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du Canada

Species at Risk Act
Policies and Guideline Series

**Addressing *Species at Risk Act*
Considerations Under the *Canadian
Environmental Assessment Act* for
Species Under the Responsibility of
the Minister responsible for
Environment Canada and Parks
Canada**

Environment Canada and Parks Canada

Canada

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Note to Readers

Document information

This guide may be reviewed and updated periodically. To ensure that you have the most up-to-date version, please consult:

- the [Species at Risk Public Registry](#); or
- the Canadian Environmental Assessment Agency's guidance material Web page at [Canadian Environmental Assessment Agency – Policy & Guidance – Guidance Materials](#).

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Acronyms

CEAA	<i>Canadian Environmental Assessment Act</i>
CESCC	Canadian Endangered Species Conservation Council
COSEWIC	Committee on the Status of Endangered Wildlife in Canada
NACOSAR	National Aboriginal Council on Species at Risk
SAR	Species at Risk
SARA	<i>Species at Risk Act</i>
SARA EA Checklist	<i>Species at Risk Act</i> Environmental Assessment Checklist for Species Under the Responsibility of the Minister Responsible for Environment Canada and Parks Canada

Table of Contents

GUIDE OVERVIEW	1
PART 1. SARA PROVISIONS RELATING TO PROJECT REVIEW.....	4
OVERVIEW	4
1.1 SARA Notification Requirement	7
1.2 SARA Project Review Requirements	13
1.3 Amendment to the CEAA Definition of “Environmental Effect”	18
PART 2. INCORPORATING SARA CONSIDERATIONS INTO THE CEAA PROCESS.....	21
OVERVIEW	21
2.1 Initial Considerations.....	23
2.2 Notification of the Competent Ministers	26
2.3 Responsibilities of the Competent Ministers	28
2.4 Federal-Provincial/Territorial Harmonization.....	30
2.5 Registry Requirements	32
2.6 Analysis of Potential Project Effects on Species at Risk	34
2.7 Consideration of Alternatives.....	36
2.8 Consideration of Cumulative Environmental Effects	39
2.9 Mitigation Measures	42
2.10 Exemptions to the Release of Information.....	45
2.11 Determination of Significance.....	47
2.12 SARA Permit Decision	50
2.13 Monitoring and Follow-up Programs	55
2.14 Adaptive Management.....	58
APPENDICES: BACKGROUND TO THE SPECIES AT RISK ACT	60
OVERVIEW	60
Appendix A: Introduction to SARA.....	61
Appendix B: SARA Definitions.....	63
Appendix C: Summary of Responsibilities Under SARA.....	66
Appendix D: Key SARA Instruments	68
Appendix E: SARA Notification Template.....	73

Figures and Tables

TABLE 1: SARA PROVISIONS THAT RELATE DIRECTLY TO PROJECT REVIEW	5
TABLE 2: AMENDING PROVISION OF SARA.....	6
TABLE 3: WHO MUST BE NOTIFIED?.....	8
TABLE 4: ALTERNATIVES UNDER CEAA.....	36
FIGURE 1: SARA CONSIDERATIONS DURING AN EA.....	22

Guide Overview

Purpose of guide

This document has been prepared to provide guidance on specific obligations under the *Species at Risk Act* (SARA) for species under the responsibility of the Minister responsible for Environment Canada and Parks Canada as they relate to federal environmental assessment. Specifically, the guide shows how certain SARA requirements may be addressed at each step of an environmental assessment conducted under the *Canadian Environmental Assessment Act* (CEAA).

Contents

This publication contains the following topics:

Topic	Page
Part 1. SARA Provisions Relating to Project Review	4
Part 2. Incorporating SARA Considerations into the CEAA Process	21
Appendices: Background to the <i>Species at Risk Act</i>	60

Part 1 of this guide focuses on the SARA provisions that relate to federal environmental assessment project review and responsible authority (RA). It identifies the relevant SARA requirements for responsible authorities, as well as the federal policy associated with the requirements.

Part 2 of this guide examines how the SARA provisions can best be integrated into each step of the CEAA process. It presents guidance on the additional procedures that an environmental assessment practitioner or responsible authority may need to consider during an environmental assessment.

The appendices provide additional SARA background information that is of particular relevance to an environmental assessment practitioner. The appendices include an overview of SARA, definitions, responsibilities, key instruments, information sources and a template for notification.

In addition, SARA environmental assessment checklists for species under the responsibility of the Minister responsible for Environment Canada and Parks Canada developed as a complementary support tool for this guide provide the required information elements under SARA for environmental assessments conducted under CEAA.

Related guidance

This guide complements related guidance available for both SARA and CEAA. For additional information on related topics, please refer to the following:

- SARA background material and guidance on the Species at Risk Public Registry website at www.sararegistry.gc.ca; and
- CEAA guidance on the Canadian Environmental Assessment Agency's website at www.ceaa-acee.gc.ca/default.asp?lang=En&n=DACB19EE-1.

Note: Additional guidance on integrating SARA considerations regarding species under the responsibility of the Minister responsible for Environment Canada and Parks Canada into other federal environmental assessments, such as environmental assessments conducted under the Mackenzie Valley Environmental Impact Review Board, the Nunavut Impact Review Board, and the *Yukon Environmental and Socio-economic Assessment Act* is currently under development.

Intended users

The guide is primarily intended for those who are already familiar with federal environmental assessment and would like to know how to incorporate SARA requirements regarding species under the responsibility of the Minister responsible for Environment Canada and Parks Canada into their project reviews under CEAA.

Various portions of this guide will be relevant for:

- responsible authorities and federal authorities under CEAA;
- environmental assessment practitioners responsible for conducting or contributing to environmental assessments involving the federal government;
- managers and project proponents responsible for projects that are subject to an environmental assessment under CEAA; and
- other jurisdictions that may have an interest in such projects.

Note: This guide is specific to species under the responsibility of the Minister responsible for Environment Canada and Parks Canada. For guidance regarding the incorporation of SARA requirements for species under the responsibility of the Minister of Fisheries and Oceans in the federal environmental assessment process, please contact Fisheries and Oceans Canada.

Disclaimer

This document has been prepared for information purposes only. It is not a substitute for CEAA, SARA or any regulations under these Acts. In the event of an inconsistency between this guide and these Acts or regulations, the Acts or regulations, as the case may be, would prevail.

Official or more detailed information can be found in the legal text of [SARA](#) and [CEAA](#) and any regulations made under these Acts, available on the Department of Justice website at <http://laws.justice.gc.ca/en/index.html>.

Individuals with specific questions about either Act are encouraged to seek legal advice.

Note: Regardless of whether an environmental assessment is triggered under CEAA, SARA compliance and prohibitions apply at all times. For further information on compliance responsibilities, see the [Species at Risk Public Registry](#).

Part 1. SARA Provisions Relating to Project Review

Overview

Purpose of Part 1

SARA provides a framework for the protection and recovery of species at risk in Canada. The measures it provides for, and the information generated, will be highly relevant to the conduct of environmental assessments.

In addition, SARA contains four provisions that directly relate to federal project review.

Part 1 of this guide provides:

- an overview of the four SARA provisions that relate directly to federal environmental assessments; and
 - background for more detailed consideration of each of these provisions.
-

Contents

This part contains the following topics:

Topic	Page
1.1 SARA Notification Requirement	7
1.2 SARA Project Review Requirements	13
1.3 Amendment to the CEAA Definition of “Environmental Effect”	18

Table 1: SARA provisions that relate directly to project review

Three provisions in SARA directly relate to the conduct of environmental assessments. The following table summarizes these three provisions. Each provision is then considered in more detail in following sections.

SARA provision	Description	For details see:
s. 79(1)	Requires that every person who is required by or under an Act of Parliament to ensure that an assessment of the environmental effects of a project is conducted must, without delay, notify the competent minister or ministers in writing of the project if it is likely to affect a listed wildlife species or its critical habitat.	1.1 SARA Notification Requirement
s. 79(2)	Requires that, where a federal environmental assessment is being carried out in relation to a project that may affect a listed wildlife species or its critical habitat, the person responsible for ensuring the assessment is conducted must: <ul style="list-style-type: none"> • identify potential adverse effects on the listed wildlife species and its critical habitat; and • if the project is carried out: <ul style="list-style-type: none"> › ensure that measures are taken to avoid or lessen those adverse effects and to monitor them, and › ensure that such measures are consistent with any applicable recovery strategy and action plans. 	1.2 SARA Project Review Requirements
s. 79(3)	Defines “person” as: <ul style="list-style-type: none"> • including an association or organization, and a responsible authority as defined in subsection 2(1) of CEAA. Defines “project” as: <ul style="list-style-type: none"> • a project as defined in subsection 2(1) of CEAA. 	Definition of a person Definition of a project

Definition of responsible authority

The expression “responsible authority” is defined in subsection 2(1) of CEAA.

It means, in relation to a project:

a federal authority that is required pursuant to subsection 11(1) to ensure that an environmental assessment of the project is conducted

Definition of a project

“Project” is defined in subsection 2(1) of CEAA as

- (a) in relation to a physical work, any proposed construction, operation, modification, decommissioning, abandonment or other undertaking in relation to that physical work, or
 - (b) any proposed physical activity not relating to a physical work that is prescribed or is within a class of physical activities that is prescribed pursuant to regulations made under paragraph 59(b)
-

**Table 2:
Amending provision of SARA**

The fourth provision in SARA that directly relates to federal project review also provides for a consequential amendment of the CEAA definition of “environmental effect,” summarized in the following table, that reinforces the obligation to consider potential environmental effects.

Provision	Description	For details see:
SARA s. 137	Amends the definition of “environmental effect” under CEAA to clarify, for greater certainty, that environmental effects include any change the project may cause in the environment, including to a listed wildlife species, its critical habitat or the residences of individuals of that species.	1.3 Amendment to the CEAA Definition of “Environmental Effect”

1.1 SARA Notification Requirement

SARA notification requirement for responsible authority

Under subsection 79(1), SARA confers an obligation on a responsible authority to notify the competent minister or ministers of a project if the project is likely to affect a listed wildlife species or its critical habitat.

Species or critical habitat to which the notification requirement applies

The SARA notification requirement covers all species listed in Schedule 1 of SARA, regardless of whether they are found on lands managed by the federal, provincial or territorial governments.

“Listed species” refers to species listed in Schedule 1 of SARA and includes species designated as extirpated, endangered, threatened or of special concern. Listed species are identified on the Species at Risk Public Registry at www.sararegistry.gc.ca/species/default_e.cfm.

The SARA notification requirement covers all listed species regardless of whether prohibitions apply to those species or not. Where prohibitions do apply, permits may be required.

Critical habitat is habitat that is necessary for the survival or recovery of a listed wildlife species and that is identified as the species’ critical habitat in the recovery strategy or action plan for the species. Recovery strategies and action plans are posted on the Species at Risk Public Registry.

Notification for other species

Notification of a project under subsection 79(1) is required for listed wildlife species only. However, the Species at Risk Public Registry also identifies COSEWIC species currently under consideration for listing. When any such species is likely to be affected by a project, a responsible authority is encouraged to send in a notification. While there is no legal requirement to do so, this would address the requirement for notification should listing occur before the environmental assessment is completed.

For the reasons stated above, a responsible authority may choose to provide notification if a project is likely to affect any COSEWIC-listed wildlife species.

Who is responsible for notification?

Under CEAA, the person who is required to ensure that an environmental assessment is conducted is the responsible authority. Thus, the onus is on the responsible authority to comply with subsection 79(1) of SARA.

If there is more than one responsible authority, then each has a responsibility to notify the competent minister(s). Their responsibilities may be met by coordinating a joint notification that each should sign, or alternatively, each sending in a separate notification.

For example, in a project with three responsible authorities, all three could sign a single notification or three separate notifications could be sent.

Note: Formal notification is required even if discussions have occurred between a responsible authority and the competent department offering advice on the species.

Table 3: Who must be notified?

A responsible authority must send a notification to the competent department reporting to the competent minister responsible for the listed wildlife species.

In other words:

For...	Notification must be sent to...
<ul style="list-style-type: none"> • any species and their critical habitat found exclusively or partly in or on federal lands administered by Parks Canada 	Parks Canada
<ul style="list-style-type: none"> • for aquatic species and their critical habitat 	Fisheries and Ocean Canada
<ul style="list-style-type: none"> • for migratory birds protected by the <i>Migratory Birds Convention Act, 1994</i> and their critical habitat, and • all other species and critical habitat 	Environment Canada (see note)

Note: To find out whether more than one notification is required, please refer to the section entitled [Is more than one notification required?](#)

How should notification be done?

Notification should follow existing environmental assessment channels.

For example, notification letters should be sent to the regional environmental assessment department or agency contacts who would normally be contacted under the procedures of the *CEAA Regulations Respecting the Coordination by the Federal Authorities of Environmental Assessment Procedures and Requirements*, also known as the Federal Coordination Regulations.

Contact lists are available through department or agency members of the regional environmental assessment committees. For a list of contacts, please communicate with your Canadian Environmental Assessment Agency regional office. Contact information is also available on the Agency's website at www.ceaa-acee.gc.ca/default.asp?lang=En&n=12D96EC7-1.

Parks Canada contacts

Parks Canada has 33 field units which are groupings of national parks, national historic sites and national marine conservation areas whose proximity to each other allows them to share management and administrative resources. There are four service centres: Halifax, Québec, Cornwall/Ottawa and Winnipeg/Calgary/Vancouver.

Most field units have an environmental assessment coordinator, and there are also environmental assessment specialists in each of the service centre offices. The environmental assessment coordinators and specialists are the primary contacts for environmental assessments.

Parks Canada contacts can be accessed at:
www.pc.gc.ca/eng/agen/courriel-email.aspx

Fisheries and Oceans contacts

Fisheries and Oceans Canada contacts can be accessed at:
www.dfo-mpo.gc.ca/contact-eng.htm

Environment Canada contacts

Environment Canada regional contacts can be accessed at:
www.ec.gc.ca/default.asp?lang=En&n=DA294545-1

Is more than one notification required?

When more than one listed wildlife species or critical habitat may be affected, a single notification may cover all the species.

If there is more than one competent minister responsible for the listed wildlife species or critical habitat, notification must be sent to each competent department with responsibility for the species.

For example:

- If a project occurs or is proposed on both federal lands administered by Parks Canada and other lands, and could affect a species under the responsibility of the Minister responsible for Environment Canada and Parks Canada listed on Schedule 1 of SARA, both Parks Canada and Environment Canada regional contacts should be notified.
- Similarly, if a project occurs or is proposed on federal lands administered by Parks Canada and elsewhere, and could affect an aquatic species listed on Schedule 1 of SARA, both Parks Canada and Fisheries and Oceans Canada regional contacts should be notified.

Additional notification may be needed should it become known, later in the environmental assessment process, that additional listed wildlife species or their critical habitat are likely to be affected.

When must notification be provided?

Notification must be made as soon as a responsible authority identifies that a project is likely to affect one or more listed wildlife species or its critical habitat.

In practice, this could occur at any phase of the environmental assessment, such as very early during the review of a project description, during the scoping phase, as a result of field work, or later on during the analysis of environmental effects or even the follow-up. Notification is required at any of these stages if it is only then discovered that the project is likely to affect a listed wildlife species or its critical habitat.

The responsible authority should not delay notification until after the identification of mitigation measures. By informing the competent minister of the potential effect early in the process, discussions may be held or information or advice provided that will assist the responsible authority in avoiding or minimizing adverse effects. Early notification allows the competent department to provide advice in the development of mitigation measures, including alternatives that may not be possible at a later stage of planning.

Must the effects be adverse or significant? The notification requirement is independent of the significance of the effects. Notification is legally required even for minor effects, and notification is required regardless of whether effects are adverse or not.

Information to be included in the notification Subsection 79(1) of SARA does not specify what must be included in the notification. In keeping with the principle of notifying as early as possible in the environmental assessment process, it is recognized that some information, such as the nature or severity of the effect, may not be available at the time of notification.

The following information should be provided **as soon as it becomes available**:

- identification of the responsible authority(ies);
- name, location and a brief description of the project;
- federal environmental assessment process under which the project is being assessed;
- listed wildlife species and/or critical habitat that are likely to be affected by the project;
- information source (NatureServe Canada, sightings, recent surveys, etc.); and
- signature of the responsible authority(ies).

While notification should not be delayed until additional information can be produced, **where it is available**, the following could also be provided:

- Canadian Environmental Assessment Registry reference number;
- location data for the species or critical habitat, or any residences of individuals of those species, if known;
- nature of the potential effect;
- mitigation measures being considered or alternative means of carrying out the project, if known;
- need for confidentiality (for example, location data for some species vulnerable to poaching may be sensitive), if known.

A [notification template](#) for this information is provided in Appendix E.

**Related
guidance**

For related information, see also, in this guide, sections:

- [2.2 Notification of the Competent Ministers](#)
 - [2.3 Responsibilities of the Competent Ministers](#)
-

**SARA
references**

- Notification of Minister: subsection 79(1)
 - Schedule 1 – List of Wildlife Species at Risk
-

**CEAA
references**

- *Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements*
-

1.2 SARA Project Review Requirements

SARA project review requirements

Under subsection 79(2), SARA confers obligations on a responsible authority to identify adverse effects of the project on a listed wildlife species and its critical habitat, and, if the project is carried out, to ensure that those effects are mitigated and monitored. These obligations are in addition to the requirements set out in CEAA for an assessment of the environmental effects of the project, including in particular any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species as those terms are defined in subsection 2(1) of SARA.

Identifying adverse effects

Identifying the adverse effects of a project on a listed wildlife species and its critical habitat is a requirement under subsection 79(2) of SARA. This is reinforced by the requirement of subsection 16(1) of CEAA for every environmental assessment to consider the “environmental effects” of a project. It is also supported by the CEAA definition of “environmental effect” that specifically includes any change that the project may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of SARA.

Thus, both Acts underscore the need to ensure that an environmental assessment fully considers how a project may affect species at risk and their habitats, including, but not limited to, effects on critical habitats and residences. For example, if using an approach based on valued ecosystem components, it would be best practice to ensure that any species at risk in the project area is identified as a valued ecosystem component.

The analysis should consider how a project affects the listed wildlife species or its critical habitat, including direct, indirect and cumulative effects. As well, effects on habitat that may adversely affect the species should be considered in the analysis. Special attention should be directed to habitat that has been identified as high quality or of special importance by the recovery team since adverse effects on such habitat may, in turn, adversely affect the species.

For species of special concern, critical habitat will not be identified under SARA, but management plans for those species may assist in determining when habitat may be of particular importance to the species.

Identifying potential adverse effects is discussed further in [section 2.6, Analysis of Potential Project Effects on Species at Risk](#).

Mitigating adverse effects

Under paragraph 16(1)(d) of CEAA, a responsible authority is required to identify “measures that are technically and economically feasible and that would mitigate any [significant](#) adverse environmental effect of the project”.

However, subsection 79(2) of SARA establishes a requirement to avoid or lessen **all** adverse effects of a project on listed wildlife species and critical habitat, regardless of the significance of those effects. Thus, in developing mitigation measures for listed wildlife species, the approach should be systematic and rigorous.

The following mitigation sequence should be followed (see note):

1. Avoidance of the adverse effect.
2. Minimization of the adverse effect.
3. Restitution for the adverse effect (e.g., replacement, restoration or compensation).

Mitigation is discussed further in [section 2.9, Mitigation Measures](#).

Note: While CEAA recognizes restitution for damage to the environment as a mitigation measure, restitution should be considered as a last resort. For species at risk, restitution may not be acceptable.

Monitoring the adverse effects under SARA

Subsection 79(2) of SARA also requires monitoring of the actual adverse effects of a project once it is carried out.

Subsection 79(2) requires a responsible authority to ensure that measures are taken to monitor the actual adverse effects on the listed wildlife species or its critical habitat. This implies a need to understand the actual on-the-ground effects once a project is implemented. This may involve verifying the accuracy of the predictions and determining the effectiveness of the mitigation measures; however, this requirement is independent of the significance of the predicted effects, the technology involved in the mitigation measures, or any other factors.

In an assessment under CEAA, the need for a follow-up program is discretionary for a screening, but is mandatory for a comprehensive study, mediation and an assessment by a review panel. As a result of SARA’s subsection 79(2) requirements, monitoring of adverse effects on listed wildlife species must occur regardless of whether a follow-up program under CEAA is initiated. Although there may be similarities between the objectives of the subsection 79(2) monitoring and the CEAA follow-up program, these are two distinct requirements.

When a follow-up program under CEAA is required or deemed to be appropriate, and SARA monitoring is also required, the two may be combined for greater efficiency where appropriate.

Monitoring is discussed further in [section 2.13, Monitoring and Follow-up Programs](#).

Consistency with recovery strategies or action plans

Subsection 79(2) of SARA also requires that measures taken to avoid or lessen the adverse effects, and to monitor those effects, are consistent with any applicable recovery strategy or action plan.

SARA requires that the competent minister prepare a recovery strategy for a wildlife species that is listed as [extirpated](#), [endangered](#) or [threatened](#). Where recovery is deemed to be technically and biologically feasible, the recovery strategy must address the threats to the survival of the species, including any loss of habitat, and must include specific elements as identified in section 41 of SARA. The competent minister may adopt a multi-species or an ecosystem approach when preparing the recovery strategy.

One or more action plans based on the recovery strategy must also be prepared by the competent minister. The contents of action plans are defined by SARA in section 49.

Proposed and finalized recovery strategies and action plans are posted on the Species at Risk Public Registry at:
www.sararegistry.gc.ca/sar/recovery/default_e.cfm

If there is no recovery strategy or action plan

In the absence of completed recovery strategies or action plans, the environmental assessment should use the best available information, such as:

- COSEWIC status reports (available on the Species at Risk Public Registry at www.sararegistry.gc.ca/sar/assessment/status_e.cfm);
- draft recovery strategies or action plans, where available;
- existing plans relating to the wildlife species (see note below); and
- specific advice from any jurisdiction that manages the species.

A jurisdiction that manages the species may also recommend consulting the recovery team or another expert. Any input from the recovery team into the environmental assessment should reflect the position of the team and not of individual members.

For species of special concern, it is best practice to ensure that measures, taken to avoid or lessen adverse effects and to monitor them, in the environmental assessment are consistent with the direction provided in SARA management plans prepared for these species, if available.

Advice regarding whether the measures are consistent with applicable recovery strategies, action plans or best available information may be provided by the competent department responsible for the species.

Note: Subsections 44(1), 51(1) and 69(1) of SARA state that existing plans relating to a wildlife species may be adopted as the proposed recovery strategy, action plan or management plan, under specified circumstances, when they meet the requirements of SARA.

Compliance with SARA

In meeting the requirements of CEAA, the obligations under SARA are not necessarily met. For example:

- An environmental assessment under CEAA may conclude that a project will not result in significant adverse environmental effects. Nonetheless, that project could still involve certain activities that are prohibited under SARA, such as handling species at risk for scientific purposes. Such prohibited activities could not be carried out unless a permit is obtained under SARA. (Refer to guidance on permitting on the Species at Risk Public Registry at www.sararegistry.gc.ca/sar/permit/default_e.cfm.)
- Similarly, a residual environmental effect cannot be considered insignificant just because the proposed activity is not prohibited under SARA. The process for determining significance under CEAA, and the related decisions, must still be respected.

Related guidance

For related information, see also, in this guide, sections:

- [2.6 Analysis of Potential Project Effects on Species at Risk](#)
- [2.9 Mitigation Measures](#)
- [2.13 Monitoring and Follow-up Programs](#)
- [Appendix D: Key SARA Instruments](#)

SARA references

- Required action: subsection 79(2)
- Recovery strategies and action plans: sections 41 and 49
- Existing plans: subsections 44(1), 51(1) and 69(1)
- Agreements and permits: sections 73–75

**CEAA
references**

- Definitions: subsection 2(1)
 - Factors to be considered: subsection 16(1)
 - Follow-up programs: subsections 38(1)–(5)
-

1.3 Amendment to the CEAA Definition of “Environmental Effect”

Amended definition of environmental effect

SARA amended the CEAA definition of “environmental effect” through a consequential amendment. This amendment reinforces the obligation to consider the potential environmental effects on listed wildlife species when conducting an environmental assessment under CEAA.

Pursuant to section 137 of SARA, the definition of “environmental effect” in subsection 2(1) of CEAA was amended as follows. The change explicitly states that “environmental effect” means, in respect of a project:

- (a) any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in subsection 2(1) of the *Species at Risk Act*,**
- (b) any effect of any change referred to in paragraph (a) on**
 - (i) health and socio-economic conditions,
 - (ii) physical and cultural heritage,
 - (iii) the current use of lands and resources for traditional purposes by aboriginal persons, or
 - (iv) any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or
- (c) any change to the project that may be caused by the environment, whether any such change or effect occurs within or outside Canada.**

Implications of the amendment

As per section 16 of CEAA, every environmental assessment conducted under CEAA is required to consider the environmental effects of a project and the significance of those environmental effects.

CEAA’s section 2 defines “environment” to mean the components of the Earth and to include: (a) land, water and air, including all layers of the atmosphere; (b) all organic and inorganic matter and living organisms; and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b). The definition of “environmental effect” as amended by SARA does not change this, but rather reinforces the obligation to consider, in all environmental assessments conducted under CEAA, the potential adverse effects on listed wildlife species, residences of individuals of those species and critical habitats.

Location of effects Section 16 of CEAA requires that a responsible authority consider all environmental effects of a project, regardless of where those effects may occur.

Consequently, when a listed wildlife species will be affected by a project, the environmental assessment must consider all the environmental effects on these species, the residences of its individuals and its critical habitat even if that species or its habitat are also regulated under provincial law.

Effects on other species at risk The requirements of SARA apply to species that are listed on the List of Wildlife Species at Risk (Schedule 1 of SARA). Therefore, when a federal environmental assessment takes place, SARA requires that the potential effects of a proposed project on any wildlife species listed on Schedule 1 of SARA, on the critical habitat of such species or on the residences of individuals of such species be considered in that assessment.

In addition, CEAA requires consideration of the potential adverse effects of a project on *all* species as part of the consideration of environmental effects. This includes species that are not legally listed under SARA, but that are recognized as “at risk” by COSEWIC or by provincial or territorial agencies. This approach is in keeping with Canada’s commitments under the [Convention on Biological Diversity](#) and the [Accord for the Protection of Species at Risk](#) between the federal government and provinces/territories. Species that have been identified by provincial or territorial government are not necessary on the COSEWIC list.

Environmental assessment is a tool which, by allowing early consideration of the effects of projects on wildlife, may assist in preventing other wildlife species from becoming at risk; therefore it is best practice to consider the potential effects on all species.

Related guidance For related information, see also, in this guide, section:

- [2.6 Analysis of Potential Project Effects on Species at Risk](#)

For more information, please see:

- *Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada*
- *A Guide on Biodiversity and Environmental Assessment at:*
www.ceaa-acee.gc.ca/Content/D/A/C/DACB19EE-468E-422F-8EF6-29A6D84695FC/CEAA_19E.pdf

SARA references

- Amendment to “environmental effect”: section 137

**CEAA
references**

- Definitions: sections 2(1)
 - Factors to be considered: subsections 16(1) and 16(3)
-

Part 2. Incorporating SARA Considerations into the CEAA Process

Overview

Purpose of Part 2

Part 2 of this guide:

- identifies considerations associated with SARA that may arise during specific steps of an environmental assessment conducted under CEAA;
- provides guidance for responsible authorities on addressing SARA considerations and incorporating them into an environmental assessment in a timely manner; and
- identifies, where appropriate, sources for more detailed guidance or information.

The guidance in this section is intended to complement and support best practices for environmental assessment practitioners.

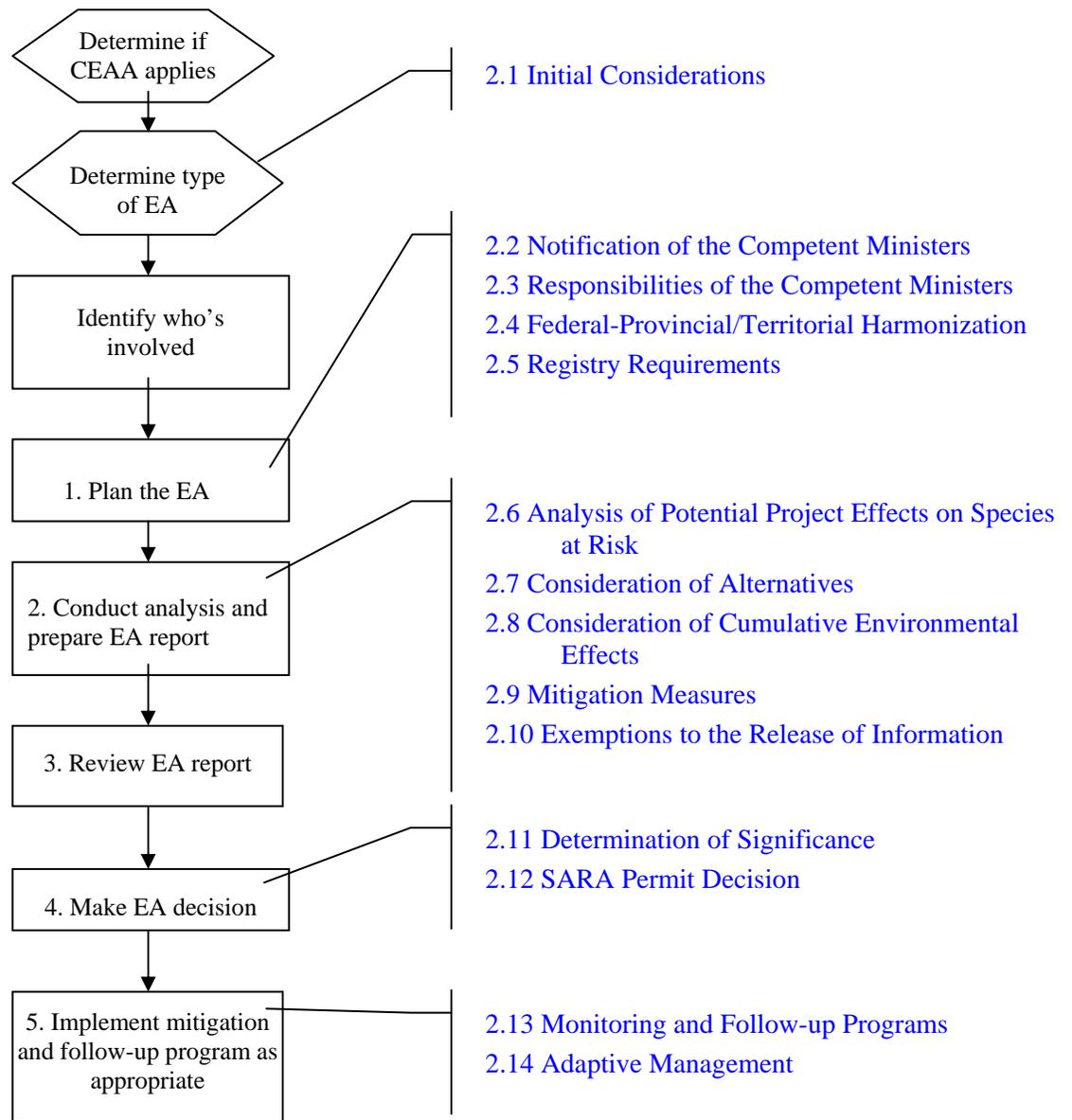
Contents

This part contains the following topics:

Topic	Page
2.1 Initial Considerations	23
2.2 Notification of the Competent Ministers	26
2.3 Responsibilities of the Competent Ministers	28
2.4 Federal-Provincial/Territorial Harmonization	30
2.5 Registry Requirements	32
2.6 Analysis of Potential Project Effects on Species at Risk	34
2.7 Consideration of Alternatives	36
2.8 Consideration of Cumulative Environmental Effects	39
2.9 Mitigation Measures	42
2.10 Exemptions to the Release of Information	45
2.11 Determination of Significance	47
2.12 SARA Permit Decision	50
2.13 Monitoring and Follow-up Programs	55
2.14 Adaptive Management	58

Figure 1:
SARA considerations during an EA

Figure 1 illustrates the major phases of an environmental assessment (EA) and identifies where the SARA-related considerations may typically arise.



Additional information

For more information on environmental assessment best practices related to species at risk, please refer to the Environment Canada's *Environmental Assessment Best Practices Guide for Wildlife at Risk in Canada*.

2.1 Initial Considerations

Determining if CEAA applies	<p>Before initiating the federal environmental assessment process, the first step is to determine if CEAA applies and an environmental assessment for the project is required. SARA does not change this step.</p> <p>For detailed guidance on determining if an environmental assessment is required under CEAA, please refer to the Canadian Environmental Assessment Agency's <i>How to Determine if the Act Applies</i>.</p>
SARA does not trigger CEAA	<p>The presence of a listed wildlife species, a residence of individuals of the species or a critical habitat does not, in itself, trigger CEAA.</p> <p>Likewise, issuing a SARA permit does not, on its own, trigger the need for an environmental assessment under CEAA. Under section 74 of SARA, a permit can be issued by a competent minister, using existing laws and regulations, to authorize activities that may affect a listed wildlife species, any part of its critical habitat or the residences of its individuals, provided that the permitting requirements of SARA are met. Since SARA permits have not been added to the <i>Law List Regulations</i> under CEAA, they do not trigger an environmental assessment.</p>
CEAA applies	<p>If...</p> <ul style="list-style-type: none"> • there is a project as defined by CEAA; • that project is not excluded from assessment under CEAA or its <i>Exclusion List Regulations</i>; and • a federal authority takes an action that enables a project to proceed, i.e., proposes a project as its proponent; grants money or other financial assistance to the proponent for the purpose of enabling a project to be carried out; sells, leases or otherwise disposes of land or any interest in land to enable a project to be carried out, or issues certain approvals as set out in the <i>Law List Regulations</i> under CEAA. <p>then...</p> <ul style="list-style-type: none"> • an environmental assessment will be required. <p>Examples of such legislative or regulatory powers in the <i>Law List Regulations</i> include:</p> <ul style="list-style-type: none"> • an authorization under subsection 35(2) of the <i>Fisheries Act</i>; • a permit issued under paragraph 15(1)(a) of the <i>National Parks Wildlife Regulations</i> made under the <i>Canada National Parks Act</i>;

- a permit issued under subsection 12(1) of the *National Parks General Regulations* of the *Canada National Parks Act*;
- a permit issued under section 4 of the *Wildlife Area Regulations* of the *Canada Wildlife Act*; or
- a permit issued under subsection 19(1) of the *Migratory Birds Regulations* pursuant to the *Migratory Birds Convention Act, 1994*.

Activities that are projects undertaken under SARA recovery strategies or action plans, or through SARA funding, may also trigger an environmental assessment if they meet the criteria under CEAA, as described in the Canadian Environmental Assessment Agency's *How to Determine if the Act Applies*.

Determining the type of environmental assessment

As per CEAA subsection 18(1), if a project that requires an assessment under CEAA is not described in the comprehensive study list (which is set out in the *Comprehensive Study List Regulations*) or the exclusion list (which is set out in the *Exclusion List Regulations*), a screening of the project is required.

Under section 21 of CEAA, when a project is described in the comprehensive study list, the responsible authority must ensure that a comprehensive study of the project is conducted and that a comprehensive study report is prepared and submitted to the Minister of the Environment.

The potential of the project to cause adverse effects on a listed wildlife species at risk or its critical habitat may be a factor to consider when recommending the appropriate environmental assessment track.

Note: As per legislative amendments made in the *Jobs and Economic Growth Act*, subsection 11.01 of CEAA provides that the Canadian Environmental Assessment Agency will perform the duties and functions of responsible authorities for most comprehensive studies, from the determination that a comprehensive study is needed until the Minister of the Environment is provided with the comprehensive study report.

Starting the environmental assessment

Once an environmental assessment has been triggered by a proposed federal decision or action, SARA requires that the potential effects on a listed wildlife species, its critical habitat or residences of individuals of that species be considered in that assessment.

Therefore, as early as possible in the environmental assessment process, a responsible authority should consider whether such species may be present or affected by the project.

If no environmental assessment is required

Regardless of whether an environmental assessment is triggered, compliance with SARA is required at all times and can entail other responsibilities such as taking measures to protect and recover species at risk, the residences of individuals of such species and their critical habitat.

See the [Species at Risk Public Registry](#) for further information on compliance responsibilities.

Related guidance

For related information, see also, in this guide, section:

- [2.12 SARA Permit Decision](#)

For guidance on determining if an environmental assessment is required under CEAA, please refer to the Canadian Environmental Assessment Agency's *How to Determine if the Act Applies*.

For guidance on how to determine if a species at risk may be present or affected by a project, please see the Canadian Wildlife Service's *Environmental Assessment Best Practice Guide for Species at Risk in Canada*.

SARA references

- Agreements and Permits: sections 73 and 74
-

CEAA references

- Projects to be assessed: section 5
 - Excluded projects: section 7
 - Types of environmental assessment: sections 18 and 21
 - [Law List Regulations](#), [Exclusion List Regulations](#), [Comprehensive Study List Regulations](#) and [Inclusion List Regulations](#)
-

2.2 Notification of the Competent Ministers

SARA notification requirements

SARA establishes obligations to notify the competent minister(s). These obligations are independent of the requirements of CEAA or the *Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements*, commonly known as the *Federal Coordination Regulations*.

Under subsection 79(1) of SARA, the person required to ensure that a federal environmental assessment of a project is conducted (known under CEAA as the responsible authority) must notify the competent minister(s) without delay if the project is likely to affect a listed wildlife species or its critical habitat.

This notification must occur as soon as it becomes known that a listed wildlife species or its critical habitat is likely to be affected. This can happen at any time during the course of an environmental assessment.

CEAA notification requirements

Under the *Federal Coordination Regulations*, when a federal authority receives a project description and determines that the project is likely to require an environmental assessment and the federal authority identifies itself as a likely responsible authority for that project, it must provide written notice to other federal authorities that are likely to:

- be a responsible authority; or
- be in possession of specialist or expert information or knowledge that is relevant to the conduct of the environmental assessment.

This notice must include a description of the proposed project and of the environment likely to be affected.

SARA does not change or replace the need to contact federal authorities under the *Federal Coordination Regulations*. Therefore, CEAA notification is required even if appropriate notification has been done under subsection 79(1) of SARA.

Coordinating notification

To the extent that it is practical, notification under SARA may be facilitated through the coordination activities directed by the *Federal Coordination Regulations*.

This could occur when the description of the environment likely to be affected is sufficiently detailed to identify listed wildlife species or critical habitat likely to be affected by the project.

For example, a single letter of notification, signed by all responsible authorities, may be sent to a competent department, providing the information that is required under both the *Federal Coordination Regulations* and under subsection 79(1) of SARA. Alternatively, each responsible authority may send a separate letter of notification.

At any time, if further work reveals that other listed wildlife species or critical habitat may be affected, an additional SARA notification would be required later in the process, even if the competent department is already providing advice on the environmental assessment as an expert federal authority.

Related guidance

For related information, see also, in this guide, sections:

- [1.1 SARA Notification Requirement](#)
- [Appendix E: SARA Notification Template](#)

For additional information about notifications under the CEAA *Federal Coordination Regulations*, please see the Canadian Environmental Assessment Agency's guide entitled *Federal Coordination: Identifying Who's Involved* at:

www.ceaa-acee.gc.ca/Content/D/A/C/DACB19EE-468E-422F-8EF6-29A6D84695FC/Federal-Coord-Identifying_e.pdf

SARA references

- Notification of Minister: subsection 79(1)

CEAA references

- [Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements](#)
-

2.3 Responsibilities of the Competent Ministers

Response to SARA notification

In response to a notification, sent by a responsible authority under subsection 79(1) of SARA, the competent department representing the competent minister responsible for a species will indicate its involvement in the environmental assessment. The competent department will provide expert advice when the information or expertise is available within the competent department. Responsibility for some species may be shared with other jurisdictions.

Nature of advice provided

Advice provided on species at risk by a competent minister constitutes specialist information and knowledge by an expert federal authority under CEAA.

Advice provided may include, but not be limited to:

- advice on the likely presence of a listed wildlife species or critical habitat in the project area;
- information on the ecology of the listed wildlife species;
- advice on how the project may affect the listed wildlife species, residences of individuals of the species, or its critical habitat and the potential significance of those effects;
- identification of measures to reduce or avoid adverse environmental effects;
- identification of monitoring requirements or follow-up recommendations; and
- advice on other applicable requirements under SARA (for example, relating to what is prohibited under SARA, permitting requirements, future regulations that may be developed, recovery strategies).

While the competent department will provide specialist or expert information in their possession, including possible contacts where further information can be obtained, it remains the responsibility of the responsible authority to ensure that the information acquired is sufficient to meet the requirements of CEAA.

**Responding to
CEAA federal
coordination
notices**

SARA does not change the need to notify, and coordinate the involvement of, federal authorities with an expertise in listed wildlife species (i.e., a competent department representing a competent minister).

Issues related to potential adverse effects on listed wildlife species may be coordinated through the work of the federal environmental assessment coordinator (and a federal project committee, if one has been established), in the same manner as any other issue requiring the involvement of other expert federal authorities.

**Related
guidance**

For more information on coordination under CEAA, please see the Canadian Environmental Assessment Agency's guide [Federal Coordination: An Overview](#).

**SARA
references**

- Notification of Minister: subsection 79(1)
-

**CEAA
references**

- Federal coordination: sections 12–12.5

2.4 Federal-Provincial/Territorial Harmonization

Shared responsibility for species at risk

Responsibility for species at risk is shared among federal and provincial/territorial jurisdictions. Thus, it is important to consider the importance of involving or cooperating with other jurisdictions when undertaking environmental assessments.

Harmonization under CEAA

Federal, provincial and territorial governments have moved towards greater harmonization of their environmental assessment procedures. In 1998, the Canadian Council of Ministers of the Environment signed the [Canada-Wide Accord on Environmental Harmonization](#) and the [Sub-agreement on Environmental Assessment](#).

The sub-agreement promotes the effective application of environmental assessment when two or more governments are required by law to assess the same proposed project. It includes provisions for shared principles, common information elements, a defined series of assessment stages and a provision for a single cooperative assessment.

Project-specific agreements are used to provide for a single assessment that meets the legal requirements of both jurisdictions.

Integrating the two approaches to harmonization

The effectiveness of both SARA and CEAA is grounded in the cooperation of all governments.

Issues related to listed wildlife species should be an important part of the full range of issues that are addressed when establishing a cooperative environmental assessment between jurisdictions. In screenings and comprehensive studies, the federal environmental assessment coordinator typically would facilitate communication and cooperation among federal authorities and other participants. For joint review panels, the Canadian Environmental Assessment Agency would undertake this task.

Related guidance

For related information, see also the *Accord for the Protection of Species at Risk* at:
www.sararegistry.gc.ca/approach/strategy/accord_text_e.cfm

SARA references

- Administrative agreements: section 10 and paragraph 123(b)
- Provincial and territorial classifications: section 36

**CEAA
references**

- Other jurisdictions: subsections 12(4) and 12(5)
 - Federal coordination: subsection 12(3) and sections 12.1–12.5
-

2.5 Registry Requirements

Two distinct registries

A responsible authority must meet specific obligations with regards to the Canadian Environmental Assessment Registry established under CEAA.

The Species at Risk Public Registry plays a different role and does not establish new obligations for responsible authorities.

Canadian Environmental Assessment Registry

The Canadian Environmental Assessment Registry is a government-wide mechanism to facilitate public access to records related to environmental assessments conducted under CEAA. The Registry consists of two complementary components: an Internet site and a project file.

- The Internet site is an electronic registry administered by the Canadian Environmental Assessment Agency. A responsible authority or the Agency contributes specific records relating to an environmental assessment.
- The project file is a file maintained by a responsible authority or the Agency during an environmental assessment and made available to the public in a convenient manner. The project file includes all records produced, collected or submitted with respect to the environmental assessment of the project (including all records on the Internet site). Notifications required under subsection 79(1) of SARA would constitute records to be maintained in the project file.

The Internet site component of the Registry can be viewed on the Canadian Environmental Assessment Agency's website at:

www.ceaa-acee.gc.ca/050/index_e.cfm

Species at Risk Public Registry

The Species at Risk Public Registry is an online service that provides access to information and documents about SARA, including the list of species at risk (Schedule 1 of SARA), regulations, orders, agreements, status reports on species assessments, recovery strategies, action plans, management plans for species of special concern and information related to permits that were issued or agreements entered into. It supports public participation in decision making by providing the public opportunity to comment on SARA-related documents being developed by the Government of Canada.

The Species at Risk Public Registry can be viewed on the following website:

www.sararegistry.gc.ca/default_e.cfm

Responsibility for the SAR Public Registry	<p>The Species at Risk Public Registry is maintained by Environment Canada. Information on the public registry is provided by Environment Canada, Parks Canada, and Fisheries and Oceans Canada.</p> <p>A responsible authority conducting an environmental assessment under CEAA has no responsibilities to post records on the Species at Risk Public Registry.</p>
Information source for responsible authority	<p>Information in the Species at Risk Public Registry, such as status reports on species, recovery strategies, action plans and management plans for species of special concern, is an excellent source of information for environmental assessment practitioners about many listed wildlife species.</p>
Related guidance	<p>For more information on the operations and records of the Canadian Environmental Assessment Registry, please see the Canadian Environmental Assessment Agency's <i>Guide to the Canadian Environmental Assessment Registry</i>.</p>
SARA references	<ul style="list-style-type: none"> • Public Registry: sections 120–124
CEAA references	<ul style="list-style-type: none"> • Registry contents: sections 55, 55.1 and 55.4

2.6 Analysis of Potential Project Effects on Species at Risk

SARA obligations to address potential effects

SARA establishes obligations to address potential effects on listed wildlife species in a federal environmental assessment. This obligation reinforces the requirements of CEAA.

Under subsection 79(2) of SARA, the person required to ensure that an assessment of the environmental effects is conducted (i.e., the responsible authority under CEAA) must identify the adverse effects of the project on the listed wildlife species and its critical habitat.

The obligation to identify adverse effects applies to all listed wildlife species, including species of special concern, and not only the extirpated, endangered or threatened species to which prohibitions apply.

This obligation to identify adverse effects on listed wildlife species is independent of the likely significance of the adverse effect.

CEAA obligations to address environmental effects

Under subsection 16(1) of CEAA, every environmental assessment must include a consideration of the environmental effects of the project and the significance of these effects. As discussed in section 1.3 of this guide, the CEAA definition of “environmental effect” includes any change that the project may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species.

Required analysis

From a practical perspective, the obligations under subsection 79(2) of SARA reinforce the need for federal environmental assessments to pay particular attention to listed wildlife species and their critical habitat.

The analysis in the environmental assessment must provide a basis on which to determine whether the project will adversely affect the listed wildlife species or its critical habitat. For example, when the analysis is based on the use of valued ecosystem components (VECs), all listed wildlife species found within the project area should be included as VECs. In addition, it is best practice to include, as VECs, other wildlife at risk found within the project area, such as species that are provincially listed but not listed under SARA.

The analysis should also consider those potential effects on habitat which may in turn adversely affect the species itself. Recovery strategies, action plans, management plans for species of special concern and status reports can all be helpful sources of information for the analysis. Even when critical habitat has not been identified, existing sources of information may assist in

identifying key habitat that, if adversely affected, may have repercussions on the species.

SARA permitting analysis

The SARA permitting analysis should, when possible, be coordinated with the environmental assessment analysis. The analysis should therefore address, among other considerations, the overall impact on the listed wildlife species in terms of its potential survival or recovery.

Certain activities may be authorized under SARA if a permit is issued. The activity must not only meet specified conditions as outlined in SARA but also not jeopardize the survival or recovery of the listed wildlife species.

Uncertainty in the analysis

Where there is uncertainty regarding the likelihood or possible significance of adverse effects on wildlife species at risk, it is best practice to adopt a precautionary approach in the analysis, given their vulnerability.

Related guidance

For related information, see also, in this guide, sections:

- [1.2 SARA Project Review Requirements](#)
- [2.12 SARA Permit Decision](#)
- [Precautionary approach](#)

Applicable status reports, recovery strategies, action plans and management plans for species of special concern may be able to provide direction to responsible authorities on the identification and analysis of potential effects on listed wildlife species.

Information on methods for assessing potential effects on species at risk is available in the *Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada*.

SARA references

- Agreements and permits: section 73
- Required action: subsection 79(2)
- Amendment to “environmental effect”: section 137

CEAA references

- Definition of environmental effect: subsection 2(1)
- Factors to be considered: subsection 16(1)

2.7 Consideration of Alternatives

Avoiding adverse effects by considering alternatives

SARA requires mitigation of all adverse effects on listed wildlife species and their critical habitat, and the consideration of alternatives may provide the means of avoiding or minimizing adverse effects.

In addition, one of the pre-conditions to issuing permits under SARA is the consideration of alternatives. Accordingly, consideration of alternatives in an environmental assessment through a screening may be necessary in order to meet requirements under SARA when a permit or an agreement under the Act is necessary.

Alternatives under CEAA

Under CEAA, there are two aspects to the consideration of alternatives: alternatives to the project and alternative means of carrying out the project.

Alternatives to the project are the functionally different ways to meet the project need and achieve the project purpose.

- For example, extending a bus route rather than widening a route to address traffic congestion.

Alternative means of carrying out the project are the various ways that the project or any of its activities or components can be implemented or carried out. The alternative means are to be technically and economically feasible, and the environmental assessment must consider the environmental effects of any such alternative means.

- For example, alternative locations, routes, and methods of development, implementation and mitigation.
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Table 4: Alternatives under CEAA

The consideration of alternatives is not always a requirement for environmental assessment under CEAA. The table below indicates when it is required under CEAA.

Consideration of...	in a screening is...	in a comprehensive study, mediation or an assessment by a review panel is...
alternatives to the project	at the discretion of the responsible authority	at the discretion of the Minister of the Environment, in consultation with the responsible authority
alternative means of carrying out the project	at the discretion of the responsible authority	mandatory

Alternatives under SARA

SARA establishes one obligation with respect to the consideration of alternatives. When a permit is requested under sections 73, 74 or 78, the permit can be issued only if the competent minister is of the opinion that “all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted.”

In addition, among other requirements, the competent minister must be of the opinion that all feasible measures will be taken to minimize the effect of the activity on the species, its critical habitat or residences of individuals of the species, and that the activity will not jeopardize the recovery or survival of the listed wildlife species.

Subsection 79(2) requires a responsible authority to identify measures to avoid or lessen the effects of a project on a listed wildlife species or its critical habitat. Fulfilling this obligation may require an examination of alternatives to the project or alternative means of carrying out the project. As such, the environmental assessment could consider alternative means or even alternatives to the project when there are adverse effects on a listed wildlife species or its critical habitat.

Integrating SARA considerations into the environmental assessment

A responsible authority conducting an environmental assessment of a project that has the potential to affect a listed wildlife species or its critical habitat should bear in mind the provisions of CEAA paragraphs 16(1)(e) and 16(2)(b) regarding the consideration of alternatives. The responsible authority should include consideration of the following in the assessment:

- alternatives to the project, or alternative means of undertaking the project, that would reduce the effect on the species; and
- a recommendation on the best solution to adopt.

Information on alternatives considered by the competent minister under the permitting process, and by the responsible authority in the environmental assessment process, should be shared to inform both processes, avoid duplication of effort and promote consistency.

Related guidance

For related information, see also, in this guide, sections:

- [2.9 Mitigation Measures](#)
- [2.11 Determination of Significance](#)
- [2.12 SARA Permit Decision](#)

Applicable recovery strategies, action plans or management plans for species of special concern may provide direction to responsible authorities on the consideration of alternatives.

For further guidance on addressing alternatives, please see the Canadian Environmental Assessment Agency's Operational Policy Statement: Addressing "Need for", "Purpose of", "Alternatives to", and "Alternative Means" under the *Canadian Environmental Assessment Act* at: www.ceaa-acee.gc.ca/013/0002/addressing_e.htm

**SARA
references**

- Agreements and permits: subsection 73(3)
 - Required action: subsection 79(2)
-

**CEAA
references**

- Factors to be considered: subsections 16(1) and 16(2)
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2.8 Consideration of Cumulative Environmental Effects

Importance of cumulative environmental effects

Cumulative environmental effects are environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out.

The need to assess cumulative environmental effects stems from the very nature of species at risk. For the most part, such species have already been adversely affected by a combination of threats to the extent that their very survival is in question.

Cumulative environmental effects under CEAA

Under paragraph 16(1)(a) of CEAA, every environmental assessment must consider “the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out”.

Since the definition of “environmental effect” includes any change a project may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, it is important that cumulative environmental effects on listed wildlife species are considered in the environmental assessment process.

In addition, section 16.2 of CEAA recognizes the value of regional studies as a means of identifying possible future projects that may occur within a region and that may contribute to cumulative environmental effects. Regional studies could be an effective means of identifying and managing species at risk issues raised by multiple project proposals.

Cumulative environmental effects under SARA

SARA establishes no explicit obligations to address cumulative environmental effects on listed wildlife species. However, many listed wildlife species are at risk precisely because of cumulative environmental effects that have occurred in the past, such as gradual loss of habitat.

Thus, it is implicitly important in the cumulative environmental effects analysis that environmental assessments always consider the potential for cumulative environmental effects on listed wildlife species, the residences of their individuals and their critical habitat, in the context of the combined past threats the species have faced, as well as any additional present or future threats that can reasonably be expected to occur.

In addition, if an activity requires a permit under SARA, several requirements set out in section 73 of SARA must be met before the permit can be issued. In particular, a determination must be made as to whether the activity jeopardizes the survival or recovery of the species. Please refer to section 2.12 SARA Permit Decision.

A broad-scale approach

The adoption of best practice approaches may include considering wildlife issues at broader planning levels, and avoiding the undertaking of projects in species at risk hotspots, thus contributing to the goals of preventing species from becoming at risk.

Regional studies may be valuable tools in this regard. Such studies may provide a venue for sharing information and effectively addressing cumulative environmental effects issues through a cooperative approach. Regional studies may also provide greater scope for mitigation after all project-specific impact avoidance and reduction opportunities have been exhausted. A proponent may address cumulative environmental effects by contributing to mitigation on a scale broader than the project study area (e.g., off-site issues within the species range).

Related guidance

COSEWIC status reports provide information on threats facing species at risk. Recovery strategies, action plans and management plans for species of special concern also consider threats, as well as strategies and measures to deal with these threats, and they will also identify population and distribution objectives for the species. This information should assist in the evaluation of the cumulative environmental effects of projects. In the absence of such information, the assessment of cumulative environmental effects must be undertaken based on best available information. See the [Species at Risk Public Registry](#) for more information.

For related information, also refer to:

- Canadian Wildlife Service's *Environmental Assessment Best Practices Guide for Wildlife at Risk in Canada*.

For more information about cumulative environmental effects assessment, please refer to the Canadian Environmental Assessment Agency's:

- Operational Policy Statement: *Addressing Cumulative Environmental Effects under the Canadian Environmental Assessment Act* at: www.ceaa-acee.gc.ca/013/0002/cea_ops_e.htm; and
- *Cumulative Effects Assessment Practitioners Guide* at: www.ceaa-acee.gc.ca/013/0001/0004/index_e.htm

**SARA
references**

- Recovery strategies and action plans: sections 41 and 49
 - Management plans: section 65
 - Agreements and permits: section 73
-

**CEAA
references**

- Factors to be considered: subsection 16(1)
-

2.9 Mitigation Measures

Obligations to mitigate

SARA establishes an obligation for responsible authorities to ensure that adverse effects on listed wildlife species or critical habitat are avoided or lessened if a project undergoing a federal environmental assessment is to be carried out. SARA also states that the mitigating measures must be taken in a way that is consistent with any applicable recovery strategy and action plans.

This confers additional obligations on the responsible authority, beyond the requirements of CEAA.

Mitigation under CEAA

Mitigation is defined in section 2 of CEAA to mean “in respect of a project, the elimination, reduction or control of the adverse environmental effects of the project, and includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means”.

Under subsection 16(1) of CEAA, every environmental assessment must include a consideration of the environmental effects of the project, of the significance of these effects, and of technically and economically feasible measures to mitigate any significant adverse environmental effects.

Under paragraphs 20(1.1)(b) and 37(2.1)(b) of CEAA, the responsible authority, when making decisions concerning proposed projects, may consider mitigation measures that the responsible authority can ensure will be implemented, and must ensure their implementation. The responsible authority can also consider mitigation measures that will be implemented by another person or body such as a provincial government. The responsible authority must be satisfied that those mitigation measures will be implemented by the other person or body.

Mitigation under SARA

Under subsection 79(2) of SARA, the responsible authority must ensure that measures are taken to avoid or lessen the adverse effects of the project on any listed wildlife species and its critical habitat and, if the project is carried out, must ensure that measures are taken to avoid or lessen those effects and to monitor them. These measures must be consistent with applicable species recovery strategies and action plans. It is best practice to ensure that measures taken to mitigate adverse effects on species of special concern be consistent with applicable management plans for those species.

SARA also establishes requirements that must be met before permits can be issued for activities that are otherwise prohibited. One of these requirements relates directly to mitigation measures: When a permit is requested under

sections 73, 74 or 78, the permit can be issued only if the competent minister is of the opinion that “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”.

A responsible authority could assist the competent minister in this regard by ensuring that commitments “to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals” are documented in the environmental assessment.

Preferred mitigation sequence

SARA underscores the importance of mitigation. The preferred approach is to adopt measures that would avoid the adverse effect, followed however by measures that could minimize the impact.

Mitigation implemented by others

SARA requires the responsible authority to ensure that mitigation measures are implemented for the adverse effects of the project on listed wildlife species or critical habitat.

In some cases the responsible authority may not have the regulatory tools to ensure the implementation of the mitigation measures. For example, in some cases species managed by a province may be affected and the provincial government may be in the best position to require mitigation through its legislation.

Subsections 20(1.1) and 37(2.1) of CEAA allow the responsible authority to consider such mitigation in the environmental assessment if the responsible authority is satisfied that the mitigation measures will be implemented.

Related guidance

For related information, see also, in this guide, sections:

- [1.2 SARA Project Review Requirements](#)
- [2.12 SARA Permit Decision](#)

Applicable recovery strategies, action plans and management plans for species of special concern may provide direction to responsible authorities on mitigation.

SARA references

- Agreements and permits: sections 73, 74 and 78
 - Required action: subsection 79(2)
-

**CEAA
references**

- Factors to be considered: subsection 16(1)
- Mitigation measures: 20(1.1)–20(2.1) and 37(2)–(2.3)

2.10 Exemptions to the Release of Information

Sensitive information

Under certain circumstances, the release of information related to listed wildlife species could be harmful to the species.

Exempted information under CEAA

Under CEAA, all information related to the environmental assessment is publicly available, with a few exceptions, either in the Canadian Environmental Assessment Registry's Internet site or the project file.

The exceptions to public access relate to the withholding of certain information, including:

- documentation obtained in confidence from the government of a province or an institution, as per paragraph 13(1)(c) of the *Access to Information Act*;
- information related to the conduct of the Government of Canada relating to federal-provincial affairs, as per section 14 of the *Access to Information Act*;
- information relating to law enforcement and investigations, as per section 16 of the *Access to Information Act*;
- third party information as defined in section 20 of the *Access to Information Act*, such as, for example, trade secrets of a third party.

In addition, under section 35 of CEAA, a review panel may hold hearings *in-camera* and keep information confidential to prevent the release of information that might cause specific, direct and substantial harm to a witness or specific harm to the environment. In the latter case, for example, a review panel could withhold information that may be used by poachers to locate the residences of individuals of a listed wildlife species.

Exempted information under SARA

Under section 124 of SARA, the Minister of the Environment, on the advice of COSEWIC, may restrict the release of any information required to be included in the Species at Risk Public Registry if that information relates to the location of a wildlife species or its habitat and restricting its release would be in the best interests of the species.

For example, the precise location of a listed wildlife species, its residence or critical habitat could be withheld to prevent poachers from killing or stealing individuals of that species.

**Integrating
the SARA
provision**

The responsible authority:

- should consider, at a very early stage of the environmental assessment, the potential for the environmental assessment to generate specific information that, if released, may be harmful to a listed wildlife species;
- should inform the federal environmental assessment coordinator and the appropriate competent department (i.e., Environment Canada, Parks Canada or Fisheries and Oceans Canada) of any such potential; and
- must take care not to make publicly available nor to include in the Canadian Environmental Assessment Registry any information that would not be disclosed under the *Access to Information Act*, including information that the Minister of the Environment has restricted under section 124 of SARA for the purposes of the Species at Risk Public Registry and that the responsible authority determines would not be disclosed to the public under the *Access to Information Act* (e.g., in technical studies or the environmental assessment report available through the Canadian Environmental Assessment Registry).

Environment Canada and/or Parks Canada should, as soon as possible upon receipt of a notification under subsection 79(1) of SARA, inform the responsible authority and expert federal authorities of any restrictions on the release of information under section 124 of SARA. If a project has been referred to a mediator or a review panel, then the competent department should notify the Canadian Environmental Assessment Agency of any such restrictions.

In a screening or comprehensive study, the responsible authority, in consultation with Environment Canada and/or Parks Canada, may need to consider approaches for providing information relevant to the technical studies and the environmental assessment report, without disclosing detailed, precise descriptions of locations that could pose a threat to the listed wildlife species. In the case of mediation or an assessment by a review panel, the Canadian Environmental Assessment Agency may need to work with Environment Canada and/or Parks Canada on the appropriate approach.

**SARA
references**

- Public Registry restrictions: section 124

**CEAA
references**

- Information to be made available: section 55.5

***Access to
Information Act*
references**

- Exemptions: paragraph 13(1)(c), sections 14, 16 and 20

2.11 Determination of Significance

Need for special attention	The status of species at risk should be taken into consideration when determining the significance of adverse effects of a proposed project.
Significance under CEAA	<p>Under CEAA, the critical “test” in the environmental assessment decision is whether the project is likely to cause significant adverse environmental effects after taking into account the implementation of any mitigation measures that a responsible authority considers to be appropriate.</p> <p>The conclusion determines the next steps in the environmental assessment process (i.e., whether the responsible authority can provide federal support for the project).</p> <p>In addition, CEAA commits responsible authorities to “... exercise their powers in a manner that protects the environment and human health and applies the precautionary principle” (subsection 4(2)).</p>
Significance with respect to species at risk	SARA requires that the adverse effects of a project on listed wildlife species and their critical habitat be identified in a federal environmental assessment, and that, if the project is carried out, measures be taken to avoid or lessen such effects and to monitor them. SARA does not use the concept of significance, but provides principles that may assist in determining whether a project’s effects are significant under CEAA. These are outlined in the sections below.
The purposes of SARA	The purposes of SARA are to prevent wildlife species from being extirpated or becoming extinct, to provide for the recovery of wildlife species that are extirpated, endangered and threatened as a result of human activity, and to manage species of special concern to prevent them from becoming endangered or threatened.
Survival and recovery of listed wildlife species	SARA provides a framework for the survival and recovery of listed wildlife species. Such species have usually already been adversely affected by a combination of threats which cumulatively have resulted in their precarious status.

Pre-conditions for issuing permits	<p>SARA establishes requirements that must be met before activities that may affect listed extirpated, endangered and threatened species are authorized.</p> <p>This includes pre-conditions for issuing permits under sections 73, 74 or 78, to the effect that all adverse effects must be avoided or minimized wherever possible, and that residual effects must not jeopardize the survival or recovery of the species.</p>
Objectives of recovery strategies	<p>Recovery strategies for listed extirpated, endangered and threatened species must include a statement of the population and distribution objectives that will assist the recovery and survival of the species. These objectives should be considered when determining the significance of an adverse effect. Management plans for species of special concern will also provide relevant information for those species. In the absence of completed strategies or plans or of detailed population objectives, the responsible authority should use the best available information.</p>
Protecting critical habitat and residences	<p>Similarly, SARA has provisions to protect critical habitat and residences of individuals of listed wildlife species. Adverse effects on critical habitat and residences of individuals must also be considered in examining environmental impact.</p>
SARA prohibitions	<p>While certain activities are prohibited under SARA, some activities that are not prohibited may still have important adverse effects. For example, there are no prohibitions covering species of special concern; however, adverse effects on such species could exist (such as in certain cases there may be regional effects or the effect may cause the species to become threatened).</p> <p>Proponents should be aware of the permitting requirements of SARA. The following three conditions under which a permit may be issued are: 1) all reasonable alternatives to the activity to reduce the impact on the species have been considered and the best solution adopted; 2) all feasible measures will be taken to minimize the impact on the species or its critical habitat or the residences of its individuals; 3) the activity will not jeopardize the survival or recovery of the species.</p>
Related guidance	<p>For related information, see also, in this guide, section:</p> <ul style="list-style-type: none"> • 2.12 SARA Permit Decision

Applicable recovery strategies, action plans and management plans for species of special concern (either posted on the Species at Risk Public Registry or published elsewhere) may provide direction to responsible authorities for the determination of environmental impact.

For information on the methodology of determining adverse effects on listed wildlife species, please see:

- *Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada*
- *Determining Whether a Project is Likely to Cause Significant Adverse Environmental Effects* at:
www.ceaa.gc.ca/013/0001/0008/guide3_e.htm#Reference%20Guide

**SARA
references**

- Purposes: section 6
- Agreements and permits: sections 73, 74 and 78

**CEAA
references**

- Purposes: subsection 4(2)
 - Course of action decision: sections 20 and 37
-

2.12 SARA Permit Decision

Prohibited activities

A project undergoing a federal environmental assessment may involve an activity that is prohibited under SARA. In order to proceed, such a project will require a permit under SARA. The need to obtain a permit under SARA may give rise to additional considerations during the environmental assessment.

Issuing permits under SARA

Under sections 73, 74 and 78 of SARA, permits, agreements, licences, orders or other similar documents can be issued or made for activities that are otherwise prohibited, where:

- the activity is scientific research relating to the conservation of the species and conducted by qualified persons;
- the activity benefits the species or is required to enhance its chance of survival in the wild; or
- affecting the species is incidental to the carrying-out of the activity.

Three pre-conditions must be met before such permits can be issued or agreements made:

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

Permits may be issued for a period of up to three years, while agreements may be made for a maximum of five years. All permits or agreements must be accompanied by an explanation of why they were issued, and this explanation is to be posted in the Species at Risk Public Registry.

Prohibited activities vs. adverse effects

There is no direct link between the SARA subsection 79(2) requirement to identify adverse effects on listed wildlife species and their critical habitat, and the prohibitions set out in the Act.

In other words, determining that an activity will lead to an adverse effect does not necessarily mean that the activity itself is prohibited. Prohibitions are set out in sections 32-36 and 58-61 of SARA and their applicability depends on a variety of circumstances. For information on the prohibitions, please refer to [Appendix D](#).

Exemptions to prohibitions under SARA

In certain cases, activities are exempted from prohibitions where they are permitted by a recovery strategy, an action plan or a management plan for species of special concern and are authorized under an Act of Parliament (subsection 83(4) of SARA).

In such cases, a SARA permit would not be required; however, such activities would still need to be considered in the environmental assessment of a project where they are components and for which CEAA has been triggered.

Course of action decision under CEAA

Following the environmental assessment conclusion regarding significance of environmental effects under CEAA, the responsible authority must make a decision regarding whether the project is likely to cause significant adverse effects and whether it can exercise any power, duty or function that would permit the project to proceed (e.g., to provide funding, lease land, issue a permit or grant a licence). This is called the responsible authority's course of action decision.

Coordinating the SARA permitting and environmental assessment decisions

The SARA permitting decision and the environmental assessment process under CEAA address several similar issues. For example, an assessment under CEAA could consider alternatives and would identify mitigation measures to avoid or minimize adverse effects on the listed wildlife species, its residences or critical habitat. In considering environmental effects, the assessment would need to consider cumulative environmental effects and overall impacts on the survival or recovery of the listed wildlife species. Thus, the assessment would consider many, if not all, of the pre-conditions for permitting under SARA.

Steps taken to assure compliance with CEAA and SARA could be concurrent and mutually supportive. The environmental assessment could include a discussion on the proposed approach for compliance with SARA prohibitions, and if a permit is required, how permitting pre-conditions would be satisfied. That is, the CEAA and SARA compliance efforts could be aligned and made concurrent as much as reasonably possible.

At a minimum, there could be communication between the parties responsible for the two processes to ensure that information is shared, to avoid duplication of effort, and to ensure consistency between the two analyses.

Implications of a CEEA decision

A decision under CEEA that permits a responsible authority to provide federal support for a project does not constitute an authorization to violate the SARA prohibitions which stand on their own and must still be respected. The environmental assessment can mention a proposed approach, but this cannot be substituted for an authorization by the competent minister under SARA.

In addition, the potential significance of an adverse environmental effect under CEEA is not necessarily an indication of whether an activity is prohibited under SARA, nor of whether the activity would meet the pre-conditions for a SARA permit.

Integrating the SARA permit and CEEA course of action decisions

The need to directly integrate a SARA permit decision into a responsible authority's course of action decision will arise only in circumstances when a competent minister is acting under another Act of Parliament, pursuant to section 74 of SARA, to authorize activities that would otherwise be prohibited under SARA.

For example, this could occur when certain provisions of the *Fisheries Act* (Fisheries and Oceans Canada), the *Canada National Parks Act* (Parks Canada) or the *Migratory Birds Convention Act, 1994* (Environment Canada) are used to permit activities that would otherwise be prohibited under SARA.

The decision of a competent minister to permit activities affecting a listed wildlife species can be integrated with the responsible authority's course of action decision. Mitigation measures identified in the environmental assessment may be required to be added as terms or conditions to the SARA permit authorization to ensure that adverse effects are minimized, that the listed wildlife species are protected and also that any necessary mitigation measures required by CEEA are implemented.

Competent ministers as responsible authorities

A competent minister can also be a responsible authority when it proposes a project as its proponent; grants money or other financial assistance to a proponent for the purpose of enabling a project to be carried out; sells, leases or otherwise disposes of land or any interest in land to enable a project to be carried out, or issues certain approvals as set out in the *Law List Regulations* under CEAA.

When the competent minister is a responsible authority, it cannot exercise any power, or perform any duty or function under any Act of Parliament that would allow the project to be carried out in whole or in part until an environmental assessment is conducted and a course of action decision has been made under CEAA that allows the project to go forward (see subsection 11(2) or paragraphs 20(1)(a) and 37(1)(a) of CEAA). Thus, when the responsible authority is also the competent minister, the environmental assessment must be completed before a permit under SARA (or under other legislation) can be issued.

Note: If a competent minister is a responsible authority and, as a result of the environmental assessment, will authorize a project to proceed as per sections 73 or 74 of the SARA which will affect a listed wildlife species as per the SARA prohibitions, an explanation must be posted in the Species at Risk Public Registry, as per subsection 73(3.1).

Proponent compliance with SARA

Regardless of whether a project is likely to result in significant adverse environmental effects under CEAA, the proponent must still comply with the requirements under SARA, such as applying for permits or avoiding actions that would constitute an offence under SARA.

That is, the proponent's obligations may differ from the responsible authority's and extend beyond completion of the environmental assessment.

Related guidance

For related information, see also, in this guide, sections:

- [2.1 Initial Considerations](#)
- [2.11 Determination of Significance](#)

For additional information, also refer to the SARA Permitting Policy posted on the [Species at Risk Public Registry](#).

SARA references

- Agreements and permits: sections 73–74
- Exemptions for permitted activities: subsection 83(4)

**CEAA
references**

- Timing of assessment: subsection 11(2)
- Course of action decision: sections 20 and 37
- *Law List Regulations*

2.13 Monitoring and Follow-up Programs

Obligations to monitor under SARA

SARA establishes obligations to ensure that measures are taken to monitor the adverse effects of a project on listed wildlife species and their critical habitat after the environmental assessment decision has been taken.

Effects monitoring under SARA

Under subsection 79(2) of SARA, a responsible authority is required to ensure that measures are taken to monitor the adverse effects of the project on listed wildlife species and their critical habitat. This is required regardless of the significance of those adverse effects, and is required for all listed wildlife species.

Measures taken to monitor the adverse effects must be consistent with any applicable recovery strategy or action plan. In addition, it is best practice to ensure that measures taken to monitor adverse effects on species of special concern be consistent with relevant management plans for those species.

Follow-up under CEAA

Follow-up programs are recognized as an important tool for ensuring accountability in the environmental assessment process and for improving the quality of future environmental assessments. The results of a follow-up program can also be used for implementing adaptive management measures.

Following a decision to enable a project to be carried out under CEAA, a responsible authority must ensure implementation of all mitigation measures that it considers appropriate. In addition to this mitigation monitoring, a follow-up program may be undertaken to:

- verify the accuracy of the environmental assessment; and
- determine the effectiveness of any measures taken to mitigate the adverse environmental effects of the project.

Under CEAA, the need for a follow-up program in a screening is at the discretion of a responsible authority; however, a follow-up program is mandatory for a comprehensive study, an assessment by a review panel or mediation. Where a follow-up program is deemed to be required, the responsible authority ensures its implementation.

When a follow-up program under CEAA is initiated, the responsible authority has certain obligations in terms of informing the public and maintaining records on the Canadian Environmental Assessment Registry.

These obligations are not triggered by the subsection 79(2) monitoring requirement.

**SARA
monitoring
and CEAA
follow-up**

The SARA monitoring obligation is independent and distinct from any CEAA follow-up program responsibilities. That is, even if a follow-up program is not undertaken under CEAA, a responsible authority must ensure that SARA monitoring is implemented if the project is carried out and there are potential adverse effects on a listed wildlife species or its critical habitat.

Undertaking monitoring as a result of the obligation under SARA does not necessarily constitute a follow-up program under CEAA; however, it is good practice to integrate the two requirements wherever possible.

For example, integrating the two programs would make sense if a follow-up program is deemed necessary under CEAA, and the objectives of the SARA monitoring are identical to the objectives of the follow-up program with regards to species at risk. In some cases, the need to monitor the project's effects on a listed wildlife species may constitute sufficient justification for a follow-up program under CEAA.

**Developing a
monitoring
plan**

If potential adverse effects on a listed wildlife species or its critical habitat are identified in an environmental assessment, to best comply with the SARA requirement for ensuring monitoring, it is best practice for the responsible authority to identify the objectives, scope, timelines and responsibilities for carrying out the monitoring activity. Where possible, this should be done in the early planning stages of the environmental assessment and may be described directly in the environmental assessment report or as part of a monitoring plan linked to the environmental assessment.

The monitoring plan should also identify the circumstances under which corrective measures may be needed to address any issue or problem identified through the monitoring, for example, if unanticipated effects occur or the importance of the effects is greater than anticipated.

Results of monitoring and follow-up

Results of the monitoring under SARA should be provided to the competent minister(s).

It is best practice to include monitoring reports on the Canadian Environmental Assessment Registry and project file, even if they are not part of a CEAA follow-up program; however, confidentiality of information may need to be considered.

If the mitigation measures are found not to be effective and listed wildlife species are being adversely affected, then [adaptive management measures](#) under CEAA or under other legislation may be required. In some cases, these adaptive management measures may be considered conditions for the project approval.

Related guidance

For related information, see also, in this guide, sections:

- [1.2 SARA Project Review Requirements](#)
- [2.9 Mitigation Measures](#)
- [2.14 Adaptive Management](#)

Applicable recovery strategies, action plans and management plans for species of special concern may provide direction to responsible authorities on issues related to monitoring and follow-up programs.

For more information, please refer to the Canadian Environmental Assessment Agency's Operational Policy Statement entitled *Follow-up Programs under the Canadian Environmental Assessment Act* at: www.ceaa.gc.ca/013/0002/followup_e.htm

SARA references

- Required action: subsection 79(2)

CEAA references

- Mitigation measures: subsection 20(2)
- Follow-up programs: subsections 38(1)–(5)

2.14 Adaptive Management

Linking monitoring and adaptive management

The requirement for ensuring that measures are taken to monitor adverse effects on listed wildlife species and their critical habitat creates an opportunity to consider adaptive management measures.

What is adaptive management?

Unanticipated adverse environmental effects may arise during the life of a project calling for adaptive management. Adaptive management measures:

- involve the implementation of new or modified mitigation measures over the life of a project to address unanticipated environmental effects; and
- allow for the adoption of improved mitigation measures (e.g., due to technological advances) over the life of a project.

In other words, adaptive management measures are actions taken on the basis of new information, typically gathered from monitoring activities in a follow-up program, to avoid, reduce or compensate for the environmental effect of a project once a project is underway or completed.

Adaptive management may also involve the purposeful testing of alternative impact hypotheses and mitigation measures. For example, given uncertainty regarding the effectiveness of different mitigation measures, several such measures could be applied simultaneously to different portions of the affected [valued ecosystem component](#) to determine the best approach.

Adaptive management under CEEA

The value of adaptive management is recognized in CEEA under subsection 38(5), which states that the results of follow-up programs may be used for implementing adaptive management measures or for improving the quality of future environmental assessments.

Adaptive management under SARA

SARA establishes no specific obligations with respect to considering adaptive management measures; however, responsible authorities and project proponents may need to consider applying adaptive management measures to mitigate adverse effects on listed wildlife species.

Adaptive management is recognized as an important tool for mitigating effects on listed wildlife species and critical habitat that are identified during project implementation.

The environmental assessment report, for example, could note any potential need for adaptive management measures with respect to listed wildlife species or critical habitat that may be identified through the effects monitoring activity.

Adaptive management as a compliance tool

Notwithstanding the environmental assessment, a proponent will still have a legal responsibility to comply with SARA, and adaptive management can be a tool to help ensure that listed wildlife species, their critical habitat and residences of individuals of the species are not adversely affected.

In addition, adaptive management may be a means of ensuring that implementation of a project does not adversely affect new species that may be listed, or that measures advanced in new recovery strategies, action plans or management plans for species of special concern can be adopted when appropriate.

In the event that adaptive management is not appropriate or possible, or does not result in sufficient protection, provisions under section 80 of SARA allow for an emergency order to protect a listed wildlife species that is facing imminent threats to its survival or recovery.

Related guidance

Applicable recovery strategies, action plans and management plans for species of special concern may provide direction to responsible authorities on the issues related to adaptive management.

For more information, please refer to the Canadian Environmental Assessment Agency's Operational Policy Statements entitled *Adaptive Management Measures under the Canadian Environmental Assessment Act* at:
www.ceaa.gc.ca/default.asp?lang=En&n=50139251-1

SARA references

- Emergency order: section 80

CEAA references

- Adaptive management: subsection 38(5)
-

Appendices: Background to the *Species at Risk Act*

Overview

Purpose of appendices

The appendices provide additional SARA background information of particular relevance to an environmental assessment practitioner. The appendices include an overview of SARA, definitions, responsibilities, key instruments, information sources and a template for notification.

Contents

The appendices contain the following topics:

Topic	Page
Appendix A: Introduction to SARA	61
Appendix B: SARA Definitions	63
Appendix C: Summary of Responsibilities Under SARA	66
Appendix D: Key SARA Instruments	68
Appendix E: SARA Notification Template	73

Appendix A: Introduction to SARA

Purposes of SARA

The purposes of SARA are to:

- prevent wildlife species from being extirpated or becoming extinct;
 - provide for the recovery of wildlife species that are extirpated, endangered, or threatened as a result of human activity; and
 - manage species of special concern to prevent them from becoming endangered or threatened.
-

Scope of SARA

SARA applies to all extirpated, endangered or threatened species, and species of special concern that are listed on the List of Wildlife Species at Risk set out in Schedule 1 of SARA.

A number of provisions in SARA apply specifically to:

- all listed wildlife species on all federal lands in Canada (e.g., national parks and reserve lands);
- all listed aquatic species (a fish or a marine plant as defined in the *Fisheries Act*, including fish, shellfish, crustaceans, marine animals, algae and phytoplankton) whether on federal lands or not; and
- all listed migratory birds protected by the *Migratory Birds Convention Act, 1994* whether on federal lands or not.

SARA received Royal Assent in 2002, implemented in stages, and came into full force in 2004. When SARA received Royal Assent in 2002, there were 233 Wildlife Species at Risk listed in Schedule 1. Since that time an additional 192 species were added to the list. Schedule 1 now lists 425 species.

In addition, of the 117 species designated at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) prior to October 1999, all but 17 have been reassessed and added to the list in Schedule 1.

SARA sets out a process to add a species to the List of Wildlife Species at Risk or change its status on the List. The List, which will be updated regularly, can be viewed on the Species at Risk Public Registry.

Key features of SARA

The following are the key features of SARA.

- Strongly promotes the role of stewardship and voluntary measures in protecting species at risk.

- Promotes a cooperative approach among federal, provincial and territorial governments to protecting species at risk.
 - Establishes a process for legally listing wildlife species as extirpated, endangered, threatened or special concern, recognizing the role of COSEWIC in assessing and identifying species at risk.
 - Establishes a list of species at risk (Schedule 1).
 - Establishes a National Aboriginal Council on Species at Risk.
 - Provides legal protection for individuals of species, residences of individuals or critical habitats when those species are listed as extirpated, endangered or threatened.
 - Establishes a framework for the recovery of species listed as extirpated, endangered or threatened through the development of recovery strategies and action plans.
 - Establishes a framework for the management of species of special concern, through the development of management plans for those species, to prevent them from becoming further at risk and to promote their recovery.
 - Provides for the protection of critical habitat through a series of measures which may include prohibitions.
 - Creates a public registry to assist in making documents under the Act more accessible to the public and for consulting the public on them.
-

Appendix B: SARA Definitions

Definitions in SARA	The following sections provide definitions of some of the key terms from subsection 2(1) of SARA.
<hr/>	
<i>Aquatic species</i>	A wildlife species that is a fish, as defined in section 2 of the <i>Fisheries Act</i> or a marine plant, as defined in section 47 of that Act.
<hr/>	
<i>Competent Minister</i> <i>or</i> <i>Competent Department</i>	<p>Throughout the guide, the terms “competent ministers” or “competent departments” are used to refer to the ministers or departments responsible for SARA:</p> <ul style="list-style-type: none"> (a) the Minister responsible for Parks Canada with respect to individuals in or on federal lands administered by that Agency. Since December 12, 2003, the Minister of the Environment has been designated as the Minister responsible for Parks Canada. (b) the Minister of Fisheries and Oceans with respect to aquatic species, other than individuals mentioned in paragraph (a); and (c) the Minister of the Environment with respect to all other individuals.
<hr/>	
COSEWIC	The Committee on the Status of Endangered Wildlife in Canada established by section 14 of SARA.
<hr/>	
<i>Critical habitat</i>	Habitat that is necessary for the survival or recovery of a listed wildlife species and that is identified as the species’ critical habitat in the recovery strategy or in an action plan for the species.
<hr/>	
<i>Endangered species</i>	A wildlife species that is facing imminent extirpation or extinction.
<hr/>	
<i>Extirpated species</i>	A wildlife species that no longer exists in the wild in Canada, but exists elsewhere in the wild.
<hr/>	

<i>Federal land</i>	<p>(a) land that belongs to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the power to dispose of, and all waters on and airspace above that land;</p> <p>(b) the internal waters of Canada and the territorial sea of Canada; and</p> <p>(c) reserves and any other lands that are set apart for the use and benefit of a band under the <i>Indian Act</i>, and all waters on and airspace above those reserves and lands.</p>
<i>Habitat</i>	<p>(a) in respect of aquatic species, spawning grounds and nursery, rearing, food supply, migration and any other areas on which aquatic species depend directly or indirectly in order to carry out their life processes, or areas where aquatic species formerly occurred and have the potential to be reintroduced; and</p> <p>(b) in respect of other wildlife species, the area or type of site where an individual or wildlife species naturally occurs or depends on directly or indirectly in order to carry out its life processes or formerly occurred and has the potential to be reintroduced.</p>
<i>Individual</i>	An individual of a wildlife species, whether living or dead, at any developmental stage and includes larvae, embryos, eggs, sperm, seeds, pollen, spores and asexual propagules.
<i>List</i>	Means the List of Wildlife Species at Risk set out in Schedule 1 of SARA.
<i>Listed</i>	Means listed on the List.
<i>Precautionary approach</i>	Consistent with SARA, if there are threats of serious or irreversible harm to a listed wildlife species, cost-effective measures to prevent the reduction or loss of a species will not be postponed for lack of full scientific certainty.
<i>Residence</i>	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.
<i>Species at risk</i>	An extirpated, endangered or threatened species or a species of special concern.

<i>Species of special concern</i>	A wildlife species that may become a threatened or an endangered species because of a combination of biological characteristics and identified threats.
<i>Threatened species</i>	A wildlife species that is likely to become an endangered species if nothing is done to reverse the factors leading to its extirpation or extinction.
<i>Wildlife species</i>	<p>A species, subspecies, variety or geographically or genetically distinct population of animal, plant or other organism, other than a bacterium or virus, that is wild by nature and</p> <ul style="list-style-type: none"> (a) is native to Canada; or (b) has extended its range into Canada without human intervention and has been present in Canada for at least 50 years.

Appendix C: Summary of Responsibilities Under SARA

Responsibilities of key parties The following sections summarize some of the major responsibilities of key parties under SARA:

Minister of the Environment – Environment Canada

- Overall administration of SARA.
 - Protection of all listed wildlife species, other than aquatic species, that occur anywhere in Canada other than on federal lands administered by Parks Canada.
 - Development of recovery strategies and action plans (for extirpated, threatened or endangered species) and management plans (for species of special concern) for all listed wildlife species, other than aquatic species, that occur anywhere in Canada other than on federal lands administered by Parks Canada.
 - Implementation of conservation and protection measures under SARA for listed wildlife species under the responsibility of Environment Canada, other than those in or on federal lands administered by Parks Canada.
-

Minister of the Environment – Parks Canada

- Protection of all listed wildlife species in or on federal lands administered by Parks Canada.
 - Development of recovery strategies and action plans (for extirpated, threatened or endangered species) and management plans (for species of special concern) for aquatic and terrestrial listed wildlife species in or on federal lands administered by Parks Canada.
 - Implementation of conservation and protection measures under SARA for listed wildlife species in or on federal lands administered by Parks Canada.
-

Minister of Fisheries and Oceans – Fisheries and Oceans Canada

- Protection of listed aquatic species that occur anywhere in Canada other than in or on federal lands administered by Parks Canada.
- Development of recovery strategies and action plans (for extirpated, threatened or endangered species) and management plans (for species of special concern) for all listed aquatic species other than aquatic species in or on federal lands administered by Parks Canada.
- Implementation of conservation and protection measures under SARA for listed aquatic species under the responsibility of the Minister of Fisheries and Oceans, other than those that occur in or on federal lands administered by Parks Canada.

***Canadian
Endangered
Species
Conservation
Council
(CESCC)***

Members include: the Minister of the Environment, the Minister of Fisheries and Oceans, and ministers of the provincial and territorial governments responsible for the conservation and management of a wildlife species in the province or territory.

Responsibilities include:

- general direction on the activities of COSEWIC, the preparation of recovery strategies, and the preparation and implementation of action plans; and
 - coordination of the activities of the various governments represented on the Council relating to the protection of a species at risk.
-

***Committee on
the Status of
Endangered
Wildlife in
Canada
(COSEWIC)***

Members include: qualified wildlife experts drawn from the federal, provincial and territorial governments, wildlife management boards, Aboriginal groups, universities, national non-governmental organizations, museums, and others.

Responsibilities include:

- assessment and classification of the status of wildlife species using the best available information on the biological status of a species, including scientific knowledge, community knowledge and Aboriginal traditional knowledge; and
 - provision of advice to the Minister and the CESCC.
-

***National
Aboriginal
Council on
Species at Risk
(NACOSAR)***

Members include: six representatives of the Aboriginal peoples of Canada selected by the Minister of the Environment based upon recommendations from Aboriginal organizations.

Responsibilities include:

- advising the Minister of the Environment on the administration of SARA; and
 - provision of advice and recommendations to the CESCC.
-

Appendix D: Key SARA Instruments

Summary of key instruments

The following sections summarize the key instruments that can be used to help achieve SARA's objectives.

Note: In the following sections, the numbers in parentheses reference the relevant provisions of SARA.

Stewardship action plan (10.1–10.2)

A stewardship action plan may be established to create incentives and other measures to support voluntary stewardship actions.

Conservation and contribution agreements (11–13)

SARA provides competent ministers the authority to enter into conservation agreements and contribution agreements with any government in Canada, organization or person. A conservation agreement may benefit a species at risk or enhance its survival in the wild. A contribution agreement may support the conservation of wildlife species.

COSEWIC and the listing process (14–31)

SARA creates a framework whereby:

- COSEWIC independently assesses the status of wildlife species;
 - government responds to COSEWIC assessment;
 - a process is established to add or remove species from Schedule 1; and
 - a List of Wildlife Species at Risk is set out in Schedule 1.
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General prohibitions (individuals and residences) (32–36)

These provisions make it an offence:

1. to kill, harm, harass, capture or take an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species;
2. to possess, collect, sell, buy or trade an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species, or any part or derivative of such an individual; and
3. to damage or destroy the residence of one or more individuals of a wildlife species that is listed as an endangered species or a threatened species, or that is listed as an extirpated species if a recovery strategy has recommended the reintroduction of that species into the wild in Canada.

These prohibitions apply without an order from the Governor in Council:

- on federal land, except in the territories;

- on land in the territories under the authority of the Minister of the Environment or Parks Canada;
- to listed extirpated, endangered or threatened migratory birds species that are protected by the *Migratory Birds Convention Act, 1994* wherever they are found; or
- to listed extirpated, endangered or threatened aquatic species wherever they are found.

The expression “federal land” under SARA means:

- land that belongs to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the power to dispose of, and all waters on and airspace above that land;
- the internal waters of Canada and the territorial sea of Canada; and
- 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.

These prohibitions also can be applied, by order of the Governor in Council on the recommendation of the Minister of the Environment, following consultations with relevant provinces and territories as set out in SARA and public consultations as required by the Government of Canada regulatory policy:

- to a species that is not listed under SARA but that has been classified as threatened or endangered by a provincial or territorial minister, and that is found on federal land; or
- to a species on provincial or territorial land, where the laws of the province or territory do not effectively protect the species or the residence of its individuals (known as the “safety net” provision).

Recovery strategies (37–46)

The competent minister must prepare recovery strategies for listed endangered, extirpated and threatened species. A recovery strategy will, among other things:

- describe the species and its needs;
 - include a statement of the population and distribution objectives for the species;
 - identify threats to the survival of a species and its habitat, and outline a broad strategy to respond to those threats; and
 - identify the species’ critical habitat to the extent possible, based on best available information.
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***Action plans
(47–55)***

Action plans support the implementation of recovery strategies and will, among other things, include:

- a statement of measures to implement the recovery strategy, including those that address the threats to the species and those that help to achieve population and distribution objectives;
 - an identification of a species' critical habitat and examples of activities that could destroy the critical habitat;
 - a statement of measures proposed to protect the species' critical habitat; and
 - methods to monitor the recovery of the species and its long-term viability.
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***Protection of
critical habitat
(56–64)***

Critical habitat is identified in recovery strategies or action plans. Critical habitat will then be protected through a range of mechanisms that could include provisions in or mechanisms under SARA including agreements under s. 11 of SARA, other Acts of Parliaments or provincial or territorial legislation.

Where a critical habitat prohibition applies, SARA makes it an offence to destroy any part of the critical habitat of a species listed under SARA as extirpated (if a recovery strategy has recommended its reintroduction into the wild in Canada), endangered or threatened.

For critical habitat in a national park of Canada named and described in Schedule 1 of the *Canada National Parks Act*, a marine protected area under the *Oceans Act*, a migratory bird sanctuary under the *Migratory Birds Convention Act, 1994* or a national wildlife area under the *Canada Wildlife Act* the prohibition applies 90 days after a description of the critical habitat is published in the *Canada Gazette* (such publication occurs 90 days after the critical habitat is identified in a recovery strategy or action plan).

For critical habitat of listed aquatic species located elsewhere, and for all critical habitat located on other federal lands, in the exclusive economic zone of Canada or on the continental shelf of Canada, the prohibition applies by way of an order from the competent minister. Otherwise, for the critical habitat prohibition to apply on lands that are not federal land, in the exclusive economic zone of Canada or on the continental shelf of Canada, an order from the Governor in Council upon the recommendation of the competent minister is required.

***Management
plans (65–72)***

Management plans are developed for species of special concern, and will, among other things, set out measures for the conservation of a species and its habitat.

Agreements and permits or other documents (73–78)

Sections 73 to 78 of SARA allow agreements, permits, licences, orders or other similar documents to be issued or entered into for the following types of activities:

- the activity is scientific research relating to the conservation of the species and conducted by qualified persons;
- the activity benefits the species or is required to enhance its chance of survival in the wild; or
- affecting the species is incidental to the carrying-out of the activity.

Permits and agreements are subject to several requirements, including the following pre-conditions:

- all reasonable alternatives to the activity that would reduce the impact on the listed wildlife species have been considered and the best solution has been adopted;
 - all feasible measures will be taken to minimize impact of the activity on the species, or its critical habitat or the residences of its individuals; and
 - the activity will not jeopardize the survival or recovery of the listed wildlife species.
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Project review (79)

A responsible authority must notify the competent minister(s) if the project is likely to affect a listed wildlife species or its critical habitat.

When a federal environmental assessment is required under an Act of Parliament, the person responsible for ensuring that assessment is conducted must identify the adverse effects of the project being assessed on the listed wildlife species and its critical habitat.

If the project is carried out, the responsible authority must ensure that measures are taken to avoid or lessen those effects and to monitor them. The measures must be taken in a way that is consistent with any applicable recovery strategy and action plans.

Emergency orders (80–82)

Emergency orders provide authority for the federal government to take emergency action to protect a listed wildlife species or the habitat that is necessary for the survival or recovery of the species, when the competent minister believes that a listed wildlife species is facing imminent threats to its survival or recovery.

Exceptions (83) Several exceptions to the prohibitions and emergency orders are provided for in the Act, including exceptions for:

- activities related to public safety, health or national security that are authorized by or under any other Act of Parliament;
 - activities authorized under sections 73, 74 or 78 by an agreement, permit, licence, order or similar document;
 - a person who is engaging in activities in accordance with conservation measures for wildlife species under a land claims agreement; and
 - a person who is engaging in activities that are permitted by a recovery strategy, action plan or management plan and who is also authorized under an Act of Parliament to engage in that activity.
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Enforcement (85–119)

Sections 85 to 119 of SARA address a range of enforcement issues, including:

- public applications for investigation (sections 93–96);
 - offences and punishments (sections 97–107); and
 - alternative measures (sections 108–119).
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Appendix E: SARA Notification Template

INSERT ADDRESS OF SENDER

INSERT DATE

INSERT ADDRESS OF RECIPIENT

Dear Mr./Ms.:

RE: Notification pursuant to the requirements of subsection 79(1) of the *Species at Risk Act*

Please be advised that (*name of competent department*), as responsible authority for the environmental assessment for (*name of project*), has determined that this proposed project may affect the following listed wildlife species or its critical habitat: (*name of species and/or critical habitat*). This determination is based on information from (*information source, e.g., NatureServe Canada, sightings, recent surveys*).

The (*name of project*), located at (*location information*), is proposed to involve (*brief description of proposed project*). The nature of the potential effect is (*potential effect on species or its critical habitat*). At this point, the following mitigation measures and alternatives are being considered (*mitigation and/or alternative means of carrying out the project, if known*).

The proposed project is subject to a (*type of environmental assessment*) under the (*applicable legislation*). Additional information about the environmental assessment is available through the (*location, e.g., Canadian Environmental Assessment Registry*) at (*reference number*).

Additional information (*e.g., location data for species or critical habitat, or any known residences of individuals of those species*) is attached.

Please note that we are (*aware of / not aware of*) a need for confidentiality regarding the location data for the species.

If you have any questions, please feel free to call the contact for this environmental assessment: (*name of contact, address, email and telephone number*).

Sincerely,

Department Representative (Signature of all responsible authorities if applicable)
