

State Damage Prevention Law Summary

State: Maine

(Link to State law provided in Law & Regulation section below)

Summary Date: 8/7/2017

Excavator Requirements	
Excavation: Definition	23 M.R.S.A. §3360-A.1. 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. B. "Emergency excavation" means immediate excavation necessary to prevent injury, death or loss of an existing vital service. 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. ... 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.
Excavator: Definition	23 M.R.S.A. §3360-A.1. C-1. "Excavator" means any person proposing to make, making or contracting for an excavation. 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.
Excavator Notice to One Call Required (Yes / No)	Yes
Excavator Notice Minimum # Working Days Before Digging	3
Excavator Notice (Specific Language)	<p>23 M.R.S.A. §3360-A.3. 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. ... 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.</p> <p>Maine PUC Rule 65-407 c895 § 4 (B) (1) (a). 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. ... 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. ... 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). ... 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.</p> <p>§ 4 (B) (2) (a) 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.</p>
Ticket Life (# of days)	60 (23 M.R.S.A. §3360-A.3. E., and Maine PUC Rule 65-407 c895 § 4 (B) (1) (d))
White-Line Required (Yes / No)	Yes (23 M.R.S.A. §3360-A.3. C., and Maine PUC Rule 65-407 c895 § 4 (A))
Tolerance Zone	18" (Maine PUC Rule 65-407 c895 § 4 (C) (2))

Special Digging Requirements Within Tolerance Zone (Specific Language)	<p>23 M.R.S.A. §3360-A.4-C. 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.</p> <p>Maine PUC Rule 65-407 c895 § 2 (L) Mechanical means of excavation means excavation using any device or tool powered by an engine except air vacuum methods of excavation.</p> <p>§ 4 (C) (2) 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).</p>
Hand Dig / Vacuum or Soft Excavation Within Tolerance Zone (Yes / No)	<p style="text-align: center;">Yes (23 M.R.S.A. §3360-A.4-C, and Maine PUC Rule 65-407 c895 § 4 (C) (2))</p>
Preserve / Maintain Marks Required (Yes / No)	<p style="text-align: center;">Yes (23 M.R.S.A. §3360-A.10-A.D, and Maine PUC Rule 65-407 c895 § 4 (C) (3))</p>
Call Again If No Response from Operator Or Signs Of Unmarked Facilities (Yes / No)	<p style="text-align: center;">No (Reference Maine PUC Rule 65-407 c895 § 4 (B) (6) and § 4 (D) (1))</p>
Notify One-Call if Marks Moved or No Longer Visible (Yes / No)	<p style="text-align: center;">No (Reference Maine PUC Rule 65-407 c895 § 4 (C) (3))</p>
Special Language Regarding Trenchless Technology (Yes / No)	<p style="text-align: center;">No</p>
Separate Locate Request Required for Each Excavator (Yes / No)	<p style="text-align: center;">No (Reference Maine PUC Rule 65-407 c895 § 4 (B) (3))</p>
Notify Operator of Damage (Yes / No)	<p style="text-align: center;">Yes (23 M.R.S.A. §3360-A.5-A, and Maine PUC Rule 65-407 c895 § 4 (D) (1))</p>
Notify One Call Center of Damage (Yes / No)	<p style="text-align: center;">No</p>
Call 911 if Hazardous Materials Released (Yes / No)	<p style="text-align: center;">No</p>
Notice Exemptions (Yes / No)	<p style="text-align: center;">Yes</p>

<p>Notice Exemptions (Specific Language)</p>	<p>23 M.R.S.A. §3360-A.5-B. 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: ...</p> <p>§3360-A.5-C. 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: ...</p> <p>§3360-A.5-D. 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. ...</p> <p>§3360-A.5-E. 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. ...</p> <p>§3360-A.5-I. B. Except as provided in paragraph C, an excavator is exempt from the notice requirements of subsection 3 and subsection 10 when undertaking an excavation within a quarry or borrow pit lawfully located on March 1, 2011.</p> <p>§3360-A.5-J. Unpaved public road grading procedure. A person may undertake qualified grading activity in accordance with this subsection.... E. ...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....</p> <p>§3360-A.5-K. A person is exempt from the requirements of this section for any grading activities undertaken on private roads that meet the following criteria:....</p> <p>Maine PUC Rule 65-407 c895 § 4 (F) Exemptions (1) For additional exemptions, see 23 M.R.S.A §3360-A §§ 5-I and 5-J. (2) Commercial Forestry (a) 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: ... (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: ... (3) 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.... (4) 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....</p> <p>§ 12 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.</p>
	<p>Operator Response</p>
<p>Minimum # Days for Operator to Respond After Receiving Notice (Generally)</p>	<p>2</p>

<p>Operator Requirements to Respond to Locate Notification (Specific Language)</p>	<p>23 M.R.S.A. §3360-A.4. 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 underground facility operator shall complete this marking no later than 2 full business days after receipt of the notice. ... 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.</p> <p>Maine PUC Rule 65-407 c895 § 6 (B)(1). 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 or e-mail or by placing marks at the excavation site that so indicate. (2) 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.</p>
<p>Minimum Standards for Locator Qualifications (Yes / No)</p>	<p>No</p>
<p>Minimum Standards for Locator Qualifications (Specific Language)</p>	<p>Not addressed</p>
<p>Law Specifies Marking Standards Other Than Color (Yes / No)</p>	<p>Yes</p>

<p>Law Specifies Marking Standards Other Than Color (Specific Language)</p>	<p>Maine PUC Rule 65-407 c895 § 6 (B) (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.</p>
<p>Law Includes Specific Language For Operators To Locate Sewer Laterals (Yes / No)</p>	<p>No</p>
<p>Law Includes Specific Language For Operators To Locate Abandoned Facilities (Yes / No)</p>	<p>Yes</p>
<p>Operator Must Locate Abandoned Facilities (Specific Language)</p>	<p>23 M.R.S.A. §3360-A.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.</p> <p>Maine PUC Rule 65-407 c895 § 6 (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.</p>
<p>Positive Response Required - Operator Contact Excavator (Yes / No)</p>	<p>No</p>

Positive Response Required - Operator Contact Excavator (Specific Language)	Not addressed (Reference Maine PUC Rule 65-407 c895 § 6 (B))
Positive Response Required - Operator Contact One Call Center (Yes / No)	No
Positive Response Required - Operator Contact One Call Center (Specific Language)	Not addressed (Reference Maine PUC Rule 65-407 c895 § 6 (B))
Positive Response - One-Call Automated (Yes / No)	No
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Yes / No)	Yes
Operator Must Provide One-Call Center with Information On Locations of Buried Facilities (Specific Language)	Maine PUC Rule 65-407 c895 § 6 (A) (1) (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.
Operator Must Update Information On Locations of Buried Facilities (Yes / No)	Yes
Operator Must Update Information On Locations of Buried Facilities (Specific Language)	Maine PUC Rule 65-407 c895 § 6 (A) (1) (d) (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). § 6 (D) (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 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.
New Facilities Must Be Locatable Electronically (Yes / No)	No
New Facilities Must Be Locatable Electronically (Specific Language)	Not addressed (Reference Maine PUC Rule 65-407 c895 § 6 (B) (5))
Design Request (Yes / No)	No
One Call, Enforcement, and Reporting	
Mandatory One Call Membership (Yes / No)	Yes (23 M.R.S.A. §3360-A.1-A, and Maine PUC Rule 65-407 c895 § 6 (A) (1) (a))
One Call Membership Exemptions (Yes / No)	Yes

One Call Membership Exemptions (Specific Language)	<p>23 M.R.S.A. §3360-A.1-A. Each underground facility operator shall be a member of and participate in an underground facility damage prevention system... 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.</p> <p>Maine PUC Rule 65-407 c895 § 6 (A) (1) (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.</p> <p>§ 2 (V) 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.</p>
One-Call Law Addresses Board Make-Up (Yes / No)	<p>No</p>
One-Call Law Addresses Board Make-Up (Specific Language)	<p>Not addressed</p>
Separate Body Designated to Advise Enforcement Authority (Yes / No)	<p>No</p>
Separate Body Designated to Advise Enforcement Authority (Specific Language)	<p>Not addressed</p>
Penalties / Fines Excavators (Yes / No)	<p>Yes</p>
Penalties / Fines Excavators (Specific Language)	<p>23 M.R.S.A. §3360-A.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 \$500, except that, if the person has been found in violation of this subsection within the prior 12 months, the administrative penalty may not exceed \$5,000. ... 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; B. Excavation by an excavator in a reckless or negligent manner that poses a threat to an underground facility; 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; ... or F. Failure of an excavator to comply with the requirements of subsection 5-C, 5-D, 5-E, 5-I or 5-J. 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.</p> <p>Maine PUC Rule 65-407 c895 §8 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; ... 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 \$500 per violation. (b) Subsequent damage prevention incidents. The administrative penalty shall not exceed \$5000 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. ... 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.</p>
Penalties / Fines Operators (Yes / No)	<p>Yes</p>

Penalties / Fines Operators (Specific Language)	<p>23 M.R.S.A. §3360-A.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 \$500, except that, if the person has been found in violation of this subsection within the prior 12 months, the administrative penalty may not exceed \$5,000. ... 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: ... 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; E. Marking by an underground facility operator of the location of an underground facility in a reckless or negligent manner; 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.</p> <p>Maine PUC Rules Chapter 895 §8 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: ... (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; ... 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 \$500 per violation. (b) Subsequent damage prevention incidents. The administrative penalty shall not exceed \$5000 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. ... 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.</p>
Penalties / Fines Other (Yes / No)	<p>None</p>
Penalties / Fines Other (Specific Language)	<p>Not addressed</p>
Enforcement Authority Identified	<p>Maine Public Utilities Commission (23 M.R.S.A. §3360-A.6-C, and Maine PUC Rule 65-407 c895 § 7)</p>
Damage Investigation Required by Enforcement Authority (Yes / No)	<p>Yes (Maine PUC Rule 65-407 c895 § 7 (B) (1))</p>
Mandatory Reporting of Excavation Damage by All Utility Owners to State Entity or Department (Yes / No)	<p>Yes (Maine PUC Rule 65-407 c895 § 6 (C) (1))</p>
Mandatory Reporting by Excavators to State Entity or Department (Yes / No)	<p>Yes (Maine PUC Rule 65-407 c895 § 4 (D) (2))</p>
Mandatory Reporting to State Entity or Department - Gas Only (Yes / No)	<p>No</p>
Law and Regulation	
Statute / Law (Name & Link)	<p>Maine Revised Statutes Annotated (M.R.S.A.), Title 23, § 3360-A Protection of Underground Facilities (http://www.mainelegislature.org/legis/statutes/23/title23sec3360-A.html) Also see One-Call Center Website for Information on State Law.</p>
Date of Last Revision to Statute / Law	<p>July 12, 2015</p>
Administrative Rules / Regulations (Yes / No)	<p>Yes</p>
Administrative Rules / Regulations (Name & Link)	<p>Maine PUC Rules, 65-407, Chapter 895 - Underground Facility Damage Prevention Requirements, §§ 1 to 12 (http://www.maine.gov/sos/cec/rules/65/407/407c895.doc)</p>
State One Call Center(s) (Name & Link)	<p>Dig Safe (http://www.digsafe.com/)</p>
Miscellaneous Notes	

Notes	In most cases, where applicable, the Maine PUC Rule 65-407 c895 mimics or reflects the requirements where provided in 23 M.R.S.A. §3360-A.
State Damage Prevention / One-Call Law Recently Revised With Future Implementation Dates	0