



SARA and the Habitat Management Program

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Overview

1. Overview of SARA
2. What does SARA require?
3. Proposed approaches
 - Fisheries Act*
 - Canadian Environmental Assessment Act*
4. Issues and Challenges

A ASSESSMENT

- *Status Reports*
- *COSEWIC Decision*

B RESPONSE STATEMENTS

C LISTING

- *Endangered*
- *Threatened*

D PROTECTION

Automatic Prohibitions:

Protection for EN / TH species and their residence

Mandatory Recovery Planning:

Development of Recovery Strategies and Action Plans

Critical habitat protection


E RECOVERY

1. Overview of SARA



2. What does SARA require?

- 3 prohibitions of relevance to aquatic SAR
- Prohibitions apply to endangered and threatened Schedule 1 species
 - a) S. 32(1) No person shall kill, harm, harass, capture or take a SAR ...
 - b) S. 33 prohibits damage or destruction of residence...
 - c) S. 58 prohibits the destruction of critical habitat...
- SARA permitting provisions




“residence” means a dwelling-place, such as a den, nest or other similar area or place, that is occupied or habitually occupied by one or more individuals during all or part of their life cycles, including breeding, rearing, staging, wintering, feeding or hibernating. (SARA s.2)



When does the residence concept apply?

1. Do individuals use a dwelling place that is physically or functionally similar to a den or nest?
2. Are these places occupied or habitually occupied?
3. Are these places linked the performance of a life cycle function?



“Critical habitat” is the habitat that is necessary for the survival and recovery of a listed wildlife species that is identified in a recovery strategy or action plan. (SARA s.2)

- critical habitat should only be designated “to the extent possible” using the best available scientific information.
- when critical habitat is unknown, a schedule of studies to identify it must be prepared

When does the CH prohibition apply?

- Once critical habitat has been identified in a recovery strategy or action plan



2. What does SARA require?

SARA permitting provisions

- Sections 73/74 provide mechanism for issuing permits or agreements (including *Fisheries Act* authorizations), that may “affect” SAR, residence or critical habitat, preconditions **must** be met
- Interpretation of “affect” for aquatics should be restricted to the 3 prohibitions
- Not intended as broad permitting mechanism



Section 73 preconditions

73(3) The agreement may be entered into, or the permit issued, only if the competent minister is of the opinion that:

- (a) all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted;
- (b) all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals; and
- (c) the activity will not jeopardize the survival or recovery of the species.



Additional conditions in subsections 73(4-9)

- Consult with wildlife management boards concerning the species at risk in that area
- Consult with bands (under the *Indian Act*) concerning the species at risk in that reserve or other lands
- The SARA permit or agreements (FA authorization) should:
 - contain terms and conditions necessary for protecting the species
 - be reviewed if an emergency order is made
 - not be issued for a term longer than 3 years



3. Proposed approaches

SARA and *Fisheries Act* authorisations

- The harmful alteration, disruption or destruction of fish habitat (“HADD”) is likely despite contemplated preventive measures
- The HADD is acceptable to DFO;
- An adequate fish habitat compensation has been proposed

NEW

- Meet criteria in section 73 of SARA prior to issuance



3. Proposed approaches

SARA and the CEAA

- Undertake EA, ensure effects are not significant
- SARA is not a CEAA trigger

NEW

- Amended definition of environmental effect
- RA's to notify Competent Minister if project is likely to affect a listed SAR or its critical habitat
- RA must identify the adverse effects of the project on the listed SAR and CH and ensure that measures are taken to avoid or lessen those effects and to monitor them



4. Issues and Challenges

- Critical habitat and residence identification
- SARA permits and the 3 year time limit
- Recovery strategy development
 - Recovery objectives and plan for getting there
- Allowable harm assessments and partitioning harm



SARA subsection 83(4): Recovery Plans

83(4). Subsections 32(1) and (2), section 33 and subsections 36(1), 58(1), 60(1) and 61(1) do not apply to a person who is engaging in activities that are permitted by a recovery strategy, an action plan or a management plan and who is also authorized under an Act of Parliament to engage in that activity, including a regulation made under section 53, 59 or 71.



Thank you

Questions and discussion