

MAINE STATE LEGISLATURE

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Date: 4/11/11

L.D. 331
(Filing No. H-85)

ENERGY, UTILITIES AND TECHNOLOGY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to 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"

Amend the resolve by striking out all of section 1 (page 1, lines 14 to 18 in L.D.) and inserting 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 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.'

COMMITTEE AMENDMENT

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SUMMARY

This amendment authorizes final adoption of changes to Chapter 895: Underground Facility Damage Prevention Requirements, a major substantive rule of the Public Utilities Commission only if the commission:

1. Removes all the commission's provisionally adopted changes to the rule;
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 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 governing 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 a provision from the commission's rule that creates confusion as to the responsibilities of contractors and subcontractors. Current law provides that in the case of an excavation involving subcontractors, the excavator that is directly responsible for performing the excavation shall ascertain that all notifications are performed. The commission's rule includes a conflicting provision that requires each excavator performing work in an excavation area to notify the Dig Safe System. The amendment directs that this conflicting provision be removed.