

## Shoal Marking Risk Management Considerations

Shoal or rock marking, similar to many other “Good Samaritan” acts, can unfortunately expose you or your Association to a risk of being named in a Statement of Claim alleging negligence on your part.

While the success of any action against you, would require that you were determined to be “negligent”, by a court of law, legal defense costs can be very high. Coverage for these costs, as well as any compensatory judgment awarded by the court, would be covered by your FOCA insurance policy.

Where Directors, Officers or volunteers, while acting on behalf of your Association, are named in such suit, they would also be afforded the full protection of the Association Policy.

In situations where individuals are not acting on behalf of the Association Board of Directors, they would not be protected under the Association Policy.

It is likely if shoal marking is carried out solely by an individual and not on behalf of an Association, their homeowners liability could provide liability protection. It is up to such individuals to confirm coverage with their own Insurer or Broker.

In order to mitigate as much as possible, the risks associated with rock or shoal marking it is recommended that Associations observe the following:

- Ensure that your Association Insurer is aware that you undertake this activity. There is typically a small additional premium for this exposure;
- Establish a consistent procedure of where and when you will place and remove such markers;
- Notify all members or property owners (when possible) of buoy placement and removal date;
- Use [Minister of Transport](#) approved hazard buoys or refer to FOCA for additional information;
- It is advisable to place a disclaimer notice whenever possible. Newsletters can be a good opportunity to do so. Essentially, such notices should point out that although an effort is being made to mark some lake or waterway hazards, your Association is not responsible to ensure all hazards are marked or continue to be

marked. Every individual operator of a watercraft is solely responsible for safe boating including the avoidance of any water hazards;

- Ensure that any “floatation” device used to secure the buoy anchor, chains or ropes are safely secured to avoid presenting a hazard during the off season. In addition such devices should not be made of a material that would be injurious to winter surface users, such as ATV and snow machines or their drivers and passengers.

FOCA shares best practices related to risk reduction on behalf of our many volunteers.

If you have a story to tell - please advise the office at [info@foca.on.ca](mailto:info@foca.on.ca).