BRITISH COLUMBIA | BC Parks

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Protected Areas Management in Aquatic Environments
Frequently Asked Questions

Provincial protected areas include extensive submerged lands (foreshore) in tidal marine and non-tidal freshwater environments. Many of the natural, recreational and cultural values in protected areas are aquatic. Water-borne activities are important considerations in protected area management. The extent to which protected area management should deal with water-borne activities is a source of discussion and confusion. The following is a set of the common questions that staff have posed regarding the interaction of federal and provincial authorities in aquatic environments.

1. *What is foreshore?*

In protected areas terminology, **foreshore** is any part of land within a protected area that is regularly covered by water. Protected area land not covered by water is termed upland. The *Land Act* specifically defines the boundary between upland and foreshore as follows "**natural boundary** means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the body of water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself." There are a number of other terms that are used in describing foreshore:

- Land covered by water: often used in the legal description of a protected area, it is the same as foreshore.
- Foreshore (see 'what is foreshore' discussion above): some agencies use a narrow definition of foreshore to refer to only that part of land below a natural boundary that is occasionally covered by water (see intertidal).
- Backshore: land above a natural boundary but still influenced by the water body, sometimes called the spray zone.
- Riparian: pertains to the banks of a river or stream, in practice the riparian zone is the upland along any shore and its width is characterized by the extent of moisture-loving plants.
- Intertidal: the part of foreshore that is exposed by the annual tide cycle (lies between the natural boundary and lowest low water).
- Subtidal: the part of foreshore that is never exposed by the annual tide cycle.
- Seabed: similar to foreshore or land covered by water, but is only that narrow part of the foreshore that is the transition from the water column to the non-life supporting subsoils or bedrock. Protected areas are not restricted to the seabed.
- Water column: that part of foreshore from the seabed to the water surface but not including those surfaces.
- Submerged lands: same as foreshore.
- Upland: land above a natural boundary.
- High water mark: same as natural boundary.
- Beach: land lying below the natural boundary but not continuously covered by water. Can be the same as intertidal

2. *In the marine environment, where does provincial land end and federal land begin?*

For protected areas management purposes the boundary between provincial submerged lands and federal submerged lands is straightforward - where the Province of British Columbia has designated protected areas that include submerged land, the province asserts ownership and provincial authority applies.

More generally, the province claims ownership of all coastal waters. The exact boundaries of the coastal waters have not been defined; however they can be broadly described as follows:

- Dixon Entrance,
- Hecate Strait,
- Queen Charlotte Sound,
- Queen Charlotte Strait,
- Johnstone Strait,
- Strait of Georgia,
- Juan de Fuca Strait, and
- Along shorelines directly exposed to the Pacific Ocean (the west coast of Vancouver Island and Queen Charlotte Islands), the intertidal zone to the low water mark and those waters that lie between headlands; then,
- Excepting those areas transferred to Canada: 7 federal harbours 2 national park reserves, 1 national marine conservation area reserve and miscellaneous other parcels.

3. *Does the federal government own the water column?*

No. Where the province owns submerged land, the province also owns the water. In non-tidal waters (freshwater), there are many examples of private land that is covered by water but the *Water Act* specifically states that all water is owned by the Province of British Columbia.

4. *Does provincial legislation apply in the water column?*

Yes. The application of provincial law is the same anywhere within the boundaries of British Columbia. There are specific activities that are regulated by the federal government on provincial land, some examples are: banking, trans-boundary transportation (railways etc), trans-boundary utilities, telecommunications, navigation (maritime and aviation), migratory bird management and fisheries management.

5. *Can the province manage activities that are under federal jurisdiction, particularly navigation or fisheries?*

Yes.
As long as the primary reason for management is of a provincial matter. For example, the management of protected areas can, to an extent, deal with navigation or fisheries related activities. For example, although anchoring a vessel is normally part and parcel of navigation, the Park, Conservancy and Recreation Areas Regulation, sections 17 and 39 state that no one can leave belongings or stay more than 14 days. Therefore, in provincial protected areas managed under this regulation, the province is able to enforce this regulation and limit the stay of a vessel to no more than 14 days.

No
If the management action is primarily directed at an activity that is a federal matter, then the answer is no. For example, provincial statues and regulations cannot close an area to navigation or fishing. In situations where fishing or navigation is causing degradation in a protected area, management options include best management practices, voluntary actions or liaison with federal agencies to apply their authorities. For example, Robson Bight (Michael Bigg) Ecological Reserve has a voluntary navigation closure. A detailed guide for marine management options is available by contacting Doug Biffard, Natural and Cultural Heritage Section.

The navigation examples are simple case studies, issues in fisheries management are more complex and best addressed in a collaborative manner with Fisheries and Oceans Canada (DFO).

6. *Can the federal agencies conduct activities in protected areas without provincial authorization?*

   No. There is a common belief that federal authority trumps provincial. This is not true. Federal staff must work within provincial laws and programs to achieve their program goals. For example, DFO cannot conduct inventory, carry out research or build patrol cabins or fish weirs in parks without a Park Use Permit.

   Federal staff can enter protected areas to conduct activities such as search and rescue, emergency environmental protection, wildlife rescue and compliance and enforcement without prior permission.

7. *Do salvage rights apply in provincial protected areas?*

   There is no right to salvage items found in coastal waters. Marine log salvage must be managed by the protected area authority. Refer to the Marine Log Salvage Policy for more details.

8. *If a commercial activity occurs in a boat, is it subject to a Park Use Permit?*

   Yes. The *Park Act* requires that commercial activities be authorized by permit *Park Act (section 20 and 21)*.

9. *Is a boat or an aircraft operator subject to protected area authority if it hasn't touched dry land?*

   Yes. A boat or aircraft is within a protected area when it crosses the boundary. The boundary is not a line, it is a plane that extends up into the atmosphere and down into the subsurface of the ground. For example, if a charter float plane lands on a lake in a park with clients but never touches the shoreline the operator still needs a Park Use Permit.

10. *What is the difference between a marine park and a marine protected area?*

    The terms 'marine park' and 'marine protected area' are not synonymous.

    There are 48 parks that are named Marine Parks (for example Adams Lake Marine Park or Desolation Sound Marine Park). The difference between these sites and all the other protected areas that include foreshore is that Marine Parks feature a safe anchorage for recreational boating.

    Marine protected area is an internationally recognised term that means any site that is designated for the long-term conservation of nature and includes some portion of the intertidal or subtidal marine realm. As of December 2008, there are over 170 provincial marine protected areas.

11. *Are there any provincial level general restrictions in the marine environment?*

    In 1967 the province reserved all lands covered by tidal water from mineral and placer mining (OIC number 030967).