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# A Strategic Plan for Aboriginal Involvement in the Aquatic Species at Risk Program

2009-2014



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## Introduction to SARA

The *Species at Risk Act* (SARA) was proclaimed in June 2003, and is the legislative basis for the Government of Canada's strategy for the protection of wildlife species at risk. SARA complements existing laws and agreements to provide for the legal protection of wildlife species and conservation of



Photo: Scott Portelli/Flickr/Getty Images

biological diversity; it aims to prevent wildlife species from becoming extinct, and to secure the necessary actions for their recovery. SARA recognizes that the protection of wildlife species is a joint responsibility and that all Canadians have a role to play in the protection of wildlife. It applies to federal lands, which include (a) land that belongs to the Crown, or that the Crown has the power to dispose of, and all waters on and airspace above that land; (b) the internal waters of Canada and the territorial sea of Canada; and (c) reserves and any other lands that are set apart for the use and benefit of a band under the *Indian Act*, and all waters on and airspace above those reserves and lands.

SARA is also a key element in fulfilling the role of Fisheries and Oceans Canada (DFO) as a sustainable development department. The implementation of SARA is a horizontal responsibility, shared both across and within departments and between jurisdictions.

## Why a Strategic Plan for Aboriginal Involvement in the Aquatic Species at Risk Program?

Given the number of sectors involved in SARA delivery in DFO, both nationally and regionally, this plan is intended to provide a nationally consistent perspective of the objectives, priorities, strategies and critical outcomes of Aboriginal involvement in the Aquatic Species at Risk Program. This Strategic

Plan complements DFO's Integrated Aboriginal Policy Framework (IAPF, found at: <http://www.dfo-mpo.gc.ca/fm-gp/aboriginal-autochtones/iapf-cipa-eng.htm>) and has the same tone and vision: supporting healthy and prosperous Aboriginal communities.

Additionally, this Strategic Plan will help guide the implementation of SARA in DFO and serve as a support tool over the next five years (2009-2014). The plan will be a foundation for planning and priority-setting processes for the Aquatic Species at Risk Program.

## Contextual Information

### SARA and Aboriginal Peoples

SARA recognizes Aboriginal and treaty rights, and the responsibilities accorded to Aboriginal peoples for the management and conservation of wildlife under various land claims agreements and treaties. SARA also recognizes that the traditional knowledge of the Aboriginal peoples of Canada should be considered in the assessment of which species may be at risk and in developing and implementing recovery measures (for more information on traditional knowledge, refer to the Guidelines on Considering Aboriginal Traditional Knowledge in SARA Implementation). As a result, SARA requires that Aboriginal peoples be provided the opportunity to participate in its implementation.

SARA can have significant negative implications for Aboriginal peoples given their established and potential Aboriginal and treaty rights as well as their historical and cultural connections to the land. Possible impacts of SARA could include restrictions or modifications to:

- Rights-based fishing opportunities;
- Other fishing opportunities;
- Fishing gear; and
- By-catch of species.



Photo: Margaret Butschler,  
Courtesy of the Vancouver  
Aquarium Marine Science Centre



Additionally, SARA protects the critical habitat of endangered and threatened aquatic species, and this could affect other activities carried out by Aboriginal peoples. These impacts are both direct and indirect (e.g., impacts on health as a result of reduced rights-based fishing opportunities).

SARA can also have positive impacts on Aboriginal peoples. For example, protecting and recovering aquatic species at risk could result in sustainability of fisheries, for which priority goes to meeting rights-based fisheries.

### Aboriginal Consultations in the Context of SARA

Aboriginal peoples traditionally view themselves as guardians or stewards of the natural environment and generally want to be actively involved in the protection and recovery of species at risk.



Photo: J. Orr

Many Aboriginal peoples reside in close proximity to important or critical habitats of species at risk, and are ideal candidates for targeted recovery implementation efforts. While some Aboriginal groups currently lack the capacity to engage in broad resource management activities, they often seek to bridge those gaps through federal programming or other mechanisms, as well as in forging new and expanded partnerships. Aboriginal peoples are seeking constructive and mutually respectful relationships with DFO, based

on reconciliation, enhanced collaboration, effective working partnerships and mutual respect. Aboriginal consultations should be viewed with this broader perspective in mind.

There are two broad reasons driving the need for Aboriginal consultations, and both apply in the context of SARA consultations:

1. Good Governance/ Policy Reasons	2. Legal Reasons
<ul style="list-style-type: none"> <li>• Make informed and appropriate decisions;</li> </ul>	<ul style="list-style-type: none"> <li>• Section 35 of the <i>Constitution Act</i>, 1982;</li> </ul>
<ul style="list-style-type: none"> <li>• Improve and create working relations with all those affected; and</li> </ul>	<ul style="list-style-type: none"> <li>• Statutory requirements; and</li> </ul>
<ul style="list-style-type: none"> <li>• Manage risk.</li> </ul>	<ul style="list-style-type: none"> <li>• Agreements and contractual requirements.</li> </ul>

In addition to SARA consultation and cooperation requirements, DFO's legal duty to consult Aboriginal peoples arises whenever Aboriginal or treaty rights may be adversely impacted. Three elements are required when determining whether a duty to consult arises:

1. Contemplated Crown conduct;
2. Potential or established Aboriginal or treaty rights; and
3. Potential adverse impact.



Photo: Fiona Cuthbert

When the duty to consult arises, the Crown is required to carry out a fair and reasonable process for consultations and demonstrate reasonable efforts to respond and/or accommodate. The February 2008 Interim Guidelines for Federal Officials to Fulfill the Legal Duty to Consult (<http://www.aic-inac.gc.ca/ai/arp/cnl/intgui-eng.pdf>) must be respected in the implementation of SARA and expands on the brief material provided here.





## Strategic Objectives and Associated Priorities

This Strategic Plan has two overarching strategic objectives for ensuring a coherent national approach to Aboriginal involvement in the implementation of SARA:

<b>Strategic Objective #1</b>	Aquatic Species at Risk Program policies and processes acknowledge and reflect the participation and interests of Aboriginal peoples; and
<b>Strategic Objective #2</b>	Support mechanisms are in place for DFO staff to effectively and efficiently undertake SARA processes that involve Aboriginal people.

The priorities associated with each strategic objective are:

<b>Priorities for Strategic Objective 1:</b>	<b>Priorities for Strategic Objective 2:</b>
<ul style="list-style-type: none"> <li>• Build and strengthen relationships between DFO and Aboriginal peoples;</li> </ul>	<ul style="list-style-type: none"> <li>• Develop Aboriginal traditional knowledge (ATK) policies and processes;</li> </ul>
<ul style="list-style-type: none"> <li>• Share information between DFO and Aboriginal peoples; and</li> </ul>	<ul style="list-style-type: none"> <li>• Provide guidance and education on role of Aboriginal peoples in SARA implementation; and</li> </ul>
<ul style="list-style-type: none"> <li>• Build capacity both within DFO and Aboriginal groups, based on expressed needs.</li> </ul>	<ul style="list-style-type: none"> <li>• Develop management control framework for Aboriginal involvement in SARA.</li> </ul>



## Strategies and Critical Outcomes

Three strategies, together with associated critical outcomes, have been identified to guide the involvement of Aboriginal peoples in the Aquatic Species at Risk Program:

### Strategy #1

**Cooperate with Aboriginal peoples and develop mechanisms to facilitate Aboriginal involvement in SARA implementation, including the development and implementation of recovery strategies, action plans and management plans.**

### Critical Outcomes

- Awareness in Aboriginal groups of SARA and its implications on Aboriginal peoples and the broader issue of species protection;
- Capacity in Aboriginal groups to participate in SARA implementation (e.g., via the Aboriginal Funds for Species at Risk Program);
- Aboriginal participation throughout the SARA cycle; and
- DFO processes that allow for meaningful involvement of Aboriginal groups in the development implementation of recovery strategies, action plans and management plans.



Photo: Graeme Ellis





## **Strategy #2**

### **Facilitate the consideration of ATK in SARA implementation.**

#### **Critical Outcomes**

- Guidance on the consideration of ATK in SARA processes, including how to address community ATK protocols;
- Mechanisms for the respectful sharing of ATK;
- Recognition within DFO on the importance of relationship building with Aboriginal peoples in the context of ATK;
- Recovery strategies, action plans and management plans that consider ATK, where ATK was available; and
- ATK considered throughout the SARA cycle.

## **Strategy #3**

### **Build DFO's capacity to serve Aboriginal Peoples regarding SARA implementation.**

#### **Critical Outcomes**



Photo: US Fish & Wildlife

- Internal coordination and communication regarding Aboriginal involvement in SARA; and
- Training for DFO staff to enable them to more effectively address the interests of Aboriginal peoples in relation to SARA implementation.

These strategies and critical outcomes, taken together with the strategic objectives and associated priorities, should form the basis of Aboriginal involvement activities in the Aquatic Species at Risk Program for the next five-year period (2009-2014).