

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rule has been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rule; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Adoption. Resolved: That final adoption of portions of Chapter 895: Underground Facility Damage Prevention Requirements, a provisionally adopted major substantive rule of the Public Utilities Commission that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if:

1. Preliminary investigation. In section 7(B)(1) a new provision is added to provide the following:

A. That the commission staff shall engage in a preliminary investigation regarding any potential violation of the Dig Safe Law or rules;

B. That the preliminary investigation must include a good faith effort to contact the potential violator and afford that person an opportunity to discuss the matter prior to the issuance of a notice of probable violation; and

C. That nothing in the new provision precludes the issuance of a notice of probable violation if a person cannot be located with reasonable effort or fails to respond to a communication from the staff;

2. Informal review. In section 7(B)(2)(a) it is clarified that the informal review consists of an informal conference or an analysis of the respondent's written reply;

3. Recommended decision. In section 7(B)(3)(a) it is provided that, following the informal conference or the waiver of the informal conference, the commission staff member shall issue in writing a recommended decision indicating whether or not the respondent has violated the Dig Safe Law or the rules and the basis for that conclusion, and the recommended disposition; and

4. Technical changes. Any technical changes to the rule necessary to accomplish the changes described in this resolve are made.

The commission is not required to hold hearings or undertake further proceedings prior to final adoption of the rule in accordance with this section.

RESOLVE Chapter 184122nd Maine State Legislature
Resolve, Regarding Legislative Review of Portions of Chapter 895: Underground Facility
Damage Prevention Requirements, a Major Substantive Rule of the Public Utilities Commission

Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.