

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

Amend the resolve by striking out all of section 1 and inserting in its place the following:

‘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.’

SUMMARY

This amendment authorizes the Public Utilities Commission to finally adopt portions of Chapter 895: Underground Facility Damage Prevention Requirements, a provisionally adopted major substantive rule that has been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, as long as certain changes are made relating to commission enforcement proceedings. The changes require the commission to hold a preliminary investigation prior to issuing a notice of probable violation. The changes are those specified in the document submitted to the Joint Standing Committee on Utilities and Energy entitled “Amendment to Chapter 895, Underground Facility Damage Prevention Requirements Developed by the Public Utilities Commission and the Telephone Association of Maine in response to the March 23, 2006 directive of the Utilities and Energy Committee.”

FISCAL NOTE REQUIRED
(See attached)