

Report on Steps Taken and Protection of Critical Habitat for Species at Risk in Canada

June 2019

Canada

Recommended citation:

Environment and Climate Change Canada. 2019. Report on Steps Taken and Protection of Critical Habitat for Species at Risk in Canada. *Species at Risk Act* Critical Habitat Report Series. Environment and Climate Change Canada, Ottawa.

For copies of this report, or for additional information on species at risk, including the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) Status Reports, residence descriptions, action plans, and other related recovery documents, please visit the [Species at Risk \(SAR\) Public Registry](https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html)¹.

Également disponible en français sous le titre

« Rapport sur les mesures prises et la protection de l’habitat essentiel des espèces en péril au Canada »

© Her Majesty the Queen in Right of Canada, represented by the Minister of Environment and Climate Change, 2018. All rights reserved.

ISBN: 978-0-660-31655-0

Catalogue no.: CW66-590/2019E-PDF

¹ <https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry.html>

TABLE OF CONTENTS

INTRODUCTION.....	1
APPROACH.....	1
1. PROVINCIAL PROTECTION OF CRITICAL HABITAT ON NON-FEDERAL LANDS.....	3
1.1 British Columbia	3
1.2 Alberta.....	6
1.3 Saskatchewan	8
1.4 Manitoba.....	10
1.5 Ontario.....	12
1.6 Quebec.....	15
1.7 New Brunswick	17
1.8 Nova Scotia	19
1.9 Prince Edward Island	21
1.10 Newfoundland and Labrador.....	23
2. TERRITORIAL PROTECTION OF CRITICAL HABITAT.....	24
2.1 Nunavut	24
2.2 Northwest Territories and Yukon.....	25
3. FEDERAL PROTECTION OF CRITICAL HABITAT ON NON-FEDERAL LANDS AND TERRITORIAL LANDS.....	25
4. FUTURE REPORTING.....	29
ANNEX A – LISTS OF SPECIES WITH CRITICAL HABITAT IDENTIFIED ON NON-FEDERALLY ADMINISTERED LANDS BY PROVINCE/TERRITORY.....	30

INTRODUCTION

The purposes of the *Species at Risk Act* (SARA) are to prevent wildlife species from being extirpated or becoming extinct, to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity, and to manage species of special concern to prevent them from becoming endangered or threatened.

The responsibility for conservation of species at risk is shared by both levels of government in Canada. The Government of Canada first looks to the provinces and territories for the protection of terrestrial² species' habitat on non-federally administered lands³. The federal government is responsible for critical habitat protection for all species on federal lands⁴. However, SARA allows the Government of Canada to put in place protection of critical habitat on non-federally administered lands in specific circumstances.

SARA contains provisions related to the identification and protection of critical habitat, i.e. “the habitat that is necessary for the survival or recovery of a listed wildlife species that is identified as the species' critical habitat in the recovery strategy or action plan”. Under Section 63 of SARA, the Minister of Environment and Climate Change Canada (ECCC) must report on the steps taken to protect critical habitat of terrestrial species.

In April 2018, the Government of Canada published the first report under section 63 of SARA on unprotected critical habitat for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal population. In May 2018, the Minister of Environment and Climate Change announced her commitment to track and report on critical habitat protection for other terrestrial species at risk with critical habitat identified on non-federal lands. In fulfillment of this commitment, this first multi-species report: 1) reviews the extent to which existing legislation can prevent the destruction of critical habitat of listed species at risk that is identified on non-federal lands in the provinces and on territorial lands; 2) describes steps taken to protect and conserve critical habitat for species at risk on non-federal lands in the provinces and on territorial lands and 3) presents a list of the species to which this report applies.

APPROACH

To conduct the legislation reviews that are summarized by province and territory in the sections below, ECCC identified broadly relevant provincial and territorial legislation that could impact wildlife or land use management. ECCC then considered whether these laws and regulations

² Note that the Government of Canada has jurisdiction for the protection of aquatic species and their critical habitat, wherever it occurs. However, aquatic species are not covered in this report, therefore the protection mechanism for those species will not be presented here.

³ Throughout this report, “non-federally administered land” means provincial or territorial crown land (land administered by the provincial or territorial government, including land covered by water like rivers or lakes) and privately owned lands.

⁴ “Federal lands” are defined as lands that belong to the federal government, internal waters and territorial sea of Canada, reserves or any other lands that are set apart for the use and benefit of a band under the *Indian Act*.

include prohibitions that are consistent with the purposes of SARA (e.g., prohibition on destruction or damage to habitat for wildlife species at risk, prohibition of certain activities that would result in a habitat disturbance or a change in the landscape, etc.), offences, enforcement measures and penalties, as well as appropriate constraints on discretion, permitting authorities or other potential limitations, exceptions or exemptions to the application of the relevant prohibitions.

Within each provincial/territorial summary is the list of legislation that was reviewed by ECCC. Summary descriptions of species at risk specific acts or regulations where stand alone legislation exists, are presented, as well as any other acts that have the potential to provide area-based provisions that could prevent activities likely to result in the destruction of critical habitat. In addition, the extent to which other acts can provide some protection against specific threats and activities is also presented. Finally, the report provides a summary of steps that each jurisdiction has indicated are being taken to protect critical habitat identified in federal recovery strategies or action plans for federally listed species at risk.

ECCC documented this analysis with detailed reviews for each jurisdiction⁵, which were then shared with provincial and territorial government officials for review. ECCC then summarized the reviews, taking into consideration provincial and territorial input, including information on steps and measures that provinces and territories indicated are being taken and put in place to protect critical habitat of federally listed terrestrial species at risk. The draft report was then sent to the provinces and territories for a second round of engagement.

ECCC acknowledges that provinces and territories have multiple acts and regulations which provide tools that can be used to protect critical habitat. Analyzing these laws individually and comparing them to SARA may not represent the complete picture of the variety and overlap of tools that the provincial and territorial governments can use to protect habitat for species at risk.

The list of species in each jurisdiction to which this report applies can be found in Annex A. This list represents all terrestrial species currently listed on Schedule 1 of SARA as threatened or endangered for which critical habitat has been identified on non-federal land or on territorial land in a final federal recovery strategy or action plan⁶, excluding Woodland Caribou, Boreal population (boreal caribou). Information pertaining to boreal caribou may be found in the progress report⁷ on critical habitat protection for boreal caribou published on the SAR Public Registry. As no additional species other than boreal caribou have critical habitat identified in the

⁵ ECCC based these analyses on the ones that led to the report entitled [Progress report on unprotected critical habitat for the Woodland Caribou \(Rangifer tarandus caribou\), Boreal population, in Canada](#), published on the SAR Public Registry, as well as *ad hoc* analyses undertaken for other species.

⁶ As of 31 March 2019

⁷ [Progress Report on Steps Taken to Protect Critical Habitat for the Woodland Caribou \(Rangifer tarandus caribou\), Boreal Population, in Canada](#)

Yukon and Northwest Territories, the following report does not have content pertaining to these two territories.

Note that, in the Yukon and Northwest Territories, devolution agreements have given administration and control of large portions of land to the Yukon and Northwest Territories governments. Such an agreement is under negotiation for Nunavut. The federal government is working with the governments of the Yukon, Northwest Territories and Nunavut, Indigenous governments and organizations, and northern Wildlife Management Boards to develop a path forward for protection of critical habitat on devolved lands (also known as territorial lands) and on non-federally administered lands in Nunavut, in a manner that respects the intent of devolution.

1. PROVINCIAL PROTECTION OF CRITICAL HABITAT ON NON-FEDERAL LANDS

1.1 British Columbia

In British-Columbia, there are 83 species at risk with federally identified critical habitat to which this report relates (see Annex A1).

Summary of legislation review

For British Columbia, ECCC reviewed the following provincial acts and their regulations: the *Ecological Reserve Act*, the *Parks Act*, the *Environment and Land Use Act*, the *Wildlife Act*, the *Muskwa Kechika Management Area Act*, the *Land Act*, the *Forest Act*, the *Forest and Range Practices Act*, the *Petroleum and Natural Gas Act*, the *Oil and Gas Activities Act*, the *Coal Act*, the *Mineral Tenure Act*, the *Mines Act*, the *Geothermal Resources Act*, the *Transportation Act*, the *B.C. Environmental Assessment Act*, the *Environmental Management Act*, the *Water Sustainability Act*, the *Heritage Conservation Act*, the *Agricultural Land Commission Act*, the *Farm Practices Protection (Right to Farm) Act*, the *Private Managed Forest Land Act*, a Community Charter of the *Local Government Act*, the *Riparian Areas Protection Act*, and the *Land Title Act*.

The Government of British Columbia does not currently have stand-alone species at risk legislation, and the purpose of most provincial land use legislation in BC is to manage industrial and commercial activities, including the environmental effects of those activities. As such, there is no single piece of legislation that has a specific purpose of protecting critical habitat, but habitat for various species at risk is explicitly considered in the designation and application of some of the legislative instruments discussed here.

The *Ecological Reserve Act*, the *Park Act*, the *Wildlife Act*, and their associated regulations include provisions that could, in some circumstances, result in an outcome that is consistent with that of the SARA prohibition on critical habitat destruction within ecological reserves, in

conservancies or provincial parks, and in wildlife management areas respectively. However, the scope of lands covered by these Acts is limited, and the discretion to authorize activities likely to result in the destruction of critical habitat is not subject to constraints consistent with those under SARA, except within ecological reserves.

On non-federal lands outside of the above listed provincial protected areas, it is recognized that other pieces of legislation in British Columbia may be capable of preventing specific activities from destroying critical habitat in some circumstances. However, for the legislation reviewed through this process, the scope of prohibitions is limited and any constraints on the authorization of otherwise prohibited activities (e.g., the issuance of permits) are not consistent with those provided for under SARA.

Steps taken by the Province of British Columbia

Steps taken by the Government of British Columbia that relate to the protection and conservation of critical habitat are outlined below.

- British Columbia applies a systematic approach to habitat conservation that includes:
 - Landscape-level management to maintain ecosystem processes, function and representation (e.g. Parks and Protected Areas, Old Growth Management Areas)
 - Sites and species-specific management that is needed for unique species, vegetation communities, elements (e.g. Wildlife Habitat Areas, Wildlife Habitat Features⁸ like Great Blue Heron nests, and Ungulate Winter Ranges).
 - Practice requirements (e.g., setbacks from streams) and review process (e.g. conditions on permits) to mitigate development impacts.
- Collectively, British Columbia has designations that contribute to conservation on approximately 50% of the land base. Land designations that contribute to conservation are summarized in three categories: **Protected Lands**, **Resource Exclusion Areas**, and **Spatially Managed Areas**. The three categories span a considerable range in contribution to conservation, with variation in purpose, scope, and strength—with respect to intended conservation outcomes – and length of the term of the designations.
 - **Protected Lands** – covering 15.4% of British Columbia, includes all Parks & Protected Areas, and Wildlife Management Areas (15.0%) and Other Protected Lands (0.4%) with the primary purpose of the long-term conservation of nature and cultural values.
 - **Resource Exclusion Areas** – covering 12.4% of British Columbia, includes all designations that fully exclude one or two resource activities for the purpose of conservation. Resource Exclusion Areas are established as habitat designations under

⁸ <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/laws-policies-standards-guidance/legislation-regulation/forest-range-practices-act/government-actions-regulation/wildlife-habitat-features>

legislation (e.g. *Forest and Range Practices Act*, *Oil and Gas Activities Act*, *Land Act*) which fully exclude one or two resource activities in these areas. Examples include Ungulate Winter Ranges and Wildlife Habitat Areas for species at risk under *Forest and Range Practices Act*, and Grizzly Bear habitat under the *Land Act*. Overall there are currently 3.7 million hectares designated as Wildlife Habitat Areas.

- **Spatially Managed Areas** – currently covering 24.5% of British Columbia, includes all spatial designations managing or limiting development or a resource activity for the purpose of conservation, or a spatial management regime in place to preserve specified elements of biodiversity but where activity is still allowed to occur. The designations within this category vary significantly in purpose and scope of management.
- These designations can work in concert or individually to contribute to the conservation of critical habitat. For example, from 2013 to 2017, [6.1 million ha of Ungulate Winter Range \(UWR\) were designated](#) under *Forest and Range Practices Act*, and [over 500,000 ha of Wildlife Habitat Areas \(WHAs\) were added](#).
- Additional tools to support habitat conservation in British Columbia include the Wildlife Habitat Features provisions of the *Forest and Range Practices Act*, which provides for special management of residences and other important habitat features for species at risk. Examples of Wildlife Habitat Features include nests, fisheries sensitive features, mineral licks, bat nursery roosts and others. The *Land Act* also provides for constraints on some activities relevant to species at risk and their habitat through the use of map reserves and land use orders or permits as part of land use planning and strategic agreements. The Province is currently modernizing the land use planning process.
- [Management, recovery or action plans](#) have now been developed for over 220 federally listed species at risk occurring in British Columbia. Most recently, Implementation Plans for Northern Goshawk and Marbled Murrelet are guiding the identification and establishment of Wildlife Habitat Areas, Old-growth Management Areas, and Land-use Objectives for the conservation of habitat for these species.
- The Province supports stewardship initiatives for the conservation of species at risk on private and Crown land. For example, British Columbia continues to support the [Coastal Douglas-fir Conservation Partnership](#), a group composed of over 20 partner organizations jointly aiming to improve conservation and management of rare Coastal Douglas-fir ecosystems and their species at risk.
- Amendments to *Forest and Range Practices Act* are being proposed that will improve the ability of land managers to protect natural resources, including species at risk habitat and other wildlife.
- British Columbia is also negotiating conservation agreements for the Southern Mountain Caribou with the Government of Canada, and with West Moberly First Nations and Saulteau First Nations. A draft Partnership Agreement includes specific habitat protection measures, habitat restoration and management requirements to support the recovery of the central group of southern mountain caribou.

1.2 Alberta

In Alberta, there are 21 species at risk with federally identified critical habitat to which this report relates (see Annex A2).

Summary of legislation review

For Alberta, ECCC reviewed the following provincial laws and their associated regulations: *Wildlife Act*, *Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act*, *Willmore Wilderness Park Act*, *Provincial Parks Act*, *Alberta Land Stewardship Act*, *Forests Act*, *Public Lands Act*, *Mines and Minerals Act*, *Environmental Protection and Enhancement Act*, and the *Water Act*.

The Government of Alberta does not have stand-alone species at risk legislation. The *Wildlife Act* and its *Wildlife Regulation* are the primary provincial legislative tools that address wildlife management in Alberta. The Act does not contain prohibitions against the destruction of habitat, but it enables the minister to make regulations respecting the protection of wildlife habitat and endangered species. Specifically, the *Wildlife Regulation* is the only regulation that includes provisions related to endangered animals. However, these provisions are limited, as they only prohibit the willful molestation, disturbance, or destruction of a house, nest or den. Of the 21 terrestrial species listed federally on Schedule 1 of SARA in Alberta with critical habitat identified on non-federal lands, 11 are prescribed as endangered species in the regulation (see Annex A2). Note that an additional 3 species are prescribed as non-game animals in the regulation, and are subject to similar provisions as endangered species.

The *Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act*, the *Provincial Parks Act* and the *Willmore Wilderness Park Act* include provisions that could result in an outcome that is consistent with that of the SARA prohibition on critical habitat destruction in wilderness areas, ecological reserves, wildland provincial parks, and within Willmore Wilderness Park respectively. However, the scope of lands covered under these Acts is limited and the discretion to authorize other activities likely to result in the destruction of critical habitat within these areas is not subject to constraints that are fully consistent with those under SARA.

On non-federal lands outside of the above listed provincial protected areas, it is recognized that other pieces of legislation in Alberta may be capable of preventing specific activities from destroying critical habitat in some circumstances. However, for the legislation reviewed through this process, the scope of prohibitions is limited and any constraints on the authorization of otherwise prohibited activities (e.g., the issuance of permits or approvals) are not consistent with those provided for under SARA.

Steps taken by the Province of Alberta

Steps taken by the Government of Alberta that relate to the protection and conservation of critical habitat are outlined below.

- Critical habitat locations on provincial crown land in Alberta are flagged using one or a combination of reservations and protective notations, wildlife sensitivity layers and approval conditions/standards.
 - Reservations are regulatory instruments used under the *Public Lands Act* to set aside (reserve) public land (including any interest in public land) for other Government of Alberta departments. Protective Notations (PNT), usually called reservations, identify land and resources that are managed to achieve particular land use or conservation objectives.
 - Through the *Public Lands Administration Regulation*, specific operating conditions apply to activities on public lands found within Wildlife Sensitivity Layers to help mitigate the effects of development on wildlife populations and habitats, and reach protection outcomes for important and critical habitat for species at risk (see “Master Schedule of Standards and Conditions”⁹).
- Since 2018, under the *Wildlife Act* and its regulations, bat hibernacula are now protected throughout the year across Alberta.
- The Government of Alberta has various policies, land use guidelines and directives in place that are relevant to wildlife and species at risk habitat in general. These include:
 - Alberta’s Peat Allocation Policy, which classifies critical habitat as High Sensitivity and excludes it from peat allocation;
 - the Wildlife Directive for Alberta Solar Energy Projects and the Wildlife Directive for Alberta Wind Energy Projects which provide standards and best management practices to help minimize or eliminate impacts to wildlife and wildlife habitat, along with the associated Wildlife Habitat Sensitivity Map to guide the site selection process;
 - the continued implementation of the Lower Athabasca Regional Plan, including the formal designation of five new or expanded conservation areas as Wildland Provincial Parks in May 2018; and
 - the Land-use Framework (LUF), which provides broad strategies to manage Alberta’s land and natural resources to achieve long-term economic, environmental, and social goals.
- Alberta has a number of dedicated programs to recover species at risk including stewardship activities and species-specific recovery actions in support of provincial and federal recovery plans. These include:

⁹ Master Schedule of Standards and Conditions is available here: <https://open.alberta.ca/publications/master-schedule-of-standards-and-conditions>

- Alberta's Multiple Species at Risk (MULTISAR) program is a collaboration between government agencies, non-profit environmental organizations, agricultural groups, industry and landowners to be the voluntary stewards of grassland species on over 473,000 acres of private and crown-leased lands in Southern Alberta. Private landowners and producers work with MULTISAR to develop habitat conservation strategies, conservation plans and utilize habitat improvement tools. The program area encompasses over 75% of critical habitat found on non-federal lands for prairie species at risk outlined in this report; and
- cooperative agreements have been made with landowners to prevent habitat destruction for Piping Plovers, using fencing and off-site watering, designation of sanctuaries, cautionary and interpretive signage, and augmentation of nesting substrates.
- Habitat securement has been used for both the Greater Sage-Grouse, and the Greater Short-horned Lizard. For Greater Sage-Grouse, 8,314 acres of land in the species' range was either directly purchased, or a conservation easement placed to ensure the long term securement of critical habitat for the species.
- A number of species-specific habitat improvement and restoration actions have been taken, including building and structure removal in Greater Sage-Grouse range and fence removal or conversion to Greater Sage-Grouse friendly standards; enhancement of shoreline habitat for Piping Plovers; prescribed burns for Ord's Kangaroo Rat, and removal of invasive plants within Western Spiderwort critical habitat.
- As noted in the December 2018 report for Boreal Caribou¹⁰, actions have been taken for Woodland Caribou in Alberta, which are also applicable to the Southern Mountain population, including consideration of a conservation agreement under Section 11 of the *Species at Risk Act*; and habitat restoration programs that have been implemented and initiated.

1.3 Saskatchewan

In Saskatchewan, there are 19 species at risk with federally identified critical habitat to which this report relates (see Annex A3).

Summary of legislation review

For Saskatchewan, ECCC reviewed the following provincial laws and their associated regulations: *The Wildlife Act, 1998*, *The Environmental Management and Protection Act*, *The Provincial Lands Act, 2016*, *The Parks Act*, *The Wildlife Habitat Protection Act*, *The*

¹⁰ Progress Report on Steps Taken to Protect Critical Habitat for the Woodland Caribou (*Rangifer tarandus caribou*), Boreal Population, in Canada, available here: https://wildlife-species.canada.ca/species-risk-registry/document/default_e.cfm?documentID=3383

Conservation Easement Act, The Water Security Agency Act, and The Environmental Assessment Act.

The Government of Saskatchewan does not have stand-alone species at risk legislation. Rather, *The Wildlife Act, 1998* and its *Wild Species at Risk Regulations* are the primary provincial legislative tools that can address wildlife habitat and species at risk in the province. *The Wildlife Act, 1998* allows for the Lieutenant Governor in Council to make regulations that designate an area of the province to protect wildlife and their habitat, however, the Act also includes provisions to authorize activities in these areas which are not subject to constraints consistent with those under SARA. *The Wild Species at Risk Regulations* is the only regulation that includes provisions regarding species at risk; however, the prohibition is limited to the disturbance of the den, house, nest, dam or usual place of habitation of vertebrate wild species at risk. As well, of the 19 terrestrial species listed federally on Schedule 1 of SARA in Saskatchewan with critical habitat identified on non-federal lands, 9 are designated in the regulation as extirpated, endangered or threatened wild species at risk (see Annex A3).

The Provincial Lands Act, 2016 and *The Conservation Easement Act* include provisions that could result in an outcome that is consistent with that of the SARA prohibition on critical habitat destruction in Ecological Reserves, Representative Area Ecological Reserves (RAER) and on land that is under a crown conservation easement, respectively. However, the scope of lands covered under these Acts is limited and each area would need to be assessed individually in conjunction with species-specific details due to the specific provisions associated with each designated reserve and easement.

On non-federal lands outside of ecological reserves, RAER and crown conservation easements, it is recognized that other pieces of legislation in Saskatchewan may be capable of preventing specific activities from destroying critical habitat in some circumstances. However, for the legislation reviewed through this process, the scope of prohibitions is limited and any constraints on the authorization of otherwise prohibited activities (e.g., the issuance of permits or approvals) are not consistent with those provided for under SARA.

Steps taken by the Province of Saskatchewan

Steps taken by the Government of Saskatchewan that relate to the protection and conservation of critical habitat are outlined below.

- Critical Habitat map layers have been published on HABISask for industrial pre-screening purposes. Proponents have access to this information during the planning phases of work and the province is assessing projects on a case by case basis. Using HABISask is a requirement to plan for wildlife surveys pre-development.
- A map layer for pre-approval for Farm Stewardship Program and Farm and Ranch Water Infrastructure Programs that includes Critical Habitat identified in Saskatchewan has been

developed. This process is a necessary pre-screening step to apply for funding on water development and new fencing, and it applies mitigation principles to agricultural developments on Crown and private lands.

- Four new Representative Area Ecological Reserves have been designated in 2018. Two more are planned to be designated in 2019/2020. . The province is currently engaging with First Nations, Metis and other stakeholders.
- Wildlife Siting Guidelines for Saskatchewan Wind Energy Projects that identify avoidance zones where developments are considered higher risk to wildlife populations, natural lands or in potential conflict with land designations, including Critical Habitat have been developed and released.
- A Conservation Lands Policy has been developed to create more rigor around the authorization process for activities on lands listed under the *Wildlife Habitat Protection Act*, protected by Crown Conservation Easements (CCEs) and Fish and Wildlife Development Fund land.
- A policy for Sand and Gravel Exploration and Extraction on Conservation Lands is being developed to put more rigor to the permitting process and include Critical Habitat considerations.
- Saskatchewan has initiated development of a habitat mitigation framework that focuses on avoidance of important habitats, mitigation for the effects of new developments and, where necessary, offsetting for those effects when mitigation is not sufficient.
- Targeted reclamation of oil and gas wells within the Greater Sage-grouse emergency protection order and critical habitat areas is ongoing in collaboration with industry.
- An audit program has been developed to look at Crown Conservation Easements compliance.
- Initiating habitat reclamation processes with Ministry of Highways for gravel pits on Critical Habitat areas.

1.4 Manitoba

In Manitoba, there are 19 species at risk with federally identified critical habitat to which this report relates (see Annex A4).

Summary of legislation review

For Manitoba, ECCC reviewed the following provincial laws and their associated regulations: *The Endangered Species and Ecosystems Act*, *The Environment Act*, *The Wildlife Act*, *The Provincial Parks Act*, *The Ecological Reserves Act*, *The East Side Traditional Lands and Special Protected Areas Act*, *The Crown Lands Act*, and *The Water Rights Act*.

On non-federal lands, *The Endangered Species and Ecosystems Act* (ESEA) is the primary provincial legislative tool to protect species at risk and their habitat. There are 19 terrestrial species federally listed on Schedule 1 of SARA in Manitoba with critical habitat identified on

non-federal lands that are covered in this report. Of these, 18 species are designated under the ESEA regulations as endangered or threatened¹¹ (see Annex A4). In general, the ESEA includes prohibitions against destroying, disturbing or interfering with the habitat of listed endangered or threatened species. However, the ESEA includes exemptions for developments and licenses under *The Environment Act* with constraints that are comparable, but not fully consistent, with SARA. In addition, Manitoba has not required proponents to apply for exceptions under the ESEA for development projects licensed under *The Environment Act*. The ESEA also includes provisions for designating endangered or threatened ecosystems as protected through ecosystem preservation zones, which would apply to any overlapping critical habitat. However, as of March 2019, no ecosystem preservation zones had been designated.

Additionally, the *Ecological Reserves Act* and *The Provincial Parks Act* includes provisions that could result in an outcome that is consistent with that of the SARA prohibition on critical habitat destruction in ecological reserves, and certain zones within provincial parks. However, the scope of lands covered under these Acts is limited and the discretion to authorize other activities likely to result in the destruction of critical habitat is not subject to constraints that are fully consistent with those under SARA.

On non-federal lands outside of ecological reserves, it is recognized that other pieces of legislation in Manitoba may be capable of preventing specific activities from destroying critical habitat in circumstances. However, for the legislation reviewed through this process, the scope of prohibitions is limited and any constraints on the authorization of otherwise prohibited activities (e.g., the issuance of permits or approvals) are not consistent with those provided for under SARA.

Steps taken by the Province of Manitoba

Steps taken by the Government of Manitoba that relate to the protection and conservation of critical habitat are outlined below.

- Ongoing engagement with provincial transportation department to address potential impacts to species-at-risk (including Critical Habitat) due to infrastructure maintenance and development.
- Developed setback distances for petroleum development to mitigate effects on grassland birds.
- Required the construction of a new chimney suitable for Chimney Swifts to replace a chimney used by Chimney Swifts that was taken down for safety reasons.

¹¹ The Flooded Jellyskin is the only species not designated under the ESEA regulations as endangered or threatened.

- Proposed/required mitigation for loss/degradation of grassland habitat for Sprague’s Pipit, Chestnut-collared Longspur, and Baird’s Sparrow due to proposed power transmission and petroleum development in the Spy Hill – Ellice Community Pasture.
- Required mitigation for loss of Rough Agalinis habitat in the Rural Municipality of Woodlands due to highway re-alignment.
- Ongoing enforcement and stakeholder engagement activities regarding agricultural and right-of-way maintenance activities in habitat supporting Western Prairie Fringed Orchid in the Rural Municipality of Stuartburn.
- Ongoing enforcement and stakeholder engagement activities regarding aggregate extraction in habitat supporting Rough Agalinis and Western Silvery Aster in the Rural Municipality of Springfield.
- Ongoing engagement with a landowner regarding proposed urban development in habitat supporting Small White Lady’s-slipper in the City of Brandon.

1.5 Ontario

In Ontario, there are 80 species at risk with federally identified critical habitat to which this report relates (see Annex A5).

Summary of legislation review

For Ontario, ECCC reviewed the following provincial laws: *The Endangered Species Act, 2007* (ESA 2007), the *Environmental Assessment Act* (EAA), the *Planning Act* and Provincial Policy Statement (PPS), the *Conservation Authorities Act*, the *Provincial Parks and Conservation Reserves Act* (PPCRA), the *Far North Act* (FNA)¹², the *Crown Forest Sustainability Act* (CFSA), the *Public Lands Act* (PLA), and the *Fish and Wildlife Conservation Act* (FWCA).

On June 6, 2019, the Government of Ontario approved amendments to the *Endangered Species Act, 2007*. Key changes relate to protection, timelines for listing and recovery actions, and the creation of a Species at Risk Conservation Trust¹³. Given the short time period between the amendments to the ESA and the publication of this report, the review is based on the ESA 2007. A summary of the ESA amendments will be included in the subsequent report.

On non-federal lands, the *Endangered Species Act, 2007* has been the primary provincial legislative tool that can protect habitat for species at risk. Of the 80 terrestrial species federally listed on Schedule 1 of SARA with critical habitat identified on non-federal lands in Ontario

¹² Ontario has proposed to repeal the *Far North Act*: <https://ero.ontario.ca/notice/013-4734#supporting-materials>

¹³ Amendments to the ESA, the EAA, the *Planning Act* and the *Conservation Authorities Act* under bill 108 can be referenced at: <https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-108>

covered in this report, 76 species¹⁴ receive habitat protection under the ESA¹⁵ (see Annex A5). ESA 2007 has provided prohibitions against the damage and destruction of species at risk habitat that were broadly consistent with the prohibitions under SARA, with similar constraints on permitting as exist under SARA. However, the habitat protected under the ESA 2007 had the potential to vary from the identified critical habitat under SARA because of differences in legislation and approaches, in some cases leading to differences in location, type, or amount of habitat protected. Additionally, there were regulatory exemptions with rules-in-regulation under the ESA 2007 that allowed certain activities to occur that would otherwise be prohibited under the ESA 2007, provided that conditions and requirements outlined in the regulation were adhered to, such as avoiding impacts to species and their habitats, minimizing adverse effects and completing beneficial actions to the species. Some regulatory exemptions may not have always been fully consistent with the exemptions set out in SARA. Non-compliance with the conditions specified in a regulatory exemption under the ESA 2007 could have resulted in similar penalties as non-compliance with the terms and conditions of permits issued under the ESA 2007.

Should a species not receive habitat protection under the ESA (or habitat is described differently than critical habitat), the *Provincial Parks and Conservation Reserves Act, 2006* and the *Far North Act* provide for prohibitions on major industrial activities that are generally expected to result in an outcome that is broadly consistent with that of the SARA prohibition for critical habitat that occurs within provincial parks, conservation reserves, and dedicated protected areas. However, the scope of lands covered under these Acts is limited and the discretion to authorize other activities likely to destroy critical habitat within these areas is not subject to constraints that are fully consistent with those under SARA.

On non-federal lands outside of provincial parks, conservation reserves and dedicated protected areas, it is recognized that other pieces of legislation may be capable of preventing specific activities from destroying critical habitat in some circumstances, but they do not provide constraints consistent with those provided for under SARA.

Steps taken by the Province of Ontario

Steps taken by the Government of Ontario that relate to the protection and conservation of critical habitat for species at risk are outlined below.

¹⁴ In some cases, there are differences in the naming of species under the ESA and SARA, such as American Badger, *jacksoni*; Bashful Brush; Grey Fox; and Toothcup.

¹⁵ Of the four species that do not receive habitat protection under the ESA, two have been assessed as not at risk by the Committee on the Status of Species at Risk in Ontario (COSSARO) (Flooded Jellyskin and Western Chorus Frog) and two are listed as special concern on the Species at Risk in Ontario List (Common Hoptree and Golden-winged Warbler). Consistent with SARA, only species classified as threatened or endangered (or in certain circumstances, extirpated) receive habitat protection under the ESA. Differences in listing will occur, in some cases, due to the differing geographic jurisdiction of the federal SARA and the provincial ESA.

- The Government of Ontario has approved changes to the *Endangered Species Act*, *Environmental Assessment Act*, *Planning Act*, and *Conservation Authorities Act*. They have also proposed to repeal the *Far North Act*. None of the steps taken outlined below would be undone or considered to be no longer in effect once the legislative amendments or proposed repeal are implemented.
- Habitat protection under the ESA is in place for 171¹⁶ species at risk in Ontario, 76 of which are part of the 80 terrestrial species with critical habitat identified on non-federal lands in the province.
- Policies have been developed that help guide implementation of protection provisions under the ESA.
 - In 2012, Ontario published a policy titled “Categorizing and Protecting Habitat under the Endangered Species Act” to guide consistent implementation of the habitat protection provisions of the ESA.
 - In 2012, Ontario published a policy titled “Endangered Species Act Submission Standards for Activity Review and 17(2)(c) Overall Benefit Permits” to provide guidance to proponents on the process and specific policies regarding overall benefit permits.
 - In 2017, Ontario published a policy titled “Safe Harbour Habitat under the Endangered Species Act” to provide direction on the approach and considerations that Ontario will use for safe harbour habitat within the meaning of Ontario Regulation 242/08, under the ESA.
- Ontario has developed numerous guidance and best management practices relating to the creation, protection or maintenance of habitat, including for Barn Swallow, Bank Swallow, and amphibian and reptile species.
- Since the Species at Risk Stewardship Program was established in 2007, Ontario has provided funding to over 1,000 projects that have supported the protection and recovery of the province’s species at risk. Provincially-funded projects have contributed to the restoration of approximately 39,002 hectares of habitat for species at risk.
- With respect to forest management planning in Crown forests, Ontario has been evaluating options to better integrate the requirements of the ESA and CFSA.
- In 2017, Ontario released “A Wetland Conservation Strategy for Ontario 2017 – 2030”, which represents a framework to guide the future of wetland conservation across the province.
- In 2013 the Federal-Provincial Habitat Task Group under the Ontario Species at Risk Working Group was created and continues to be active. The goal of the Habitat Task

¹⁶ As of March 2019

Group is to recommend how identification and protection of habitat under SARA and the ESA can be effectively coordinated or harmonized.

1.6 Quebec

In Quebec, there are 20 species at risk with federally identified critical habitat to which this report relates (see Annex A6).

Summary of legislation review

For Quebec, ECCC reviewed the following provincial legislation: the *Act respecting threatened or vulnerable species (LEMV)*, the *Act respecting the conservation and development of wildlife (LCMVF)*, the *Natural Heritage Conservation Act*, the *Parks Act*, the *Environment Quality Act*, the *Act to affirm the collective nature of water resources and to promote better governance of water and associated environments*, the *Act respecting the conservation of wetlands and water bodies*, the *Act respecting land use planning and development*, including certain provisions of the *Municipal Powers Act* and the *Act respecting the preservation of agricultural land and agricultural activities*, and the *Sustainable Forest Development Act*.

In Quebec, there are approaches and strategies for the conservation and protection of species at risk, including specific laws and regulations. Most of the species listed in Schedule 1 of SARA are also designated as threatened or vulnerable, or as likely to be so designated, under the LEMV (see Annex A6)¹⁷. However, unlike SARA, there is no obligation to designate or protect habitats necessary for the survival or recovery of a species. In addition, although the LEMV and the LCMVF apply in principle to both private and public lands, the *Regulation respecting wildlife habitats (RHF)* limits the designation of wildlife habitats to land in the domain of the State. It is therefore not currently possible to legally protect the habitat of a threatened or vulnerable wildlife species on private land under these laws. However, steps are being taken to modernize the RHF and review these provisions.

In addition, there are several tools available to create different types of protected areas, taking into account the characteristics of the targeted areas (e.g., ownership, use, species present). The degree of protection varies depending on the type of protected area, but in some cases, the provisions allow a level of protection similar to that of SARA. Moreover, the designation of protected areas is an element of the Quebec Government's strategy to promote sustainable development and the protection of biodiversity, including species at risk. However, with few exceptions, the areas of critical habitat covered by protected areas are generally very small.

¹⁷ The Forked Three-awned Grass, Purple Twayblade, Van Brunt's Jacob's Ladder, Allegheny Mountain Dusky Salamander (Great Lakes/St. Lawrence and Canadian Shield population) and Blunt-lobed Woodsia are the five species that are not on Quebec's list of threatened or vulnerable species.

Quebec has committed to achieving the target of 17% by 2020, but according to available information, protected areas currently represent only 9.72% of the province's territory.

Finally, it is recognized that other pieces of legislation may be capable of preventing specific activities from destroying critical habitat in some circumstances. However, although species designated as threatened or vulnerable and their habitats, as well as species likely to be so designated, are considered in most cases, the power to authorize these activities (e.g. issuance of permits or approvals) is not subject to constraints that are consistent with those under SARA.

Steps taken by the Province of Quebec

Steps taken by the Government of Quebec that relate to the protection and conservation of critical habitat for species at risk are outlined below.

- Approaches and strategies for the conservation and protection of species at risk have been developed since the 1980s:
 - Establishment of the Centre de données du patrimoine naturel du Québec to collect, analyze and disseminate information on species at risk.
 - Adoption of the LEMV to protect and conserve species at risk and their habitats.
 - Knowledge acquisition work is generally dedicated to species at risk. This work is compiled in a status report that is normally published on the website of the Ministère des Forêts, de la Faune et des Parcs (MFFP) for wildlife species. Status reports on plant species are not published by the ministère de l'Environnement et de la Lutte contre les changements climatiques (MELCC), but they are available on request. These documents are analyzed and reviewed by two separate committees, one for wildlife species and one for plant species. These committees act as scientific advisors to the minister of MFFP or MELCC, depending on the species concerned, and make recommendations on measures to be taken to ensure the protection of these species and their habitats. If necessary, a recovery plan (wildlife species) or a conservation plan (plant species) can then be prepared to define the recovery strategy and objectives over a 5 or 10 year period.
- Most of the species at risk considered in this analysis also have threatened or vulnerable status under the LEMV. Specific habitat protection measures have been taken under the LEMV or the LCMVF for certain species at risk (designation of habitat for threatened or vulnerable species).
- An amendment to the RHF is being considered to make it possible to designate the habitat of a threatened or vulnerable species on private land when urgent action is required to ensure a species' recovery. This regulation allows the prohibition or regulation of activities likely to modify a biological, physical or chemical element specific to the habitat of the species covered by the legal designation.
- A Cooperation Agreement for the Protection and Recovery of Species at Risk in Québec was negotiated between the governments of Quebec and Canada in 2007 and was

renewed in 2012 for a period until 2022. The Agreement is intended to coordinate responses for the protection and recovery of species at risk of common interest and their habitats, while respecting the jurisdictions of both governments and taking a complementary approach.

- In 2016, following the recommendation for an emergency order under SARA in La Prairie, a working group between ECCC, the MELCC and the MFFP was established to allow better collaboration on issues concerning the protection of species at risk on non-federal land in Quebec.
- The Government of Quebec has identified the designation of protected areas in its strategy to promote sustainable development and the protection of biodiversity, including species at risk. In some cases, the presence of one or more species at risk is an important criterion in the decision to protect these territories.
 - To date, the area covered by protected areas amounts to nearly 10% of Quebec's territory.

1.7 New Brunswick

In New Brunswick, there are 11 species at risk with federally identified critical habitat to which this report relates (see Annex A7).

Summary of legislation review

For New Brunswick, ECCC reviewed the following provincial laws: *Species at Risk Act*, *Fish and Wildlife Act*, *Protected Natural Areas Act*, *Parks Act*, *Conservation Easement Act*, *Clean Environment Act*, *Clean Water Act*, *Trespass Act*, and the *Crown Lands and Forest Act*.

On non-federal lands, the *Species at Risk Act* (NB SARA) is the primary provincial legislative tool that can protect habitat for species at risk. The Act provides the Government of New Brunswick with the power to protect species at risk habitat by regulation or by order but only at the discretion of the Minister. There are currently eleven terrestrial species at risk federally listed on Schedule 1 SARA in New Brunswick with critical habitat identified on non-federal land that are covered in this report (see Annex A7). Of these, four species¹⁸ may receive habitat protection under the NB SARA through transitional provisions (habitat protection was extended to the fifteen species listed under the *Endangered Species Act*, which was repealed when the *Species at Risk Act* was introduced in 2012). However, to date, no regulations have been made or orders issued in respect to the designation or protection of species at risk habitat under this Act.

¹⁸ Furbish's Lousewort, Gulf of St. Lawrence Aster, Maritime Ringlet, and Piping Plover *melodus* subspecies are the four species also listed provincially in Schedule A of the NB SARA, subject to transitional provisions for protection of habitat.

Should a species at risk not receive habitat protection under the New Brunswick *Species at Risk Act*, the *Protected Natural Areas Act* includes provisions that could result in an outcome that is consistent with that of the SARA prohibition for species at risk habitat that occurs within Protected Natural Areas. Additionally, although the *Parks Act* includes prohibitions against activities that could result in the destruction of species at risk habitat, the discretion to authorize such activities within provincial Parks is not subject to constraints that are consistent with those under SARA.

The *Conservation Easements Act*, individual easements could include prohibitions against activities likely to result in the destruction of species at risk habitat. However, the limited scope of the Act and the lack of clear offences and penalties makes the Act unlikely to result in an outcome that is consistent with that of the SARA prohibition for species at risk habitat that occurs under conservation easements.

On non-federal lands outside of Natural Protected Areas and provincial Parks, and lands under a Conservation Easement, it is recognized that other pieces of legislation may be capable of preventing some activities from destroying species at risk habitat in some circumstances. For example, the *Trespass Act* could provide protection for species at risk habitat located in wetlands and on land adjacent to lake and ocean shorelines from trespass with a motor vehicle. However, for the pieces of legislation reviewed through this process, the scope of prohibitions is limited and the constraints on discretion on the authorization of otherwise prohibited activities (e.g., the issuance of permits or approvals) are not consistent with the prohibitions and constraints on discretion provided for under SARA.

Steps taken by the Province of New Brunswick

Steps taken by the Government of New Brunswick that relate to the protection and conservation of critical habitat for species at risk are outlined below.

- The Forest Planning and Stewardship Branch of the Department of Energy and Resource Development evaluates proposals including Environmental Impact Assessments, Crown Land Applications, and Watercourse and Wetland Alteration Applications for impacts to species at risk. The projects are screened for species at risk occurrences and critical habitat and, if avoidance of adverse impacts is not feasible, mitigation is included in the conditions of any permit issued or within the certificate of determination in the case of Environmental Impact Assessments.
- There are two policies, the Coastal Policy and Wetland Policy, that speak to conserving habitat that occasionally includes critical habitat. Additionally, under the NB Wetlands Conservation Policy (2002), wetland containing one or more species at risk may be considered Provincially Significant Wetlands (PSW). Under the policy, there are greater restrictions on what is permitted in a PSW than in other wetlands.
- The Province assesses and manages habitat supply on Crown lands to ensure that sufficient habitats are present for all vertebrates through time.

- The Province has developed a Best Management Practices document for Van Brunt Jacob's Ladder.
- There are also several stewardship groups that operate within New Brunswick, with which the province partners with to monitor species at risk (ex. various watershed groups), acquire and protect land (ex. Nature Conservancy of Canada), conserve wetlands and migratory bird habitat (ex. Eastern Habitat Joint Venture), and reach out to landowners (ex. Nature Trust of New Brunswick).

1.8 Nova Scotia

In Nova Scotia, there are 13 species at risk with federally identified critical habitat to which this report relates (see Annex A8).

Summary of legislation review

For Nova Scotia, ECCC reviewed the following provincial laws and their regulations:

Endangered Species Act, Wildlife Act, Beaches Act, Conservation Easements Act, Forests Act, Provincial Parks Act, Special Places Protection Act, the Wilderness Areas Protection Act, and the Environment Act.

On non-federal lands, the *Endangered Species Act* (ESA) is the primary provincial legislative tool that can protect habitat for species at risk. The Act has prohibitions against the destruction of residence such as nests or hibernacula, including dwellings that are anthropocentric structures. The Act also provides the mechanism (through regulation or an order) to list prohibitions against the destruction of species at risk habitat on non-federal lands. There are currently thirteen terrestrial species at risk federally listed on Schedule 1 of SARA in Nova Scotia, all of which are also listed under the Nova Scotia *Endangered Species Act*, with critical habitat identified on non-federal land that are covered in this report (see Annex A8). However, no regulations or orders protecting species at risk habitat have been issued under this Act.

Should a species not receive habitat protection under the *Endangered Species Act*, the *Wilderness Areas Protection Act*, the *Brothers Islands Wildlife Management Regulations* (under the *Wildlife Act*), and the *Special Places Protection Act* include provisions that could result in an outcome that is consistent with that of SARA prohibitions for species at risk habitat. Although an enforcement authority (e.g. conservation officer) is not identified under the *Special Places Act*, a police officer could potentially enforce the Act. Additionally, although the *Provincial Parks Act* includes prohibitions against activities that could result in the destruction of species at risk habitat, the discretion to authorize such activities within provincial parks is not subject to constraints that are consistent with those under SARA.

Under the *Conservation Easements Act*, individual easements could include prohibitions against activities likely to result in the destruction of species at risk habitat. However, the limited scope of the Act and the lack of clear offences and penalties makes the Act unlikely to result in an

outcome that is consistent with that of the SARA prohibition for species at risk habitat that occurs under conservation easements.

On non-federal lands outside of Wilderness Areas, the Brothers Islands, designated Special Places and lands under a Conservation Easement, it is recognized that other pieces of legislation may be capable of preventing some activities from destroying species at risk habitat. However, for the remaining pieces of legislation reviewed through this process, the scope of prohibitions is limited and the constraints on discretion on the authorization of otherwise prohibited activities (e.g., the issuance of permits or approvals) are not consistent with the prohibitions and constraints on discretion provided for under SARA.

Steps taken by the Province of Nova Scotia

Steps taken by the Government of Nova Scotia that relate to the protection and conservation of critical habitat for species at risk are outlined below.

- A draft policy on critical habitat has been in place since November 2018. The intent of the policy is to ensure protection of Endangered and Threatened species, facilitate compliance with the federal *Species at Risk Act* (SARA) and the provincial *Endangered Species Act* (NSESA), and provide greater certainty to decision makers and proponents. The policy should be finalized in 2019.
- A *Biodiversity Act* is being developed. If passed, this Act and its subsequent regulations could provide additional tools related to species at risk habitat protection.
- A *Coastal Protection Act* has recently passed and is undergoing drafting of regulations. This Act and its subsequent regulations should provide additional tools related to species at risk habitat protection in the coastal zone.
- Special Management Practices (SMPs) have been developed for Wood Turtle and At Risk Lichens (including Boreal Felt Lichen & Voles Ears) that use critical habitat as their basis. On average, these SMPs extend 30% beyond where critical habitat is located as they would include species occurrence data used to identify critical habitat as defined in a recovery strategy, as well as more recent occurrence data which has yet to be included in a recovery strategy. Procedures under the SMPs are to be followed on Crown land. SMPs are being developed for other species at risk including Blanding's Turtle, and Eastern Ribbonsnake, while the Wood Turtle SMP is currently under revision.
- The Nova Scotia Species at Risk Conservation Fund was established under the Nova Scotia *Endangered Species Act* to assist the funding of projects related to species at risk. Funding supports species at risk surveys, conservation initiatives, and habitat protection.
- The Nova Scotia Habitat Conservation Fund was established under the Nova Scotia *Wildlife Act* to assist in funding programs for protection and enhancement of wildlife habitats, which includes habitats for species at risk.
- The province is working with the Nova Scotia Federation of Agriculture and ECCC through the Species at Risk Partnership on Agricultural Lands (SARPAL) program to

protect species at risk located on agricultural lands. Past efforts have focused on Wood Turtle habitat and have resulted in threat reduction and habitat protection on over 520ha of wood turtle habitat.

1.9 Prince Edward Island

In Prince Edward Island, there are 2 species at risk with federally identified critical habitat to which this report relates (see Annex A9).

Summary of legislation review

For Prince Edward Island, ECCC reviewed the following provincial laws: the *Wildlife Conservation Act*, *Natural Areas Protection Act*, *Recreation Development Act*, *Environmental Protection Act*, and the *Planning Act*.

On non-federal lands, the *Wildlife Conservation Act* is the primary provincial legislative tool that can protect habitat for species at risk. The Act provides the Government of Prince Edward Island with the power to protect the habitat of species at risk that have been designated (at the discretion Lieutenant Governor in Council) as a threatened or endangered species. There are two terrestrial species at risk federally listed on Schedule 1 of SARA in Prince Edward Island with critical habitat identified on non-federal land that are covered in this report (see Annex A9). To date, no regulations have been made under the *Wildlife Conservation Act* to designate a species at risk. Species at risk habitat could also, potentially, be protected on private land under an agreement with a private landowner which may impose a covenant or easement on the private landowner's land. Unlike, stand-alone easement legislation, which tends to be enforced under common law, such an agreement appears to be enforceable under the *Wildlife Conservation Act*.

Should a species not receive protection under the *Wildlife Conservation Act*, the *Natural Areas Protection Act* includes provisions that could result in an outcome that is consistent with that of the SARA prohibition for species at risk habitat that occurs within natural areas designated under the Act.

On non-federal lands outside of designated natural areas, it is recognized that other pieces of legislation may be capable of preventing activities from destroying species at risk habitat in some circumstances. The Planning Act appears to provide protection for species at risk habitat located on beaches and dunes for most forms of development. However, for the remaining pieces of legislation reviewed through this process, the scope of prohibitions is limited and the constraints on discretion on the authorization of otherwise prohibited activities (e.g., the issuance of permits or approvals) are not consistent with the prohibitions and constraints on discretion provided for under SARA.

Steps taken by the Province of Prince Edward Island

Steps taken by the Government of Prince Edward Island that relate to the protection and conservation of critical habitat for species at risk are outlined below.

- Under the *Environmental Protection Act* (EPA) and *Recreational Development Act* (RDA), permitting is routinely used to protect SAR. For example, imposing a requirement on beach cleanup activities that this only be done outside the Piping Plover nesting season or following consultation with Island Nature Trust regarding active nesting areas.
- PEI's Corporate Land Use Inventory (CLUI) is the most detailed in Canada, and supports making informed land use / habitat decisions, including for SAR. The upcoming 2020 inventory is expected to include updated LiDAR and an Enhanced Forest Inventory which will further support landscape-level planning and habitat conservation. The CLUI is also the basis for provincial State of the Forest and State of the Wildlife reports, and is used to measure habitat change over time.
- PEI has expanded the Alternate Land Use Services (ALUS) program to provide support for delayed hay cuts, thus contributing to conservation of Bobolink habitat on private lands. Further, we have partnered in the production and distribution of information relating to agricultural biodiversity and SAR for landowners in the agricultural landscape.
- PEI has committed to achieving its goal of protecting 7% of its area by the end of 2020. Work towards this includes extensive land acquisition, designating new Wildlife Management Areas on public lands, and reviewing lands that may qualify for OECMs and ICPAs. PEI has a dedicated Resource Land Acquisition Fund which support land acquisition and conservation.
- PEI's wetland policy, which supports no net loss of wetland area and an avoid-mitigate-compensate sequence, makes direct contributions to protection of wetland habitat and the species (including SAR) that depend on them.
- PEI supports 24 community-based watershed groups (which cover 97% of the province) with \$1.2 million in annual funding and extensive technical support. These groups provide an extensive environmental monitoring network for habitat quality parameters and SAR, and maintain the PEI Nature Tracker database.
- PEI provides funding to the Island Nature Trust to support their conservation efforts which include land acquisition as well as working with landowners for the purpose of species at risk conservation on private land, which could include some degree of protection of critical habitat.
- The PEI Wildlife Conservation Fund was established in 1998 by the province to support groups working on projects which benefit wildlife and wildlife conservation in PEI. Funds have been used to assist with a variety of wildlife-related projects including land acquisition for the purpose of protection, addressing threats to piping plover, and to better understand habitat use by at-risk forest birds.

1.10 Newfoundland and Labrador

In Newfoundland and Labrador, there are 9 species at risk with federally identified critical habitat to which this report relates (see Annex A10).

Summary of legislation review

For Newfoundland and Labrador, ECCC reviewed the following provincial laws: *Endangered Species Act*, *Wild Life Act*, *Wilderness and Ecological Reserves Act*, *Provincial Parks Act*, *Water Resources Act*, *Labrador Inuit Lands Act*, *Environmental Protection Act*, *Lands Act*, *Forestry Act*, the *Nunatsiavut Environmental Protection Act*, and the *Nunatsiavut Exploration and Quarrying Standards Act*.

On non-federal lands, the *Endangered Species Act* (ESA) is the primary provincial legislative tool that can protect habitat for species at risk. The Act enables the Government of Newfoundland and Labrador to make an order to set aside an area of land to be protected as species at risk habitat. There are currently nine species at risk federally listed on Schedule 1 of SARA in Newfoundland and Labrador with critical habitat identified on non-federal land that are covered in this report (see Annex A10). However, no orders have been issued for species at risk under the *Endangered Species Act*.

Should a species not receive habitat protection under the *Endangered Species Act*, the *Wilderness and Ecological Reserves Act* and the *Provincial Parks Act* both include provisions that could result in an outcome that is consistent with that of the SARA prohibition for species at risk habitat within Ecological Reserves and Provincial Parks respectively.

On non-federal lands outside of Ecological Reserves and Provincial Parks, it is recognized that other pieces of legislation may be capable of preventing some activities from destroying species at risk habitat. However, for the remaining pieces of legislation reviewed through this process, the scope of prohibitions is limited and the constraints on discretion on the authorization of otherwise prohibited activities (e.g., the issuance of permits or approvals) are not consistent with those provided for under SARA.

Steps taken by the Province of Newfoundland and Labrador

Steps taken by the Government of Newfoundland and Labrador that relate to the protection and conservation of critical habitat for species at risk are outlined below.

- Under the *Wilderness and Ecological Reserves Act*, a number of Ecological Reserves have been established specifically for the protection of rare species and species at risk. These include the Watt's Point, Burnt Cape, and Sandy Cove Ecological Reserves as well as the Grand Lake Provisional Ecological Reserve.

- Although it is not specifically stated under the associated regulation, the Big Barasway, Burgeo Wild Life Reserve (under the *Wild Life Act*) was established to provide protection for Piping Plover.
- An order under the *Lands Act* is in place to protect a bat hibernaculum.
- A protected area is proposed that could provide protection for the Vole Ears Lichen.
- The province continues to undertake recovery and management planning activities, which will feature and support future land use planning, and habitat protection through forest management processes.

2. TERRITORIAL PROTECTION OF CRITICAL HABITAT

2.1 Nunavut

In Nunavut, there are 2 species at risk with federally identified critical habitat to which this report relates (see Annex A11).

Summary of legislation review

For Nunavut, ECCC reviewed the following territorial laws: the *Wildlife Act*, the *Territorial Parks Act*, the *Nunavut Land Claims Act* and associated draft Nunavut Land Use Plan.

In Nunavut, the *Wildlife Act* is the main legislative tool that can specifically protect habitat for species at risk. In general, the *Wildlife Act* provides prohibitions against the destruction of species at risk critical habitat on Public Lands that are broadly consistent with the prohibitions under SARA, with similar constraints on permitting and discretion as exist under SARA. However so far, no species got listed under the Nunavut *Wildlife Act* and therefore, the two SARA listed species in Nunavut currently do not receive critical habitat protection under the *Wildlife Act*.

In addition, the draft Nunavut Land Use Plan under the *Nunavut Land Claims Act* will aim at protecting the integrity of ecosystems, flora and wildlife habitat, through the provision of specific designations of land that will be afforded a high degree of protection. Therefore, should a species not receive habitat protection under the *Wildlife Act*, the draft Plan includes provisions that could, when implemented, result in an outcome that will be consistent with that of the SARA prohibition against critical habitat destruction in these designations. However, the scope of lands covered under this Plan will be limited, and these designations will be reviewed periodically, therefore the degree of protection of a given area will potentially vary over time.

Finally, on Public Lands outside of those designations, the *Territorial Parks Act* includes prohibitions against activities that could result in the destruction of critical habitat, but the discretion on the authorization of otherwise prohibited such activities is not subject to constraints that are consistent with those provided for under SARA.

Steps taken by the government of Nunavut

Steps taken by the Government of Nunavut that relate to the protection and conservation of critical habitat for species at risk are outlined below.

- Creation of the James Bay Preserve under the *Nunavut Wildlife Preserves Regulations*, which includes Akimiski Island where critical habitat for the Red Knot *rufa* subspecies is identified.
 - The rules in place in a wildlife preserve pertain more to protection of individuals of a wildlife species, unless a hunting license has been given.
- The government of Nunavut monitors development activities on Ellesmere Island, where the Ivory Gull critical habitat is identified. Due to the remoteness of the area and associated costs and logistics to develop, there is currently not much activity that could lead to destruction of critical habitat.

2.2 Northwest Territories and Yukon

No species at risk, other than the Woodland Caribou, boreal population, have critical habitat identified in the Yukon of the Northwest Territories. The legislative reviews for those two territories and previous steps taken by their government to protect critical habitat are presented in the previously published reports for the boreal caribou.

3. FEDERAL PROTECTION OF CRITICAL HABITAT ON NON-FEDERAL LANDS AND TERRITORIAL LANDS

Elements of SARA that apply on non-federal lands

Migratory bird sanctuaries are federally managed protected areas that can be established, if there is agreement with the province, on non-federal lands. Under SARA, critical habitat of endangered and threatened migratory birds located in these areas is protected by publishing a description of the critical habitat in the *Canada Gazette Part I*, including the portions of the critical habitat that are on non-federal lands. Ninety days after that description is published, it becomes prohibited to destroy the critical habitat for the migratory bird, on both federal and non-federal lands within the migratory bird sanctuary.

For species other than migratory birds, and outside of migratory bird sanctuaries, as noted above, the provinces and territories are provided with the first opportunity to protect critical habitat for listed species on provincial, territorial and private land. However, under some circumstances, the Minister must recommend that the Governor in Council (GIC) make an order to prohibit the destruction of critical habitat on non-federal lands. To date, GIC has not made any such orders under SARA.

In other circumstances, the Minister must recommend that the GIC make an emergency order to protect a species if it is facing imminent threats to its survival or recovery. Such orders may

identify habitat necessary for the survival or recovery of the species, which can include non-federal land, and may prohibit activities that may adversely affect that habitat.

The final decision on whether or not to make a critical habitat protection order or an emergency order rests with the GIC. When making their decision, the GIC also takes into account socio-economic considerations.

In addition, SARA allows for the use of conservation agreements to protect critical habitat on non-federally administered lands. These agreements can include provisions that result in an outcome that is consistent with that of the SARA prohibition on critical habitat destruction. For critical habitat that is the subject of such agreements, specifically those made under section 11(2)(d), results will be monitored to verify that the agreements are effective in achieving protection outcomes under their specific terms.

Steps taken or facilitated by the Federal Government on Non-Federal Lands

Steps taken or facilitated by the Federal Government that relate to the protection and conservation of critical habitat are outlined below.

- When SARA was enacted, an original 233 species were listed on Schedule 1. Since then, the list has grown to more than 600 wildlife species at risk in Canada, 80 of which were added since February 2017.
 - The listing of species at risk on Schedule 1 of SARA is based on independent scientific advice and gathered Indigenous Traditional Knowledge and community knowledge to assess the conservation status of wildlife species in Canada, provided by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC).
- Under subsection 58(2) of SARA, ECCC protected critical habitat on non-federal land for four species of migratory birds in five migratory bird sanctuaries, in Nova Scotia, Prince Edward Island, Quebec, Ontario and British Columbia, by prohibiting its destruction.
- Under section 80 of SARA, the Governor in Council made two emergency orders for the Greater Sage-Grouse in Saskatchewan and Alberta, and for the Western Chorus Frog, Great Lakes / St. Lawrence and Canadian Shield population in Quebec. These orders apply prohibitions relevant to habitat protection, which can include critical habitat, on provincial Crown land in the prairie provinces and provincial and private lands in Quebec, respectively.
- Conservation agreements under SARA section 11(2)(d) are being negotiated to conserve, manage, and monitor habitat for multiple SARA-listed grassland species, on privately-owned lands and privately-managed crown land that contain portions of critical habitat and have high potential for facilitating recovery. These agreements include conservation measures necessary to achieve critical habitat protection outcomes for multiple species on the subject lands. To date, 8,300 ha (20,480 acres) of critical habitat for grassland species are being negotiated under these agreements.

- Through the Habitat Stewardship Program (HSP) for species at risk established in 2000, and the Aboriginal Fund for Species at Risk (AFSAR) established in 2004, the Government of Canada has funded a number of projects in support of conservation and habitat protection for species at risk. Specifically, between 2000 and 2018, approximately 498,270 ha of land have been subject to habitat securement and protection measures, including more than 15,660 ha through legally binding means. Through HSP and AFSAR, the Government of Canada has also supported habitat improvement and restoration measures on over 482,580 ha of land.
 - Government of Canada programs can provide funding to support provincial programs for species at risk; for example, HSP supports the MULTISAR initiative in southern Alberta (see details in the Alberta section of this report).
- In addition, federal funds have supported conservation of 178,330 ha of grassland habitats in the prairie provinces through partnership initiatives such as the Species at Risk Partnerships on Agricultural Lands fund.
- Canada's Nature Legacy Initiative aims to protect Canada's biodiversity, ecosystems and natural landscapes through the protection of lands and waters, and of species at risk. In 2018, the Government of Canada committed \$500 million over 5 years under the Canada Nature Fund to support the protection of Canada's ecosystems, landscapes and biodiversity including species at risk. The Canada Nature Fund¹⁹ is organized under two streams: Species and Spaces.
 - The Species stream is directed at advancing implementation of the Pan-Canadian Approach to Transforming Species at Risk Conservation in Canada²⁰ by federal, provincial and territorial jurisdictions, by supporting 'on-the-ground' action for the protection and recovery of terrestrial and aquatic species at risk, focusing on agreed upon priority species, places and sectors and threats.
 - The Government of Canada will invest up to \$155 million over 5 years as part of the Pan-Canadian Approach for conservation actions to protect and aid in the recovery of up to 200 terrestrial wildlife species focusing on priority places, species, sectors and threats identified under the Pan-Canadian Approach. For example, 11 priority places were identified under the Pan-Canadian Approach.
 - The Community-Nominated Priority Places (CNPP) is a funding program accessible to not-for-profit organizations, Indigenous organizations, governments or communities, and other stakeholders. It aims at identifying additional priority places where there are opportunities to protect and recover multiple terrestrial SARA listed species, and at implementing coordinated, multi-partner conservation actions in these identified priority places.

¹⁹ <https://www.canada.ca/en/environment-climate-change/services/nature-legacy/fund.html>

²⁰ <https://www.canada.ca/en/services/environment/wildlife-plants-species/species-risk/pan-canadian-approach/species-at-risk-conservation.html>

- The Species stream will also enable the establishment of partnerships with Indigenous peoples for the protection and recovery of species at risk. This initiative aims to advance species at risk conservation through collaboration with First Nations, Inuit and Métis in a manner that recognizes and enables Indigenous leadership in land and resource management.
- The Spaces stream of the Canada Nature Fund will provide resources that will enable key partners and stakeholders to significantly advance progress toward conserving at least 17% of terrestrial areas and inland water through the establishment of protected and conserved areas (hereby referred to as Target 1). By helping to establish protected and conserved areas in Canada, the spaces stream is also expected to contribute to critical habitat protection. The Spaces stream of the Canada Nature Fund includes three complementary programs:
 - Quick Start Fund: provided approximately \$14 million to projects that help build momentum for meeting Target 1. These projects will either result in the establishment of new protected spaces, or lay the foundation for future conservation efforts. The Quick Start projects are supporting the conservation of approximately 50 species at risk, including caribou and bison.
 - Natural Heritage Conservation Program (NHCP): will provide \$100 million over the next four years in the NHCP to protect at least 200,000 ha of ecologically sensitive lands, through the securement of private lands and private interests in lands. Private lands are mainly located in southern Canada, where most species at risk are found, and where pressures from development are greater. The program will directly contribute to the protection of habitat for the recovery of species listed under SARA, including critical habitat. The NHCP replaces the Natural Areas Conservation Program (NACP), which ended on March 31, 2019. Since 2007, the Nature Conservancy of Canada, Ducks Unlimited Canada, and other land trusts have conserved more than 450,000 ha of land as part of the NACP, including habitat for more than 210 species assessed as being at risk by COSEWIC.
 - Target 1 Challenge Fund: will provide funding over 4 years to advance provincial, territorial, municipal, Indigenous and private protected and conserved areas, with a focus on increasing hectares, supporting connectivity, enhancing ecological integrity, and advancing reconciliation with Canada's Indigenous peoples. The Target 1 Challenge received a number of project proposals, the majority of which were received from Indigenous governments/organizations. It is expected that a significant number of new Indigenous Protected and Conserved Areas will be created as a result of the Target 1 Challenge Fund. Across the proposals received, as many as 471 listed species at risk were identified as potentially benefitting from these projects. Proposals for the Target 1 Challenge are currently being evaluated: the number, type, and potential co-benefits to species at risk are taken into

consideration throughout the evaluation of the proposals, as well as the implications to those local flora and fauna.

4. FUTURE REPORTING

The Government of Canada will be updating this report on a regular basis. Going forward, ECCC and provinces/territories will also report separately on steps being taken to protect critical habitat for priority places and priority species initiatives as part of the Pan-Canadian Approach to transforming Species at Risk Conservation in Canada²¹.

²¹ <https://www.canada.ca/content/dam/eccc/documents/pdf/species-risk/pan-canadian-approach-transforming-species-risk-conservation-canada.pdf>

ANNEX A – LISTS OF SPECIES WITH CRITICAL HABITAT IDENTIFIED ON NON-FEDERALLY ADMINISTERED LANDS BY PROVINCE/TERRITORY

A1 – Species with critical habitat identified on non-federal lands in British Columbia

Bear's-foot Sanicle	Oregon Forestsnail
Bearded Owl-clover	Oregon Spotted Frog
Behr's (Columbia) Hairstreak	Pacific Water Shrew Pallid Bat
Blue-grey Taildropper	Poor Pocket Moss
Bog Bird's-foot Trefoil	Porsild's Bryum
Branched Phacelia	Prairie Lupine
Brook Spike-primrose	Purple Sanicle
California Buttercup	Rayless Goldfields
Cliff Paintbrush	Rigid Apple Moss
Coast Microseris	Rocky Mountain Tailed Frog
Coastal Giant Salamander	Rosy Owl-clover
Coastal Scouler's Catchfly	Rusty Cord-moss
Contorted-pod Evening-primrose	Sage Thrasher
Deltoid Balsamroot	Sand-verbena Moth
Dense-flowered Lupine	Scarlett Ammannia
Dense Spike-primrose	Seaside Bone Lichen
Dromedary Jumping Slug	Short-rayed Alkali Aster
Dun Skipper	Showy Phlox
Dwarf Woolly-heads, Southern Mountain population	Slender Collomia
Edward's Beach Moth	Slender Popcornflower
Foothill Sedge	Small flowered Lipocarpha
Fragrant Popcornflower	Small-flowered Tonella
Golden Paintbrush	Smooth Goosefoot
Grand Coulee Owl-clover	Southern Maidenhair Fern
Gray's Desert-parsley	Spalding's Campion
Great Basin Spadefoot	Spotted Owl, <i>caurina</i> subspecies
Half-moon Hairstreak	Stoloniferous Pussytoes
Haller's Apple Moss	Streambank Lupine
Lemmon's Holly Fern	Tall Bugbane
Lewis's Woodpecker	Tall Woolly-heads
Lindley's False Silverpuffs	Taylor's Checkerspot
Little Brown Myotis	Tiger Salamander (Southern Mountain population)
Macoun's Meadowfoam	Toothcup
Marbled Murrelet	Townsend's Mole
Mexican Mosquito-fern	Vesper Sparrow, <i>affinis</i> subspecies
Mormon Metalmark	Victoria's Owl-clover
Muhlenberg's Centaury	Water-plantain Buttercup
Mountain Holly Fern	White Meconella
Northern Goshawk, <i>laingi</i> subspecies	Williamson's Sapsucker
Northern Leopard Frog (Rocky Mountain population)	Woodland Caribou (Southern Mountain population)
Northern Myotis	Yellow-breasted Chat, <i>auricollis</i> subspecies (Southern Mountain population)
Northern Saw-whet Owl, <i>brooksi</i> subspecies	
Nugget Moss	

A2 - Species with critical habitat identified on non-federal lands in Alberta

Dusky Dune Moth	Porsild's Bryum*
Five-spotted Bogus Yucca Moth	Red Knot, <i>rufa</i> subspecies
Gold-edged Gem	Slender Mouse-ear-cress*
Greater Sage-Grouse, <i>urophasianus</i> subspecies*	Small flowered Sand-verbena*
Greater Short-horned Lizard*	Smooth Goosefoot
Little Brown Myotis	Soapweed*
Loggerhead Shrike, <i>excubitorides</i> subspecies	Tiny Cryptantha*
Non-pollinating Yucca Moth	Western Spiderwort*
Northern Myotis	Woodland Caribou (Southern Mountain population)*
Ord's Kangaroo Rat*	Yucca Moth
Piping Plover, <i>circumcinctus</i> subspecies*	

* Species listed provincially under Alberta's *Wildlife Regulations*, prescribed as endangered species.

A3 - Species with critical habitat identified on non-federal lands in Saskatchewan

Black-footed Ferret*	Piping Plover, <i>circumcinctus</i> subspecies*
Burrowing Owl*	Red Knot, <i>rufa</i> subspecies
Chestnut-collared Longspur	Slender Mouse-ear-cress*
Dusky Dune Moth	Small-flowered Sand-verbena*
Eastern Yellow-bellied Racer	Smooth Goosefoot
Gold-edged Gem	Sprague's Pipit
Greater Sage-Grouse, <i>urophasianus</i> subspecies*	Swift Fox*
Greater Short-horned Lizard	Tiny Cryptantha*
Loggerhead Shrike, <i>excubitorides</i> subspecies	Western Spiderwort*
Mountain Plover	

* Species listed provincially under the Saskatchewan *Wild Species at Risk Regulations* as threatened, endangered or extirpated wild species at risk.

A4 - Species with critical habitat identified on non-federal lands in Manitoba

Dusky Dune Moth*	Prairie Skink*
Eastern Whip-poor-will*	Red Knot, <i>rufa</i> subspecies*
Flooded Jellyskin	Rough Agalinis*
Gattinger's Agalinis*	Small White Lady's slipper*
Gold-edged Gem*	Smooth Goosefoot*
Golden-winged Warbler*	Western Prairie Fringed Orchid*
Least Bittern*	Western Silvery Aster*
Little Brown Myotis*	Western Spiderwort*
Northern Myotis*	White Flower Moth*
Poweshiek Skipperling*	

* Species listed provincially as endangered or threatened species under the ESEA regulations.

A5 – Species with critical habitat identified on non-federal lands in Ontario

Acadian Flycatcher*	Kentucky Coffee-tree*
Allegheny Mountain Dusky Salamander (Carolinian population)*	Lakeside Daisy *
American Badger, <i>jacksoni</i> subspecies*	Large Whorled Pogonia*
American Chestnut*	Least Bittern*
American Columbo*	Little Brown Myotis*
American Gingseng*	Loggerhead Shrike, <i>migrans</i> subspecies *
American Water-willow*	Massasauga, Carolinian population*
Bashful Bulrush*	Massasauga, Great Lakes / St. Lawrence population*
Bent Spike-rush (Great Lakes Plains population)*	Nodding Pogonia*
Blanding's Turtle (Great Lakes / St. Lawrence population)*	Northern Myotis*
Bluehearts*	Pale-bellied Frost Lichen*
Blunt-lobed Woodsia*	Pink Milkwort*
Bogbean Buckmoth*	Piping Plover, <i>circumcinctus</i> subspecies*
Branched Bartonina*	Prothonotary Warbler*
Butler's Gartersnake*	Purple Sanicle*
Cherry Birch*	Purple Twayblade*
Colicroot*	Queensnake*
Common Hoptree	Rapids Clubtail*
Cucumber Tree*	Red Knot, <i>rufa</i> subspecies*
Deerberry*	Red Mulberry*
Dense Blazing Star*	Round-leaved Greenbrier (Great Lakes Plains population)*
Drooping Trillium*	Scarlett Ammannia *
Dwarf Hackberry*	Slender Bush-clover*
Eastern Flowering Dogwood*	Small-flowered Lipocarpha *
Eastern Prairie Fringed Orchid*	Small White Lady's-slipper *
Eastern Prickly Pear Cactus*	Small Whorled Pogonia *
Eastern Whip-poor-will*	Spiny Softshell*
Engelmann's Quillwort*	Spoon-leaved Moss*
False Hop Sedge*	Spotted Turtle*
False Rue-anemone*	Spotted Wintergreen*
Flooded Jellyskin	Toothcup*
Forked Three-awned Grass*	Tri-colored Bat*
Fowler's Toad*	Virginia Goat's-rue*
Gattinger's Agalinis*	Virginia Mallow*
Golden-winged Warbler	Water-plantain Buttercup*
Gray Fox*	Western Chorus Frog (Great Lakes / St. Lawrence - Canadian Shield population)
Heart-leaved Plantain*	Western Silvery Aster*
Hill's Thistle*	White Wood Aster*
Hoary Mountain-mint*	Wild Hyacinth*
Jefferson Salamander*	Willowleaf Aster*
Juniper Sedge*	Wood Poppy*

* Species provincially listed as endangered or threatened, and receiving some habitat protection under the Ontario ESA.

A6 – Species with critical habitat identified on non-federal lands in Quebec

Allegheny Mountain Dusky Salamander (Great Lakes / St. Lawrence population)	Least Bittern*
American Gingseng*	Maritime Ringlet*
American Water-willow*	Piping Plover, <i>melodus</i> subspecies*
Blunt-lobed Woodsia	Purple Twayblade
False Hop Sedge*	Red Knot, <i>rufa</i> subspecies*
Forked Three-awned Grass	Roseate Tern*
Golden-winged Warbler*	Van Brunt's Jacob's ladder
Green-scaled Willow*	Victorin's Gentian*
Gulf of St- Lawrence Aster*	Western Chorus frog (Great lakes St-Lawrence population)*
Horned Grebe (Magdalen Islands population)*	Woodland Caribou (Atlantic-Gaspésie population)*

* Species provincially listed under the Quebec Act respecting Threatened or Vulnerable Species.

A7 – Species with critical habitat identified on non-federal lands in New Brunswick

Cobblestone Tiger Beetle	Maritime Ringlet*
Eastern Whip-poor-will	Northern Myotis
Furbish's Lousewort*	Piping Plover, <i>melodus</i> subspecies*
Gulf of St- Lawrence Aster*	Tri-colored Bat
Least Bittern	Van Brunt's Jacob's ladder
Little Brown Myotis	

* Species provincially listed in Schedule A of the New Brunswick Species at Risk Act.

A8 – Species with critical habitat identified on non-federal lands in Nova Scotia

Blanding's Turtle (Nova Scotia population)*	Piping Plover, <i>melodus</i> subspecies*
Boreal Felt Lichen (Atlantic population)*	Plymouth Gentian*
Eastern Mountains Avens*	Roseate Tern*
Eastern Ribbonsnake (Atlantic population)*	Thread-leaved Sundew*
Little Brown Myotis*	Tri-colored Bat*
Northern Myotis*	Vole's Ear's lichen*
Pink Coreopsis*	

* Species provincially listed as endangered or threatened wildlife species under the Nova Scotia Endangered Species Act.

A9 – Species with critical habitat identified on non-federal lands in Prince Edward Island

Gulf of St- Lawrence Aster	Piping Plover, <i>melodus</i> subspecies
----------------------------	--

A10 – Species with critical habitat identified on non-federal lands in Newfoundland and Labrador

American Marten, Newfoundland population*	Northern Myotis
Barrens Willow*	Piping Plover, <i>melodus</i> subspecies*
Fernald's Braya*	Porsild's Bryum*
Little Brown Myotis	Vole's Ear's lichen
Long's Braya*	

*Species provincially listed as endangered or threatened under the Newfoundland *Endangered Species Act*.

A11 – Species with critical habitat identified on non-federally administered lands in Nunavut

Ivory Gull	Red Knot, <i>rufa</i> subspecies
------------	----------------------------------