

DRAFT – 12/8/2009
Bureau of Resource Management
Division of Public Health
Policy for Accessing Private Property

In order to conserve, protect and restore Maine's public resources staff and other authorized agency representatives, agents and contractors shall need to access private property to conduct shellfisheries population assessments, on-site inspections, water and shellfish sampling and to conduct habitat surveys and permit reviews.

When entering private land and the property is not clearly posted with the owners name and contact information, and the ownership of said property is not known and no one is immediately available to ask for permission, staff shall conduct their business in a professional manner and shall always respect the land and leave no trace of their activities.

Before entering private land that is clearly marked "No Trespassing" staff must ask and obtain permission for access. If the owner is not willing to give permission for a site visit or inspection staff shall seek advice from an appropriately trained supervisor or an AAG.

Staff should not access any building or other enclosure without the permission of the owner or the owner's representative where the owner has a reasonable expectation of privacy. Staff may proceed up a driveway, walkway or otherwise to the door of the building to ask for permission. If the owner is not present or reasonably available, staff should leave the area and, before proceeding with a site visit or inspection should seek advice from and appropriately trained supervisor or an AAG.

When entering private property (land or premises), where permission has not yet been granted and/or the property is not clearly posted, and said property is in the immediate vicinity of a residence or other building that might be occupied, staff should first inquire at the residence or other building to see if anyone is present. If someone is present, staff should introduce him or herself, indicate the reason for the visit and the authority for conducting the site visit or inspection. Staff should also inquire and document the identity of the person from whom permission to the site visit or inspect is sought, and what relationship that person has to the property owner. In instances where no one is present, or where permission to access the land or premises to conduct a site visit or inspect is denied, staff should leave the area and seek advice of a supervisor, or AAG.

In all cases division staff and other authorized agency representatives, agents and contractors shall state that they are working for or with the Maine Department of Marine Resources and clearly articulate the business that they are conducting.

Bureau vehicles shall be clearly marked in an effort to show who has or is accessing private property.

Where exigent circumstances exist requiring immediate access to a property for the purposes of inspection and/or maintenance, and staff is not able to obtain permission for entry from the landowner, staff should seek guidance from an appropriately trained supervisor or an AAG.

These guidelines do not have the force or effect of law and do not confer legal rights or impose legal duties. Any more stringent requirements of the agency's enabling statute and/or the U.S. Constitution's 4th Amendment must always be adhered to. If there is any uncertainty as to whether staff should enter a property, consultation should occur with appropriate supervisors and/or the Attorney General's Office or District Attorney's Office.