

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

Terrestrial Species

December 2006



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the List of Species under the
Species at Risk Act

Terrestrial Species

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Please submit your comments by

March 16, 2007 for species undergoing **normal** consultations

and by

March 14, 2008 for species undergoing **extended** consultations.

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

SARAreistry@ec.gc.ca

Comments may also be mailed to:

Director General
Canadian Wildlife Service
Environment Canada
Ottawa, Ontario
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For more information on the *Species at Risk Act*,
please visit the SARA Public Registry at
www.sararegistry.gc.ca.

For more information on species at risk, please visit
Environment Canada's Species at Risk website:
www.speciesatrisk.gc.ca.

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ADDITION OF SPECIES TO THE *SPECIES AT RISK ACT*

PUBLIC CONSULTATION

Background

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

There were 233 species originally on Schedule 1. Since proclamation, another 156 species have been added. These 389 species make up the current List of Wildlife Species at Risk. The complete list of species currently on Schedule 1 can be viewed at:

www.sararegistry.gc.ca/species/schedules_e.cfm?id=1.

Recent COSEWIC species assessments

On August 31, 2006, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) submitted to the Minister of the Environment 68 assessments of species that it recently had assessed or reassessed. COSEWIC identified 54 of these as species at risk. Of the 37 terrestrial species at risk, 33 are species that COSEWIC has newly assessed as being at risk, and four are reassessments of species already on Schedule 1. The status of two of the reassessed species is unchanged. These two species at risk are not included in the upcoming consultations.

The Minister of Fisheries and Oceans is conducting separate consultations for the newly assessed aquatic species at risk. For more information on the consultations for aquatic species, please visit the Fisheries and Oceans Canada website at:

www.dfo-mpo.gc.ca/index.htm.

Approximately 30 percent of the recently assessed terrestrial species at risk occur in national parks or other lands administered by the Parks Canada Agency. The Parks Canada Agency shares responsibility for the recovery of these terrestrial species with Environment Canada.

Purpose of the current consultations

COSEWIC bases its assessments solely on its evaluation of the biological status of each species. Before making informed decisions, the Minister of the Environment needs to weigh the potential consequences, including the socioeconomic impacts, of accepting the COSEWIC status assessments and amending Schedule 1.

Governments cannot act alone to ensure the conservation of biodiversity; therefore, the Government of Canada invites and encourages the public to become involved. Of particular significance is the engagement of Aboriginal peoples, acknowledging their role in the management of the extensive traditional territories and reserve and settlement lands that contribute substantively to the support of Canada's biodiversity.

The best way to secure the survival of species at risk and their habitats is through the active participation of all those concerned. Accordingly, the Government of Canada has designed SARA to ensure the protection and recovery of Canadian wildlife species and the habitats that support them, while embracing Canadian values of participation.

To that end, this publication, *Consultation on Amending the List of Species under the Species at Risk Act*, marks the launch of consultations on the potential impacts of the acceptance of the COSEWIC status assessments.

Of particular interest to Environment Canada in conducting these consultations is the identification of the benefits and costs of amending Schedule 1 according to the COSEWIC assessment for each of these species, relative to the potential impacts on these species and on society of not doing so, recognizing that Canada's natural heritage is an integral part of our national identity and history.

The involvement of those affected is integral to the process, as it is to the ultimate protection of Canadian wildlife. Your comments matter and will be given serious consideration.

Legislative context of the consultations

The Minister of the Environment, having received the COSEWIC species assessments, will forward them to the Governor in Council for receipt. Following public consultation on the addition of species to Schedule 1, the Minister will recommend to the Governor in Council one of the following possible courses of action, as set out in SARA:

- a) that the COSEWIC assessment be accepted and the species added to Schedule 1, reclassified or removed from the list accordingly;
- b) that the species not be added to Schedule 1; or
- c) that the species be referred back to COSEWIC for further information or consideration.

The Government of Canada is obligated to take one of these actions within nine months of the Governor in Council receiving the COSEWIC assessment. If, in that time, no government action has been taken, the COSEWIC species assessment must be accepted and Schedule 1 must be amended accordingly, by Ministerial Order.

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

In arriving at this decision, opportunities to implement protection and recovery of species at risk outside of SARA will also be considered, such as provincial or territorial legislation and the role of existing stewardship agreements.

Process of public consultations

Before the government makes decisions concerning the addition or reclassification of these terrestrial species (Table 1), Environment Canada is inviting the public to comment.

To facilitate public consultations, Environment Canada will distribute this document to a number of identified stakeholders and post it on the SARA Public Registry. More detailed information on these species can be found in the COSEWIC status reports, which are used by COSEWIC members as a basis for discussion and for the status assignments. The status reports for each of these species are available on the SARA Public Registry.

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

Where existing land claims agreements apply to eligible terrestrial species, such that they fall under the authority of a Wildlife Management Board, the Minister of the Environment will consult with the relevant Board. Aboriginal peoples identified as affected by the listing of these species will also be contacted.

Environment Canada will also consult with other federal departments and agencies.

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

Role and impact of public consultations

The results of the public consultations are of great relevance to the process of listing species at risk. Environment Canada will carefully review and evaluate comments.

Environment Canada will document these comments in a Regulatory Impact Analysis Statement (RIAS). The RIAS, a description of the regulatory proposal, including an analysis of the expected impact, is an integral part of the federal regulatory process. A draft Order (an instrument that serves notice of a decision taken by the executive arm of government) proposing to list all or some of the species under consideration will then be published, along with the RIAS, in *Canada Gazette* Part I for a comment period of 30 days.

The Minister of the Environment will take into consideration comments and any additional information received following publication of the draft Order and the RIAS in *Canada Gazette* Part I. The Minister will then recommend, for each species, that the Governor in Council a) accept the species assessment and amend Schedule 1 accordingly, b) not add the species to Schedule 1 or c) refer the species assessment back to COSEWIC for further

information or consideration. The final decision will be published in *Canada Gazette* Part II and on the SARA Public Registry.

The consultation period

The Minister reports on which consultation path a species will follow in the species' response statement. During normal consultations, the Minister of the Environment forwards the species assessments to the Governor in Council within a short time of the posting of the response statements on the SARA Public Registry. Receipt by the Governor in Council starts the nine-month timeline within which the Government of Canada must act (see above under "Legislative context of the consultations").

Under some circumstances, the Schedule 1 listing of a COSEWIC species could have significant and widespread impacts on the activities of Aboriginal peoples, industry or Canadians at large. In such cases, affected citizens need to be informed of the pending decision and, to the extent possible, its potential consequences. They also need the opportunity to express their opinions and share ideas on how best to approach the protection and recovery of the species. Accordingly, extended consultations will be undertaken for some terrestrial species.

For those species undergoing extended consultations, identified in Table 1, the Minister of the Environment will not forward the assessments to the Governor in Council until the consultation requirements have been met.

PROCESS OF IDENTIFYING AND LISTING SPECIES AT RISK

The species listing process under SARA is summarized in Figure 1.

Process and role of COSEWIC

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

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

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

For more information on COSEWIC, visit:

www.cosewic.gc.ca.

Terms used to define the degree of risk to a species

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

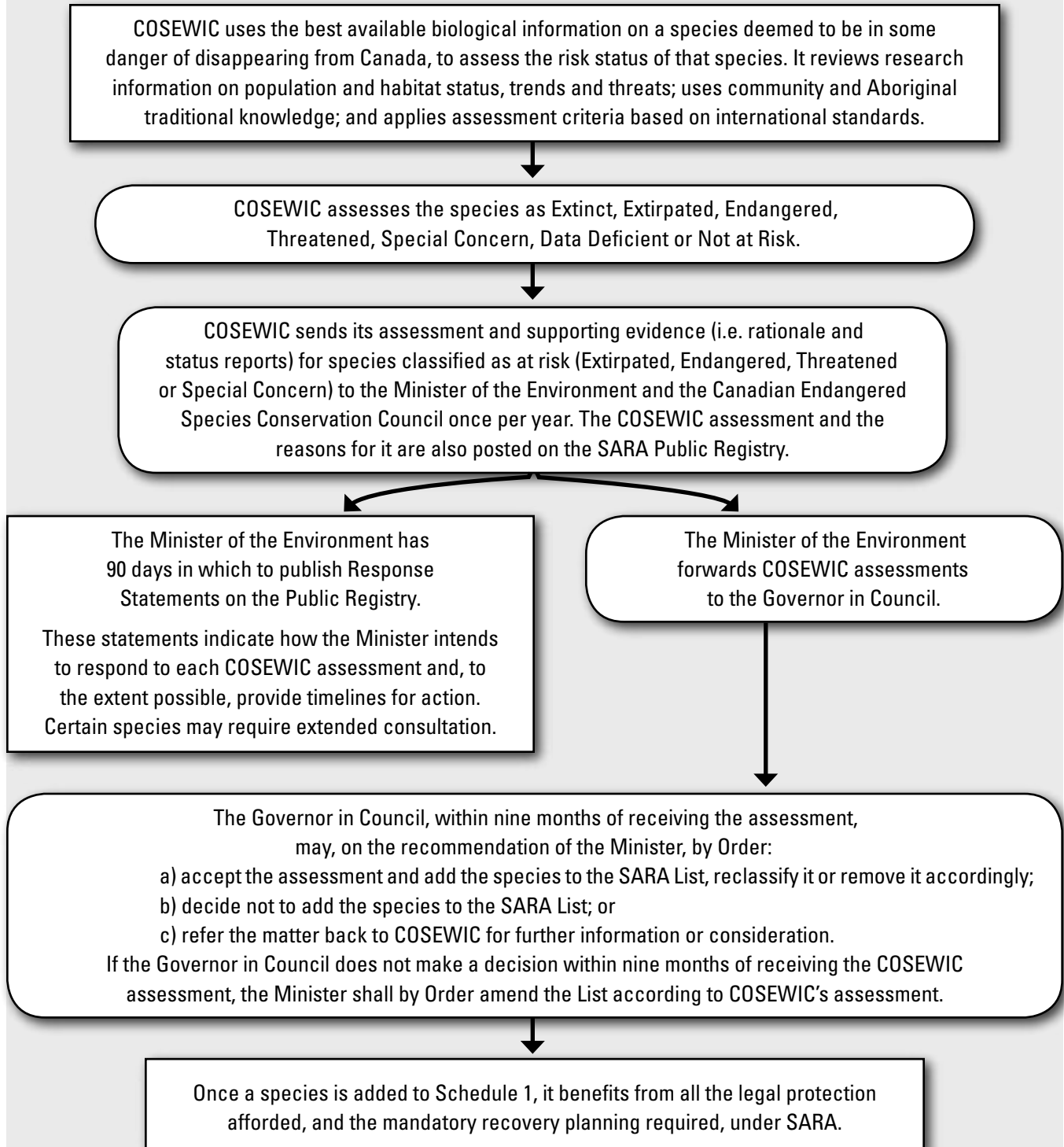
The Minister of the Environment's response to the COSEWIC assessment of a species at risk

SARA strengthens and enhances the Government of Canada's capacity to protect Canadian wildlife species and distinct populations at risk of becoming extinct or extirpated. As the Act applies only to those species and distinct populations on Schedule 1, the transparency and openness of the listing process are of paramount importance.

COSEWIC, having assessed a species as being at risk, forwards the assessment to the Minister of the Environment. Upon receipt of this assessment, the Minister of the Environment has 90 days to report on how he or she intends to respond and, to the extent possible, provide timelines for action.

Figure 1: The species listing process under SARA

SARA separates the scientific assessment process from the listing decision. This approach ensures that scientists can provide fully independent recommendations, and that decisions affecting Canadians are made by elected officials who can be held accountable for those decisions.



The Minister reports on which consultation path a species will follow in the species' response statement, posted on the SARA Public Registry. Those assessments that do not require extended consultations are forwarded to the Governor in Council for receipt. This step initiates the nine-month time period within which the Minister will make a recommendation to the Governor in Council on whether or not to accept the species assessment and modify Schedule 1 accordingly or to refer the assessment back to COSEWIC. Once a species is added to Schedule 1, specific actions must be taken within specified times to help ensure its protection and recovery.

SIGNIFICANCE OF THE ADDITION OF A SPECIES TO SCHEDULE 1

The protection that comes into effect following the addition of a species to Schedule 1 depends upon a number of factors. These include the degree of risk assigned to the species, where it occurs and, most significantly, whether it already receives protection under the *Fisheries Act* or the *Migratory Birds Convention Act, 1994*.

Protection for listed Extirpated, Endangered and Threatened species

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

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

For all other listed Extirpated, Endangered and Threatened species, the provinces and territories have the responsibility to ensure that they receive

protection comparable to that provided under SARA. Should these species not be effectively protected, there are provisions in the Act that allow for the general prohibitions under SARA to be extended to provincial or territorial lands. The federal government would consult with the jurisdiction concerned before invoking these provisions.

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

Protection for listed species of Special Concern

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

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

The addition of an Extirpated, Endangered or Threatened species to Schedule 1 triggers the requirement for the preparation of a recovery strategy and an action plan, both of which are the subject of separate consultations.

Recovery strategies for newly listed species will be completed and made available on the SARA Public Registry (allowing for public review and comment) within one year of their addition to Schedule 1 for

species assessed as Endangered and within two years of their addition to Schedule 1 for species assessed as Threatened or Extirpated.

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

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

Management plans for species of Special Concern

For species of Special Concern, management plans will be prepared and made available on the SARA Public Registry within three years of their addition to Schedule 1, allowing for public review and comment. Management plans will include appropriate conservation measures for the species and for its habitat.

Management plans will be prepared in cooperation with jurisdictions responsible for the management of the species, including directly affected Wildlife Management Boards and Aboriginal organizations. Landowners, lessees and others directly affected by a management plan will also be consulted.

PUBLIC COMMENTS SOLICITED ON THE PROPOSED AMENDMENT OF SCHEDULE 1

The 37 wildlife species that appear in Table 1 have been assessed or reassessed by COSEWIC as at risk. Thirty-three of these species are being considered for addition to Schedule 1 and two are eligible for up-listing of their current Schedule 1 risk status. The other two have had their Schedule 1 status confirmed by the recent reassessment and are not included in the current consultations.

To ensure that your comments are considered, they should be submitted by

March 16, 2007 for species undergoing normal consultations

and by

March 14, 2008 for species undergoing extended consultations.

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

SARAreistry@ec.gc.ca

By regular mail, please address your comments to:

Director General
Canadian Wildlife Service
Environment Canada
Ottawa, Ontario
K1A 0H3

Environment Canada will review and use your comments when considering the addition of each of these species to Schedule 1.

SPECIES PROPOSED FOR AMENDMENT TO SCHEDULE 1

STATUS OF THE RECENTLY ASSESSED SPECIES AND CONSULTATION PATHS

Schedule 1 status confirmations, status revisions and newly eligible species

Of the 37 terrestrial species at risk submitted by COSEWIC in August 2006 to the Minister of the Environment, 33 are species that are newly eligible for consideration for addition to Schedule 1. The other four were on Schedule 1 at the time of proclamation. Two of these are being considered for up-listing (revision of the status of a Schedule 1 species to a higher risk category). The assessments of the Burrowing Owl and the Seaside Centipede Lichen have provided confirmation of their Schedule 1 status. These two species will not be included in these consultations.

Please refer to Table 1 for the species, their COSEWIC status, the provinces and territories in which they occur and the consultation path they will be undergoing.

Normal and extended consultations

For species for which the acceptance of the COSEWIC assessment could have significant and widespread impacts on the activities of Aboriginal peoples, industry or Canadians at large, an extended consultation path is indicated (Table 1). Extended consultations will provide those concerned with the opportunity to be informed of the potential impacts of a listing decision, to express their opinions or to share ideas on how best to protect or recover the species. The Minister of the Environment will not forward the COSEWIC assessments for these select species to the Governor in Council until these extended consultation requirements have been met.

The assessments for those species undergoing normal consultations will be forwarded to the Governor in Council early in the new year.

The results of normal and extended consultations on the 35 terrestrial species at risk will inform the Minister of the Environment's decision as to which of the possible courses of action set out in SARA to recommend for each of these species. The Minister will then make the appropriate recommendations to the Governor in Council.

Comments for species undergoing normal consultations must be received by **March 16, 2007**.

Comments for species undergoing extended consultations must be received by **March 14, 2008**.

For more details on submitting comments, see above under "Public comments solicited on the proposed amendment of Schedule 1."

DETAILED INFORMATION ON THE RECENTLY ASSESSED SPECIES

For a brief summary of the reasons for the COSEWIC status designation of individual species, please refer to the response statements posted on the SARA Public Registry. For a more complete evaluation of the conservation status of an individual species, please refer to the COSEWIC status report for that species, also available on the SARA Public Registry at:

www.sararegistry.gc.ca/status/default_e.cfm

or contact:

COSEWIC Secretariat
c/o Canadian Wildlife Service
Environment Canada
Ottawa, Ontario
K1A 0H3
Telephone: 819-953-3215
Fax: 819-994-3684

Table 1: Terrestrial species recently assessed by COSEWIC

Taxon	Species	Scientific name	Range	Consultation path
Schedule 1 species				
Status confirmation (both Endangered)				
Birds	Burrowing Owl	<i>Athene cunicularia</i>	BC, AB, SK, MB	None; Status Confirmation
Lichen	Seaside Centipede Lichen	<i>Heterodermia sitchensis</i>	BC	None; Status Confirmation
Status revisions (up-listings to Endangered)				
Mammals (terrestrial)	Pacific Water Shrew (currently Threatened)	<i>Sorex bendirii</i>	BC	Normal
Birds	Ivory Gull (currently Special Concern)	<i>Pagophila eburnea</i>	NT, NU, NL	Extended
Species eligible for addition to Schedule 1				
Endangered (19)				
Mammals (terrestrial)	Ord's Kangaroo Rat	<i>Dipodomys ordii</i>	AB, SK	Normal
Birds	Vesper Sparrow <i>affinis</i> subspecies	<i>Pooecetes gramineus affinis</i>	BC	Normal
Reptiles	Lake Erie Watersnake	<i>Nerodia sipedon insularum</i>	ON	Extended
Reptiles	Western Painted Turtle, Pacific Coast population	<i>Chrysemys picta bellii</i>	BC	Normal
Arthropods	Aweme Borer	<i>Papaipema aweme</i>	ON	Normal
Arthropods	Eastern Persius Duskywing	<i>Erynnis persius persius</i>	ON	Normal
Arthropods	Five-spotted Bogus Yucca Moth	<i>Prodoxus quinquepunctellus</i>	AB	Normal
Arthropods	Gold-edged Gem	<i>Schinia avemensis</i>	AB, SK, MB	Normal
Arthropods	Half-moon Hairstreak	<i>Satyrium semiluna</i>	BC, AB	Normal
Arthropods	Non-pollinating Yucca Moth	<i>Tegeticula corruptrix</i>	AB	Normal
Molluscs	Blue-grey Taildropper Slug	<i>Prophysaon coeruleum</i>	BC	Normal
Vascular plants	American Columbo	<i>Frasera caroliniensis</i>	ON	Normal
Vascular plants	Brook Spike-primrose	<i>Epilobium torreyi</i>	BC	Normal
Vascular plants	Cherry Birch	<i>Betula lenta</i>	ON	Normal
Vascular plants	Coast Microseris	<i>Microseris bigelovii</i>	BC	Normal
Vascular plants	Contorted-pod Evening-primrose	<i>Camissonia contorta</i>	BC	Normal
Vascular plants	Dwarf Woolly-heads, Southern Mountain population	<i>Psilocarphus brevissimus</i>	BC	Normal
Vascular plants	Rough Agalinis	<i>Agalinis aspera</i>	MB	Normal
Vascular plants	Short-rayed Alkali Aster	<i>Symphyotrichum frondosum</i>	BC	Normal
Threatened (5)				
Birds	Golden-winged Warbler	<i>Vermivora chrysoptera</i>	MB, ON, QC	Normal
Birds	Northern Saw-whet Owl <i>brooksi</i> subspecies	<i>Aegolius acadicus brooksi</i>	BC	Normal

Table 1: Terrestrial species recently assessed by COSEWIC (cont.)

Taxon	Species	Scientific name	Range	Consultation path
Vascular plants	Bolander's Quillwort	<i>Isoetes bolanderi</i>	AB	Normal
Vascular plants	Green-scaled Willow	<i>Salix chlorolepis</i>	QC	Normal
Vascular plants	Smooth Goosefoot	<i>Chenopodium subglabrum</i>	AB, SK, MB	Normal
Special Concern (9)				
Mammals (terrestrial)	Nuttall's Cottontail <i>nutallii</i> subspecies	<i>Sylvilagus nuttallii nuttallii</i>	BC	Normal
Birds	Louisiana Waterthrush	<i>Seiurus motacilla</i>	ON, QC	Normal
Birds	McCown's Longspur	<i>Calcarius mccownii</i>	AB, SK	Normal
Birds	Rusty Blackbird	<i>Euphagus carolinus</i>	YT, NT, NU, BC, AB, SK, MB, ON, QC, NB, PE, NS, NL	Extended
Reptiles	Western Painted Turtle, Intermountain – Rocky Mountain population	<i>Chrysemys picta bellii</i>	BC	Normal
Arthropods	Sonora Skipper	<i>Polites sonora</i>	BC	Normal
Vascular plants	Dwarf Woolly-heads, Prairie population	<i>Psilocarphus brevissimus</i>	AB, SK	Normal
Lichens	Cryptic Paw	<i>Nephroma occultum</i>	BC	Normal
Lichens	Ghost Antler	<i>Pseudevernia cladonia</i>	QC, NB, NS	Normal

GLOSSARY

Canada Gazette:

The *Canada Gazette* is one of the vehicles that Canadians can use to access laws and regulations. It has been the “official newspaper” of the Government of Canada since 1841. Government departments and agencies as well as the private sector are required by law to publish certain information in the *Canada Gazette*. Notices and proposed regulations are published in *Canada Gazette* Part I, and official regulations are published in *Canada Gazette* Part II. For more information, please visit: <http://canadagazette.gc.ca>

Canadian Endangered Species**Conservation Council:**

The council is made up of federal, provincial and territorial ministers with responsibilities for wildlife species. The Council’s mandate is to provide national leadership and co-ordination for the protection of species at risk.

COSEWIC:

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

COSEWIC assessment:

COSEWIC’s assessment or reassessment of the status of a wildlife species, based on a status report on the species that COSEWIC either has had prepared or has received with an application.

Governor in Council:

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

Order:

Order in Council. An instrument that serves notice of decisions taken by the executive arm of government; for example, an Order in Council accompanies all regulations.

Response statement:

A document in which the Minister of the Environment indicates how he or she intends to respond to the COSEWIC assessment of a wildlife species. A response statement is posted on the SARA Public Registry within 90 days of receipt of the assessment by the Minister, and provides timelines for action to the extent possible.

RIAS:

Regulatory Impact Analysis Statement. A description of a regulatory proposal that provides an analysis of the expected impact of each regulatory initiative and accompanies an Order in Council.

SARA Public Registry:

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

Schedule 1:

A schedule of the *Species at Risk Act* (SARA); also known as the List of Wildlife Species at Risk, the list of the species protected under SARA.

Up-listing:

A revision of the status of a species on Schedule 1 to a status of higher risk. A revision of the status of a Schedule 1 species to a lower risk status would be down-listing.

Wildlife Management Board:

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

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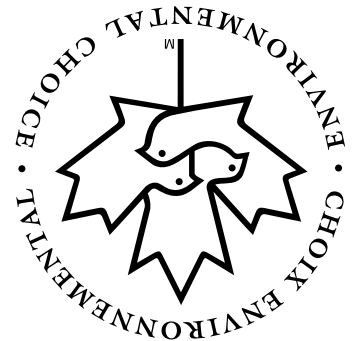
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