

Maine Public Utilities Commission Damage Prevention Training



Always call DIG SAFE

Dial 811



STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Welcome to the Maine Public Utilities Commission Damage Prevention Training.

The Commission promotes safe digging through the Dig Safe underground utility damage prevention program. Whether you are a contractor, excavator, underground utility operator, or property owner, we want to help you do your part to dig safely!

If you have any questions, please do not hesitate to contact our staff.

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Guidelines for Excavation Delineation

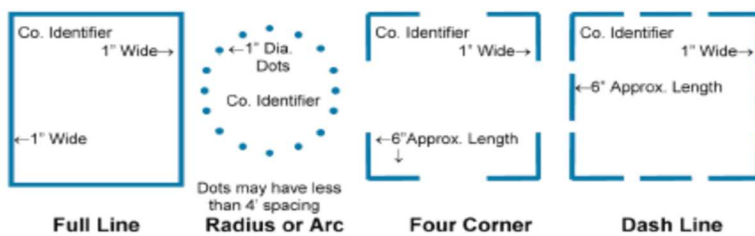
BEST PRACTICES CHAPTER 5 - EXCAVATION

Practice Statement 5-2:

White Lining: When the excavation site cannot be clearly and adequately identified on the locate ticket, the excavator designates the route and/or area to be excavated using white premarking prior to the arrival of the locator.

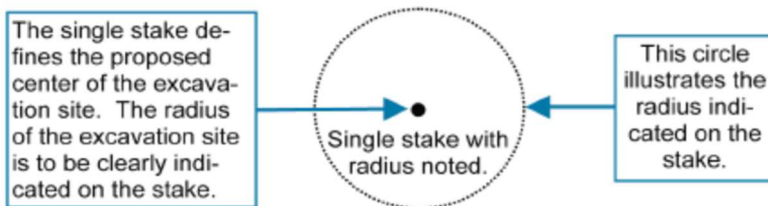
The following marking illustrations are examples of how excavators may choose to mark their area of proposed excavation. The use of white marking products (e.g., paint, flags, stakes, whiskers, or a combination of these) may be used to identify the excavation site.⁹

Single Point Excavations Markings



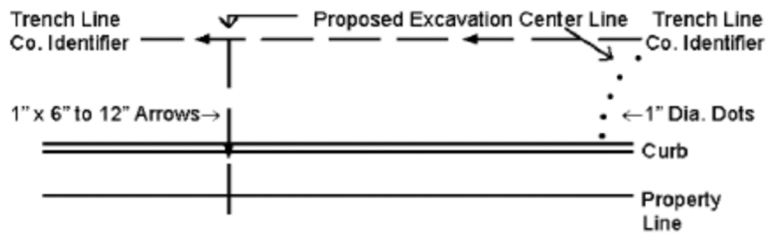
Delineate in white paint the proposed area of excavation using a continuous line, dots marking the radius or arcs, dashes marking the four corners of the project, or dashes outlining the excavation project. Limit the size of each dash to approximately 6 in. to 12 in. long and 1 in. wide with interval spacing approximately 4 ft to 50 ft apart. Reduce the separation of excavation marks to a length that can reasonably be seen by the operator's locators when the terrain at an excavation site warrants. Dots of approximately 1 in. diameter typically are used to define arcs or radii and may be placed at closer intervals in lieu of dashes.

Single Stake Marking Center Point of Excavation Site



When an excavation site is contained within a 50 ft maximum radius or less, it can be delineated with a single stake that is positioned at the proposed center of the excavation. If the excavator chooses this type of delineation, they must convey that they have delineated the excavation site with a single stake at the center of the excavation and include the radius of the site in the notification to the one call center. This single stake is white in color and displays the excavator's company identifier (name, abbreviations, or initials) and the radius of the excavation site in black letters on the stake or with a notice attached to the stake.

Trenching, Boring, or Other Continuous-Type Excavations



Continuous Excavation Marking

Mark in white paint the proposed centerline of planned excavation using 6 in. to 12 in. × 1 in. arrows approximately 4 ft to 50 ft apart to show direction of excavation. Reduce the separation of excavation marks to a length that can reasonably be seen by the operator's locators when the terrain at an excavation site warrants. Mark lateral excavations with occasional arrows showing excavation direction from centerline with marks at curb or property line if crossed. Dots may be used for curves and closer interval marking.

Stake, Flag, or Whisker Excavation Markers



Delineate the proposed area of excavation using stakes, flags, or whiskers instead of spray paint to mark radius or arcs; the four corners of the project; or when outlining the excavation project. Limit the interval spacing to approximately 4 ft to 50 ft. Reduce the separation of excavation marks to a length that can reasonably be seen by the operator's locators when the terrain at an excavation site warrants. Stakes, flags, or whiskers provided to illustrate arcs or radii may be placed at closer intervals to define the arc or radius. Stakes, flags, or whiskers are white in color and display the excavator's company identifier (name, abbreviations, or initials).

OKTODIG

Municipal & Non-member Reference Database

[**www.oktodig.com**](http://www.oktodig.com)

1-866-OKTODIG
(1-866-658-6344)

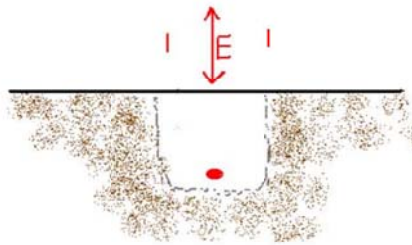
**Does Not include Private
Property Owners**

This is an automated system

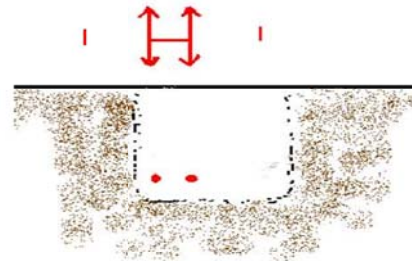
Utility Marking Guidelines

New Marking Procedures being used in New England for utilities that On Target Utility Serves.

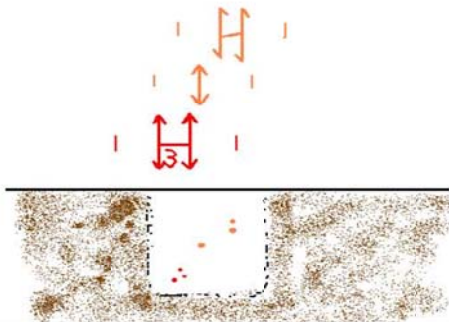
These may be used by other Utilities in New England BUT are not limiting anyone from using other marking technique's within the laws of any particular state. These markings where designed in part using CGA Best Practice Version 2.0.



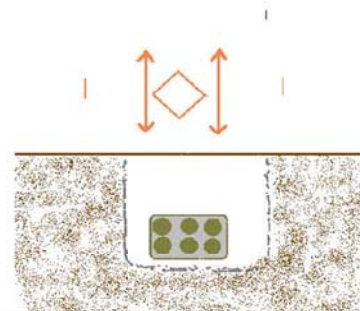
A Single Double Ended Arrow on the ground for a SINGLE cable or wire below.
Corridor markings placed approx. 18" each side



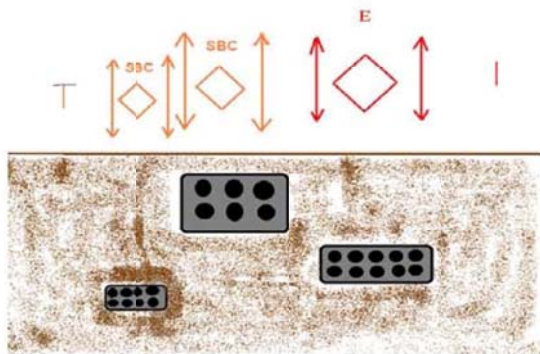
2 Single Double ended arrows with a line connecting to make an H . Will be on any markout when Multiple buried cables of Same utility are known .



Multiple cables same trench. Staggered marks for different Utilities. Lightning bolt for CATV.
Number # of cables inside H .



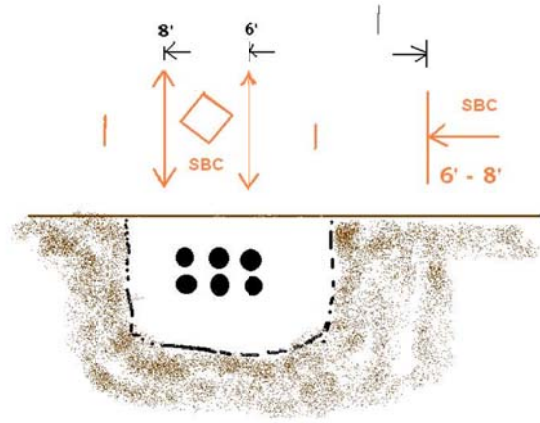
2 Single Double ended Arrows With a Diamond in between.
This mark will be on any Multiple Duct Structure



Multiple Duct Structures Marked out separately with Utility ID and Proper Color Orange Telecommunication Rec Electric



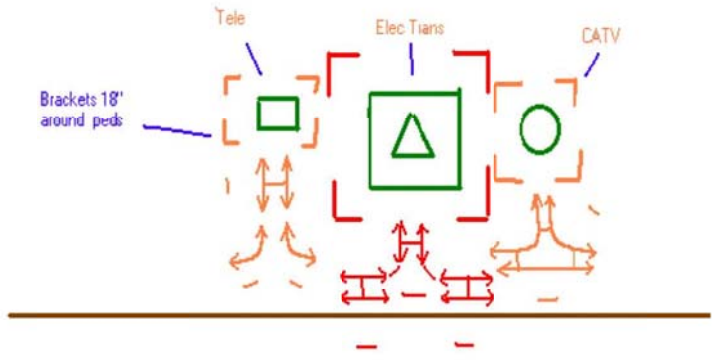
When multiple structures are known to be on top of each other the # will be placed inside the Diamond .



OFFSET Markers will be placed along roadways when Duct markings would be off pavement or destroyed during excavation.



Bracket's Outlining Manhole and Vault structures



Bracket's around Pedestals and Transformers and Poles. Markings start outside of brackets. Hand digging inside marked area.

Chapter 895: UNDERGROUND FACILITY DAMAGE PREVENTION REQUIREMENTS

SUMMARY: This rule describes the responsibilities of excavators, underground facility operators, the damage prevention system (Dig Safe System, Inc.), and the Public Utilities Commission in implementing Maine’s underground facility damage prevention statute. The rule establishes notification, marking, and reporting procedures, defines violations and penalties, and describes the process by which the Public Utilities Commission will enforce the program and monitor its success.

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§ 1 GENERAL PROVISIONS

- A. **Purpose and scope.** The purpose of this rule is to implement the provisions of the State's underground facility damage prevention requirements contained in 23 M.R.S.A. §3360-A, "Protection of Underground Facilities." The rule establishes the responsibilities of excavators, operators and Dig Safe System, Inc. The rule also establishes the process by which the Public Utilities Commission enforces this program.
- B. **Applicability.** Dig Safe System, Inc. shall be the damage prevention system that operates in Maine. Unless otherwise indicated, the provisions of this rule apply to all operators of underground facilities, excavators, and Dig Safe System, Inc.

§ 2 DEFINITIONS

As used in this section, unless the context otherwise indicates, the following terms shall have the following meanings.

- A. **Business day.** "Business day" means a 24-hour day other than Saturday, Sunday or a legal Maine holiday.
- B. **Borrow pit.** "Borrow pit" has the same meaning as provided in 38 M.R.S.A. §482(1-A).
- C. **Commercial timber harvesting activity.** "Commercial timber harvesting activity" means the cutting or removal of timber for the primary purpose of selling or processing forest products and includes the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery and the creation, use and maintenance of skid trails, skid roads, winter haul roads and other roads to facilitate timber harvesting.
- D. **Commission.** "Commission" means the Maine Public Utilities Commission.
- E. **Damage.** "Damage" means any impact upon, or removal of support from, an underground facility as a result of excavation or demolition, which according to the operating practices of the operator would necessitate the repair of such facility.
- E-1. **Damage prevention incident.** "Damage prevention incident" means an occurrence in which one or more provisions of the Dig Safe law are violated, regardless of whether there is damage to underground facilities.
- F. **Damage prevention system or system.** "Damage prevention system" or "system" means an organization whose membership is open to all operators of underground facilities located within the State of Maine, which maintains a database, provided by its member operators, that includes the geographic areas in which its member operators desire transmission of notices of proposed excavation and which has the capability to transmit notices of proposed excavation to member operators by teletype, facsimile, computer or telephone.
- G. **Demolition.** "Demolition" means any operation by which a structure or material is wrecked, razed, rendered, moved or removed by means of any tools, equipment or discharge of explosives which could damage underground facilities.

- H. **Dig Safe System, Inc. or Dig Safe.** “Dig Safe System, Inc.” or “the Dig Safe System” means the damage prevention system operating in Maine.
- I. **Emergency excavation.** "Emergency excavation" means immediate excavation necessary to prevent injury, death, or loss of an existing vital service.
- J. **Excavation.** "Excavation" means any operation in which earth, rock or other material below the ground is moved or otherwise displaced, by means of power tools, power equipment or explosives and includes grading, trenching, digging, ditching, drilling, auguring, tunneling, scraping and cable or pipe driving, except tilling of soil and gardening or displacement of earth, rock or other material for agricultural purposes.
- K. **Excavator.** "Excavator" means any person proposing to make, making or contracting for an excavation.
- L. **Mechanical means of excavation.** “Mechanical means of excavation” means excavation using any device or tool powered by an engine except air vacuum methods of excavation.
- M. **Member operator.** “Member operator” means an operator that is a member of Dig Safe, Inc.
- N. **Notify, notice or notification.** "Notice" or "notification" means the delivery of all required information to the person to be notified and the receipt of it by such person in accordance with this rule. To “notify” means to give notice in accordance with the requirements of this rule.
- O. **Non-member operator.** “Non-member operator” means an operator that is not a member of Dig Safe, Inc.
- P. **Operator.** “Operator” means the owner or operator of an underground facility. Within this rule, operators are further categorized as “member operators” and “non-member operators.”
- Q. **Person.** "Person" means an individual, partnership, municipality, state, county, political subdivision, public utility, joint venture or corporation and includes the employer of an individual.
- R. **Respondent.** “Respondent” means a person alleged to have committed a violation under this rule or 23 M.R.S.A. §3360-A.
- S. **Serious damage prevention incident.** "Serious damage prevention incident" means a damage prevention incident that results in the loss of human life, personal injury requiring in-patient hospital admission, evacuation, or potential damages exceeding \$10,000, or that has the potential to pose a significant hazard to the health or welfare of the public.
- T. **Shoulder-grading activity.** “Shoulder-grading Activity” means highway maintenance work that involves the use of a motorgrader or other suitable construction equipment with a blade on the shoulder of a road to remove accumulated sand, gravel, sod or other material to establish drainage away from the traveled portion of the highway.

- U. **Underground facility or facility.** "Underground facility" or "facility" means any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cable television service, electric energy, oil, gas or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, appurtenances thereto and those parts of poles below ground. This definition shall not include highway drainage culverts or underdrains.
- V. **Underground facility operator.** "Underground facility operator" means the owner or operator of any underground facility, other than an underground oil storage facility as defined in 38 M.R.S.A. §562-A(21) or an airport aviation fuel hydrant piping system, used in furnishing electric, telephone, telegraph, gas, petroleum transportation or cable television service. "Underground facility operator" does not include a municipality or a public utility with fewer than five full-time employees or fewer than 300 customers or a person that owns underground facilities on its own property for commercial or residential purposes.
- W. **Violation.** "Violation" means any of the actions identified in 23 M.R.S.A. §3360-A(6-C) (the Dig Safe law) as violations subject to the imposition of an administrative penalty and acts of non-compliance with the provisions of this rule.

§ 3 *[REPEALED]*

§ 4 **RESPONSIBILITIES OF THE EXCAVATOR**

- A. **Pre-marking.** The excavator shall mark the approximate boundary of a proposed excavation and the excavator's initials in white, or as otherwise established by the Dig Safe System, prior to notifying the Dig Safe System, as required by Section 4(B). If an excavator uses a single stake or other single point indicator as a pre-mark, the excavator must indicate the radius of the proposed excavation area. Alternative colors, pink or black, may be used by the excavator during snow or ice conditions.
- B. **Notification**
1. **Notification to the Dig Safe system**
 - a. **Notice process.** Except for emergency notifications and as provided in Subsection 4(B)(1)(a)(i), an excavator shall notify the Dig Safe System of the location of the intended excavation at least 72 hours, not including Saturdays, Sundays and legal Maine holidays, but not more than 30 calendar days, prior to the commencement of excavation. The excavation must commence within 30 days of the notification to the Dig Safe System. Notification may be given in writing, by telephone, or by electronic means. Non-emergency notification shall take place between the hours of 7 a.m. and 5 p.m. on normal business days. In the event of an emergency, an excavator shall notify the Dig Safe System and non-member operators as required by Subsection 4(C)(1), and shall indicate that it is an emergency notification.

- i. **No facilities.** If an excavator notifies the Dig Safe System and nonmember operators as required by this Section, and is informed by the Dig Safe System and each nonmember operator, including private landowners, that no underground facilities exist in the proposed excavation area, then the excavator is not required to wait 3 days as required by Subsection 4(B)(1)(a) and may begin excavation immediately.
 - ii. **PUC OKTODIG database.** An excavator may check the Commission's OKTODIG database within 30 days of the date excavation begins to determine whether any non-member operators have underground facilities in the municipality in which the excavation area is located. The excavator may re-check the OKTODIG database pursuant to this subsection for each successive 60-day period. If the Commission's OKTODIG database indicates that there are no member facilities located in the municipality in which excavation is planned, the excavator is not required to notify the Dig Safe System of the planned excavation. The excavator must notify all non-member operators that are listed on the Commission's OKTODIG database as having underground facilities in the municipality in which the excavation area is located as required in Subsection 4(B)(2).
- b. **Acknowledgement.** An excavator shall acquire and record an acknowledgement from the Dig Safe System for any notice the excavator sends by electronic means.
- c. **Blasting.** If an excavation involves blasting, the excavator shall notify the Dig Safe System in writing of the date and location of the blasting. This written notice must be given and received at least 24 hours in advance of the blasting, except that, in the case of an unanticipated obstruction requiring blasting, the excavator shall provide written notice not less than four hours in advance of that blasting.
- d. **Renotification.** If the proposed excavation or blasting is not completed 60 calendar days after notification or the excavation or blasting will be expanded outside the location originally specified in the notification, the excavator shall renotify the Dig Safe System as specified in this section.
- e. **Contents of notice.** Notification to the Dig Safe System shall contain the following information:
 - i. the name of the individual serving such notice;
 - ii. the location of the proposed excavation; the location may include Global Positioning System (GPS) coordinates. If the excavator does not, or is unable to, provide GPS coordinates, the excavation location information shall include the name of the city or town where the excavation will take place; and the street, way, or route number where appropriate; and the name of the streets at the nearest intersection to the excavation if not more

than a quarter mile from the proposed excavation; and the number of the buildings closest to the excavation and/or any other description, including landmarks, utility pole numbers or other information which will accurately define the location of the excavation and the date and location of any blasting.

- iii. the name, address, telephone number and the telefacsimile (fax) number, if available, of the excavator;
- iv. the excavator's field telephone number, if available; and
- v. the type and extent of the proposed excavation.

2. **Additional notifications.** In addition to notifying the Dig Safe System as required in Subsection 4(B)(1), an excavator shall notify any non-member operator in the area of the proposed excavation. This notice must be in accordance with Subsection 4(B)(1) except that it will be provided directly to the non-member operator and not to the Dig Safe System.

- a. If the underground facilities are located on private property, provide service to a single-family residence, and are owned and operated by the owner of that property:
 - i. That landowner may mark the underground facilities in accordance with Subsection 6(B);
 - ii. The excavator may wait 3 business days from the date of notification to commence the excavation or may commence the excavation upon notification;
 - iii. If the excavator waits 3 business days from the date of notification or until after the underground facilities are marked, if sooner, to commence excavation or if the markings made by the landowner pursuant to subparagraph (i) fail to identify the location of the underground facilities in accordance with subsection 6(B), an excavator damaging or injuring underground facilities is not liable for any damage or injury caused by the excavation, except on proof of negligence; and
 - iv. If the excavator does not wait until the underground facilities are marked or 3 business days from the date of notification to commence excavation, whichever occurs earlier, the excavator is liable for all damages to the underground facilities as a result of the excavation.

3. **Subcontractors and multiple excavators.** In the case of an excavation involving subcontractors or other arrangements in which more than one entity qualifies as the excavator under this rule, the excavator directly responsible for performing the excavation shall ascertain that all notifications required by this rule are performed.

C. Excavation

1. **Emergency excavations.** In an emergency, an excavator may commence an excavation after taking all reasonable steps, consistent with the emergency, to pre-mark the excavation site and notify the Dig Safe System and non-member operators pursuant to Section 4(B).
2. **Safety zone.** An excavator may not use mechanical means of excavation when excavating within 18 inches in any direction of any marked underground facilities until the underground facilities have been exposed, except that mechanical means may be used, as necessary, for initial penetration and removal of pavement, rock or other materials requiring use of mechanical means of excavation. Once underground facilities have been exposed, further excavation must be performed employing reasonable precautions to avoid damage to the underground facilities (unless the operator of the underground facilities has positively identified the facilities as inactive or abandoned, pursuant to Subsection 6(F)(3), and has indicated that there is no need to protect them from damage), including, but not limited to, any substantial weakening of structural or lateral support of the facilities or penetration or destruction of the facilities or their protective coatings. The lateral boundaries of the safety zone shall be the operator's tolerance zone markings as directed in Subsection 6(B)(4)(b).
3. **Maintenance of markings.** An excavator shall maintain markings made by an operator pursuant to Section 6(B). If an excavator cannot maintain the markings, the excavator shall request that the operator reapply the markings.
4. **Unmarked underground facilities.** Any unmarked underground facility discovered during an excavation must be treated as an active facility until the facility operator has been notified by the excavator (pursuant to Subsection 4(D)(1)) and has visited the site and positively identified the facility as inactive or abandoned.

D. Reporting

1. **Notice of damage to operator.** An excavator who damages an underground facility or discovers an unmarked underground facility shall immediately notify the affected operator. The excavator shall not backfill an excavation where damage has occurred or where an unmarked facility has been discovered without first receiving permission from the affected operator.
2. **Report to Commission.** An excavator involved in an excavation shall report to the Commission when it has reason to believe that one or more damage prevention incidents as defined in Section 2(E-1) have occurred associated with that excavation.

The damage prevention incident shall be reported by 1) calling the Commission as soon as possible at (207) 287-3831 or emailing the Commission at IncidentReport.PUC@maine.gov and 2) completing the Underground Facility Damage Prevention Incident Report form available from the Commission (207) 287-3831 or <http://www.maine.gov/mpuc>). The excavator shall submit this written report within 10 days of discovering a damage prevention incident.

Any person may report to the Commission any other failure to comply with this rule or other concerns regarding underground facilities damage prevention, using the Underground Facility Damage Prevention Incident Report form.

3. **Calling 9-1-1.** If contact with or damage to an underground pipe or another underground facility results in the escape of any natural gas or other hazardous substance or material regulated by the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, the excavator shall immediately report the contact or damage by calling 9-1-1.

E. **Legal Effect of Non-compliance**

1. **Excavator.** The failure of an excavator to provide any or all notices required by Subsections 4(B)(1) and 4(B)(2) for an excavation that results in damage to an underground facility or facilities shall be prima facie evidence in any civil or administrative proceeding that the damage was caused by the negligence of the excavator.
2. **Member Operator.** If an excavator complies with all excavator responsibilities described in Section 4(A) and Subsection 4(B)(1), and if the Dig Safe System does not provide all information pursuant to Section 5(A) or an operator does not provide all information pursuant to Section 6(B) or the information provided fails to identify the location of the underground facilities in accordance with Section 6(B), then an excavator is not liable for any damage or injury caused by the excavation, except on proof of negligence.
3. **Non-member Operator.** If an excavator provides notice to non-member operators pursuant to Subsection 4(B)(2), and if a non-member operator fails to mark the location of its facilities or if the facilities are not properly marked pursuant to Section 6(B), then an excavator is not liable for any damage or injury caused by the excavation, except on proof of negligence.

F. **Exemptions**

1. **Commercial Forestry**
 - a. **Activity requiring no written agreement.** An excavator is exempt from the notice requirements of Sections 4(A) and 4(B) for any excavation undertaken in conjunction with a commercial timber harvesting activity provided the excavation:
 - i. is not conducted in a public place, on public land or within a public easement, including, but not limited to, a public way;
 - ii. is not conducted within 100 feet of an easement or land owned by an underground facility operator;

- iii. is not conducted within 100 feet of an underground facility; and
 - iv. does not involve the use of explosives.
- b. **Activity requiring written agreement.** An excavator is exempt from the requirements of Sections 4(A), 4(B) and 4(C) for any excavation undertaken in conjunction with a commercial timber harvesting activity, when that excavation is within 100 feet of an underground facility or on an easement or land owned by an operator or within 100 feet of an easement or land owned by an operator if the excavator:
- i. contacts the Dig Safe System to identify all member operators within the area of the excavation;
 - ii. enters into written agreements with all operators within the area of the excavation and with all persons owning the land on which the excavation occurs; and
 - iii. undertakes the excavation in accordance with the terms of the written agreements.
2. **Cemeteries.** An excavator is exempt from the notice requirements of Section 4(B) for any excavation undertaken within the boundaries of a cemetery if the following procedures are followed.
- a. The person responsible for operating the cemetery shall provide notice pursuant to Section 4(B) identifying the entire cemetery as a potential excavation site. Owners and operators of underground facilities within the cemetery shall mark those facilities in accordance with Section 6(B) as applicable. Thereafter, the person responsible for operating the cemetery shall maintain sufficient records or markings to identify the location of underground facilities within the cemetery.
 - b. The person responsible for operating the cemetery shall identify the location of any underground facilities within the excavation area and take appropriate action to avoid damage to the facilities.
3. **Shoulder-grading Activity.** An excavator that is a licensing authority as defined by 35-A M.R.S.A. §2502(1) or its designee is exempt from Subsection 4(C)(2) for any excavation that is shoulder-grading activity if the excavator complies with this subsection. If an excavator chooses to excavate under this subsection, all owners of underground facilities within the area of excavation must comply with this subsection.
- a. The excavator shall provide notice as required by Section 4(B) and the owner or operator of underground facilities shall respond as required by Section 6(B).

- b. The excavator shall contact each owner or operator of underground facilities within the area of proposed shoulder-grading activity and describe the scope of its proposed shoulder-grading activity, including the anticipated depth of grading.
 - c. The owner or operator of each underground facility shall within 3 business days determine and notify the excavator whether the depth of its facility is sufficient to avoid damage.
 - d. After receipt of notice pursuant to Subsection 4(F)(3)(c), the excavator may commence its shoulder-grading activity in a manner that does not disturb the facilities indicated by the owners or operators of the underground facilities or, if a facility is located at an insufficient depth to allow the proposed shoulder-grading activity, prior to the shoulder-grading activity the licensing authority may require the owner or operator of the underground facility to lower or otherwise move its facility in accordance with applicable law and the terms of its license.
4. **Exemption; quarries and borrow pits.** An excavator may undertake an excavation within a quarry or borrow pit in accordance with this subsection.
- a. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.
 - (i) "Lawfully expanded after March 1, 2011" means an expansion of a quarry or borrow pit after March 1, 2011:
 - (a) That requires an authorization, license, permit or variance issued by the Department of Environmental Protection pursuant to Title 38, chapter 3, article 6, 7 or 8-A or by the former Maine Land Use Regulation Commission or the Maine Land Use Planning Commission under Title 12, chapter 206-A and for which a valid authorization, license, permit or variance has been issued; or
 - (b) That requires a filing of a notice of intent to comply pursuant to Title 38, chapter 3, article 7 or 8-A and a complete filing has been made.
 - (ii) "Lawfully located on March 1, 2011" means that on March 1, 2011 the quarry or borrow pit existed and:
 - (a) The owner or operator had been issued all authorizations, licenses, permits or variances by the Department of Environmental Protection pursuant to Title 38, chapter 3, article 6, 7 or 8-A or by the former Maine Land Use Regulation Commission under Title 12, chapter 206-A necessary to operate that quarry or borrow pit; and

- (b) The quarry or borrow pit was in compliance with any applicable requirements of Title 38, chapter 3, article 7 or 8-A or with any applicable land use district standards of the former Maine Land Use Regulation Commission adopted under Title 12, chapter 206-A.
 - (iii) "Lawfully located after March 1, 2011" means that the quarry or borrow pit is established after March 1, 2011 and:
 - (a) The owner or operator possesses all authorizations, licenses, permits or variances issued by the Department of Environmental Protection pursuant to Title 38, chapter 3, article 6, 7 or 8-A or by the former Maine Land Use Regulation Commission or the Maine Land Use Planning Commission under Title 12, chapter 206-A necessary to operate that quarry or borrow pit; and
 - (b) The quarry or borrow pit is in compliance with the requirements of Title 38, chapter 3, article 7 or 8-A or with applicable land use district standards of the former Maine Land Use Regulation Commission or the Maine Land Use Planning Commission adopted under Title 12, chapter 206-A.
 - (iv) "Quarry" has the same meaning as in Title 38, section 490-W, subsection 17.
- b. Except as provided in paragraph c, an excavator is exempt from the notice requirements of subsection 4(B) when undertaking an excavation within a quarry or borrow pit lawfully located on March 1, 2011.
- c. An excavator undertaking an excavation within a quarry or borrow pit lawfully located after March 1, 2011 or lawfully expanded after March 1, 2011 is governed by the following.
- (i) The owner or operator of the quarry or borrow pit shall provide notice pursuant to subsections 4(B) identifying the entire area potentially subject to excavation.
 - (ii) Owners and operators of underground facilities in the area identified pursuant to subparagraph i shall mark those facilities in accordance with subsection 6(B), as applicable. Thereafter, the owner or operator of the quarry or borrow pit shall maintain sufficient records or markings to identify the location of underground facilities within the area identified pursuant to subparagraph (i) and an excavator undertaking an excavation in that area is exempt from any further notice requirements under subsection 4(B).

- (iii) The owner or operator of the quarry or borrow pit shall take appropriate action to avoid damage to the underground facilities identified pursuant to subparagraph (ii).

5. **Unpaved public road grading procedure.** A person may undertake qualified grading activity in accordance with this subsection.

- a. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.
 - (i) "Approved road" means a public way, or portion of a public way, on which a person may undertake qualified grading activity in accordance with this subsection.
 - (ii) "Licensing authority" has the same meaning as in Title 35-A, section 2502, subsection 1.
 - (iii) "Qualified grading activity" means maintenance work that involves the use of suitable equipment with a blade to level or otherwise maintain the sand, gravel, sod or other surface of an unpaved public way.
 - (iv) "Requested road" means a public way, or portion of a public way, on which a licensing authority requests authority to conduct qualified grading activity under this subsection.
 - (v) "Shallow-depth facilities" means underground facilities located at an insufficient depth to allow qualified grading activity.
- b. A licensing authority shall provide notice identifying the requested road and the intended depth of the qualified grading activity to the system and to persons who are not members of the system who own or operate underground facilities in the requested road.
- c. Upon receiving notice pursuant to paragraph b, the system shall notify immediately all members whose underground facilities may be affected in accordance with subsection 5(A).
- d. The owner or operator of each underground facility within the requested road shall within 3 business days of receiving notice advise the licensing authority of the location and size of the owner's or operator's underground facilities and all underground facilities used in furnishing electric or gas service that are connected to the owner's or operator's facilities and known to the owner or operator that are located in the requested road and whether the depth of the facilities is sufficient to avoid damage by qualified grading activity.
- e. After waiting 3 business days of providing notice under paragraph b the licensing authority may file with the Public Utilities Commission a notice of intent to conduct qualified grading activity on the requested road. Upon filing the notice of intent, the requested road becomes an

approved road and any person may undertake qualified grading activity on the approved road at any time during the 12 months following filing of the notice of intent and is not required to provide any further notices under this section during those 12 months. If the licensing authority has been notified pursuant to paragraph d that there are shallow-depth facilities within the requested road, any qualified grading activity must be conducted in a manner that does not disturb the shallow-depth facilities. The licensing authority may require the owner or operator of the shallow-depth facilities to lower or otherwise move its facility in accordance with applicable law and the terms of its license.

6. **Unpaved private road grading.** A person is exempt from the requirements of this section for any grading activities undertaken on private roads that meet the following criteria:
 - a. The grading activities are limited to the shaping, maintaining or scraping of a road surface or road shoulder to allow for proper drainage; and
 - b. The depth of the grading activities is no deeper than 6 inches as measured from the road surface or shoulder of the road surface prior to the commencement of those grading activities.

§ 5 RESPONSIBILITIES OF THE DIG SAFE SYSTEM

- A. **Notification.** Upon receiving notice of excavation as required by Section 4(B), the Dig Safe System shall immediately notify all member operators whose underground facilities may be affected by the notice.
- B. **System Requirements**
 1. The Dig Safe System shall provide a single, statewide, toll-free telephone number. All telephone directories shall prominently display the toll-free number: 1-(888)-DIGSAFE (1-(888)-344-7233) or such other number that may be established.
 2. At a minimum, the Dig Safe System shall staff its operation from 7 a.m. to 5 p.m. each day excluding Saturdays, Sundays and legal Maine holidays. The Dig Safe System shall provide emergency notification 24 hours per day, 7 days per week.
 3. The Dig Safe System shall provide adequate communication equipment and personnel sufficient to answer calls within 20 seconds under normal operating conditions or otherwise as soon as practicable.
 4. The Dig Safe System shall transmit non-emergency messages to member operators by 6:00 p.m. on the date of receipt. The Dig Safe System shall transmit emergency messages to member operators within 10 minutes of receipt under normal operating conditions or otherwise as soon as practicable.

5. The Dig Safe System may adopt rules requiring face-to-face meetings between excavators and member operators.
6. The cost of operating the Dig Safe System shall be apportioned equitably among its member operators.
7. The Dig Safe System shall maintain adequate records to document compliance with the requirements of this rule. The Dig Safe System shall annually report to the Commission information adequate to demonstrate the extent to which it answers calls and transmits messages within the time frames required by this rule.
8. The Dig Safe System shall assist the Commission to the extent practicable in coordinating access for Maine excavators calling the Dig Safe System to the Commission's OKTODIG database.
9. The Dig Safe System shall restrict the use of facility location information provided by Maine operators to those uses required to perform its duties under this Rule and will restrict access to the facility location information to those employees of the Dig Safe System performing such duties. Access to Maine facility location information shall not be available to the general public by electronic or digital technology or by copies of maps and plans. The Dig Safe System shall use reasonable care to maintain all facility location information provided by Maine operators in a secure manner and the Commission may initiate an appropriate investigation to review security protocols.
10. No later than 21 business days after receiving notification of newly installed facilities or planned new facilities pursuant to subsection 6(A)(1)(d)(iii), or discovered facilities pursuant to subsection 6(B)(6), the Dig Safe System shall update its records to reflect the location of these facilities.

C. Public Awareness Programs

1. The Dig Safe System shall provide all member operators with a brochure explaining Dig Safe's objectives, procedural guidelines and opportunities for member participation.
2. Upon request, the Dig Safe System shall provide training to operators and excavators regarding its operations.
3. The Dig Safe System shall conduct a public awareness program, including but not limited to making literature available describing the Dig Safe System, distributing such literature to the public, and making such literature available for purchase and distribution to requesting parties.

§ 6 RESPONSIBILITIES OF THE OPERATOR

A. Dig Safe System Membership

1. Members

- a. An underground facility operator, as defined in Section 2(V), must join the Dig Safe System. Any other operator may voluntarily join the Dig Safe System.
- b. All members of the Dig Safe System shall pay to the Dig Safe System the cost of operation apportioned to the members pursuant to Subsection 5(B)(6).
- c. All members of the Dig Safe System shall maintain communications equipment that is compatible with the Dig Safe System's communication equipment maintained pursuant to Subsection 5(B)(3).
- d. Except as otherwise provided in this provision of the rule, each Dig Safe System member shall provide to the Dig Safe System the location of all underground facilities that the member would be obligated to mark upon receipt of notice pursuant to Section 6(B). The location of facilities may be indexed by street or in any more specific manner consistent with Dig Safe System methodology. The operator shall provide the information to the Dig Safe System to use in its notification process and, unless otherwise specified in this rule, the operator shall provide the information in a format that the Dig Safe System is capable of using, such as electronic or digital format, or by drawing the specific location of any underground facilities on maps provided by the Dig Safe System.
 - i. **Telephone and cable service drops exempt.** Telephone utilities and cable operators are not required under this provision to provide to the Dig Safe System the location of service drops from a main line to customer premises. As a result, if a telephone utility or cable operator only has a service drop in the area of a proposed excavation, the telephone utility or cable operator will not receive notice from the Dig Safe System of the proposed excavation and will not therefore be required to mark the service drop. If, however, the telephone utility or cable operator has other underground facilities in the area of the proposed excavation, the telephone utility or cable operator will receive notice from the Dig Safe System of the proposed excavation and the telephone utility or cable operator will be required to mark all of its underground facilities within the area of the proposed excavation including telephone or cable drops.
 - ii. **Water utility transmission mains waiver.** The Commission shall grant a waiver from this provision for any water utility transmission mains that are downstream of a treatment plant or underground water source and may require the water utility to

provide the Dig Safe System with an alternative method of facility location specification, such as a corridor, for notification purposes.

- iii. Unless a member operator has provided the Dig Safe System with the location of planned new facilities no fewer than 21 business days prior to installation, the member operator shall provide to the Dig Safe System the location of newly installed and newly discovered facilities or portions of those facilities, no later than 21 business days after a newly installed facility or portion of a facility is covered with soil or other material or after the location of a facility is discovered pursuant to subsection 6(B)(6). For the purposes of this subsection, a facility or portion of a facility is considered covered with soil or other material if it is not visible because of the presence of the soil or other material.
2. **Non-members.** An operator that is not a member of the Dig Safe System pursuant to Subsection 6(A)(1) shall, upon receipt of the notice provided for in Subsection 4(B)(2), mark the location of its underground facilities in accordance with Section 6(B).

B. Marking

1. **Purpose.** An operator shall, upon receipt of the notice provided in Subsection 4(B)(2) or Section 5, advise the excavator of the location and size of the operator's underground facilities and all underground facilities used in furnishing electric or gas service that are connected to the operator's facilities, located in the public way and known to the operator within the area of the proposed excavation by marking the location of the facilities in accordance with this subsection. If the operator determines that there are no facilities in the proposed excavation area that it is obligated to mark, it shall inform the excavator in writing, prior to the expiration of the excavator's waiting period, either by electronic facsimile, text or e-mail or by placing marks at the excavation site that so indicate.
2. **Time requirements**
 - a. **Initial marking.** The operator shall complete marking no later than two business days after receipt of the notice provided for in Section 5 or Subsection 4(B)(2), unless the proposed excavation is of such length or size that the operator cannot reasonably mark all its underground facilities within two business days. In such an instance, the operator shall inform the excavator, and the excavator shall notify the operator of the location in which excavation will first be made. The operator shall mark the underground facilities in that location within two business days and will mark the remaining facilities as soon as practicable.
 - b. **Re-marking.** Following an excavator's request to re-mark an excavation area pursuant to Subsection 4(C)(3), an operator shall again mark this location within one business day.

- c. **Emergencies.** An operator shall mark its underground facilities as soon as practicable after receiving notification of an emergency excavation pursuant to Subsection 4(C)(1).
 - d. **Test holes.** After receiving notification pursuant to Section 5 or Subsection 4(B)(2), if an operator must dig test holes in order to locate its underground facilities, other operators within the premarked area shall mark their facilities within one business day of notification from the excavating operator or within a time frame agreed upon by the excavator.
3. **Markers.** The operator shall use paint, stakes, flags or other appropriate means to mark its underground facilities. The physical characteristics in the area of the proposed excavation shall be considered when determining the type of marker to be utilized. Markers shall conform to the color code established by the Dig Safe System, as follows:
 - a. **Red:** electric power lines, cables, conduit, or lighting cables;
 - b. **Yellow:** gas, oil, steam, petroleum, or gaseous materials;
 - c. **Orange:** communication, alarm, or signal lines, cables, or conduits;
 - d. **Blue:** water, irrigation, or slurry lines;
 - e. **Green:** sewers or drain lines; and
 - f. **Purple:** reclaimed water, irrigation, and slurry lines.
4. **Marking procedures**
 - a. **Identification.** Marking shall identify changes in direction or terminations occurring within the immediate area of the proposed excavation. Where practical, all marking methods shall indicate the width of the underground facility. Markings shall be made at intervals of no more than 25 feet.
 - b. **Tolerance zone.** Except if using the centerline marking method described in Subsection 6(B)(4)(c)(2), the operator shall mark a finite area, designated the “tolerance zone,” on each side of the underground facility. The operator shall also indicate the depth of the facility, if known. In all circumstances, the tolerance zone for each facility will be an area 18 inches for member operators and 36 inches for non-member operators on each side of the facility for the length of the facility.
 - c. **Marking methods.** The operator shall use one of the following marking methods to establish the tolerance zone of an underground facility:
 - i. **The corridor marking method.** This method involves placing markers at either boundary of the tolerance zone, such that the markers will be placed away from the facility centerline 18 inches for member operators and 36 inches for non-member operators,

plus one-half the width of the facility. If an operator maintains two or more facilities in close proximity to each other within the excavation area, one tolerance zone may include both facilities. In this instance, the boundaries of the zone shall be established by locating the boundaries of each separate facility and placing markers 18 inches for member operators and 36 inches for non-member operators from the outer boundaries of the multiple facilities. In this circumstance, the operator shall mark the centerline of each facility within the marked boundaries.

- ii. **The centerline marking method.** This method involves placing markers directly over the centerline of the facility, permitting the excavator to establish boundaries of the tolerance zone at points located 18 inches for member operators and 36 inches for non-member operators, plus half the width of the facility from the markers. The width of the facility shall be indicated upon the markers. If an operator maintains two or more facilities in close proximity to each other within the excavation area, the operator shall place markers over the centerline of each facility.
 - iii. **The offset marking method.** This method involves locating the centerline of the facility by placing markers at locations that parallel the facility. The offset marking methods shall be used only when it is impractical to use either the corridor or centerline methods. The markers used for the offset marking methods shall indicate the distance and direction to the centerline of the facility and its width.
5. **Newly installed facilities.** Unless an operator has reason to know that no other excavation will occur in the excavation area within 30 calendar days of the time a newly installed facility is covered with soil or other material, the operator shall mark the location of the newly installed facility or portion of the facility in accordance with subsections 6(B)(3) and 6(B)(4), no later than one business day after the newly installed facility or portion of that facility is covered with soil or other material. For the purposes of this section, a facility or portion of a facility is considered covered with soil or other material if it is not visible because of the presence of the soil or other material.
 6. **Discovered facilities.** Following an excavator's notification of discovery of an unmarked facility pursuant to Subsection 4(D)(1), an operator shall determine the location of the facility from the point of discovery to the points at which the facility intersects with a known facility or the points at which the facility ends without intersecting with a known facility. No later than 21 business days after the excavator notifies the operator of the discovery of the facility, the operator shall notify the Commission of the location of the facility and, if the operator is a member operator, of its notification of the Dig Safe System pursuant to subsection 6(A)(1)(d)(iii). If the operator believes that it is unable to locate the facility pursuant to this subsection, it shall provide an explanation to the Commission of the reasons for its failure to locate. If the Commission determines that location is unreasonably difficult, it may grant a waiver from the locating requirements of this subsection.

C. Reporting

1. **Report to Commission.** An operator shall report to the Commission when it has reason to believe that one or more damage prevention incidents as defined in Section 2(E-1) have occurred regardless of whether there is damage to underground facilities.

The damage prevention incident shall be reported by 1) calling the Commission as soon as possible at (207) 287-3831 and 2) completing the Underground Facilities Damage Prevention Incident Report form available from the Commission (207-287-3831 or <http://www.maine.gov/mpuc>). The operator shall submit this written report within 10 days of discovering a suspected violation.

In the event of a serious damage prevention incident as defined in Section 2(S-1) occurs, the operator shall also provide notice to the Commission immediately, after all urgent safety matters have been addressed, in a manner consistent with the most recent notification procedures provided by the Commission.

Any person may report to the Commission any other failure to comply with this rule or other concerns regarding underground facilities damage prevention, using the Underground Facility Damage Prevention Incident Report form.

2. **Annual activity report.** An operator, except a municipality or a utility with fewer than 5 full time employees or fewer than 300 customers, shall submit a report to the Commission within 75 days after the end of each calendar year that states the total number of excavation notifications received by the operator during the previous year and the total miles of underground facilities it operates.
3. **New underground facilities.** An operator shall notify the Commission in writing immediately when installing, or when it newly identifies, underground facilities that it is obligated to mark pursuant to Section 6(B) in a municipality in which it did not previously have such underground facilities and shall indicate whether it is a member or a non-member of the Dig Safe System.
4. **Non-member operator registration.** Each non-member operator shall register with the Commission providing its name, the name and telephone number of a contact person for excavation notifications, an email address and fax number where available, and the municipalities, townships, or other civil divisions or territories in which it has underground facilities for use in the Commission's OKTODIG database. The non-member operator shall notify the Commission in writing within 10 business days of any changes to this information and shall renew its registration annually by January 31 each year certifying the accuracy of the information on file with the Commission. This requirement does not apply to an entity that only owns underground facilities on its own property for commercial or residential purposes.

D. Natural Gas Operators

1. **Applicability.** The provisions of this subsection are applicable to gas operators. For the purposes of this subsection, a gas operator is a natural gas pipeline utility

or a gas utility other than a gas utility over which the Commission has limited safety jurisdiction pursuant to 35-A M.R.S.A. §4702.

2. **Excavation notice to fire departments.** In addition to providing other notices required under this rule, before commencing any excavation for the purpose of working on an underground transmission line, a gas operator shall provide notice of any excavation to the Fire Department within whose service area the excavation will occur. This notice must be in writing or by telephone and must be given at least three business days prior to excavation. Work may not commence until the operator has received from the Fire Department an acknowledgement of the notice either by telephone or in writing.
3. **Emergency management information.** Each gas operator shall provide maps that clearly indicate the location and depth of all main supply underground gas facilities to the following jurisdictions:
 - a. each municipality within which it operates;
 - b. each fire department within whose service territory it operates;
 - c. the county emergency management agency for each county within which it operates; and
 - d. the Maine Emergency Management Agency.

Within 21 business days of changing the configuration of a gas operator's main supply underground gas facility, the gas operator must provide updated maps to the appropriate entities.

E. **Legal Effect of Non-compliance**

1. **Members.** If an operator does not provide all information pursuant to Section 6(B) or the information provided fails to identify the location of the underground facilities in accordance with Section 6(B) or if the Dig Safe System does not provide all information pursuant to Section 5(A), and an excavator complies with all excavator responsibilities described in Section 4(A) and Subsection 4(B)(1) or Subsection 4(B)(1)(a)(ii), then an excavator is not liable for any damage or injury caused by the excavation, except on proof of negligence.
2. **Non-members.** If an excavator provides notice to non-member operators pursuant to Subsection 4(B)(2), and if a non-member operator fails to mark the location of its facilities pursuant to Section 6(B), then an excavator is not liable for any damage or injury caused by the excavation, except on proof of negligence.

F. **Abandoned or Inactive Facilities**

1. **Operators with an electronic mapping system.** Beginning on the date an owner or operator of underground facilities is required by the Public Utilities Commission to implement electronic mapping under Chapter 140 of the Commission's Rules, the owner or operator shall indicate the existence of

facilities abandoned or inactive after that date in its electronic mapping system and shall notify an excavator when abandoned or inactive underground facilities exist in the area of a proposed excavation.

2. **Operators without an electronic mapping system.** If an owner or operator of an underground facility is not required to maintain an electronic mapping system under Chapter 140 of the Commission's rules, the owner or operator shall notify an excavator of any abandoned or inactive facilities in the area of a proposed excavation of which it is aware. An operator shall be conclusively presumed to be aware of any facilities abandoned after March 28, 2002.
3. When notifying an excavator that abandoned or inactive underground facilities exist in the area of the proposed excavation, the operator must also inform the excavator that:
 - a. In addition to the abandoned or inactive facilities, there may also be unmarked, active facilities within the excavation area; and
 - b. Anytime an unmarked underground facility is discovered during excavation, the excavator must treat the line as active and notify the operator of the facility, as soon as possible.

Upon receiving notification from the excavator that an unmarked facility has been discovered, the operator must visit the site and positively identify whether the facility is active or inactive.

§ 7 COMMISSION ACTIVITIES

- A. **Monitoring.** The Commission may require operators, excavators, or the Dig Safe System to report information that the Commission determines is needed to monitor the operation of the underground facilities damage program, or to hear and resolve complaints concerning failure to comply with the provisions of 23 M.R.S.A. §3360-A (the Dig Safe Law) or this rule.
- A-1. **OKTODIG database.** The Commission shall develop and maintain a database for excavator reference listing the non-member operators that have registered with the Commission as having underground facilities and indicating those municipalities, townships or other civil divisions or territories of the State in which the underground facilities are located, and indicating those in which member operators do not have underground facilities. The Commission will make the OKTODIG database accessible by telephone and internet or by other reasonable means. The Commission will update the OKTODIG database upon notification by an operator of the presence of underground facilities in a municipality
- B. **Enforcement Action Procedure.** The Commission shall use the following process when it initiates an enforcement action:

1. **Notice of enforcement investigation**

- a. **Preliminary incident investigation.** The Commission staff shall engage in a preliminary investigation regarding any potential violation of the Dig Safe Law or rules. The preliminary investigation shall 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 Enforcement Investigation (NOEI). In addition, the preliminary investigation shall include the Commission staff assessing the number of excavations and markings undertaken by the potential violator within the previous 12 months, including which excavations and markings resulted in Dig Safe violations and which excavations or markings resulted in successfully completed excavations. Nothing herein shall preclude the issuance of a NOEI if a person cannot be located with reasonable effort or fails to respond to a communication from the staff.
- b. **Potential violation.** If the Commission finds evidence of a potential violation of the Dig Safe Law (23 M.R.S.A. §3360-A) or this rule, it shall issue a NOEI to the respondent. The Commission may delegate the decision concerning the issuance of a NOEI to its staff.
- c. **Content of notice.** The NOEI shall state the name of the respondent, the factual basis for the alleged violation, and the amount of the administrative penalty recommended to resolve the matter.
- i. the specific subsection of 23 M.R.S.A. §3360-A(6-C) that may have been violated;
 - ii. whether and to what extent there was damage to property;
 - iii. whether and to what extent there was injury to a person or persons;
 - iv. the number of violations of the dig safe law or rules by the respondent in the past 12 months;
 - v. whether the respondent has been required to attend mandatory training sessions within the past 12 months for a violation of the same section of the law or rule that is the subject of the NOEI;
 - vi. where applicable, an explanation of the legal basis for determining the respondent acted in a negligent or reckless manner;
 - vii. whether Commission staff is recommending mandatory training or an administrative penalty; and
 - ix. where applicable, the amount of administrative penalty recommended to resolve the matter.

- d. **Right to contest.** The NOEI shall state that the respondent has a right to contest the allegation of potential violation by requesting, in writing within 30 days, an informal review or a formal hearing.
- e. **Default.** If the respondent fails to request an informal review of the NOEI within 30 days of its receipt, the respondent shall be deemed, upon issuance of an appropriate Commission order, to have defaulted and to have committed the violations alleged. A Commission order on default shall be treated as a finding of a violation for purposes of future applications of this rule.
- f. **Penalty.** If the respondent is declared to have defaulted by a Commission order, the respondent shall, upon issuance of the Commission order be liable to pay the administrative penalty or take the action designated in the NOEI unless the Commission orders otherwise. The Commission may not impose a greater administrative penalty than contained in the NOEI without holding an adjudicatory hearing or obtaining the consent of the respondent. The Commission may reduce the penalty or modify any required remedial action as it determines is warranted.

2. **Informal review**

- a. **Staff review.** If a respondent contests a NOEI, a staff member designated by the Commission shall conduct an informal review. The review shall consist of an informal conference or an analysis of the respondent's written reply, if any, or both. At the request of the respondent, the staff member designated by the Commission shall waive the informal conference.
- b. **Date for informal conference.** The informal conference, if not waived, shall be scheduled no less than 21 days, and no more than 60 days, from the issue date of the NOEI.
- c. **Written reply.** The respondent may file a written reply with the Commission on or before the day scheduled for the informal conference. The respondent or the respondent's designee must sign the written reply and shall include a statement of all relevant facts and authority and the basis for respondent's dispute of the alleged violation.
- d. **Informal conference**
 - i. At the informal conference, the respondent shall have the right to be represented by an attorney or other person, to present evidence and make arguments in support of respondent's position.
 - ii. The Commission shall make available to the respondent any evidence that indicates that the respondent may have violated these rules or 23 M.R.S.A. §3360-A.
 - iii. The Commission may require any person who may have information relevant to determining responsibility for a damage

prevention incident to attend the informal conference, and/or to provide documentation or other evidence.

3. **Recommended decision**

- a. 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 these rules and the basis for that conclusion, and the recommended disposition.
- b. The recommended decision will be sent to the respondent by mail, return receipt requested and forwarded to the Commission.
- c. If the recommended decision is adverse to the respondent, the respondent may request an adjudicatory hearing.

4. **Adjudicatory hearing**

- a. **Election.** A respondent may request an adjudicatory hearing. Such request must be made in writing no later than 30 days of the date of receipt of the Staff's recommended decision and shall identify the findings or conclusions in the recommended decision with which the respondent disagrees and indicate the respondent's position on these matters.
- b. **Failure to request hearing.** A respondent that fails to make a timely request for an adjudicatory hearing shall be liable to pay the administrative penalty or take the remedial action designated in the staff's recommended decision upon issuance of a Commission order. Unless otherwise ordered, the Commission will consider this order as a finding of a violation for purposes of future applications of this rule. The Commission may not impose a greater administrative penalty than contained in the NOEI without holding an adjudicatory hearing or obtaining the consent of the respondent. The Commission may reduce the penalty or modify any required remedial action as it determines is warranted.
- c. **Hearing.** The adjudicatory hearing shall be a de novo hearing and shall be conducted in accordance with 5 M.R.S.A. §§ 9051-9064.

5. **Remedial orders.** After considering all of the evidence, if the Commission finds that a violation has occurred, it may issue a remedial order.

- a. **Content.** The remedial order shall set forth the factual and legal basis of the Commission's findings and may direct the respondent to take any action, including the payment of an administrative penalty, as authorized by this rule.
- b. **Effect.** A remedial order issued by the Commission shall have the same effect as any order issued by the Commission.

6. **Consent agreements.** Notwithstanding any other provision of this rule, the Commission may at any time resolve an alleged violation with a consent agreement.
 - a. **Content.** A consent agreement must be signed by the respondent, or a duly authorized representative, and must indicate that the respondent does not contest the imposition of the penalties set forth in the NOEI.
 - b. **Order.** A consent agreement is effective only if approved by the Commission through the issuance of an order.
 - c. **Effect of consent.** Signing a consent agreement shall not be taken as admission to, or agreement with, the legal conclusions set forth in the NOEI. It shall, however, act as an agreement that the underlying incident shall be treated as a violation of the dig safe laws and rules for the purpose of this rule.

C. **Commission action**

1. In all cases in which respondent has not requested an adjudicatory hearing, the Commission will consider the evidence along with the proposed disposition (uncontested NOEI or staff's recommended decision, or consent agreement), in deliberative session, and take one of the following actions:
 - a. If the proposed disposition finds that respondent did not commit a violation, the Commission may, by order,
 - i. accept that finding and take no further action, or
 - ii. reject that finding and notify the respondent that the matter will be scheduled for an adjudicatory hearing and decision.
 - b. If the proposed disposition finds that respondent did commit a violation and the respondent agrees to the proposed disposition, the Commission may, by order,
 - i. Accept the finding and order an equal or lesser penalty or disposition without giving respondent further notice,
 - ii. Accept the finding but not the disposition and notify the respondent that it has set the matter for adjudicatory hearing to consider a higher penalty or more burdensome disposition, or
 - iii. Reject the finding and proposed disposition and dismiss the NIPV or notify the respondent that it has set the matter for adjudicatory hearing.
2. In cases in which the Commission has held an adjudicatory hearing, the Commission will consider the evidence in deliberative session and determine whether respondent has violated the Dig Safe Law or this rule.

- a. If the Commission finds no violation, it will dismiss the NIPV and take no further action.
- b. If the Commission finds that respondent has committed a violation, it may impose any penalty authorized by law.

§ 8 ADMINISTRATIVE PENALTIES

A. Approval required

1. The Commission must approve in a deliberative session the disposition of every alleged violation that requires payment of an administrative penalty or other remedial action.
2. The Commission's deliberation and approval by order of the imposition of an administrative penalty or other remedial action satisfies the statutory requirement for an adjudicatory proceeding in 23 M.R.S.A. §3360-A(6-C).

B. **Penalty assessment.** The Commission may impose an administrative penalty on an excavator or member operator that is found by the Commission in a proceeding under Section 7 to have committed a violation included in Section 8(C) below.

C. **Violations.** The Commission may impose an administrative penalty for any of the following violations:

1. Excavation that does not comply with the requirements of Section 4(A), Subsection 4(B)(1)(a) through 4(B)(1)(d), or Subsection 4(C)(2), except to the extent the excavator is exempt from the provisions of these subsections;
2. Excavation done in a reckless or negligent manner that poses a threat to an underground facility;
3. Failure of a member operator to comply with the requirements of Subsection 6(B)(2)(a) or 6(B)(2)(b), except to the extent the member operator is exempt from the provisions of the subsection;
4. Marking by a member operator of the location of an underground facility in a reckless or negligent manner; and
5. Failure of an excavator to comply with the exemption requirements and procedures of Subsections 4(F)(1), (2), or (3).

D. Penalty level

1. Maximum penalty level

- a. **First damage prevention incident within 12 month period.** Except as specified in Subsection 8(E), the administrative penalty for each violation associated with the first damage prevention incident shall not exceed \$1,000 per violation .

- b. **Subsequent damage prevention incidents.** The administrative penalty shall not exceed \$10,000 per violation if during the 12 months preceding the date of the violation the excavator or member operator has been found in violation of this rule.
 2. **Conditions.** In determining the amount of an administrative penalty under this section, the commission shall take into account:
 - a. Record of the violator, including, to the extent applicable, the number of successful excavations undertaken by the violator or the number of locations successfully marked by the violator during the prior 12 months;
 - b. Whether the violation resulted in death or personal injury, the degree to which it posed a risk of death or personal injury, and the degree to which it caused or posed a risk of public inconvenience;
 - c. Amount of property damage caused by the violation;
 - d. Degree of compliance with other provisions of this rule;
 - e. Good faith attempts to comply with the violated provision of this rule;
 - f. Steps to ensure future compliance; and
 - g. Amount necessary to deter future violation.
 3. **Other consequences of violation.** Administrative penalties imposed pursuant to these rules are in addition to any other remedies or forfeitures provided by law and any liability that may result from the act or omission constituting the violation.
- E. **Training requirements.** In addition to other actions taken by the Commission, the Commission may require an excavator or member operator who is found pursuant to Section 7 to have violated this rule or 23 M.R.S.A. §3360-A to participate, at the expense of the violator, in an educational program developed and conducted by the Dig Safe System.

§ 9 CONTEMPT

Failure to comply with any order, decision, rule, or requirement of the Commission may be punished using its contempt authority in 35-A M.R.S.A. §1502.

§ 10 IMPRUDENT ACTION

Compliance with this rule does not excuse a person from acting in a careful and prudent manner nor does compliance with this rule excuse a person from liability for damage or injury for failure to so act.

§11 INJUNCTIONS

Under appropriate conditions, the Commission or an operator may act under the authority of 23 M.R.S.A. §3360-A(12) and seek a temporary restraining order or injunction to prevent a person from undertaking an excavation that may result in damage to an underground facility.

§12 WAIVER OR EXEMPTION

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Commission may waive any of the requirements of this Chapter that are not required by the statute. Where good cause exists, the Commission, the Director of Technical Analysis, or Presiding Officer in a proceeding related to this Chapter may grant the requested waiver, provided that the granting of the waiver would not be inconsistent with the purposes of this Chapter or Title 35-A.

AUTHORITY: 23 M.R.S. §3360-A, 35-A M.R.S.A. §§ 104 and 111; PL 2019, ch. 592 and PL 2019 ch. 322.

BASIS STATEMENT: The factual and policy basis for this rule is set forth in the Commission's Order Provisionally Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2020-00264, issued on January 6, 2021, and Order Finally Adopting Rule, Docket No. 2020-00264, issued on June 29, 2021. Copies of the Statement and Order have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 18 State House Station, Augusta, Maine 04333-0018.

EFFECTIVE DATE: This rule was approved as to form and legality by the Attorney General on _____, 2021. It was filed with the Secretary of State on _____, 2021 and became effective on _____, 2021.

§3360-A. Protection of underground facilities

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms shall have the following meanings.

A. "Business day" means any day other than Saturday, Sunday or a legal holiday. [PL 1979, c. 362, §2 (NEW).]

A-1. "Borrow pit" has the same meaning as provided in Title 38, section 482, subsection 1-A. [PL 1999, c. 718, §1 (NEW).]

A-2. "Commercial timber harvesting activity" means the cutting or removal of timber for the primary purpose of selling or processing forest products and includes the attendant operation of mobile or portable chipping mills and of cutting and skidding machinery and the creation, use and maintenance of skid trails, skid roads, winter haul roads and other roads to facilitate timber harvesting. [PL 1999, c. 718, §1 (NEW).]

B. "Emergency excavation" means immediate excavation necessary to prevent injury, death or loss of an existing vital service. [PL 1979, c. 362, §2 (NEW).]

C. "Excavation" means any operation in which earth, rock or other material below the ground is moved or otherwise displaced, by means of power tools, power equipment or explosives and including grading, trenching, digging, ditching, drilling, augering, tunneling, scraping and cable or pipe driving, except tilling of soil and gardening or displacement of earth, rock or other material for agricultural purposes. [PL 2001, c. 577, §1 (AMD).]

C-1. "Excavator" means any person proposing to make, making or contracting for an excavation. [PL 1991, c. 437, §1 (NEW); PL 1991, c. 437, §12 (AFF).]

D. "Person" means an individual, partnership, municipality, state, including an agency or department of the state, county, political subdivision, utility, joint venture or corporation and includes the employer of an individual. [PL 2011, c. 588, §1 (AMD).]

D-1. "Shoulder-grading activity" means highway maintenance work that involves the use of a motorgrader or other suitable construction equipment with a blade on the shoulder of a road to remove accumulated sand, gravel, sod or other material to establish drainage away from the traveled portion of the highway. [PL 2001, c. 577, §2 (NEW).]

E. "Underground facility" means any item of personal property buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, electric energy, oil, gas or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, appurtenances and those parts of poles below ground. Except for liquefied propane gas distribution systems that have underground pipes, "underground facility" does not include liquefied propane gas distribution systems that are not included within the scope of 49 Code of Federal Regulations, Part 192. "Underground facility" does not include highway drainage culverts or under drains. [PL 2019, c. 592, §1 (AMD).]

F. "Underground facility operator" means the owner or operator of any underground facility, other than an underground oil storage facility as defined in Title 38, section 562-A, subsection 21 or an airport aviation fuel hydrant piping system, used in furnishing electric, telephone, telegraph, gas, petroleum transportation or cable television service. "Underground facility operator" does not include a municipality or a public utility with fewer than 5 full-time employees or fewer than 300 customers or a person that owns underground facilities on its own property for commercial or residential purposes. [PL 2001, c. 577, §3 (AMD).]

G. "Utility" means any public utility as defined in Title 35-A, section 102, subsection 13. [PL 1991, c. 437, §1 (NEW); PL 1991, c. 437, §12 (AFF).]

[PL 2019, c. 592, §1 (AMD).]

1-A. Damage prevention system. Each underground facility operator shall be a member of and participate in an underground facility damage prevention system, referred to in this section as the "system." The system shall operate during regular business hours throughout the year and maintain adequate operations at all other times to receive and process emergency notifications of proposed excavations. The system shall receive notices of proposed excavations and immediately transmit those notices to underground facility operators whose facilities may be affected. The cost for operation of the system must be apportioned equitably among members. Nothing in this subsection prohibits a municipality, utility or other entity that owns or operates an underground facility from voluntarily becoming a member of the system. Notwithstanding subsection 1, paragraph F, a person that voluntarily becomes a member of the system is deemed an underground facility operator for the purposes of this section.

[PL 1999, c. 718, §2 (AMD).]

2. Responsibility of designers.

[PL 2001, c. 577, §4 (RP).]

3. Notice by excavator. A person may not begin excavation without first giving notice as required by this section, unless exempted pursuant to this section.

A. In addition to any other notices required under this section, each excavator shall notify the system of the location of the intended excavation at least 3 business days but not more than 30 calendar days prior to the commencement of excavation, except as provided in paragraph G. [PL 2003, c. 373, §1 (AMD).]

B. Notice may be in writing, by telephone or by electronic facsimile as long as an excavator acquires and records an acknowledgement of the receipt of any notice the excavator sends by electronic facsimile. For purposes of this section, the system shall provide a toll-free telephone number. [PL 1991, c. 437, §3 (NEW); PL 1991, c. 437, §12 (AFF).]

C. Prior to notifying the system, the area of proposed excavation must be marked by the excavator in a manner designed to enable the operator of the underground facility to know the approximate boundaries of the proposed excavation. [PL 1991, c. 437, §3 (NEW); PL 1991, c. 437, §12 (AFF).]

D. If an excavation involves blasting, the excavator shall provide written notice of that blasting, either in the initial notice or in a subsequent notice, accurately specifying the date and location of that blasting. This written notice must be given and received at least 24 hours in advance except that, in the case of an unanticipated obstruction requiring blasting, the excavator shall provide written notice not less than 4 hours in advance of that blasting. [PL 1991, c. 437, §3 (NEW); PL 1991, c. 437, §12 (AFF).]

E. The excavation must commence within 30 days of notification under this subsection. If the proposed excavation or blasting is not completed 60 calendar days after notification under this subsection or the excavation or blasting will be expanded outside of the location originally specified in the notification, the excavator responsible for that excavation shall again notify the system as specified in paragraph A. [PL 2015, c. 213, §1 (AMD).]

F. In the case of an excavation involving subcontractors or other arrangements in which more than one entity qualifies as the excavator under this section, the excavator directly responsible for performing the excavation shall ascertain that all notifications required by this subsection and subsections 5, 5-A and 10-A are performed. [PL 2011, c. 588, §3 (AMD).]

G. If an excavator notifies the system and nonmember operators as required by this section and is informed by the system and each nonmember operator, including private landowners, that no

underground facilities exist in the proposed excavation area, the excavator is not required to wait the 3 days as required by this subsection and subsection 10-A and may begin excavation immediately. [PL 2011, c. 588, §4 (AMD).]
[PL 2015, c. 213, §1 (AMD).]

3-A. Notification by system. Upon receiving notice of excavation, the system shall notify immediately all members whose underground facilities may be affected. The system shall maintain adequate records to document compliance with requirements of this chapter.
[PL 1991, c. 437, §4 (NEW); PL 1991, c. 437, §12 (AFF).]

3-B. Additional notification by certain utilities. In addition to providing any other notices required under this section and before commencing any excavation for the purposes of working on an underground gas transmission line, a gas utility as defined in Title 35-A, section 102, subsection 8 or a natural gas pipeline utility as defined in Title 35-A, section 102, subsection 10 shall provide to the fire department within whose service area the excavation will occur notice of its intent to excavate. This notice must be in writing or by telephone and must be given at least 3 business days prior to the utility commencing work. The utility may not commence work until it has received from the fire department an acknowledgment of the notice either by telephone or in writing.
[PL 1991, c. 437, §4 (NEW); PL 1991, c. 437, §12 (AFF).]

3-C. Information provided to municipalities, fire departments and emergency response agencies. Each gas utility as defined in Title 35-A, section 102, subsection 8 or natural gas pipeline utility as defined in Title 35-A, section 102, subsection 10 shall provide maps to:

A. Each municipality within which it operates gas or natural gas underground transmission facilities. These maps must clearly indicate the location and depth of all main supply underground transmission facilities located within the jurisdiction of the municipality; [PL 1991, c. 437, §4 (NEW); PL 1991, c. 437, §12 (AFF).]

B. Each fire department within whose service territory it operates gas or natural gas underground transmission facilities. These maps must clearly indicate the location and depth of all main supply underground transmission facilities located within the jurisdiction of the fire department; [PL 1991, c. 437, §4 (NEW); PL 1991, c. 437, §12 (AFF).]

C. Each county emergency management agency within which it operates gas or natural gas underground transmission facilities. These maps must clearly indicate the location and depth of all main supply underground transmission facilities located within the jurisdiction of the county emergency management agency; and [PL 1991, c. 437, §4 (NEW); PL 1991, c. 437, §12 (AFF).]

D. The Maine Emergency Management Agency. These maps must clearly indicate the location and depth of all main supply underground transmission facilities that the utility operates in this State. [PL 1991, c. 437, §4 (NEW); PL 1991, c. 437, §12 (AFF).]

The utility must provide updated maps to the appropriate entities whenever changes occur in the configuration of the utility's main supply underground facilities.
[PL 1991, c. 437, §4 (NEW); PL 1991, c. 437, §12 (AFF).]

4. Operator response to notice locating facilities. An underground facility operator shall, upon receipt of the notice provided for in subsection 3-A, advise the excavator of the location and size of the operator's underground facilities and all underground facilities used in furnishing electric or gas service that are connected to the operator's facilities, located in the public way and known to the operator in the proposed excavation area by marking the location of the facilities with stakes, paint or by other identifiable markings. The marking must identify a strip of land not more than 3 feet wide directly over the facility or a strip of land extending not more than 1 1/2 feet on each side of the underground facility and must indicate the depth of the underground facility, if known. The underground facility operator

shall complete this marking no later than 2 full business days after receipt of the notice. After the underground facility operator has marked the location of that operator's underground facilities in the proposed excavation area, the excavator is responsible for maintaining the markings at the location, unless the excavator requests remarking at the location due to obliteration, destruction or other removal of the markings. The underground facility operator shall remark the location within one business day following the receipt of a request to remark.

If the proposed excavation is of such length or size that the underground facility operator advises the excavator that the operator can not reasonably respond with respect to all the operator's underground facilities within 2 full business days, the excavator shall notify the operator of the specific location in which excavation will first be made and the operator shall respond with respect to the operator's underground facilities in that location within 2 full business days and for the remaining facilities within a reasonable time thereafter.

The system may adopt rules requiring, under certain circumstances, face-to-face meetings between excavators and underground facility operators.

[PL 2001, c. 577, §6 (AMD).]

4-A. Alternative notice by certain excavators.

[PL 1999, c. 718, §4 (RP).]

4-B. Modification and revocation of clearance.

[PL 1999, c. 718, §4 (RP).]

4-C. Excavation methods. An excavator may not use mechanical means of excavation when excavating within 18 inches of any marked underground facilities until the underground facilities have been exposed, except that mechanical means may be used, as necessary, for initial penetration and removal of pavement, rock or other materials requiring use of mechanical means of excavation. Once the underground facilities have been exposed, further excavation must be performed employing reasonable precautions to avoid damage to the underground facilities, including, but not limited to, any substantial weakening of structural or lateral support of the facilities or penetration or destruction of the facilities or their protective coatings. For the purposes of this subsection, "mechanical means of excavation" means excavation using any device or tool powered by an engine except air vacuum methods of excavation.

[PL 1999, c. 718, §5 (NEW).]

4-D. Abandoned or inactive facilities. Beginning on the date an owner or operator of underground facilities is required by the Public Utilities Commission to implement electronic mapping, the owner or operator shall indicate the existence of facilities abandoned or inactive after that date on its electronic mapping system and shall notify an excavator when abandoned or inactive facilities exist in the area of an excavation. If an owner or operator of an underground facility does not maintain an electronic mapping system, the owner or operator shall notify the excavator if the operator is aware of abandoned or inactive facilities in the area of an excavation.

[PL 2001, c. 577, §7 (NEW).]

5. Emergency excavations. In an emergency, an excavator may commence an excavation after having taken all reasonable steps, consistent with the emergency, to notify the system and to mark the excavation site consistent with subsection 3, paragraph C. The excavator shall commence an excavation undertaken pursuant to this subsection within 12 hours after providing notice to the system, or as soon thereafter as can safely be accomplished. Each underground facility operator shall locate its underground facilities as soon as reasonably possible after receiving notification of an emergency excavation whether or not the excavation has begun.

[PL 2011, c. 72, §2 (AMD).]

5-A. Notice of damage. When an underground facility is damaged, the excavator causing the damage shall immediately notify the affected underground facility operator. The excavator may not

backfill an excavation where damage has occurred without first receiving permission from the affected operator.

[PL 1991, c. 437, §6 (NEW); PL 1991, c. 437, §12 (AFF).]

5-B. Exemption; commercial forestry operations. A person is exempt from the notice requirements of subsection 3 for any excavation undertaken in conjunction with a commercial timber harvesting activity as long as the excavation:

A. Is not conducted in a public place, on public land or within a public easement, including, but not limited to, a public way; [PL 1999, c. 718, §7 (NEW).]

B. Is not conducted within 100 feet of an easement or land owned by an underground facility operator; [PL 1999, c. 718, §7 (NEW).]

C. Is not conducted within 100 feet of an underground facility; and [PL 1999, c. 718, §7 (NEW).]

D. Does not involve the use of explosives. [PL 1999, c. 718, §7 (NEW).]
[PL 2011, c. 72, §3 (AMD).]

5-C. Exemptions; written agreements. A person undertaking an excavation in conjunction with a commercial timber harvesting activity within 100 feet of an underground facility or on an easement or land owned by an underground facility operator or within 100 feet of an easement or land owned by an underground facility operator is exempt from the notice requirements of subsection 3 and from the provisions of subsection 4-C if the person:

A. Has contacted the system to determine the identity of all underground facility operators that own or operate underground facilities within the area of the excavation; [PL 1999, c. 718, §7 (NEW).]

B. Has entered into written agreements with all underground facility operators owning or operating facilities in the area of the excavation and with all persons owning the land on which the excavation occurs; and [PL 1999, c. 718, §7 (NEW).]

C. Undertakes the excavation in accordance with the terms of the written agreements. [PL 1999, c. 718, §7 (NEW).]
[PL 1999, c. 718, §7 (NEW).]

5-D. Exemption; cemeteries. An excavator is exempt from the notice requirements of subsection 3 and subsection 10-A for any excavation undertaken within the boundaries of a cemetery if the following procedures are followed.

A. The person responsible for operating the cemetery shall provide notice pursuant to subsections 3 and 10-A identifying the entire cemetery as a potential excavation site. Owners and operators of underground facilities within the cemetery shall mark those facilities in accordance with subsections 4 and 10-A, as applicable. Thereafter, the person responsible for operating the cemetery shall maintain sufficient records or markings to identify the location of underground facilities within the cemetery. [PL 2011, c. 588, §5 (AMD).]

B. The person responsible for operating the cemetery shall identify the location of any underground facilities within the excavation area and take appropriate action to avoid damage to the facilities. [PL 2001, c. 577, §8 (NEW).]
[PL 2011, c. 588, §5 (AMD).]

5-E. Shoulder-grading procedure. An excavator that is a licensing authority as defined by Title 35-A, section 2502, subsection 1 or its designee may be exempt from subsection 4-C for any excavation that is shoulder-grading activity if the excavator complies with this subsection. If an excavator chooses to excavate under this subsection, all owners of underground facilities within the area of excavation must comply with this subsection.

A. The excavator shall provide notice as required by subsections 3 and 10-A and the owner or operator of underground facilities shall respond as required by subsections 4 and 10-A. [PL 2011, c. 588, §6 (AMD).]

B. The excavator shall contact each owner or operator of underground facilities within the area of proposed shoulder-grading activity and describe the scope of its proposed shoulder-grading activity, including the anticipated depth of grading. [PL 2001, c. 577, §8 (NEW).]

C. The owner or operator of each underground facility shall within 3 business days determine and notify the excavator whether the depth of its facility is sufficient to avoid damage. [PL 2001, c. 577, §8 (NEW).]

D. After receipt of notice provided pursuant to paragraph C, the excavator may commence its shoulder-grading activity in a manner that does not disturb the facilities indicated by the owners or operators of the underground facilities or, if a facility is located at an insufficient depth to allow the proposed shoulder-grading activity, prior to the shoulder-grading activity the licensing authority may require the owner or operator of the underground facility to lower or otherwise move its facility in accordance with applicable law and the terms of its license. [PL 2001, c. 577, §8 (NEW).]
[PL 2011, c. 588, §6 (AMD).]

5-F. Water well construction; rulemaking. The Public Utilities Commission shall by rule establish notice requirements for excavation associated with drinking water well construction. In establishing the rule, the commission shall consider:

A. Whether notice requirements established in the rule should be limited to the drilling of a well or should also apply to other excavation associated with well construction activities, such as trenching for installation of pipes and equipment; [PL 2003, c. 373, §3 (NEW).]

B. Whether notice requirements established in the rule should be based on factors such as geographic location, population density or other criteria bearing on the efficiency and effectiveness of the notification process and any offsetting public safety risks; [PL 2003, c. 373, §3 (NEW).]

C. Whether the amount of time required for notice prior to excavation should be reduced; and [PL 2003, c. 373, §3 (NEW).]

D. Any notice requirements associated with drinking water well construction that the commission determines appropriate. [PL 2003, c. 373, §3 (NEW).]

Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2003, c. 373, §3 (NEW).]

5-G. Alternative notice requirement procedures for excavations; rulemaking. The Public Utilities Commission may by rule extend alternative notice requirements established for excavation associated with drinking water well construction pursuant to subsection 5-F to other types of excavation. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 334, §1 (NEW).]

5-H. Newly installed underground facilities in active excavation areas; rulemaking. The Public Utilities Commission shall by rule establish procedures to reduce the incidence of damage to newly installed underground facilities in active excavation areas as defined by the commission by rule. In establishing the rule, the commission may consider adopting additional requirements for excavators or operators, including renotification and marking requirements and system notification procedures. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 334, §1 (NEW).]

5-I. Exemption; quarries and borrow pits. An excavator may undertake an excavation within a quarry or borrow pit in accordance with this subsection.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Lawfully expanded after March 1, 2011" means an expansion of a quarry or borrow pit after March 1, 2011:

(a) That requires an authorization, license, permit or variance issued by the Department of Environmental Protection pursuant to Title 38, chapter 3, article 6, 7 or 8-A or by the former Maine Land Use Regulation Commission or the Maine Land Use Planning Commission under Title 12, chapter 206-A and for which a valid authorization, license, permit or variance has been issued; or

(b) That requires a filing of a notice of intent to comply pursuant to Title 38, chapter 3, article 7 or 8-A and a complete filing has been made.

(2) "Lawfully located on March 1, 2011" means that on March 1, 2011 the quarry or borrow pit existed and:

(a) The owner or operator had been issued all authorizations, licenses, permits or variances by the Department of Environmental Protection pursuant to Title 38, chapter 3, article 6, 7 or 8-A or by the former Maine Land Use Regulation Commission under Title 12, chapter 206-A necessary to operate that quarry or borrow pit; and

(b) The quarry or borrow pit was in compliance with any applicable requirements of Title 38, chapter 3, article 7 or 8-A or with any applicable land use district standards of the former Maine Land Use Regulation Commission adopted under Title 12, chapter 206-A.

(3) "Lawfully located after March 1, 2011" means that the quarry or borrow pit is established after March 1, 2011 and:

(a) The owner or operator possesses all authorizations, licenses, permits or variances issued by the Department of Environmental Protection pursuant to Title 38, chapter 3, article 6, 7 or 8-A or by the former Maine Land Use Regulation Commission or the Maine Land Use Planning Commission under Title 12, chapter 206-A necessary to operate that quarry or borrow pit; and

(b) The quarry or borrow pit is in compliance with the requirements of Title 38, chapter 3, article 7 or 8-A or with applicable land use district standards of the former Maine Land Use Regulation Commission or the Maine Land Use Planning Commission adopted under Title 12, chapter 206-A.

(4) "Quarry" has the same meaning as in Title 38, section 490-W, subsection 17. [PL 2013, c. 405, Pt. B, §4 (AMD).]

B. Except as provided in paragraph C, an excavator is exempt from the notice requirements of subsection 3 and subsection 10-A when undertaking an excavation within a quarry or borrow pit lawfully located on March 1, 2011. [PL 2011, c. 588, §7 (AMD).]

C. An excavator undertaking an excavation within a quarry or borrow pit lawfully located after March 1, 2011 or lawfully expanded after March 1, 2011 is governed by the following.

(1) The owner or operator of the quarry or borrow pit shall provide notice pursuant to subsections 3 and 10-A identifying the entire area potentially subject to excavation.

(2) Owners and operators of underground facilities in the area identified pursuant to subparagraph (1) shall mark those facilities in accordance with subsections 4 and 10-A, as applicable. Thereafter, the owner or operator of the quarry or borrow pit shall maintain

sufficient records or markings to identify the location of underground facilities within the area identified pursuant to subparagraph (1) and an excavator undertaking an excavation in that area is exempt from any further notice requirements under subsection 3 and subsection 10-A.

(3) The owner or operator of the quarry or borrow pit shall take appropriate action to avoid damage to the underground facilities identified pursuant to subparagraph (2). [PL 2011, c. 588, §7 (AMD).]

[PL 2013, c. 405, Pt. B, §4 (AMD).]

5-J. Unpaved public road grading procedure. A person may undertake qualified grading activity in accordance with this subsection.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Approved road" means a public way, or portion of a public way, on which a person may undertake qualified grading activity in accordance with this subsection.

(2) "Licensing authority" has the same meaning as in Title 35-A, section 2502, subsection 1.

(3) "Qualified grading activity" means maintenance work that involves the use of suitable equipment with a blade to level or otherwise maintain the sand, gravel, sod or other surface of an unpaved public way.

(4) "Requested road" means a public way, or portion of a public way, on which a licensing authority requests authority to conduct qualified grading activity under this subsection.

(5) "Shallow-depth facilities" means underground facilities located at an insufficient depth to allow qualified grading activity. [PL 2011, c. 72, §5 (NEW).]

B. A licensing authority shall provide notice identifying the requested road and the intended depth of the qualified grading activity to the system and to persons who are not members of the system who own or operate underground facilities in the requested road. [PL 2011, c. 72, §5 (NEW).]

C. Upon receiving notice pursuant to paragraph B, the system shall notify immediately all members whose underground facilities may be affected in accordance with subsection 3-A. [PL 2011, c. 72, §5 (NEW).]

D. The owner or operator of each underground facility within the requested road shall within 3 business days of receiving notice advise the licensing authority of the location and size of the owner's or operator's underground facilities and all underground facilities used in furnishing electric or gas service that are connected to the owner's or operator's facilities and known to the owner or operator that are located in the requested road and whether the depth of the facilities is sufficient to avoid damage by qualified grading activity. [PL 2011, c. 72, §5 (NEW).]

E. After waiting 3 business days of providing notice under paragraph B, the licensing authority may file with the Public Utilities Commission a notice of intent to conduct qualified grading activity on the requested road. Upon filing the notice of intent, the requested road becomes an approved road and any person may undertake qualified grading activity on the approved road at any time during the 12 months following filing of the notice of intent and is not required to provide any further notices under this section during those 12 months. If the licensing authority has been notified pursuant to paragraph D that there are shallow-depth facilities within the requested road, any qualified grading activity must be conducted in a manner that does not disturb the shallow-depth facilities. The licensing authority may require the owner or operator of the shallow-depth facilities to lower or otherwise move its facility in accordance with applicable law and the terms of its license. [PL 2011, c. 72, §5 (NEW).]

[PL 2011, c. 72, §5 (NEW).]

5-K. Exemption; unpaved private road grading. A person is exempt from the requirements of this section for any grading activities undertaken on private roads that meet the following criteria:

A. The grading activities are limited to the shaping, maintaining or scraping of a road surface or road shoulder to allow for proper drainage; and [PL 2011, c. 588, §8 (NEW).]

B. The depth of the grading activities is no deeper than 6 inches as measured from the road surface or shoulder of the road surface prior to the commencement of those grading activities. [PL 2011, c. 588, §8 (NEW).]

[PL 2011, c. 588, §8 (NEW).]

6. Liability of excavator. If an excavator complies with subsection 3 and if information pursuant to subsections 3-A and 4 is not provided within the time specified or if the information provided fails to identify the location of the underground facilities in accordance with subsection 4 then an excavator damaging or injuring underground facilities is not liable for any damage or injury caused by the excavation, except on proof of negligence.

[PL 1999, c. 718, §8 (AMD).]

6-A. Forfeitures.

[PL 1999, c. 718, §9 (RP).]

6-B. Failure to notify. An excavation that is made without the excavator providing any or all of the notices required by this section that results in any damage to an underground facility or facilities is prima facie evidence in any civil or administrative proceeding that the damage was caused by the negligence of the excavator.

[PL 1999, c. 718, §10 (AMD).]

6-C. Penalties. In an adjudicatory proceeding, the Public Utilities Commission may, in accordance with this subsection, impose an administrative penalty on any person who violates this subsection. The administrative penalty may not exceed \$1,000, except that, if the person has been found in violation of this subsection within the prior 12 months, the administrative penalty may not exceed \$10,000. Administrative penalties imposed pursuant to this subsection are in addition to any other remedies or forfeitures provided by law and any liability that may result from the act or omission constituting the violation. Before imposing any penalties under this subsection, the commission shall consider evidence of the record of the violator, including, to the extent applicable, the number of successful excavations undertaken by the violator or the number of locations successfully marked by the violator during the prior 12 months. The commission may require a person who violates any provision of this section to participate, at the expense of the violator, in an educational program developed and conducted by the system.

The Public Utilities Commission may impose administrative penalties for any of the following violations:

A. Failure of an excavator to give notice of an excavation as required under subsection 3, except to the extent the excavator is exempt from the provisions of subsection 3 pursuant to other provisions of this section; [PL 1999, c. 718, §11 (NEW).]

B. Excavation by an excavator in a reckless or negligent manner that poses a threat to an underground facility; [PL 1999, c. 718, §11 (NEW).]

C. Excavation by an excavator that does not comply with the requirements of subsection 4-C, except to the extent the excavator is exempt from the provisions of subsection 4-C pursuant to subsection 5-C; [RR 1999, c. 2, §27 (COR).]

D. Failure of an underground facility operator to mark the location of the operator's underground facilities within the time limits required by subsection 4; [PL 2001, c. 577, §9 (AMD).]

E. Marking by an underground facility operator of the location of an underground facility in a reckless or negligent manner; or [PL 2001, c. 577, §10 (AMD).]

F. Failure of an excavator to comply with the requirements of subsection 5-C, 5-D, 5-E, 5-I or 5-J. [PL 2011, c. 72, §6 (AMD).]

The commission shall establish by rule standards for when and at what level penalties must be assessed under this subsection. Rules adopted under this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2019, c. 592, §2 (AMD).]

6-D. Penalty payment plan. The Public Utilities Commission shall allow a qualified person who is assessed an administrative penalty under subsection 6-C to pay the penalty through a payment plan. For purposes of this subsection, "qualified person" means a person who demonstrates to the Public Utilities Commission that the person is unable to pay the penalty in full or that paying the penalty in full will cause undue financial hardship. The Public Utilities Commission shall establish a schedule of payments over time that allows the person to pay the fine within that person's financial means.

[PL 2011, c. 72, §7 (NEW).]

7. Imprudent action. Compliance with this section does not excuse a person from acting in a careful and prudent manner nor does compliance with this section excuse a person from liability for damage or injury for failure to so act.

[PL 1979, c. 362, §2 (NEW).]

8. Effect on existing statutes or ordinances. Nothing contained in this section shall be construed to effect or impair any statute or ordinance requiring permits for excavation in a street or public highway.

[PL 1979, c. 362, §2 (NEW).]

9. Exceptions.

[PL 1991, c. 437, §9 (RP); PL 1991, c. 437, §12 (AFF).]

10. Further notice requirements.

[PL 2011, c. 588, §10 (RP).]

10-A. Further notice requirements. The following provisions govern excavations in areas where there are underground facilities owned or operated by a person who is not an underground facility operator and who is not a voluntary member of the system established under subsection 1-A.

A. In addition to other notice requirements under this section and except for an employee with respect to that employee's employer's facility, an excavator shall notify any person who is not a member of the system and has underground facilities in the area of the proposed excavation. This notice must be in writing or in person. [PL 2011, c. 588, §11 (NEW).]

B. If the underground facilities are located on private property, provide service to a single-family residence and are owned and operated by the owner of that property:

- (1) That landowner may mark the underground facilities in accordance with paragraph D;
- (2) The excavator may wait 3 business days from the date of notification to commence the excavation or may commence the excavation upon notification;
- (3) If the excavator waits 3 business days from the date of notification or until after the underground facilities are marked, if sooner, to commence excavation or if the markings made by the landowner pursuant to subparagraph (1) fail to identify the location of the underground facilities in accordance with paragraph D, an excavator damaging or injuring underground facilities is not liable for any damage or injury caused by the excavation, except on proof of negligence; and

(4) If the excavator does not wait until the underground facilities are marked or 3 business days from the date of notification to commence excavation, whichever occurs earlier, the excavator is liable for all damages to the underground facilities as a result of the excavation. [PL 2013, c. 557, §2 (AMD).]

C. If the underground facilities are located on private or public land and are owned and operated by a person other than the owner of the property where the excavation is to occur:

(1) The person who owns or operates the underground facilities shall mark the underground facilities in accordance with paragraph D; and

(2) The excavator shall wait until the underground facilities are marked or 3 business days from the date of notification, whichever occurs earlier, before commencing the excavation.

If an excavator complies with paragraph A and subparagraph (2) and if information pursuant to paragraph D is not provided within the time specified or if the information provided does not identify the location of the underground facilities in accordance with paragraph D, an excavator damaging or injuring underground facilities is not liable for any damage or injury caused by the excavation, except on proof of negligence. [PL 2011, c. 588, §11 (NEW).]

D. A person who marks underground facilities under this subsection shall mark the location and size of the underground facilities in the proposed excavation area by marking the location of the facilities with stakes, with paint or by any other identifiable markings within 36 inches horizontally from the exterior sides of the underground facilities and if the depth is known the depth of the underground facilities. The person providing information shall respond no later than 2 full business days after receipt of the notice. It is the responsibility of the excavator to maintain those location markings until the excavations are completed. [PL 2011, c. 588, §11 (NEW).]

[PL 2013, c. 557, §2 (AMD).]

10-B. Calling 9-1-1. If contact with or damage to an underground pipe or another underground facility results in the escape of any natural gas or other hazardous substance or material regulated by the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, the excavator shall immediately report the contact or damage by calling 9-1-1. [PL 2019, c. 322, §1 (NEW).]

11. Enforcement. The Public Utilities Commission may adopt procedures necessary and appropriate to gather information and hear and resolve complaints concerning failure to comply with the provisions of this section. [PL 1999, c. 718, §12 (RPR).]

12. Injunctions; costs. The owner or operator of an underground facility may request that the Public Utilities Commission issue a cease and desist order to prevent a person from undertaking an excavation that may result in damage to the underground facility. The Public Utilities Commission may issue a cease and desist order if the commission determines that the excavation or proposed excavation:

A. Is being conducted or is likely to be conducted in a negligent or unsafe manner; and [PL 1997, c. 229, §2 (NEW).]

B. Is causing or is likely to cause damage to the underground facility. [PL 1997, c. 229, §2 (NEW).]

If the owner or operator prevails in an action brought pursuant to this subsection, the owner or operator is entitled to an award of the costs of bringing the action, including reasonable attorney's fees. [PL 2003, c. 505, §4 (AMD).]

13. Rules. The Public Utilities Commission may adopt rules necessary to implement this section. Except as otherwise specified in this section, rules adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 334, §3 (NEW).]

14. Discovered facilities. When an underground facility is discovered during an excavation and the location of that facility was, prior to the discovery, unknown or unclear to the underground facility operator, the Public Utilities Commission may direct that operator to determine and map the location of the facility for a reasonable distance, as determined by the commission, from the point of discovery. [PL 2005, c. 334, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 362, §2 (NEW). PL 1985, c. 111, §§1, 2 (AMD). PL 1989, c. 109 (AMD). PL 1991, c. 437, §§1-10 (AMD). PL 1991, c. 437, §12 (AFF). PL 1997, c. 229, §§1,2 (AMD). PL 1997, c. 631, §§1-4 (AMD). RR 1999, c. 2, §27 (COR). PL 1999, c. 718, §§1-13 (AMD). PL 2001, c. 577, §§1-11 (AMD). PL 2003, c. 373, §§1-3 (AMD). PL 2003, c. 505, §§3,4 (AMD). PL 2005, c. 334, §§1-3 (AMD). PL 2011, c. 72, §§1-7 (AMD). PL 2011, c. 588, §§1-11 (AMD). PL 2013, c. 405, Pt. B, §4 (AMD). PL 2013, c. 557, §§1, 2 (AMD). PL 2015, c. 213, §1 (AMD). PL 2019, c. 322, §1 (AMD). PL 2019, c. 592, §§1, 2 (AMD).

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Welcome to Exactix!

Dig Safe now offers the most advanced and innovative ticketing platform in the industry, bringing New England excavators the features and functionality to work smarter and more efficiently in preventing damage to underground facilities.

Exactix is a cloud-based web system created by an experienced team of 811 notification experts, whose experience and vision guided our developers to set the bar in ticket application and management performance.

Background

In partnership with [4iQ Solutions](#), Dig Safe has joined forces with fellow 811 Call Centers in Arizona, Florida, New York, Indiana, Kentucky and South Carolina to bring you an intuitive, easy to learn, powerful tool for submitting and managing your Dig Safe tickets. This alliance of experts has engineered Exactix with features and performance to optimize the ticket taking and management experience for both excavators and facility operators.

Exactix was designed by the people use it. Before Dig Safe started the process of customizing Exactix for Massachusetts, Maine, New Hampshire, Rhode Island, and Vermont, it had already been vigorously tested by contractors and member facility operators in Arizona, Florida and New York.

And, Exactix will never be outdated or require a major upgrade a decade from now. Our ongoing collaboration with this team means Dig Safe will continue to be ahead of the curve, delivering state-of-the-art technology and features to the damage prevention industry, now and in the future.



Ticket Management

Your personalized Dashboard allows you sort, print, renew, email, and export your tickets. And, you can quickly view a list of your tickets that are about to expire.

Easy to Use

Right away you will notice a streamlined process for creating a ticket and quick map uploads. And with Exactix, you can draw the dig location on the map to ensure an accurate list of notified member companies for your markout.

System Requirements

Exactix is not supported by Internet Explorer. Make sure you are using one of these approved browsers. It is also recommended to enable auto-updates in your browser to make sure you are receiving the most up-to-date security and feature updates.

- Google Chrome
- Firefox
- Microsoft Edge
- Safari

Support

We are here to help with questions about your Exactix account, applying for tickets, or using your Exactix Dashboard. In addition to this Guide, we recommend you:

- Watch our **Video Tutorials** at <http://www.digsafe.com/exactix.php>.
- Contact our **Help Desk** at 877-DIG-SAFE or ExactixHelp@digsafe.com

Getting Started

- 1) You must **register** to use Exactix before starting:

http://www.digsafe.com/exactix_new_user_form.php

After you complete the **Exactix Registration Form**, you will receive an email to register with “**User Registration for Dig Safe System, Inc.**” in the subject line. If you do not see this email, look in your Spam or Junk folder. Please also add email address **callcenter@digsafe.com** to your safe sender list.

- 2) Follow the link to register in the email, and provide the necessary information.
- 3) You will be prompted to agree to the **Terms and Conditions**:

The Exactix service is provided “as is” without any warranties and Dig Safe waives all liability relating to your use of the service. By inputting your ticket online using Exactix you assume full responsibility for your use of the service and the accuracy and completeness of the information you’ve provided. Information that is improperly entered or improperly transmitted may not be received or understood by member utilities. Dig Safe does not verify the accuracy of information provided by you, member utilities or any other third parties.

The Exactix service only notifies Dig Safe member utilities of proposed excavation in the area of their underground facilities based on information they’ve provided. Dig Safe does not notify non-member utilities of these activities.

- 4) Assign your **email address** as your **User Name**, and choose a **Password** you will remember.
- 5) Once your **User Name** and **Password** are verified, you may log in to Exactix.
- 6) **Forgot your password?** Click on **Reset/Forgot Your Password** and a link will be emailed for you to change it.

Verify Location

Site Information

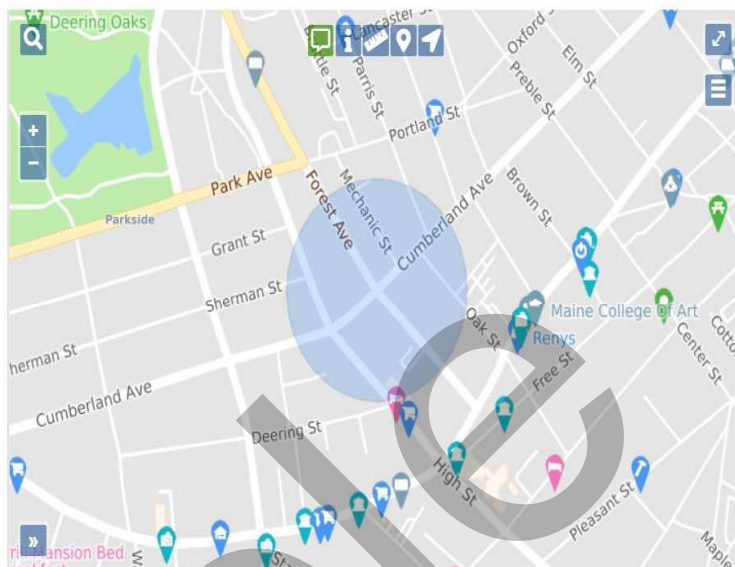
Dig Site Type: Intersection
State: ME Municipality: PORTLAND
Intersection of: CUMBERLAND AVE and FOREST AVE
Additional Location Information:
WORKING AT THE INTERSECTION

Work Information

Type of Work: REPLACE GAS MAIN
Where will you be working?
IN THE STREET AND SIDEWALK
Is the Area Pre-Marked? YES
Who is doing the work: ACME EXCAVATING - PORTLAND ME

Dates

Ticket Type: Regular
Work Start Date and Time: 08/23/2021 10:00 AM
This Dig Safe ticket expires if work does not start by 09/17/2021 or if not completed by 10/17/2021



Back to Ticket

Above Information is Correct

Confirm Affected Utilities

There are 13 member utility owner(s) being notified by Dig Safe.
Each member utility or their contract locator is responsible to mark the lines they own or maintain.

Dig Safe will be notifying:

Utility Owner Name	Type	Main Phone Number
AT&T TRANSMISSION	TELEPHONE	(800) 241-3624 x9
CENTRAL MAINE POWER COMPANY	ELECTRIC	(207) 852-8315
CONSOLIDATED COMMUNICATIONS	TELEPHONE	(800) 778-9140
FIRSTLIGHT - OXFORD	TELEPHONE	(800) 778-9140
MAINECOM SERVICES	FIBER OPTIC	(207) 358-7501
MCI	TELEPHONE	(800) 624-9675
PORTLAND FIRE ALARM	FIRE ALARM	(207) 852-8315
PORTLAND TRAFFIC SIGNAL	TRAFFIC SIGNAL	(207) 852-8315
PORTLAND WASTEWATER & SEWER	SEWER	(207) 874-8493
PORTLAND WATER DISTRICT	WATER	(207) 774-5961 x3073
TIME WARNER CABLE - PORTLAND	CABLE TV	(800) 778-9140
UNITIL - NORTHERN UTILITIES - ME - GAS	GAS	(603) 294-5177
WINDSTREAM	TELEPHONE	(800) 289-1901

Back to Ticket

Submit Request

Ticket Saved



Thank you for contacting Dig Safe.

Your Ticket Number is 20213300001

Use your dashboard to access or print your tickets at any time.

If you would like a copy of your ticket emailed to you, check the box below.

Send a copy of the ticket:

By email:

WHAT'S NEXT? REVIEW THE STEPS

Continue to Steps

Print/Download Steps

Create Another Locate Request

Close

(DIG SAFE SYSTEM, INC - MA) 08/18/2021 09:54:02

-AB	-C103	-M107	-MA
-ML	-MN	-MR	-OT
-P122	-P123	-PC	-PD
-PR			

*** INTERNET TICKET ***

***** REGULAR *****

TIME..09:54 DATE..08/18/2021

REQUEST NO...2021330001

LATITUDE..43.6561300 LONGITUDE...-70.2645600

STATE.....MAINE

MUNICIPALITY..PORTLAND

STREET...CUMBERLAND AVE / FOREST AVE

NEAREST CROSS STREET 1..

WORKING AT THE INTERSECTION

NATURE OF WORK..REPLACE GAS MAIN

EXTENT OF WORK
IN THE STREET AND SIDEWALK

AREA IS PREMARKED..YES

START DATE.....08/23/2021 START TIME..10:00

CALLER.....LISA POWERS

TITLE.....

RETURN CALL.....

PHONE #.....555-555-5555X2

FAX #.....

ALT. PHONE #....877-344-7233

EMAIL ADDRESS...LISAPOWERS0414@GMAIL.COM

CONTRACTOR.....DIG SAFE SYSTEM, INC

ADDRESS.....11 UPTON DR

CITY.....WILMINGTON

STATE.....MA

ZIP.....01887

EXCAVATOR DOING WORK..ACME EXCAVATING - PORTLAND ME

- OKTODIG Home
- Search by ▶
- MPUC Facility Damage Prevention

Search for Underground Facility by Town

Town Name:

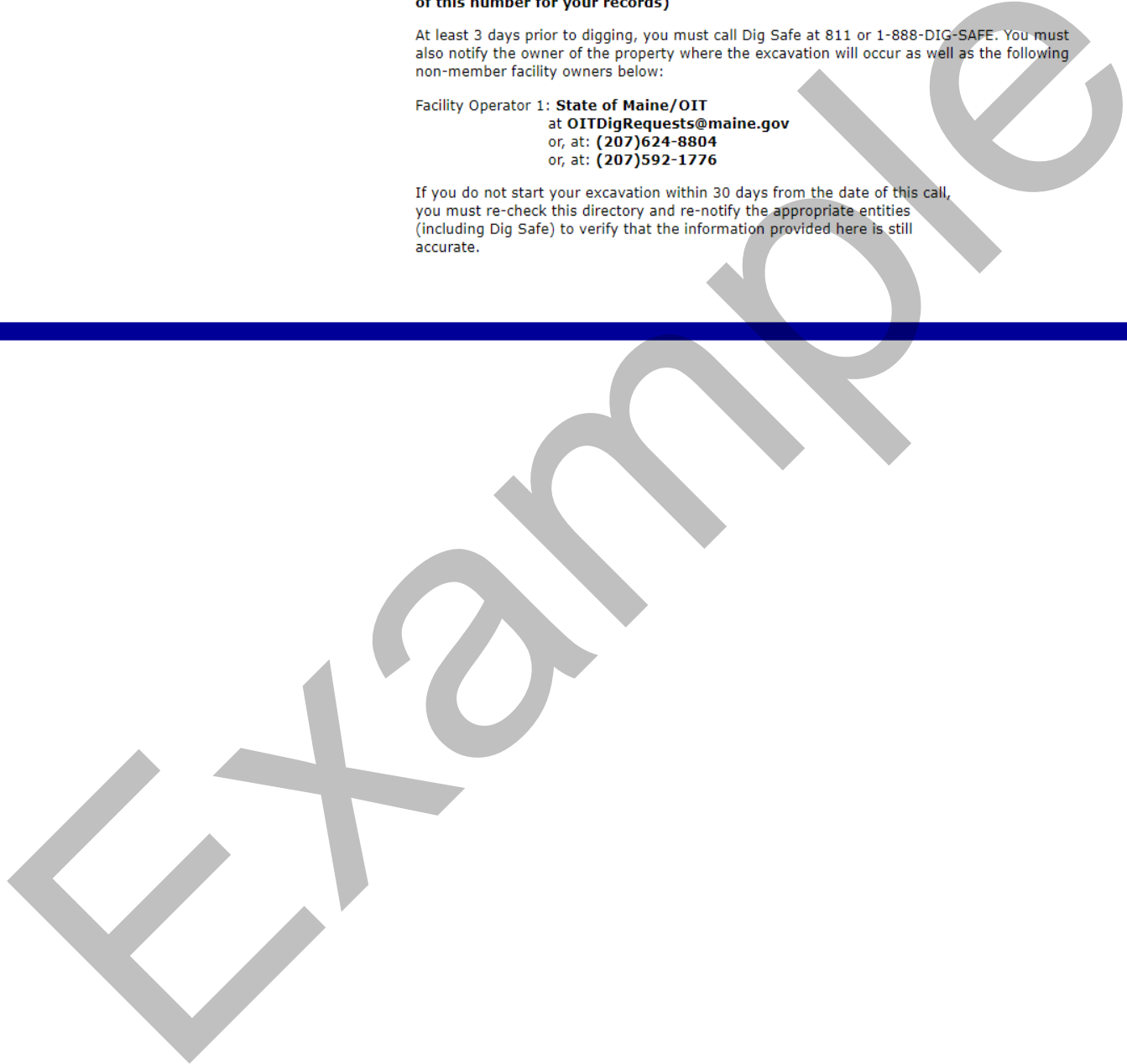
Portland (Cumberland County)

Your Tracking Number is W129133 (You should keep track of this number for your records)

At least 3 days prior to digging, you must call Dig Safe at 811 or 1-888-DIG-SAFE. You must also notify the owner of the property where the excavation will occur as well as the following non-member facility owners below:

Facility Operator 1: **State of Maine/OIT**
at **OITDigRequests@maine.gov**
or, at: **(207)624-8804**
or, at: **(207)592-1776**

If you do not start your excavation within 30 days from the date of this call, you must re-check this directory and re-notify the appropriate entities (including Dig Safe) to verify that the information provided here is still accurate.



OKTODIG
Home

Search
by

MPUC
Facility
Damage
Prevention

Search for Underground Facility by Town

Town Name:

Augusta (Kennebec County)

Your Tracking Number is W129949 (You should keep track of this number for your records)

At least 3 days prior to digging, you must call Dig Safe at 811 or 1-888-DIG-SAFE. You must also notify the owner of the property where the excavation will occur as well as the following non-member facility owners below:

Facility Operator 1: **Greater Augusta Utility District**
at **(207) 622-3701**
or, for emergencies: **(207) 626-2370**
or, at: **digsafe@greteraugustautilitydistrict.org**

Facility Operator 2: **Augusta Facility Bureau**
at **digsafe@augustamaine.gov**
or, at: **Office(207) 626-2365 Fax(207)626-2520**
or, for emergencies: **(207) 626-2370**

Facility Operator 3: **State of Maine Bureau of General Services**
at **(207) 592-2808**
or, at: **(207) 287-4845 (FAX)**

Facility Operator 4: **University of Maine at Augusta**
at **(207) 621-3119**

Facility Operator 5: **State of Maine OIT**
at **OITDIGRequests@maine.gov**
or, at: **(207)624-8804**
or, at: **(207)592-1776**

If you do not start your excavation within 30 days from the date of this call, you must re-check this directory and re-notify the appropriate entities (including Dig Safe) to verify that the information provided here is still accurate.

Incident # _____
(For Office Use)

Maine Public Utilities Commission Underground Facility Incident Report

Date of Report: _____

Report Submitted By : <input type="checkbox"/> Excavator; <input type="checkbox"/> Facility Operator; <input type="checkbox"/> Other Party		
Date of Incident _____	Time of Incident _____ AM / PM	
Date Facility Operator Notified _____	Time Facility Operator Notified _____ AM / PM	
Date Made Safe _____	Time Made Safe _____ AM / PM	
Dig Safe Notified _____ Yes _____ No	Service Fully Restored _____ AM / PM	
Dig Safe Ticket # _____	GPS Coordinates _____ Long. _____ Lat.	
Incident Location _____ / _____ / _____ Street Town Tie Descriptions		
Type of Facility _____ Telephone _____ Electric _____ Gas _____ CATV _____ Water _____ Sewer _____ Other (____)		
Damage To _____ Service Line _____ Distribution Line _____ Transmission Line _____ Other _____ No Damage		
Photos Held By _____ Excavator _____ Operator _____ Other Party	Excavator Billed for Damage _____ Yes _____ No	
Property Ownership _____ Public Right of Way _____ Easement _____ Private		
Property Owner/Address _____ / _____ / _____ Owner Street Town		
Describe Facility (Type, Size, Material, Pressure, etc) _____		
Describe the Activity causing damage or safety concern, citing any lack of precaution (if applicable) _____		
Describe Damage (if applicable) _____		
Number of Injuries _____	Number of Fatalities _____	Estimate of Property Damage \$ _____

Excavator Data	
Excavation Company _____	_____
Address _____	_____ Street
_____	_____ Town Zip
Telephone _____ (____)	_____
Name of Supervisor _____	_____
Equipment Operator _____	_____
Equipment Description _____	_____

Facility Operator Data	
Facility Operator (Utility) _____	_____
Address _____	_____ Street
_____	_____ Town Zip
Telephone _____ (____)	_____
Number of Outages _____	_____
Evacuations _____	_____

Probable Cause :	
<input type="checkbox"/> Excavator failed to notify Dig Safe	<input type="checkbox"/> Operator failed to mark in a timely manner
<input type="checkbox"/> Excavator failed to notify Nonmember operator	<input type="checkbox"/> Operator failed to re-mark in a timely manner
<input type="checkbox"/> Excavator failed to premark	<input type="checkbox"/> Operator's markings were Incorrect due to:
<input type="checkbox"/> Excavator failed to maintain markings	_____ locator error _____ incorrect record _____ no record
<input type="checkbox"/> Excavator failed to notify of damage to operator	
<input type="checkbox"/> Excavator failed to observe 18-in. safety zone	<input type="checkbox"/> Other
<input type="checkbox"/> Excavator was reckless and/or negligent	
Comments _____	

I declare that to the best of my knowledge and belief, the information I provided is true, correct, and complete.

Report Prepared By _____	For _____
_____ Print Name	_____ Company
Signature _____	Telephone _____ (____)

Submit to: Maine Public Utilities Commission, 18 State House Station, Augusta, ME 04333
Email IncidentReport.PUC@maine.gov or fax to (207) 287-1350