

# Consultation on Amending the List of Species under the *Species at Risk Act*

November 2004



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Please send your comments on this consultation, by no later than January 28<sup>th</sup>, 2005, to the SARA Public Registry at:

[SARAREgistry@ec.gc.ca](mailto:SARAREgistry@ec.gc.ca)

For regular mail please send your comments to:

Director, Species at Risk  
Canadian Wildlife Service  
Environment Canada  
Ottawa, Ontario,  
K1A 0H3

For more information on the *Species at Risk Act*, please visit the Public Registry at [www.sararegistry.gc.ca](http://www.sararegistry.gc.ca)

For more information on species at risk, please visit Environment Canada's Species at Risk website: [www.speciesatrisk.gc.ca](http://www.speciesatrisk.gc.ca)

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## PART I: ADDITION OF SPECIES TO THE *SPECIES AT RISK ACT*

### Public consultation

#### Background

As part of its strategy for protecting wildlife species at risk, the Government of Canada proclaimed the *Species at Risk Act* (SARA) on June 5, 2003. Attached to the Act is Schedule 1, the list of the species that receive protection under SARA, hereinafter referred to as the 'SARA List'.

At the time of the reintroduction of SARA (then known as Bill C-5) to the House of Commons in 2002, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) had found 233 of the species it had assessed to be at risk. These 233 species make up the existing SARA List.

Between 2002 and the COSEWIC meeting in May of 2003, COSEWIC assessed or reassessed an additional 91 species as being at risk. In March of 2004 the Minister of the Environment and the Minister of Fisheries and Oceans undertook consultations concerning the inclusion of these 91 species on the SARA List. The consultations are now complete for 79 of these species. For a complete list of these 79 species, please visit:

[www.sararegistry.gc.ca/regs\\_orders/orders\\_e.cfm](http://www.sararegistry.gc.ca/regs_orders/orders_e.cfm)

The Minister of the Environment has recommended the addition of 76 of these 79 species to the *Species at Risk Act* under which they will receive the Act's full protections. The Minister of the Environment has also recommended that the Governor in Council not add two species to the SARA List, and that they return one species to COSEWIC for further consideration. Cabinet will make a final decision on adding this set of species to SARA in January 2005.

On July 19<sup>th</sup> of 2004, COSEWIC submitted to the Minister of the Environment a new list of 51 species that they have assessed or reassessed and found to be at risk. These 51 species are now eligible for consideration for addition to the SARA List. The Minister

of the Environment is conducting consultations for the 37 which are terrestrial (Table 1). The Minister of Fisheries and Oceans is conducting separate consultations for the 14 aquatic species (Table 2). For more information on the consultations for aquatic species please visit Fisheries and Oceans Canada at:

<http://www.dfo-mpo.gc.ca/index.htm>

Nearly 40 per cent of the 51 newly eligible species occur in national parks or other lands administered by the Parks Canada Agency. Responsibility for the recovery of terrestrial and aquatic species that occur within these lands is shared between the Parks Canada Agency and either Environment Canada or Fisheries and Oceans Canada.

Recognizing that governments cannot act alone to ensure the conservation of biodiversity, it is a part of the strategy of the Government of Canada to invite and encourage Aboriginal peoples of Canada and all Canadians to be involved. Reflecting this policy, the Government of Canada has designed SARA to ensure the persistence of Canadian wildlife species and the habitats that support them, while embracing Canadian values of participation. The involvement of those affected is integral to the process, as it is to the ultimate protection of Canadian wildlife. The best way to secure the survival of species at risk and their habitats is through the active participation of all those concerned. Your comments matter, and will be given serious consideration.

#### Purpose of the current consultation

The Minister of the Environment, having received the COSEWIC assessments of the status of each of these 51 species, will recommend to the Governor in Council one of the following possible courses of action as set out in SARA:

- a) that the COSEWIC assessment be accepted and the species be added to the SARA List, reclassified or removed from the list accordingly;
- b) that the species not be added to the SARA List; or

- c) that the species be referred back to COSEWIC for further information or consideration.

The Government of Canada is obligated to take one of these actions within nine months of the Governor in Council having received the assessment from COSEWIC. If in that time no government action is taken, the species must be added to the SARA List by Ministerial Order.

COSEWIC bases its assessments solely on its evaluation of the biological status of each species. Before making informed decisions, the Minister of the Environment requires a broader perspective, including the social and economic benefits and costs of adding or not adding each of the species to the SARA List. To that end, the publication of *Consultation on Amending the List of Species under the Species at Risk Act* marks the launch of consultations on the potential impacts of the addition of each of these species to the SARA List.

The results of these consultations will inform the recommendation of the Minister of the Environment as to which of the three possible courses of action would be the most appropriate.

Of particular interest in these discussions is the identification of the benefits and costs of adding or not adding each of the species to the SARA List, relative to the potential impacts on these species and on society of not adding them, recognizing that Canada's natural heritage is an integral part of our national identity and history.

### Process of public consultations

Before the government makes decisions regarding the addition to the SARA List of all or some of the 37 newly assessed or reassessed terrestrial species (Table 1), Environment Canada is inviting the public to comment.

To facilitate public consultations, Environment Canada will distribute this document to a number of identified stakeholders and post it on the Public Registry. When viewed on the Public Registry, Table 1 provides links to detailed information on the COSEWIC status assessments.

In addition to the public, Environment Canada will consult with provinces and territories responsible for the conservation and management of a wildlife species.

Where there are existing land claims agreements for the eligible species, such that they fall under the authority of a Wildlife Management Board, Environment Canada or Fisheries and Oceans Canada will consult with the relevant Board. Aboriginal people identified as affected by the listing of these species will be contacted.

Consultations with other federal departments and agencies will also occur.

Environment Canada will send notice of this consultation to recognized stakeholders, identified concerned groups and individuals who have made their interests known. This includes but is not limited to: industries, industry groups and resource users, landowners, land users and environmental non-government organizations. Other audiences may be engaged directly through other forms of consultation.

### Role and impact of public consultation

The results of this public consultation are of great relevance to the process of listing species at risk. Environment Canada will carefully review and evaluate comments received before January 28<sup>th</sup>, 2005, and will document them in a Regulatory Impact Analysis Statement (RIAS). The RIAS, a description of the regulatory proposal, including an analysis of the expected impact, is an integral part of the federal regulatory process. A draft Order (an instrument that serves notice of a decision taken by the executive arm of government) proposing to list all or some of the species under consideration will then be published, along with the RIAS, in the Canada Gazette Part I for a comment period of 30 days.

The Minister of the Environment will take into consideration comments and any additional information received following publication in the Canada Gazette Part I. The Minister will then make a recommendation to the Governor in Council on whether or not to add certain species to the SARA List or to refer them back to COSEWIC. The final decision will be published in Canada Gazette Part II and on

the Public Registry.

## Process of identifying and listing species at risk

### Process and role of COSEWIC

COSEWIC comprises experts on wildlife species at risk. Their backgrounds are in the fields of biology, ecology, genetics, Aboriginal traditional knowledge and other relevant fields, and they come from various communities, including academia, Aboriginal organizations, government and non-government organizations.

Initially, COSEWIC commissions a status report for the evaluation of the conservation status of a species. To be accepted, status reports must be peer-reviewed and approved by a subcommittee of species specialists. In special circumstances assessments can be done on an emergency basis.

COSEWIC then meets to examine the status report, discuss the species and determine whether or not the species is at risk and if so, assess the level of risk.

For more information on COSEWIC visit:

[www.cosewic.gc.ca](http://www.cosewic.gc.ca) .

### Terms used to define the degree of risk to a species

Categories for the degree of risk to a species are: Extirpated, Endangered, Threatened and Special Concern. COSEWIC assesses a species as Extirpated when it no longer occurs in the wild in Canada but still exists elsewhere, and Endangered if it is facing imminent extirpation or extinction. An assessment of Threatened means that the species is likely to become Endangered if nothing is done to reverse the factors leading to its Extirpation or Extinction. COSEWIC assesses a species as Special Concern if it may become a Threatened or Endangered species because of a combination of biological characteristics and identified threats.

### The *Species at Risk Act*

The *Species at Risk Act* strengthens and enhances the Government of Canada's capacity to protect Canadian wildlife species and distinct populations at risk of becoming Extinct or Extirpated. As the Act applies only to those species and distinct populations on the SARA List, the transparency and openness of the process of deciding which are to be included are of paramount importance.

The process begins once COSEWIC has assessed a species as being at risk. Upon receipt of these assessments, the Minister of the Environment has 90 days to report on how he or she intends to respond and, to the extent possible, provide timelines for action. The Minister will then make a recommendation to the Governor in Council on whether or not to add certain species to the SARA List or to refer them back to COSEWIC. Once a species is added to the SARA List, specific actions must be taken within specified times to help ensure its protection and recovery.

### Significance of the addition of a species to the SARA List

The protection that comes into effect following the addition of a species to the SARA List depends upon the degree of risk assigned to the species, the type of species and where it occurs.

### Protection for listed Extirpated, Endangered and Threatened species

Under the Act, prohibitions protect individuals of Extirpated, Endangered and Threatened species. These prohibitions make it an offence to kill, harm, harass, capture or take an individual of a species listed as Extirpated, Endangered or Threatened, or to damage or destroy the residence of one or more individuals of an Endangered or a Threatened species. The Act also makes it an offence to possess, collect, buy, sell or trade an individual of a species that is Extirpated, Endangered or Threatened, or a part, or derivative of one. These prohibitions came into force June 1st, 2004.

The focus of protection is on those species on federal land and for those for which the federal government has responsibility under other legislation (i.e., the *Fisheries Act* and the *Migratory Birds Convention Act, 1994*).

For all other listed Extirpated, Endangered, and Threatened species, the provinces and territories have the responsibility to ensure that they receive protection comparable to that provided under SARA. Should these species not be effectively protected, there are provisions in the Act that allow for the general prohibitions under SARA to be extended to provincial or territorial lands. The federal government would consult with the jurisdiction concerned before invoking these provisions.

The Minister of the Environment or the Minister of Fisheries and Oceans may authorize exceptions to the prohibitions under SARA. These ministers can enter into agreements or issue permits only for research relating to the conservation of a species conducted by qualified scientists, for activities that benefit a listed species or enhance its chances of survival, or for activities that incidentally affect a listed species. They can make these exceptions only when it is established that all reasonable alternatives have been considered and the best solution has been adopted, when all feasible measures will be taken to minimize the impact of the activity, and when the survival or recovery of the species will not be jeopardized. In such a case, the Minister of the Environment or the Minister of Fisheries and Oceans must include an explanation of the permit or agreement on the Public Registry.

#### Protection for listed species of Special Concern

The prohibitions of SARA for species listed as Extirpated, Endangered and Threatened do not apply to species of Special Concern; however any existing protections and prohibitions, such as those provided by the *Migratory Birds Convention Act, 1994*, or the *Canada National Parks Act*, continue to be in force.

#### Recovery strategies and action plans for Extirpated, Endangered and Threatened species

The addition of an Extirpated, Endangered or Threatened species to the SARA List triggers the requirement for the preparation of a recovery strategy and action plan which will be the subject of separate consultations.

Recovery strategies will be completed and made available on the SARA Public Registry (allowing for public review and comment) within one year of their addition to the SARA List for Endangered species and within two years for Threatened and Extirpated species.

Recovery strategies will address the known threats to the species and its habitat. They will identify areas where more research is needed and population objectives that will help ensure the species' survival or recovery. They also will include a statement of the timeframe for the development of one or more action plans. Recovery strategies and action plans will identify, to the extent possible, the critical habitat of the species. Action plans will include measures to address threats, help the species recover and protect critical habitat. Action plans will identify measures to implement the recovery strategy.

Recovery strategies and action plans will be prepared in cooperation with Wildlife Management Boards and directly affected Aboriginal organizations as well as with the jurisdictions responsible for the management of the species. Landowners and other stakeholders directly affected by the recovery strategy will also be consulted.

#### Management plans for Species of Special Concern

For species of Special Concern, management plans will be prepared and made available on the Public Registry within three years of their addition to the SARA List, allowing for public review and comment. Management plans will include appropriate conservation measures for the species and for its habitat.

Management plans will be prepared in cooperation with jurisdictions responsible for the management of the species, including

directly affected Wildlife Management Boards and Aboriginal organizations. Landowners, lessees and others directly affected by a management plan will also be consulted.

### Detailed information on the status of species appearing in Table 1

For a brief summary of the reasons for the designation of individual species, please refer to the Response Statements, which Environment Canada has posted on the Public Registry. For a more complete evaluation on the conservation status of individual species please refer to the Status Report for that species, also available on the Public Registry at:

[www.sararegistry.gc.ca/status/default\\_e.cfm](http://www.sararegistry.gc.ca/status/default_e.cfm)

or contact:

COSEWIC Secretariat  
c/o Canadian Wildlife Service  
Environment Canada  
Ottawa, ON  
K1A 0H3  
Tel: 819-953-3215

Fax: 819-994-3684  
[cosewic@ec.gc.ca](mailto:cosewic@ec.gc.ca)

### Public comments solicited on the addition of 37 species to the SARA List

The 37 wildlife species that appear in Table 1 have been assessed or reassessed by COSEWIC as species at risk and are being considered for addition to the SARA List.

Please e-mail your comments to the SARA Public Registry at:

[SARAreistry@ec.gc.ca](mailto:SARAreistry@ec.gc.ca)

by no later than the **28<sup>th</sup> of January, 2005**, or by regular mail, please address comments to:

Director, Species at Risk  
Canadian Wildlife Service  
Ottawa, Ontario,  
K1A 0H3

Environment Canada will review and use your comments when considering the addition of each of these species to the SARA List.

## PART II: SPECIES PROPOSED FOR AMENDMENT TO THE SARA LIST

Table 1: Species eligible for addition to Schedule 1 with consultations conducted by Environment Canada

Taxon	Species	Population	Scientific Name	Range
<b>Endangered</b>				
Mammals	Peary Caribou		<i>Rangifer tarandus pearyi</i>	NT NU
Birds	Horned Lark <i>strigata</i> subspecies		<i>Eremophila alpestris strigata</i>	BC
Birds	Northern Bobwhite		<i>Colinus virginianus</i>	ON
Birds	Red Crossbill <i>percna</i> subspecies		<i>Loxia curvirostra percna</i>	NL
Amphibians	Small-mouthed Salamander		<i>Ambystoma texanum</i>	ON
Reptiles	Prairie Skink		<i>Eumeces septentrionalis</i>	MB
Reptiles	Spotted Turtle		<i>Clemmys guttata</i>	ON QC
Arthropods	Sand-verbena Moth		<i>Copablepharon fuscum</i>	BC
Vascular Plants	Bog Bird's-foot Trefoil		<i>Lotus pinnatus</i>	BC
Vascular Plants	Butternut		<i>Juglans cinerea</i>	ON QC NB
Vascular Plants	Dwarf Sandwort		<i>Minuartia pusilla</i>	BC
Vascular Plants	Dwarf Woolly-heads		<i>Psilocarphus brevissimus</i>	BC
Vascular Plants	Pink Sand-verbena		<i>Abronia umbellata</i>	BC
Vascular Plants	Rosy Owl-clover		<i>Orthocarpus bracteosus</i>	BC
Vascular Plants	Slender Collomia		<i>Collomia tenella</i>	BC
Vascular Plants	Small-flowered Tonella		<i>Tonella tenella</i>	BC
Vascular Plants	Stoloniferous Pussytoes		<i>Antennaria flagellaris</i>	BC
<b>Threatened</b>				
Mammals	Plains Bison		<i>Bison bison bison</i>	BC AB SK MB
Birds	Loggerhead Shrike <i>excubitorides</i> subspecies		<i>Lanius ludovicianus excubitorides</i>	AB SK MB
Birds	Pink-footed Shearwater		<i>Puffinus creatopus</i>	BC
Birds	Short-tailed Albatross		<i>Phoebastria albatrus</i>	BC
Reptiles	Western Rattlesnake		<i>Crotalus oreganus</i>	BC
Arthropods	Dakota Skipper		<i>Hesperia dacotae</i>	SK MB
Arthropods	Poweshiek Skipperling		<i>Oarisma poweshiek</i>	MB
Vascular Plants	Branched Bartonia		<i>Bartonia paniculata</i> ssp. <i>paniculata</i>	ON
Vascular Plants	Dwarf Hackberry		<i>Celtis tenuifolia</i>	ON
Vascular Plants	Gulf of St. Lawrence Aster		<i>Symphyotrichum laurentianum</i>	QC NB PE
Vascular Plants	Victorin's Gentian		<i>Gentianopsis procera</i> ssp. <i>macounii</i> var. <i>victorinii</i>	QC
Mosses	Porsild's Bryum		<i>Mielichhoferia macrocarpa</i>	BC NU AB NL
Lichens	Flooded Jellyskin		<i>Leptogium rivulare</i>	MB ON
<b>Special Concern</b>				
Mammals	Barren-ground Caribou	Dolphin and Union	<i>Rangifer tarandus groenlandicus</i>	NT NU
Mammals	Spotted Bat		<i>Euderma maculatum</i>	BC
Vascular Plants	Eastern Lilaeopsis		<i>Lilaeopsis chinensis</i>	NS
Vascular Plants	New Jersey Rush		<i>Juncus caesariensis</i>	NS
Vascular Plants	Victorin's Water-hemlock		<i>Cicuta maculata</i> var. <i>victorinii</i>	QC
Mosses	Columbian Carpet Moss		<i>Bryoerythrophyllum columbianum</i>	BC
Mosses	Twisted Oak Moss		<i>Syntrichia laevipila</i>	BC

Table 2: Species eligible for addition to Schedule 1 with consultations conducted by Fisheries and Oceans Canada

Taxon	Species	Population	Scientific Name	Range	Lead Region
<b>Endangered</b>					
Mammals	Beluga Whale	Eastern Hudson Bay population	<i>Delphinapterus leucas</i>	NU, QC, Arctic Ocean, Atlantic Ocean	Quebec
Mammals	Beluga Whale,	Ungava Bay population	<i>Delphinapterus leucas</i>	QC, Arctic Ocean, Atlantic Ocean	Quebec
Fishes	Porbeagle Shark		<i>Lamna nasus</i>	Atlantic Ocean	Maritimes
Fishes	White Sturgeon		<i>Acipenser transmontanus</i>	BC	Pacific
Molluscs	Round Pigtoe		<i>Pleurobema sintoxia</i>	ON	Central & Arctic
<b>Threatened</b>					
Mammals	Beluga Whale	Cumberland Sound population	<i>Delphinapterus leucas</i>	NU, Arctic Ocean	Central & Arctic
Mammals	Beluga Whale	St. Lawrence Estuary population	<i>Delphinapterus leucas</i>	QC, Atlantic Ocean	Quebec
<b>Special Concern</b>					
Mammals	Beluga Whale	Eastern High Arctic - Baffin Bay population	<i>Delphinapterus leucas</i>	NU, Arctic Ocean	Central & Arctic
Mammals	Beluga Whale	Western Hudson Bay population	<i>Delphinapterus leucas</i>	MB, NU, ON, Arctic Ocean, Atlantic Ocean	Central & Arctic
Mammals	Grey Whale	Eastern North Pacific population	<i>Eschrichtius robustus</i>	Pacific Ocean, Arctic Ocean	Pacific
Mammals	Harbour Porpoise	Pacific Ocean population	<i>Phocoena phocoena</i>	Pacific Ocean	Pacific
Mammals	Steller Sea Lion		<i>Eumetopias jubatus</i>	BC, Pacific Ocean	Pacific
Molluscs	Rocky Mountain Ridged Mussel		<i>Gonidea angulata</i>	BC	Pacific
Molluscs	Yellow Lampmussel		<i>Lampsilis cariosa</i>	NB, NS	Maritimes

## GLOSSARY

**Canada Gazette:** The *Canada Gazette* is one of the vehicles that Canadians can use to access laws and regulations. It has been the "official newspaper" of the Government of Canada since 1841. Government departments and agencies as well as the private sector are required by law to publish certain information in the *Canada Gazette*. For more information please visit:

<http://canadagazette.gc.ca>.

**COSEWIC:** The Committee on the Status of Endangered Wildlife in Canada. The committee comprises experts on wildlife species at risk. Their backgrounds are in the fields of biology, ecology genetics and other relevant fields such as aboriginal traditional knowledge. These experts come from various communities, including among others, governments and academia.

**Governor in Council:** The Governor General of Canada acting on the advice of the Queen's Privy Council for Canada (i.e. Cabinet).

**Order:** Order in Council (OIC). An instrument that serves notice of decision taken by the executive arm of government, for example, an Order in Council accompanies all regulations.

**Public Registry:** Developed as an online service, the Public Registry has been accessible to the public since proclamation of the *Species at Risk Act* (SARA). The website gives users easy access to documents and information related to SARA at any time and location with internet access. It can be found at <http://www.sararegistry.gc.ca>.

**RIAS:** A description of a regulatory proposal, including an analysis of the expected impact of each regulatory initiative.

**SARA List:** Schedule 1 of the *Species at Risk Act* (SARA); the list of the species that fall under the provisions of SARA.

**Wildlife Management Board:** Established under the land claims agreements in northern Quebec, Yukon, Northwest Territories, British Columbia and Nunavut, Wildlife Management Boards are the 'main instruments of wildlife management' within their settlement areas. In this role they not only establish, modify and remove levels of total allowable harvest of a variety of wildlife species, but also participate in research activities including annual harvest studies and approve the designation of species at risk in their settlement areas.



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