



<b>MARKING THE LIMIT OF FOREST OPERATIONS ADJACENT TO PRIVATE AND CROWN PROPERTIES (INTERIM)</b>		<i>Procedure:</i>	<b>FOR 05 01 04</b>
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**BACKGROUND:**

Scope of this Marking Procedure

This procedure provides the principles and requirements for marking or establishing the limits of forest operations authorized to occur on Crown land adjacent to:

- private property;
- registered tenured Crown property; and
- Crown land parks and protected areas (existing or recommended)

This Marking Procedure does not apply to Crown land adjacent to unregistered tenured Crown land such as land held under Land Use Permits or Licenses of Occupation. District Lands staff should be contacted for specific procedures and information related to the location, boundaries, and rights associated with unregistered tenured Crown lands. Where forest operations adjacent to unregistered tenured Crown land are authorized in a Forest Management Plan, identification and protection of that land is normally done through the Area of Concern planning process.

Although this procedure does not deal with all the possible types of land ownership that might be encountered, the principles described may be applied to other jurisdictional interests such as Federal lands if appropriate.

For the purposes of this Marking Procedure, the “owner” or “landowner” of registered tenured Crown property is considered to be the party to which the property is registered. In the case of Crown land parks and protected areas, the “owner” or “landowner” is the Crown, as represented by staff of Ontario Parks (in the case of parks) and Ministry of Natural Resources (MNR) District staff (in the case of conservation reserves) assigned the authority for management of the area.

This Marking Procedure applies to all types of forest operations and not just harvesting.

There are two principles that underlie this Marking Procedure:

- Forest operations authorized by the Crown on Crown land adjacent to private and Crown properties should be allowed to occur;
- Property owners and tenure holders have legal rights that must be respected.

To get clarification about what specific properties this procedure applies to, the forest operator should contact their local MNR District office for assistance.

### Definitions

**“Crown land parks and protected areas”** for the purposes of this procedure means Parks regulated or recommended for regulation under the *Provincial Parks Act*, Conservation Reserves regulated or recommended for regulation under the *Public Lands Act*, Wilderness Areas regulated or recommended for regulation under the *Wilderness Areas Act*, and Forest Reserves as identified through land use planning processes.

**“forest operations”** means the harvesting of a forest resource, the use of a forest resource for a designated purpose or the renewal or maintenance of a forest resource, and includes all related activities (*Crown Forest Sustainability Act R.S.O. 1994, section 3*). This includes, but is not limited to, such things as harvesting, site preparation, regeneration, and road building.

**“forest operator”** means anyone engaged in forest operations and may include silviculture or road construction contractors, forest resource licensees and harvest contractors.

**“limit of forest operations”** means the location on land beyond which forest operations are not to occur and may coincide with a property boundary. It may be synonymous with the commonly used term “licence boundary” where the forest operation is harvesting under a forest resource licence.

**“practice of cadastral surveying”** means advising on, reporting on, conducting or supervising the conducting of surveys to establish, locate, define or describe lines, boundaries or corners of parcels of land or land covered with water. (*Surveyors Act R.S.O. 1990, c. S-29, section 1*)

**“practice of professional land surveying”** means the determination of natural and artificial features of the surface of the earth and the storage and representation of such features on a chart, map, plan or graphic representation, and includes the practice of cadastral surveying. (*Surveyors Act R.S.O. 1990, c. S-29, section 1*)

**“private property”** means parcels of land patented by the Crown but not owned by the Crown.

**“property boundary”** means boundaries of parcels of land or of land covered with water.

**“registered tenured Crown property”** means Crown land parcels that have been registered under either the *Land Titles Act* or the *Registry Act* and for which tenure documents have been issued (i.e. lease, easement).

### Legislation pertaining to boundary marking

Most activities associated with the marking of forest operation and property boundaries are governed by two pieces of legislation: the *Crown Forest Sustainability Act* (CFSA) and the *Surveyors Act*. The *Surveyors Act* falls under the jurisdiction of the Office of the Surveyor General within the Ontario Ministry of Natural Resources.

Section 39 of the CFSA states: “The Minister may at any time cause a survey to be made to establish or re-establish the boundaries of the area covered by a forest resource licence and, unless the Minister otherwise directs, the cost of the survey shall be borne by the licensee or, if the boundary in question is a division line

between two licensed areas, by the respective licensees in such proportions as the Minister considers proper.”

Section 38 (2) of the CFSA is intended to clearly identify who is responsible for licence boundary marking in situations where forest resource licences overlap. It requires that before a forest resource licence is issued on an area already under licence (i.e., an overlapping licence), the licensee and the prospective licensee must endeavor to agree on matters prescribed in the regulations. Section 8 (6) of Ont. Regulation 167/95 requires that this agreement include “the proper identification and marking of the area covered by the prospective licence and of the forest resources that shall not be harvested within that area, including contributions to the costs of the identification and marking.”

Part IV of the CFSA describes the manner in which forest operations are to be conducted. Under the CFSA, ultimately it is the forest operator (licensee in the case of a harvest operation and authorized operator for other operations) who is responsible for ensuring that operations are confined to the Crown land area authorized for operations. Where the operations are overlapping on a Sustainable Forest Licence (SFL), the SFL holder may also share in this responsibility.

The *Surveyors Act* regulates the practice of professional land surveying in Ontario and marking of property boundaries. It is essential that anyone involved in marking the limit of forest operations adjacent to private and registered tenured Crown property understand the requirements of the *Surveyors Act*, and that any such marking must be done in a way that does not contravene the Act.

Section 11 (1) of the *Surveyors Act* clearly limits who may perform cadastral surveys: “No person shall engage in the practice of cadastral surveying or hold himself, herself or itself out as engaging in the practice of cadastral surveying unless licensed under this Act.” See the definitions section above for a definition of Cadastral Surveying.

The *Surveyors Act* provides for stiff fines for offences under the Act. Section 39 states:

*“(1) Every person who contravenes section 11 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$15,000 and for each subsequent offence to a fine of not more than \$30,000.*

*(2) Every person who is not a member of the Association and who uses the title “Ontario land surveyor” or “arpenteur-géomètre de l’Ontario” or the initials “O.L.S.” or “A.-G.O.” as an occupational designation is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.*

*(3) Every person who obstructs a person appointed to make an investigation under section 30 in the course of his or her duties is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.*

*(4) Every corporation that contravenes section 37 is guilty of an offence and on conviction is liable for a first offence to a fine of not more than \$5,000 and for each subsequent offence to a fine of not more than \$15,000.*

*(5) Where a corporation is guilty of an offence under subsection (1), (2), (3) or (4), every director or officer of the corporation who authorizes, permits or acquiesces in the offence is guilty of an offence and on conviction is liable to a fine of not more than \$30,000.*

*(6) Proceedings shall not be commenced in respect of an offence under subsection (1), (2), (3), (4) or (5) after two years after the date on which the offence was, or is alleged to have been, committed.  
R.S.O. 1990, c. S.29, s. 39.”*

Section 47 of the *Surveyors Act* defines the use of the term “surveyor” where it is used in other statutes: “A reference in any Act or regulation to a surveyor or an Ontario land surveyor licensed or registered under this Act or to an Ontario Land Surveyor shall be deemed to be a reference to a member of the Association licensed to engage in the practice of cadastral surveying. R.S.O. 1990, c. S.29, s. 47.”

### Legislation pertaining to trespass and landowner rights

Where a landowner feels that a trespass onto their property has occurred, they have recourse under the *Trespass to Property Act R.S.O. 1990*. The Act spells out what constitutes a trespass and how compensation for damages may be obtained. The maximum fine under the Act for trespass is \$2,000. The court may also order a convicted trespasser to pay the landowner up to \$1000 for proven damages.

If damages resulting from a trespass are greater than \$1,000, the landowner may bring a separate civil action against the trespasser. A trespasser may also be held liable for the costs of a successful private prosecution, including the cost of a survey carried out to prove the trespass occurred. Anyone doing damage to a property, even if not technically a trespasser, may be subjected to civil action by the landowner. The form and extent of compensation may be based on agreement by the parties (an out-of-court settlement) or it may be based on a legal decision rendered by a Court.

A Forest Resource Licence issued for harvesting under Sections 26 or 27 of the *Crown Forest Sustainability Act (CFSA)* is subject to the terms and conditions of the licence in accordance with Section 28. Harvest outside the boundary of the licence off of Crown land or otherwise operating other than in accordance with authorizing documents (such as a Forest Management Plan) would normally constitute a violation of the terms and conditions of the licence. Harvesting and other forest operations authorized under the CFSA would also be subject to requirements under Section 42 and other provisions of the Act. Remedies and enforcement available under the CFSA and in accordance with the Forest Compliance Handbook would be applicable in such situations.

### Provisions of the Criminal Code: Interference with Property Boundary Lines

The *Criminal Code (Canada)* makes it an offence to remove or destroy property boundary markers. Section 442 of the *Criminal Code* states: “Every one who willfully pulls down, defaces, alters or removes anything planted or set up as the boundary line or part of the boundary line of land is guilty of an offence punishable on summary conviction.”

Section 443 states:

“(1) Every one who willfully pulls down, defaces, alters or removes (a) a boundary mark lawfully placed to mark any international, provincial, county or municipal boundary, or (b) a boundary mark lawfully placed by a land surveyor to mark any limit, boundary or angle of a concession, range, lot or parcel of land, is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.”

These sections of the *Criminal Code* do not apply to a land surveyor in the conduct of surveying. Blazed trees, bearing trees, and wooden posts marking a corner are all considered boundary marks. Ontario Regulation 525/91 describes the various conventions relating to survey monuments.

### **DIRECTION:**

As the representative of the Crown authorizing forest operations on Crown lands, the MNR should require that authorized operations be conducted in accordance with applicable statutes, regulations, and policies.

## Forest Management Directives and Procedures

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This includes informing licensees or operators of their responsibilities and providing general direction where necessary. However, the licensee or authorized operator is responsible for the planning, implementation and monitoring of forest operations. MNR employees should respect these obligations and avoid giving specific directions on how the limit of forest operations should be marked.

### When the services of a licensed surveyor are required and when they are not

The determination and marking of a property boundary constitutes “cadastral surveying” as defined by the *Surveyors Act* and may be performed only by a licensed surveyor. According to the Act, cadastral surveying includes “advising on, reporting on, conducting or supervising the conducting of surveys to establish, locate, define or describe lines, boundaries or corners of parcels of land or land covered with water.” (*Surveyors Act R.S.O. 1990, c. S-29, section 1*). Surveyors are trained to use survey notes and records to determine the location of a boundary line. Many of these records are available only to surveyors. For distinctions regarding survey terminology and practice see the *Surveys Act, 1990*, the *Surveyors Act, 1990* and associated Regulations, or contact an Ontario Land Surveyor (OLS) or the office of the Surveyor General for Ontario.

If a forest operator, or anyone else, makes efforts to establish or define an actual property boundary without use of the services of a licensed surveyor, they may be in breach of Section 11 of the *Surveyors Act*.

A licensed surveyor is required in all cases to:

- Establish a property boundary,
- Produce a Plan of Survey, or
- Produce irrefutable evidence suitable for a court to determine if a trespass has occurred where the property boundary has not been previously established by a surveyor or the boundary markers and monuments can not be located.

A forest operator or anyone else may, without the services of a licensed surveyor, mark the limit of forest operations to coincide with a property boundary only if:

- a) the property boundary had been previously established by a licensed surveyor and the boundary markers and monuments can be located; or
- b) there is an agreement with the neighbouring landowner regarding the placement of the limit of forest operations.

If the above requirements have not been satisfied, the forest operator shall not mark the limit of forest operations with the intent to have it coincide with a property boundary (see section dealing with operational buffers)

In all situations, marking of the limit of forest operations, as described above, must never be portrayed as a boundary survey or the establishment of a property boundary.

All enquiries regarding the determination of property boundaries and survey practices should be referred to the Association of Ontario Land Surveyors (website: [www.aols.org](http://www.aols.org)) or the Surveyor General for Ontario.

### Leaving buffers to avoid the danger of trespass

In cases where a property boundary has not been established and the cost of a survey would be prohibitive, it is permissible for the forest operator or licensee to leave a buffer between forest operations and where the property boundary is thought to be in order to reduce the danger of trespass. The width of buffer left should reflect the level of uncertainty regarding the true location of the property boundary.

Use of buffers and the rationale for their use should be documented in the forest management plan or other authorizing document in order to avoid compliance issues later.

### Notification of Landowners

Parties authorized to conduct forest operations on Crown land located immediately adjacent to private property, registered tenured Crown property, or Crown land parks and protected areas (existing or proposed) must make all reasonable efforts to contact the landowner(s) of the land parcel(s) before marking of the limit of operations is finalized in the field and before operations are to commence. Where possible, personal contact should be made with the landowner or their agent. In all cases, notice must be made in writing such that delivery of the notice can be tracked and confirmed (i.e. courier, expresspost). The notice should be written to reflect the information set out in this procedure.

The purpose of landowner notification is to:

1. inform the landowner(s) of the planned operations to be conducted adjacent to their land;
2. provide information regarding the authority under which the operations are being conducted;
3. inform the landowner of the planned location of the limit of the operation; and
4. seek agreement regarding where the limit of operations will be on the ground.

The lack of response from a landowner that has been provided notice must **not** be construed as agreement with, or acceptance of, a marked limit of operations.

Please note that this notification is in addition to any generally provided during the preparation of a Forest Management Plan or other authorizing document although it may meet some planning requirements for annual operations.

### Boundary location by MNR staff

Where a property boundary must be established by MNR, the District shall engage the services of an Ontario land surveyor unless the property boundary has been previously established by a licensed surveyor and the existing boundary marking and monuments can be located. Except for licensed surveyors, no MNR staff shall establish or attempt to establish property boundaries. MNR staff may mark the limit of forest operations only as described above. Any such work conducted by MNR staff has the potential of exposing the Crown to liability should a trespass occur as a result of an error in marking.

### Boundary location by Forest Resource Licensees

Establishing the limit of permissible forest operations on a forest resource licence is a licensee responsibility and will normally be carried out by the licensee. In the case of an overlapping licence arrangement the overlapping licensee may be responsible if so named in the agreement between the licensees, or in the absence of an agreement, in the terms of the overlapping licence if the Ministry feels that it is appropriate in the circumstances.

In issuing forest resource licences and assigning boundary marking responsibilities, the MNR should require that operations be conducted in accordance with applicable statutes, regulations, and policies. This includes informing licensees of the general direction and principles associated with boundary location where necessary. However, it is the licensee who is responsible for how operations are conducted, and MNR employees should not instruct licensees on how to carry out these requirements. The decision to engage the services of a surveyor versus taking the risk of operating near a property boundary and incurring liability for trespass rests solely with the licensee.

### Enforcement

It must be a condition of any authorization of forest operations on Crown land that the authorization only applies to Crown land and that the operations must be conducted in accordance with the laws of Ontario. In addition, when operations are planned for adjacent to private property, registered tenured Crown property, or Crown land parks and protected areas (existing or proposed), a condition must be included in the authorizing document requiring that the operations be conducted in accordance with this procedure or another document that communicates the distinctions of this procedure.

Given these provisions, MNR reserves the right to use remedies and enforcement available under the CFSA and in accordance with the Forest Compliance Handbook. These are limited to use of penalties, orders, charges, or other mechanisms to enforce the conditions of the licence or other authorizing documents. If a trespass has apparently occurred, MNR staff should determine enforcement options and choose the best course of action given the circumstances. Assistance from Enforcement Branch, Legal Services, or the local municipality may be required to determine the most appropriate action.

### MNR maps showing property boundaries

Many MNR maps show features that are intended to illustrate property boundaries. Examples of this include licence maps where the licence boundary corresponds to a Crown land boundary and Ontario Base Mapping which shows township lots and concessions and land ownership information.

MNR topographic and resource information maps are not Plans of Survey and users should be aware of their limitations. A surveyed boundary must always be considered the “correct” boundary location over Ontario Base Mapping information or other map bases or that provided by a Global Positioning System (GPS) using map coordinates.

Since by law a property boundary may only be established by a licensed surveyor, mapping errors should not result in improper property boundary establishment. Nonetheless, to reduce the potential for misinterpretation, maps showing planned forest operations in proximity to a property boundary should include a disclaimer similar to the following:

e.g., “Caution: This map is not a Plan of Survey. Property boundaries as illustrated must not be relied upon as a guide to location of property boundaries or navigation. Establishment of property boundaries must be in accordance with the *Surveyors Act* and the *Surveys Act*.”

## **PROCEDURE:**

### Communication to Forest Operators

When forest operations are authorized under a licence or other mechanism, MNR staff should ensure that the licensee or authorized operator is aware of the operational and other requirements set out in this procedure. Where the operations are on a Sustainable Forest Licence area, the communication effort may be made in conjunction with the SFL holder. Approaches to communication may include the following:

- Provide the licensee or authorized operator with a copy of this procedure;
- Identification of conditions in authorizing documents that allow enforcement of the distinctions and requirements in this procedure;
- Provide a “Marking Protocol” that summarizes the distinctions in this procedure and the roles and responsibilities of the licensee or authorized operator.



Care must be taken to avoid instructing the licensee or authorized operator on specifically how the marking should be conducted as that is their responsibility.

In all cases, measures should be taken to ensure that the licensee or authorized forest operator is aware of the relevant requirements and that enforcement actions may be taken where the conditions of any authorizing document are not respected.

### Authorization of Forest Operations

It must be a condition of any authorization of forest operations on Crown land that the authorization only applies to Crown land and that the operations must be conducted in accordance with the laws of Ontario. In addition, when operations are planned for adjacent to private property, registered tenured Crown property, or Crown land parks and protected areas (existing or proposed), a condition must be included in the authorizing document requiring that the operations be conducted in accordance with this procedure or another document that communicates the distinctions of this procedure.

In all cases, measures should be taken to ensure that the licensee or authorized forest operator is aware of the relevant requirements and that enforcement actions can be taken where such conditions are not respected. MNR staff should ensure that plans, licences or other authorizing documents are consistent with this procedure.

### Forest Operations not conducted by the Crown

Where authorized forest operations are not being conducted by the Crown, and a limit on forest operations must be established adjacent to private property, registered tenured Crown property, or Crown land parks and protected areas (existing or proposed), the following procedures must be followed:

#### Notification of Landowners:

In all cases notification of landowner of property adjacent to the area of planned operations is required. Such notification must be made in a manner that gives the landowner sufficient time to consider and then respond to the notification (e.g. 30 days). Notice must be made in writing such that delivery of the notice can be tracked and confirmed (i.e. courier, expresspost). Where agreement is reached with the landowner prior to the completion of the notification period, forest operations may commence as authorized without delay.

Where operations take place on an area under a Sustainable Forest Licence, the licensee is responsible for notifying the landowner of any property adjacent to operations. This responsibility may be transferred to an overlapping licensee through an overlapping agreement, or in the absence of an agreement, in the terms of the overlapping licence if the Ministry feels that it is appropriate in the circumstances.

Where the operations are not on an area under a Sustainable Forest Licence the licensee or authorized operator is responsible for notifying the landowner unless the Crown has agreed to other arrangements.

For properties within an organized Municipality, information regarding the ownership of land and related information is available from the Municipal Office (a fee may apply).

Where the property is outside an organized Municipality, landowner contact information is available from a Land Registry Office and a fee may apply. An online listing of the office locations and the services they

provide is available at the Ontario Ministry of Consumer and Business Services website (<http://www.cbs.gov.on.ca>).

Where current landowner contact information can not be obtained from the above sources, the local MNR district office may be contacted for assistance.

Where the adjacent property involved is Crown owned, contact the local MNR District office to determine who the notification should be made to.

The landowner notification must include the following information:

- a notice that forest operations are planned for the adjacent Crown land;
- a map and description of the planned operations and the expected timing;
- a request, if necessary, for information the landowner has regarding the location of the boundary at that location;
- an invitation for the landowner to participate in the marking or to inspect the result prior to operations;
- a statement indicating that any limit of forest operations marked is not intended to represent the property boundary;
- a draft agreement indicating that the landowner is satisfied with the limit of forest operations as marked; and
- the name and phone number of licensee or forest operator and a MNR contact.

The landowner notice must not include any suggestion that a lack of response by the landowner would be interpreted as agreement, consent or lack of concern on his or her part.

Licensees or operators should retain proof of their efforts to notify the landowner as notification will now be a requirement of their licence.

### Overlapping Licence Situation:

Before issuing an overlapping forest resource licence, MNR staff should review the content of the overlapping agreement developed under Section 38(2) of the CFSA to ensure that its provisions regarding boundary marking do not contravene the *Surveyors Act, 1990*. Wording in an overlapping agreement must be consistent with this procedure before an overlapping licence may be issued.

### Written Agreement with Adjacent Landowner:

Where agreement is reached with the adjacent landowner regarding the extent and limit of operation, written documentation of this agreement is encouraged to protect both parties. Documentation should state that the limit of operations marked is not a legal survey and is not intended to establish the property boundary.

### Documentation of Lack of Agreement with Landowner:

Where no agreement is reached with the adjacent landowner and the limit of forest operations is established (normally with a buffer), documentation must be produced to ensure there is a record of the relationship between the limit of forest operations and the property boundary. Any such record should be provided to the adjacent landowner and a copy also sent to the MNR District office. It must be clear in the documentation that the limit of forest operations does not reflect the property boundary and should in no way be used in the

future as such. This record will help to prevent the buffer from being assumed to be owned by the adjacent landowner. A map should be included describing the location of the limit of forest operations.

### Forest operations conducted by the Crown

Where a MNR staff member is required to establish the limit on forest operations adjacent to private property, registered tenured Crown property, or Crown land parks and protected areas (existing or proposed), the following procedures shall be followed:

#### Notification of landowners:

In all cases notification of landowner of property adjacent to the area of planned operations is required. Notification must be made in a manner that gives the landowner sufficient time to consider and then respond (e.g. 30 days). Notice must be made in writing such that delivery of the notice can be tracked and confirmed (i.e. courier, expresspost). Where agreement is reached with the landowner prior to the completion of the notification period, forest operations may commence as authorized without delay.

For properties within an organized Municipality, information regarding the ownership of land and related information is available from the Municipal Office (a fee may apply).

Where the property is outside an organized Municipality, landowner contact information is available from a Land Registry Office and a fee may apply. An online listing of the office locations and the services they provide is available at the Ontario Ministry of Consumer and Business Services website (<http://www.cbs.gov.on.ca>).

The landowner notification must include the following information:

- a notice that forest operations are planned for the adjacent Crown land;
- a map and description of the planned operations and the expected timing;
- a request, if necessary, for information the landowner has regarding the location of the boundary at that location;
- an invitation for the landowner to participate in the marking or to inspect the result prior to operations;
- a statement indicating that any limit of forest operations marked is not intended to represent the property boundary;
- a draft agreement indicating that the landowner is satisfied with the limit of forest operations as marked; and
- the name and phone number of a MNR contact person.

The landowner notice must not include any suggestion that a lack of response by the landowner would be interpreted as agreement, consent or lack of concern on his or her part.

#### Written Agreement with Adjacent Landowner:

MNR staff should seek to reach agreement with the adjacent landowner regarding the extent and limit of operation. Written documentation of this agreement is encouraged to protect both parties. Documentation should state that the limit of operations marked is not a legal survey and is not intended to establish the property boundary.

Operational buffers to avoid trespass:

Forest management plans often prescribe the use of operational buffers to protect adjacent features from various types of damage. For example, in the case of clearcuts or prescribed burning adjacent to private property, forest management plans may prescribe a buffer in order to protect the trees on the adjacent property from windthrow, root damage or prescribed burn escape. MNR staff members who establish the limit of forest operations must ensure that the limit they are establishing is in accordance with the approved forest management plan or other authorizing documents.

Even where a forest management plan allows, the MNR must not attempt to establish the limit of forest operations coincident with a property boundary unless the property boundary has been established by a licensed surveyor and the existing boundary marking and monuments can be located. Where a property boundary has been properly established by a survey, operations may occur right to the boundary unless otherwise prescribed in the forest management plan.

In cases where a property boundary has not been established previously or survey markers or monuments are not visible, sufficient buffer must be left between the forest operations and where the property boundary is thought to be so as to make trespass unlikely. The width of buffer left should reflect the level of uncertainty regarding the true location of the property boundary.

Marking the limit of forest operations in the field:

Any protocol used for marking the limit of operations in the field should reflect the following principles:

- Fence lines, old blaze marks and old paint markings should not be counted on as indications of a property boundary. They may however be used as part of an agreement between the forest operator and the landowner regarding the limit of forest operations. The only reliable evidence of a property boundary is that provided by a survey conducted by an Ontario Land Surveyor.
- Existing survey markers may be used to assist in choosing where to mark the limit of operations if the location, purpose, and validity of the monument are supported by a Plan of Survey.
- Survey cornerposts, monuments, iron bars, blaze lines or other survey markers must not be pulled down, defaced, altered or removed. To do so would be an offence under the Criminal Code.
- The limit of forest operations should be marked with flagging tape (preferably labelled) or paint clearly indicating an operational boundary, and not by stakes, or blazes that might be confused with a property boundary.

Documentation of Lack of Agreement with Landowner:

Where no agreement is reached with the adjacent landowner and the limit of forest operations is established (normally with a buffer), documentation must be produced to ensure there is a record of the relationship between the limit of forest operations and the property boundary. Any such record should be provided to the adjacent landowner and a copy retained on file at the MNR District office. It must be clear in the documentation that the limit of forest operations does not reflect the property boundary and should in no way be used in the future as such. This record will help to prevent the buffer from being assumed to be owned by the adjacent landowner. A map should be included describing the location of the limit of forest operations.

Where trespass has occurred or is believed to have occurred

MNR staff may discover what they believe to be a trespass by a Crown authorized forest operator onto an adjacent property during the course of normal compliance inspections or receive a report of a suspected trespass from some other source. While there is no legal requirement to do so, where the MNR has reasonable and probable grounds to believe that a trespass has occurred, the District should report the incident to the parties involved.

In reporting such incidences, it is important that MNR staff go no further than to say that a trespass may have occurred. It is not possible to report with certainty that a trespass has occurred unless a licensed surveyor has established the property boundary, and it is not appropriate to assign blame, except through a compliance action process. After the incident has been reported, it is up to the landowner and the licensee to resolve the issue. Where there is already an established survey and survey monuments are clearly visible, it may be possible to identify a trespass with greater certainty.

MNR reserves the right to use remedies and enforcement available under the CFSA and in accordance with the Forest Compliance Handbook. These are limited to use of penalties, orders, charges, or other mechanisms to enforce the conditions of the licence or other authorizing documents. If a trespass has apparently occurred, MNR staff should determine enforcement options and choose the best course of action given the circumstances. Assistance from Enforcement Branch or Legal Services may be required to determine the most appropriate action.

The CFSA does not provide direct remedies or enforcement regarding activities that take place on private land except where operations are authorized on that land under Section 29 of Ontario Regulation 167/95 (Crown Trees Not in Crown Forests).