

STATE OF MAINE

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IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

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H.P. 264 - L.D. 331

**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 the commission:

1. Removes all the commission's provisionally adopted changes to Chapter 895: Underground Facility Damage Prevention Requirements;

2. Replaces the definitions of "emergency" and "emergency excavation" in the rule with a definition of "emergency excavation" that is the same as the definition that appears in the Maine Revised Statutes, Title 23, section 3360-A, subsection 1, paragraph B;

3. Modifies the rule to provide that the period after which a Dig Safe System ticket must be renewed is 60 days and that the ticket may be renewed twice;

4. Modifies that part of the rule that governs the enforcement action procedure to change references to "notice of probable violation" to a more neutral terminology, such as "notice of investigation," and references to "probable violation" to a more neutral terminology, such as "possible violation"; and

5. Removes the part of the current rule designated as Section 4(B)(1)(a) that requires each excavator performing work in an excavation area to notify the Dig Safe System so that the rule is consistent with the Maine Revised Statutes, Title 23, section 3360-A, subsection 3, paragraph F.

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

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

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In House of Representatives, ..... 2011

Read and passed finally.

..... Speaker

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In Senate, ..... 2011

Read and passed finally.

..... President

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Approved ..... 2011

..... Governor