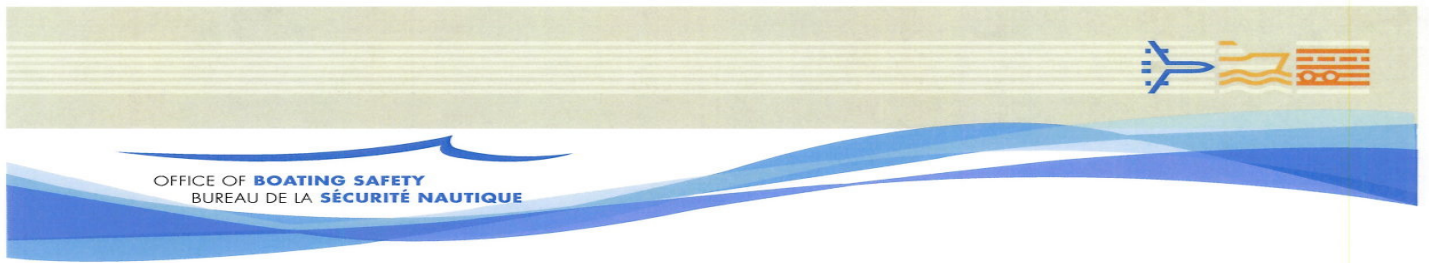


Step-By-Step Procedures VORR Application

Overview

1. The Vessel Operation Restriction application starts with a concerned citizen with the support from their local government contacting the Office of Boating Safety regarding a waterway concern
2. The VORR process is outlined to the potential applicant and alternatives to regulation is discussed.
3. A Local Authorities Guide is sent to the applicant
4. The applicant is required to follow the Local Authorities Guide Workbook prior to submitting an application.
5. The applicant is submitted to the OBS, along with any documentation regarding consultation or alternative methods explored. The applicant (any level of local Government) is required to be responsible for all signage and maintenance once a restriction is in place.
6. The Office of Boating Safety supplies wording for the applicant to place temporary signs (OBS does not provide signage) indicating the intention of the restriction with comments in writing to the Office of Boating Safety. Signs are posted at access points to the waterway. Optimum time period for posting is during peak use (e.g. June, July, August). Information posters regarding the proposed restriction are also posted by the applicant at convenient locations. Advertising by the applicant in the local newspaper is required indicating the proposed restriction with all comments to the Office of Boating Safety.
7. The Office of Boating Safety sends referrals regarding the intended restriction to municipal, provincial, and federal government agencies as well as other groups that may be affected by the proposed restriction.
8. Comments are collected throughout the summer months and the applicant is advised based on the comments if more consultation is required.
9. A brief is provided to the Office of Boating Safety Manager regarding the application and the recommendations.
10. The application is reviewed along with any other documentation prior to recommendations and submissions to Ottawa.



There is a structured process that must be followed for a waterway or portion of a waterway to be designated under the regulations. It applies to every request for a Vessel Operation Restriction, since requests are assessed case-by-case. This Process is not an absolute checklist, particularly in regard to consultation, but rather a system to ensure the requirements of the Regulatory Policy are met. Regional Offices of Boating Safety are key in assisting and providing advice on consultation, and in facilitating initiatives to resolve waterway conflict or concern.

2.1 Public Consultation: A Three Step Process

Public consultation is not a clearly defined step in the regulatory process. It is an ongoing component designed to solicit from the public the best solutions to a given problem. It is also one of the main mechanisms in identifying and addressing areas of concern.

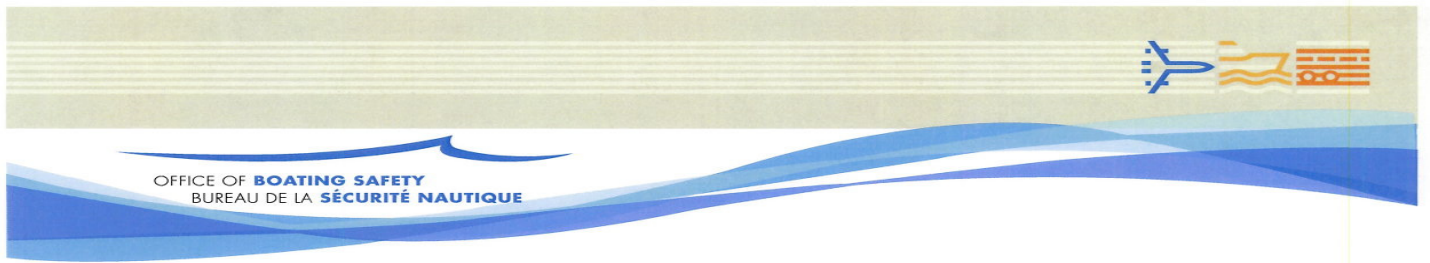
Consultation can bring groups with diverging perceptions together, and provide a forum for them to discuss and agree on ways to remedy their concerns. Many times, this process is successful and results in non-regulatory solutions. Before consulting, develop a consultation plan and share it with your Regional Office of Boating Safety (OBS). The OBS can provide helpful ideas and direction to keep the process on track.

A Note on Consultation

Public consultation is the most time consuming aspect of the regulatory process, and the most important. Unfortunately, it is also the part of the process that is least understood. Proper public consultation is used not only to inform the public of the concerns and the problems of a particular waterway, but also to allow affected stakeholders to provide input and suggestions to assist in resolving these issues, prior to further government involvement. Public consultation is a way of ensuring that people and groups explore all their potential avenues of action, prior to undertaking a regulatory initiative. The consultation process may reveal that the restriction is not the best, or desired means, of addressing the issues at a given location, or that a non-regulatory alternative may resolve the situation.

Public Consultation can identify a problem, lead to non-regulatory alternatives, measure the results of those alternatives, and if all else fails, it can examine the most appropriate solution that resolves the problem, while having the least impact. Consultations are an opportunity for stakeholders to be involved in the process and provide input. A Vessel Operation Restriction Regulation application is not accepted based on the number of people supporting a restriction, but rather on the basis of its merit and need.

The following steps are essential to successful consultation. The number of stakeholders affected by a propose Vessel Operation Restrictions determines the level of resources needed to ensure full public consultation. The quality of consultations will directly affect the federal government's ability to process an application. Also, if consultation has not been carried out in an appropriate manner, the Office of Boating Safety will not be in a position to support or recommend that a submission move forward. Expect delays or returned applications in such case.



2.12 Step 1: Determining who the stakeholders are:

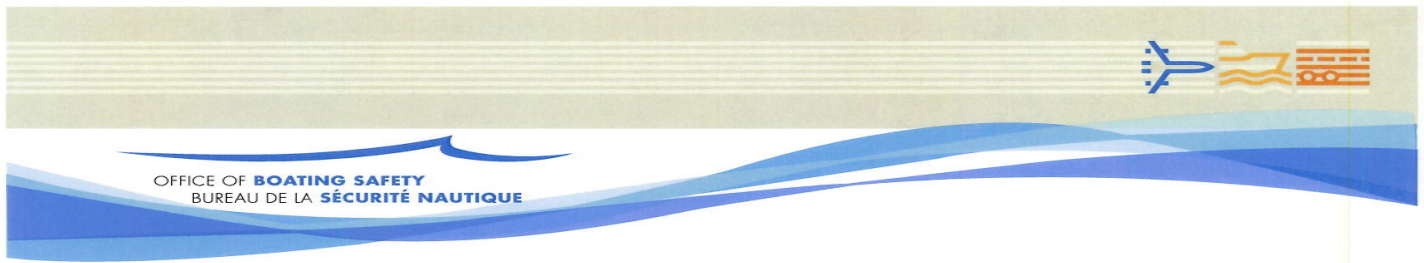
Each waterway has its own, unique set of stakeholders. The applicant conducting the consultation must ensure that affected stakeholders have the opportunity to provide input. The list of affected stakeholders will include government and non-government groups and individuals. Examples include:

Possible non-government stakeholders:

- Shore residents and property owners
- Marina operators
- Yacht clubs, and sailing organizations
- Boat rental agencies
- Private boaters
- Commercial operation, tour boats, ferries, logging tow boats, outfitters, sports and commercial fishing organizations or groups
- First Nations' groups
- Foreshore lease holders
- Advisory council
- Environmental groups
- Local Port or Harbour Authorities
- Community Organizations
- Ski clubs, Yacht clubs, pleasure boating groups
- Individuals who use the waterway

Possible government stakeholders or agencies:

- Transport Canada
- Fisheries & Oceans Canada
- Environment Canada
- Department of Justice
- Heritage Canada
- Provincial / Federal park authorities
- Provincial, regional, or municipal governments
- Provincial transportation agency
- Tourism ministry
- Crown Lands
- Local, regional, provincial or federal law enforcement
- Provincial Ministry of Environment Offices
- First Nations



2.13 Step 2: Notifying Stakeholders of Waterway Concerns

Once stakeholders have been identified, they must be informed of the concerns raised so that the problem, if it exists, can be identified and an opportunity to find a non-regulatory alternative is fully explored (prior to a proposed restriction) and the reason for it. How each stakeholder is notified and given the opportunity to provide input may vary from area to area and for each stakeholder.

There are several ways to ensure notification. Often, stakeholders can be notified through advertising in local newspapers. On its own, this is an insufficient way of informing stakeholders. Other means of notifying stakeholders should be used. Public notification must include a contact point for the public to direct responses and inquire.

Other examples of notification include:

- Posting notices at access points, marinas, ports, park information shelters, community notice boards, local stores, etc.
- Organizing public meetings
- Appearing on local call-in-radio / TV shows
- Placing notices in mailboxes of homes and businesses in the affected area.
- Contacting Associations directly and asking them to inform their members
- Sending notification to the government agencies
- Flyer campaigns
- Electronic notification through websites and e-mail notification

2.14 Step 3: Stakeholders Consultation

In this stage of the consultation process, the stakeholder response is received, taken into account and documented. If required, meetings are held and responses are compiled and summarized. Consultation is used to determine the following aspects:

- What is the exact definition of the problem(s)?
- What are the causes of the problems(s)?
- Are there presently any regulations in place that may address the problem?
- What are non-regulatory alternatives that can be used?
- What is the best solution to address the problem?
- What are the costs and benefits of the causes and their possible solutions?
- What are the impacts of the regulation on businesses, property owners, and all other stakeholders in the area?
- Is there anyone else that should be consulted? Who has been missed?
- What federal or provincial government agency is responsible for this type of issue?

A file of the consultation and results may include:

- Identification of the problem
- Identified causes
- Identified non-regulatory alternatives
- Comparative analysis leading to preferred solution
- Itemized and total summary of life cycle costs and benefits
- A list of stakeholders contacted and how they were contacted
- Copies of meeting minutes
- Letters and e-mails of support and opposition
- A list of phone call responses
- Copies of newspaper / magazine notifications, including data and names of publications used
- Other relevant documentation

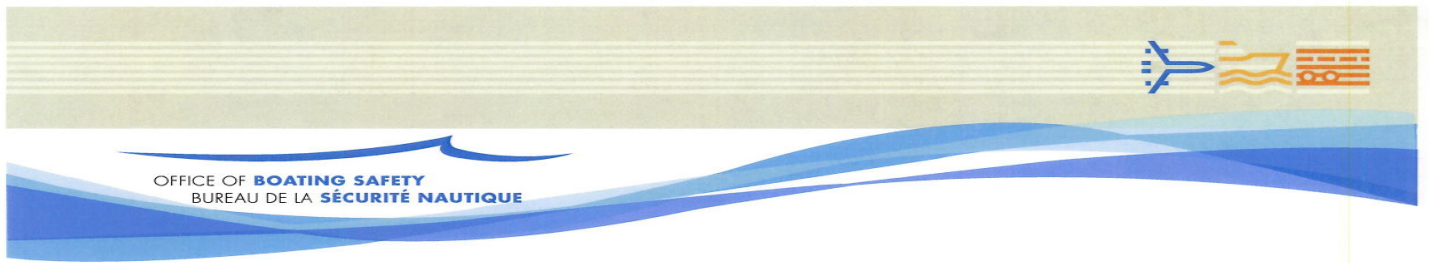
If the end result is proposed regulation, expect the applicant to be questioned by the public and various levels of government on the rationale behind the identification of the problem, alternate solutions attempted or considered, and the thoroughness of consultation. Have this information available, as it will be used to respond to the many queries received from the various offices (up to and including Treasury Board analysts) involved in processing regulatory amendments. Accurate documentation will allow for proper evaluation and a clear record of events, and will support a case for restrictions, if necessary.

Throughout the consultation process, the applicant must consider foremost that a restriction may not be the best or only way of addressing the problem on the waterway in question. Consultation is a component of the review process that must be satisfied, prior to submitting a proposed restriction to the regional Office of Boating Safety (OBS). This will help the OBS to ensure that the Regulatory Policy has been properly completed. Review the Government of Canada Regulatory Policy and develop a dialog with the regional Office of Boating Safety before initiating the process.

2.2 Exploring Non-Regulatory Alternatives

Identifying a problem and proper consultation are key components in resolving a waterway concern. Part of consultation is to explore non-regulatory or voluntary compliance initiatives that may resolve the safety concern. It has been demonstrated on many waterways that a non-regulatory initiatives can achieve the same result as a Vessel Operation Restriction, without going through the time-consuming regulatory process.

A non-regulatory alternative can be as simple as an agreement between waterway users to respect each other's rights to operate in a courteous manner, or to follow a voluntary code of conduct. Other forms of non-regulatory alternatives can be signs posted around a waterway requesting operators to reduce speed near narrow channel, near shore, around swimming areas or in areas where non-powered pleasure craft such as canoes and kayaks may be adversely affected by the speed or wake of a power driven vessel. Signs such as "Please do not enter swimming area", "Caution – swimming area", "Please reduce your wake", "Hazards near shore", "Please reduce your speed near shore", "Please reduce speed when entering a narrow channel", "In the interest of safety, all water-skiers please operate in a counter clockwise direction", are a few examples of how signage can be used to improve behavior and increase safety on a waterway.



Voluntary compliance signs posted near a waterway cannot be mistaken for a federal prohibition if no prohibition exists. Posted signs that could be mistaken for a Vessel Operation Restriction are not permitted under federal legislation.

Signs indicating certain penalties already in regulations or Acts are also a good reminder to waterway users. “Prohibition Against Careless Operation” under section 43 of the Small Vessel Regulations is a good example. This section states “No person shall operate a small vessel in a careless manner, without due care and attention or without reasonable consideration for other persons”. Regional Offices of Boating Safety have sign templates indicating the types of operation this may include. Sign templates are also available at:

www.tc.gc.ca/boatingsafety/careless.htm

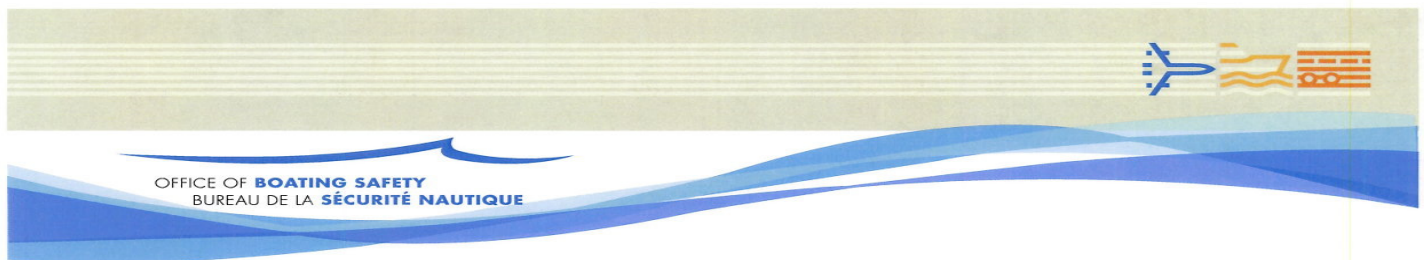
Signs reminding waterway users of prohibitions under the *Fisheries Act*, *Wildlife Act* or other Acts and regulations are also a good method of educating waterway users.

2.3 Applying For a Restriction

Once the need for a Vessel Operation Restriction is established, the application process can begin. The applicant in any given case will vary. An applicant can be any level of government or recognized group supported by some level of government capable of completing the Vessel Operation Restriction Regulation process and maintaining any signs or buoys if required once an application is successful. Regardless, the local level of government should be supportive, or at least not opposed, to the designation.

Direct the application to the regional Office of Boating Safety (OBS) or the appropriate provincial or territorial government department in a manner acceptable to the OBS. The basic information required in an initial application usually includes:

- Who the applicant is and what organization they represent (if applicable)
- Complete contact information for the applicant
- An accurate nautical description of the area to be considered for a proposed restriction, as this may be used to create a legal description of the site
- An explanation as to why the site needs to be included in the Vessel Operation Restriction Regulations
- Documentation to support the assertion
- Documentation of the consultation that has taken place
- Available supporting evidence that non-regulatory alternatives were not successful, scientific data (if required), and documentation that the proposed restriction is the best alternative, etc.
- Level of commercial and recreational boating activity, and potential impact
- Resident population, including number of marinas, boat launches, rental agencies, homes or cottages, beaches, public access points like launch ramps, swimming areas, etc.
- Water usage (i.e. types of vessel using the waterway)
- Endorsement or acceptance by local law enforcement
- Costs and benefits of all options considered during the consultations (including but not limited to increased / decreased tourism, loss / increase in business, non-regulatory alternatives, enforcement, impact on pleasure and non-pleasure vessels, etc.)



The provincial or territorial authority or the regional OBS may require more information from the applicant depending on the complexity and impact of the application.

2.4 The Review Process

The application package sent by the applicant to the regional Office of Boating Safety (OBS) must contain enough information to allow the OBS to review the file and ensure that the process followed has met the requirements of the Government of Canada Regulatory Policy. It is in the applicant's interest to contact the regional OBS for guidance on non-regulatory alternatives and on developing the following information if a Vessel Operation Restriction is the appropriate alternative:

- A description of the waterway including types of activity, access points, population, vessel types and other water related activities.
- A chart or map clearly indicating the boundaries of the proposed site
- A complete description of the perceived problem(s), complete with an analysis of all probable causes and all potential solutions listing all of their pros and cons, etc.
- A summary of the consultation process, to include, as applicable:
 - a) A list of major stakeholders, their positions, how they were contacted and by what means
 - b) Copies of print advertisements used including their date, place and publication
 - c) Copies of posters / flyers and a list of locations displayed
 - d) Dates and stations used for call-in programs
 - e) Copies of minutes of meetings
 - f) Summary of e-mails / letters – for an against
 - g) Summary of telephone calls for and against
 - h) Summary of non-regulatory alternatives considered including reasons for continuing with the proposed restriction, as well as why a particular restriction was selected.
 - i) A copy of the cost / benefit analysis
 - j) A description of the compliance and enforcement mechanisms that will be put in place, and a letter from the local enforcement agency confirming that they support the proposed restriction and can enforce it.
 - k) If the applicant is not a government agency, agreement or support from some level of government for responsibility for signage.

The regional OBS (and/or Designated Provincial Authority) will consider all aspects of the application and determine whether or not there is enough evidence to apply for a proposed Vessel Operation Restriction.

If necessary, an assessment of the waterway by qualified federal, provincial or territorial officials may be conducted to gather additional information to evaluate the waterway. The regional OBS will review and assess the level of consultation that has been conducted and will ensure that a cost / benefit analysis of the site(s) is prepared. Following this review, the regional OBS may recommend a proposed restriction for forwarding or return it to the applicant for more information or for further consultation. Recommended applications will be assembled and submitted to the Office of Boating Safety National Headquarters (OBS NHQ).

If the application is complete at this level, the OBS NHQ will prepare a Regulatory Impact Analysis Statement (RIAS) and other documentation. These documents will be in support of the designation and will summarize the information contained in the application, including an outline of the public consultations held, how the problem was defined, why this regulation was deemed the best solution, the impacts a designation will have on stakeholders, and how the different facets of the Regulatory Policy were satisfied.

The proposed amendment to the regulations to include the new site nomination, along with the accompanying RIAS is processed through the legislative law-making process, and may be published in Canada Gazette Part I. The Gazette is published nationally and allows stakeholders one last opportunity to comment on the proposed regulatory changes. If comments are received by the federal government during the comment period that have already been addressed during consultations, or if no comments are received at all, the nominated sites may be published in the Canada Gazette Part II and could become federal law at a date prescribed in the Regulation. In cases where comments are received that have not been previously addressed, the RIAS may have to be revised to address those concerns and / or additional consultations may have to be carried out.

Once the amendments have been published in Part II of the Canada Gazette, the OBS NHQ will inform the regional OBS and designated provincial authority (if applicable), who will in turn inform the applicant. The applicant is responsible for ensuring that notification is given to the public. This notification can be in various forms, and may include the posting of signage in the designated areas or in public places close to the designated site. The applicant will be given ministerial authority to post any necessary signage once the proposed restriction is published in Canada Gazette Part II.