# **65-407 PUBLIC UTILITIES COMMISSION**

**Chapter 130: SAFETY AND ACCIDENT REPORTING REQUIREMENTS**

**Summary:** This rule, adopted pursuant to 35-A M.R.S.A. §§ 104, 111, 112, 115, 710, 4702, and 5102, establishes reporting and investigation requirements for utility-related accidents. The rule clarifies the scope of the privilege against discovery, use as evidence, and disclosure under the Freedom of Access Law.

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**§ 1. SCOPE**

 This rule requires all gas, natural gas pipeline, electric, telephone, water, and public heating utilities to report to the Public Utilities Commission all serious accidents occurring upon their premises or directly or indirectly arising from or connected with the maintenance or operation of their physical facilities or equipment.

**§ 2. DEFINITIONS**

 1. **Serious accident.**

 "Serious accident" means any accident occurring upon the premises of any public utility or directly or indirectly arising from or connected with the maintenance or operation of a utility's physical facilities or equipment that results in the loss of human life, personal injury requiring in-patient hospital admission, more than seven days' lost work time of a utility employee or independent contractor employed by a utility, or property damage of $50,000 or more, including the cost of lost gas in the case of gas and natural gas pipeline utilities.

 2. **Electric contact.**

 "Electric contact" means any release of electricity from a utility's equipment or facilities that results in the loss of human life or personal injury requiring in-patient hospital admission to a member of the public, a utility employee, or an independent contractor employed by a utility. Electric contact does not include a slight feeling of electric sensation that does not lead to in-patient hospital admission.

**§ 3. REPORTING**

 1. **Immediate Notice.**

 A utility shall provide immediate notice of any serious accident involving the loss of human life, and any event occurring upon its premises or directly or indirectly arising from or connected with the maintenance or operation of its physical facilities or equipment that requires evacuation of the general public, or that results in, or is likely to result in, disruption of utility service to more than 500 customers or 1% of a utility's customers, whichever is greater, or to critical facilities identified by other public utilities for a period of longer than 30 minutes. The notice shall be made to the appropriate lead or alternate technical Staff as provided in Section below, where such information has not already been reported pursuant to another Commission rule. The notice shall include:

 A. Name of company and person reporting;

 B. A brief description of the accident, including the extent of known fatalities, injuries, and damages;

 C. Date and time of accident;

 D. Location of accident;

 E. Identification of utility facilities involved;

 F. Other utilities involved; and

 G. The possible root causes of the accident.

 NOTE: If information required by this section is not available to the utility at the time of the immediate notice, the utility shall make the report with whatever information it has available. The utility shall supply missing information in an amended report to the Commission as soon as it becomes available.

 2. **Written Report.**

 A utility shall file with the Director of Technical Analysis a written report of any serious accident within 30 days. The utility shall address the report to the Director of Technical Analysis, and shall provide a copy to the appropriate designated lead technical Staff as provided in Section below. Written reports shall include the following information:

 A. Identification of facilities involved;

 B. Date and approximate time of the accident;

 C. Weather conditions at the time of the accident;

 D. Location of the accident;

 E. Brief description of the accident;

 F. Estimated property damage, if any;

 G. Description of utility facility or equipment involved in the accident;

 H. Identification of facility or equipment ownership and responsibility for maintenance;

 I. Any complaints received regarding the facility or equipment involved in the accident, and any actions, if any, taken to resolve those complaints;

 J. Identification of any utility employee who witnessed the accident;

 K. Identification of utility employees arriving at the accident site after the accident, including time of arrival;

 L. A description of the extent of damage to utility facilities and equipment;

 M. Identification of utility employees performing repair work on the facilities or equipment damaged in the accident, including a description of the work performed;

 N. A chronological description of events that took place resulting in the accident, including diagrams, photographs (other than of accident victims), and other pertinent graphic information;

 O. Identification (but not copies) of all standards, specifications, plans, regulations, and codes that concern this accident;

 P. Identification of other known persons who witnessed the accident;

 Q. Identification of all persons interviewed by the utility in its investigation of the accident, including a summary of the information obtained from each interviewee;

 R. Any corrective measures taken or planned at the accident site;

 S. Any preventive measures that can be taken to ensure non-recurrence of a similar accident;

 T. Identification of personnel attached to other agencies (federal, state, county, municipal, or private) and utilities that conducted an investigation at the accident site or issued a report of the accident;

 U. Any reports prepared by other agencies and utilities that conducted an investigation at the accident site or issued a report of the accident; if any of these reports are not available to the utility when the written report is submitted, the utility shall include in the written report the identification of agencies or other utilities that are known to be preparing such reports, and shall supply such reports as soon as they become available;

 V. Any reports of the accident or circumstances surrounding the accident prepared for or submitted to other agencies; if any of these reports are not available when the written report is submitted, the utility shall include in the written report identification of such reports that are being prepared, and shall supply such reports as soon as they become available; and

 W. Any other information pertinent to the accident and its investigation;

 3. **Electric Contact.**

 When a serious accident involves electric contact, the utility shall additionally include the following information in its written report submitted pursuant to Section above:

 A. A drawing and photograph(s) of the specific configuration of the electric facilities involved in the electric contact, including measurements of all pertinent dimensions with comparison to applicable requirements of the National Electrical Safety Code; and

 B. A statement as to whether the electric facilities involved in the electric contact meet requirements of the National Electrical Safety Code edition that was in effect when those facilities were installed or modified, or the latest edition, whichever is applicable.

 4. **Annual Reports.**

 As part of its annual report to the Commission, each utility shall provide the number of known accidents in which motor vehicles struck and damaged or destroyed utility facilities or equipment, such as poles, guys, equipment cabinets, pedestals, pumping stations, and hydrants.

 5. **Procedure.**

 The Director of the Technical Analysis Division shall designate lead and alternate technical Staff members for each utility discipline and appropriate contact information. He or she shall review the contact information at least annually to ensure that it is correct, and shall ensure that all public utilities to which this rule applies are provided current contact information. Utilities shall address all reports submitted pursuant to Sections 3.1 and 3.2 above to the Director of Technical Analysis, and shall provide a copy to the appropriate designated lead technical Staff.

**§ 4. INVESTIGATION**

 1. **Investigation of Fatal Accidents.**

 Pursuant to 35-A M.R.S.A. § 710(1), the Director of the Technical Analysis Division shall immediately initiate an investigation of any accident that results in the loss of human life. The investigation shall be conducted in compliance with 35-A M.R.S.A. § 710(3).

 2. **Investigation of Other Serious Accidents.**

 The Director of the Technical Analysis Division may initiate an investigation of other serious accidents if in his or her judgment the public interest requires it.

**§ 5. RESERVATION; WAIVER; DELEGATION; PENALTIES**

 1. **Reservation.**

 The Commission reserves the right to require the utility to produce any information that the Commission or the Director of Technical Analysis believes is necessary to ensure a complete investigation.

 2. **Waiver.**

 The Commission or the Director of Technical Analysis may waive any of the reporting requirements of this rule upon a finding that the information received from the utility is or will be sufficient to enable the Commission to satisfy its responsibilities under 35-A M.R.S.A §§ 115 and 710.

 3. **Delegation.**

 Pursuant to 35-A M.R.S.A. § 107(4), the Commission delegates to the Director of the Technical Analysis Division the authority to conduct any investigation authorized or required by 35-A M.R.S.A. § 710. The Director of the Technical Analysis Division may delegate specified responsibilities under this rule to designated technical Staff within the Technical Analysis Division. Nothing in this delegation shall limit the Commission's right to conduct its own summary or formal investigation and issue an order pursuant to 35-A M.R.S.A. § 710 or § 1303.

 4. **Penalties.**

 Any utility that does not comply fully with the notice or reporting requirements of this rule shall be subject to any of the penalties provided by 35-A M.R.S.A. §§ 112(4) and 1501-1509.

**§ 6. CONFIDENTIALITY OF ACCIDENT INVESTIGATION INFORMATION**

 1. **In General.**

 The combined effect of 35-A M.R.S.A. § 710(5), M. R. Civ. P. 26(b), M. R. Evid. 501, 1 M.R.S.A. § 402(3)(A)&(B), and Moffett v. City of Portland, 400 A.2d 340 (Me. 1979), results in the extension of a privilege of confidentiality to certain information related to utility accident investigations.

 2. **Admission in Evidence.**

 Accident reports submitted by utilities pursuant to Sections 3.1 and 3.2 of this rule, and resulting Commission orders and recommendations, are not admissible in any civil action for damages arising out of such accidents.

 3. **Disclosure of Utility Accident Reports.**

 Oral and written accident reports submitted pursuant to Sections 3.1 and 3.2 of this rule are privileged from disclosure from discovery and under the Freedom of Access Law, upon objection to disclosure by the utility.

 4. **Disclosure of Commission Orders and Recommendations.**

 The Commission's final orders and recommendations will routinely be made available to the public with no prerequisite showing required.

 5. **Disclosure of Other Accident Investigation Information.**

 All other accident investigation information will initially be protected from disclosure until notice and opportunity to be heard have been provided to the utility. The Commission will generally disclose any staff-generated documents that do not contain a recitation of information in a protected accident report or other protected documents. The Commission may disclose all or part of any other documents or information obtained by the Staff from a utility, that would otherwise be discoverable under the rules of civil procedure. The Commission will give due consideration to the standards for protection of trial preparation materials, as provided in Rule 26(b)(3), M. R. Civ. P.

 6. **Disclosure Delegation.**

 The Commission hereby delegates its authority to allow or prohibit disclosure of accident investigation information subject to the guidelines in this section to the General Counsel or the Hearing Examiner, if one has been assigned. This delegation in no way limits the Commission's authority to review the decision of the General Counsel or Hearing Examiner or to consider requests for disclosure directly. The General Counsel or Hearing Examiner shall issue all decisions on disclosure in writing, and shall place the original in the accident investigation file and shall forward copies to all interested parties.

**§ 7. RETENTION AND AVAILABILITY OF RECORDS AND REPORTS**

 Utilities shall keep all records and reports related to safety and accident reporting under this rule, including interview reports, studies, records and reports connected with a particular event for which immediate notification or written reporting is required pursuant to this rule, within the state at an office of the utility and shall open those records and reports for examination by the Commission or its representatives upon reasonable notice at all reasonable hours. Utilities shall carefully preserve all such records for at least ten years.

STATUTORY AUTHORITY: 35-A M.R.S.A. §§ 104, 111, 112, 115, 710, 4702, and 5102.

EFFECTIVE DATE:

 This rule was approved by the Secretary of State on **June 30, 1989** and will be effective on **July 5, 1989**.

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 May 4, 1996

AMENDED:

 February 23, 1997

NON-SUBSTANTIVE CORRECTIONS:

 March 3, 1997 - restored missing references to 3.1 and 3.2 in several places.

CONVERTED TO MS WORD:

 May 18, 2005

APAO WORD VERSION CONVERSION (IF NEEDED) AND ACCESSIBILITY CHECK: July 18, 2025