

**Maine Forest Service
DEPARTMENT OF CONSERVATION**

**BOUNDARY PAINT MARKING STANDARDS
CHAPTER 24 RULES
BASIS STATEMENT
March 2012**



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**DEPARTMENT OF CONSERVATION
MAINE FOREST SERVICE
BOUNDARY PAINT MARKING STANDARDS
BASIS STATEMENT**

I. INTRODUCTION

1. Background

The purpose of this basis statement is to explain the factual and policy basis of the Boundary Paint Marking Standards of the Department of Conservation (DOC), Maine Forest Service (MFS). MFS published this rule for public comment on DATE. The public comment period closed on 12 March 2012. The rule has been revised in response to public comment. The revised, final rule, takes effect on 09 April 2012.

2. Purpose of Boundary Paint Marking Standards

The purpose of this rule is to implement the statutory direction that MFS adopt rules to determine the color and type of paint used to post property against trespass.

3. Procedural History

The Governor signed P.L. 2011, Chapter 432 into law on 06 July, 2011.

MFS staff developed a proposed rule package during the fall of 2011.

A public comment period opened on 08 February 2012 and closed on 12 March 2012.

No public hearings were held. None was requested.

Comments were received from three individuals.

This basis statement is based upon all written comments received before the closure of the public comment period at 5:00 p.m., 12 March 2012.

II. RESPONSE TO COMMENTS

This section summarizes the specific comments and concerns received as part of the record for this rule. Each comment is followed by a statement of the department's rationale for adopting suggested changes to the rule, failing to adopt suggested changes or drawing findings and recommendations that differ from those expressed.

Where the same or similar comments or concerns about a specific issue were expressed by different persons, MFS has synthesized these comments and

concerns into a single or composite comment. Where comments related only to typographic or grammatical errors in the text of the proposed rule, the correction has been made but the comments have not been summarized separately.

General comments

1. COMMENT: Signs posted no more than 100 feet apart are probably fine for alerting someone, but I don't think a single paint strip is.

RESPONSE: The rule has been drafted in conformance with the statute, which states that, "Paint markings ... must consist of a conspicuous vertical line at least one inch in width and at least 8 inches in length and must be placed so that the bottoms of the marks are not less than 3 feet from the ground or more than 5 feet from the ground at locations that are readily visible to any person approaching the property and no more than 100 feet apart."

Comments on Section 1. Scope and Applicability

No comments received on this section.

Comments on Section 2. Paint Color and Quality

2. COMMENT: The definition of "type of paint" needs to be improved.

RESPONSE: The definition of the type of paint (subsection 1) has been modified in agreement with the comments.

3. COMMENT: The definition of the color purple needs to be improved; specifically, consider requiring the use of "OSHA/ANSI Safety Purple or a close match thereto."

RESPONSE: The definition of the color purple (subsection 2) has been modified in agreement with the comments.

4. COMMENT: The five-year renewal period should be eliminated in favor of a requirement to maintain the paint markings in a conspicuous state.

RESPONSE: The requirement has been modified in agreement with the comments.

5. COMMENT: One commenter suggested changing the introductory language, "Paint used to post property against trespass..." to "Paint used to post property against access without permission." Another commenter disagreed with this statement and suggested retaining the original language. The first commenter then withdrew his recommendation.

RESPONSE: Review of the statute indicated the need to revise the rule language to be consistent with statute. The introductory sentence has been

revised to read, "Paint used to post property that access is prohibited without permission of the landowner or the landowner's agent must be..."

Comments on Section 3. Effective Date

6. COMMENT: The effective date of the rule should be the earliest date when it can be made legally effective.

RESPONSE: The effective date of the rule has been advanced in agreement with the comments.

III. LIST OF INDIVIDUALS PROVIDING COMMENT

1. Clark Granger
2. D. Gordon Mott
3. Edward Wainwright