete) of any underground facility, but does not apply to any operator's abandoned underground facility.
  - (d) Emergency Excavation or Demolition - An excavation or demolition that is required to eliminate an imminent danger to life, health, property, or the environment or required for the repair or restoration of operator service that is required to be performed before the notification and response procedures required in Ala. Code § 37-15-4 and § 37-15-6, et seq. may be fully utilized.
  - (e) Excavate or Excavation - Operation for the purpose of the movement or removal of earth, rock, or other material by mechanized equipment or explosive device and includes, but is not limited to, augering, backfilling, blasting, boring, digging, ditching, drilling, grading, pile-driving, plowing-in, pulling-in, ripping, scraping, sub-soiling, trenching and tunneling. Excavate or excavation does not include routine roadway maintenance activities carried out by or for those responsible for publicly-maintained roadways, provided that

the activities occur entirely within the right of way of a public road, street, or highway; are carried out with reasonable care so as to protect any utility facilities placed in the right-of-way by permit; are carried out within the limits of any original excavation on the traveled way, shoulders or drainage ditches of a public road, street, or highway; and, if involving the replacement of existing structures, including traffic control devices, replace such structures in their approximate previous locations and at their approximate previous depth. Excavate or excavation shall not include routine railroad maintenance activities conducted within the track structure and its adjacent right of way, provided the activities are performed by railroad employees or railroad contractors and are carried out with reasonable care so as to protect any underground facilities placed in the railroad right-of-way by agreement with the railroad. Nothing in this chapter shall modify or abrogate any contractual provision entered into between any railroad and any other party owning or operating an underground facility or underground utility lines within the railroad's right-of-way.

- (f) Excavator - Any person who engages in excavation.
- (g) Executive Committee - The executive committee created under Ala. Code § 37-15-10.1, et seq.
- (h) Frivolous Complaint - A complaint filed with the Authority that is entirely without merit and is made with the intention of causing inconvenience, harassment or expense.
- (i) Mark or Marking - The use of stakes, flags, paint, buoys, or clearly identifiable materials placed on the surface of the ground or water to show the approximate location of underground facilities.
- (j) Mechanized Equipment - Equipment powered or energized by any motor, engine, hydraulic or pneumatic device and is used for excavation or demolition work including, but not limited to, tractors, trenchers, bulldozers, power shovels, augers, backhoes, scrapers, pile drivers, drills, cable and pipe plows, or other equipment used for plowing-in or pulling-in cable or pipe.
- (k) Near Miss - An event where damage did not occur, but a clear potential for damage was identified.
- (l) Noninvasive Method of Excavation - A method of excavation that does not compromise the integrity of the underground facility. These methods include, but are not limited to, hand digging, pot holing, soft digging, vacuum excavation methods, or other methods approved by the operator.
- (m) Notification Area - An area or territory which an operator designates as the area where the operator wishes to receive notifications for any excavation in that area. The notification area should encompass the underground distribution system or network of the operator.
- (n) Operator - Any person, governmental agency, or political subdivision, or its agents, who owns or operates a public or private underground facility which furnishes services, information, or materials, or transports or transmits electric energy, light, water, steam, oil, gases, gas, mixture of gases, petroleum, petroleum products, hazardous or flammable liquids, toxic or corrosive fluids and gases, or items of like nature and telecommunications, cable television,

water, drainage, sewage or other systems of like nature. The term operator does not apply to any entity listed above if all of the underground facilities owned and operated by the entity are for the sole use of the entity and are located solely on the entity's own property or on property over which the entity has rights of operation.

- (o) Person - An individual, joint venture, partnership, association, authority, cooperative, firm, corporation, governmental entity, or any subdivision or instrumentality of that entity and its employees, agents, or legal representatives.
- (p) Tolerance Zone - The width of the underground facility plus 18 inches on either side of the outside edge of the underground facility on a horizontal plane.
- (q) Underground Facility - Any cable, pipeline, duct, wire, conduit, or other similar installation, installed underground or underwater, by which an operator transports or delivers materials, information, or services.
- (r) Willful Noncompliance - The intentional refusal or failure to perform, or comply with, a duty created or imposed by this chapter or by the rules promulgated pursuant to this chapter.

**Author:** Underground Damage Prevention Authority

**Statutory Authority:** Code of Ala. 1975, § 37-15-2

**History: New Rule:** Filed \_\_\_\_\_; effective \_\_\_\_\_.