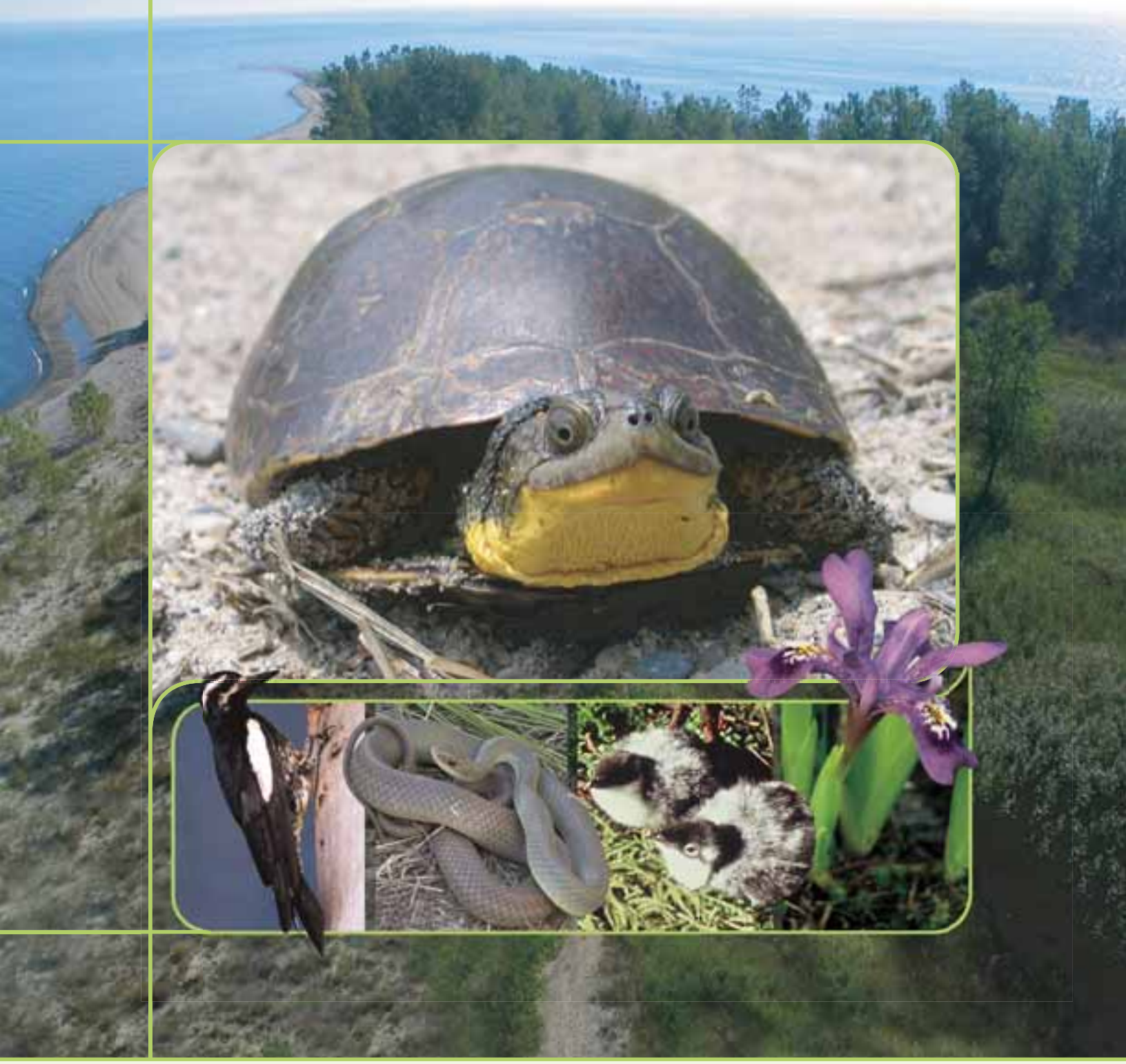
Consultation on Amending the List of Species under the *Species at Risk Act*

November 2005



Environment Canada Environnement Canada

Canada

National Library of Canada cataloguing in publication data

Consultation on amending the list of species under the *Species at Risk Act*. November 2005

Text in English and French on inverted pages.
Title on added t.p.: Consultation sur la modification de la liste
des espèces de la *Loi sur les espèces en péril* – Novembre 2005
Annual.
Nov. 2004

Available also on the Internet.

ISSN 1710-3029
ISBN 0-662-69298-5
Cat. No. En1-36/2005

1. Endangered species – Law and legislation – Canada – Periodicals.
2. Biological diversity conservation – Law and legislation – Canada – Periodicals.
I. Canada. Environment Canada. II. Title. III. Title: Consultation sur la modification
de la liste des espèces de la *Loi sur les espèces en péril* – Novembre 2005.

KE5210. 346.7104'69522'05
C2005-701252-0E

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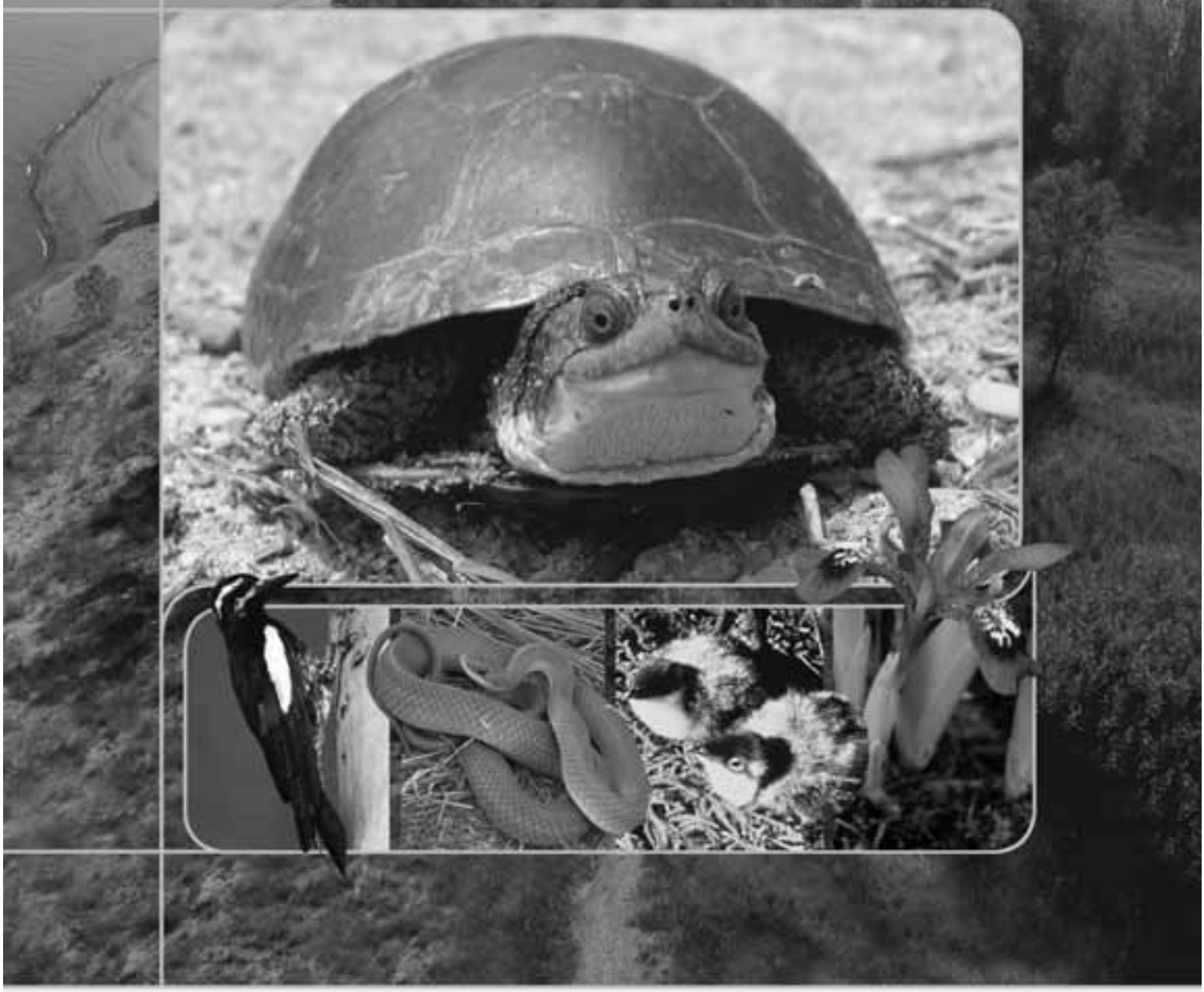
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Environment Canada Environnement Canada

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Please send your comments on this consultation, by no later than February 15, 2006, to the SARA Public Registry at: SARAregistry@ec.gc.ca
By regular mail, please send your comments to:

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

For more information on the *Species at Risk Act*, please visit the 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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PART I: ADDITION OF SPECIES TO THE *SPECIES AT RISK ACT*

PUBLIC CONSULTATION

Background

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

In 2002, when SARA (then called Bill C-5) was reintroduced to the House of Commons, the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) had found 233 of the species that it had assessed to be at risk. The SARA List at the time of proclamation was composed of these 233 species.

Since the proclamation of SARA, another 112 species have been added to the 233 species that originally comprised Schedule 1. These 345 species make up the current SARA List. The complete list of species currently on the SARA List can be viewed at: www.sararegistry.gc.ca/species/schedules_e.cfm?id=1.

On August 12, 2005, COSEWIC submitted to the Minister of the Environment a new list of 59 species that it had assessed or reassessed and found to be at risk. Four of these are confirmations of the status of species already on the SARA List. These species will not be included in the public consultation. The 55 species not already on the SARA List are now being considered for addition to it. The Minister of the Environment is conducting consultations for 33 terrestrial species (see Table 1 in Part II). The Minister of Fisheries and Oceans is conducting separate consultations for 22 aquatic species (see Table 2 in Part II). 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.

Nearly 40 percent of the 55 newly eligible species occur in national parks or other lands administered by the Parks Canada Agency. Responsibility for the recovery of terrestrial and aquatic species that occur within these lands is shared between the Parks Canada Agency and either Environment Canada or Fisheries and Oceans Canada.

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

Purpose of the current consultation

The Minister of the Environment, having received the COSEWIC assessments of the status of each of these 55 species, will forward these assessments to the Governor in Council for receipt. Following public consultation, 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 the SARA List, reclassified or removed from the list accordingly;
b) that the species not be added to the SARA List; or
c) that the species be referred back to COSEWIC for further information or consideration.

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

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

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

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

Process of public consultations

Before the government makes decisions regarding the addition to the SARA List of all or some of the 33 newly assessed or reassessed terrestrial species (see Table 1 in Part II), 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. When viewed on the SARA Public Registry, Table 1 in Part II provides links to detailed information on the COSEWIC status assessments.

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. Similarly, in the case of aquatic species, the competent Minister for aquatic species, the Minister of Fisheries and Oceans, will consult with the relevant Wildlife Management Board. Aboriginal peoples identified as affected by the listing of these species will also be contacted.

Consultations with other federal departments and agencies will occur as required.

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 consultation

The results of this public consultation are of great relevance to the process of listing species at risk. Environment Canada will carefully review and evaluate comments received before February 15, 2006, and will document them in a Regulatory Impact Analysis Statement (RIAS). The RIAS, a description of the regulatory proposal, including an analysis of the expected impact, is an integral part of the federal regulatory process. A draft Order (an instrument that serves notice of a decision taken by the executive arm of government) proposing to list all or some of the species under consideration will then be published, along with the RIAS, in *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 make a recommendation to the Governor in Council for each species on whether or not to add the species to the SARA List or to refer it back to COSEWIC. The final decision will be published in *Canada Gazette* Part II and on the SARA Public Registry.

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 *Species at Risk Act*

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 the SARA List, the transparency and openness of the listing process are of paramount importance.

The process begins once COSEWIC has assessed a species as being at risk. 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. The Minister makes his or her report in Response Statements (published on the SARA Public Registry) in which he or she indicates those species that require extended consultations. Those 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 add each species to the SARA List or to refer it back to COSEWIC. Once a species is added to the SARA List, specific actions must be taken within specified times to help ensure its protection and recovery.

SIGNIFICANCE OF THE ADDITION OF A SPECIES TO THE SARA LIST

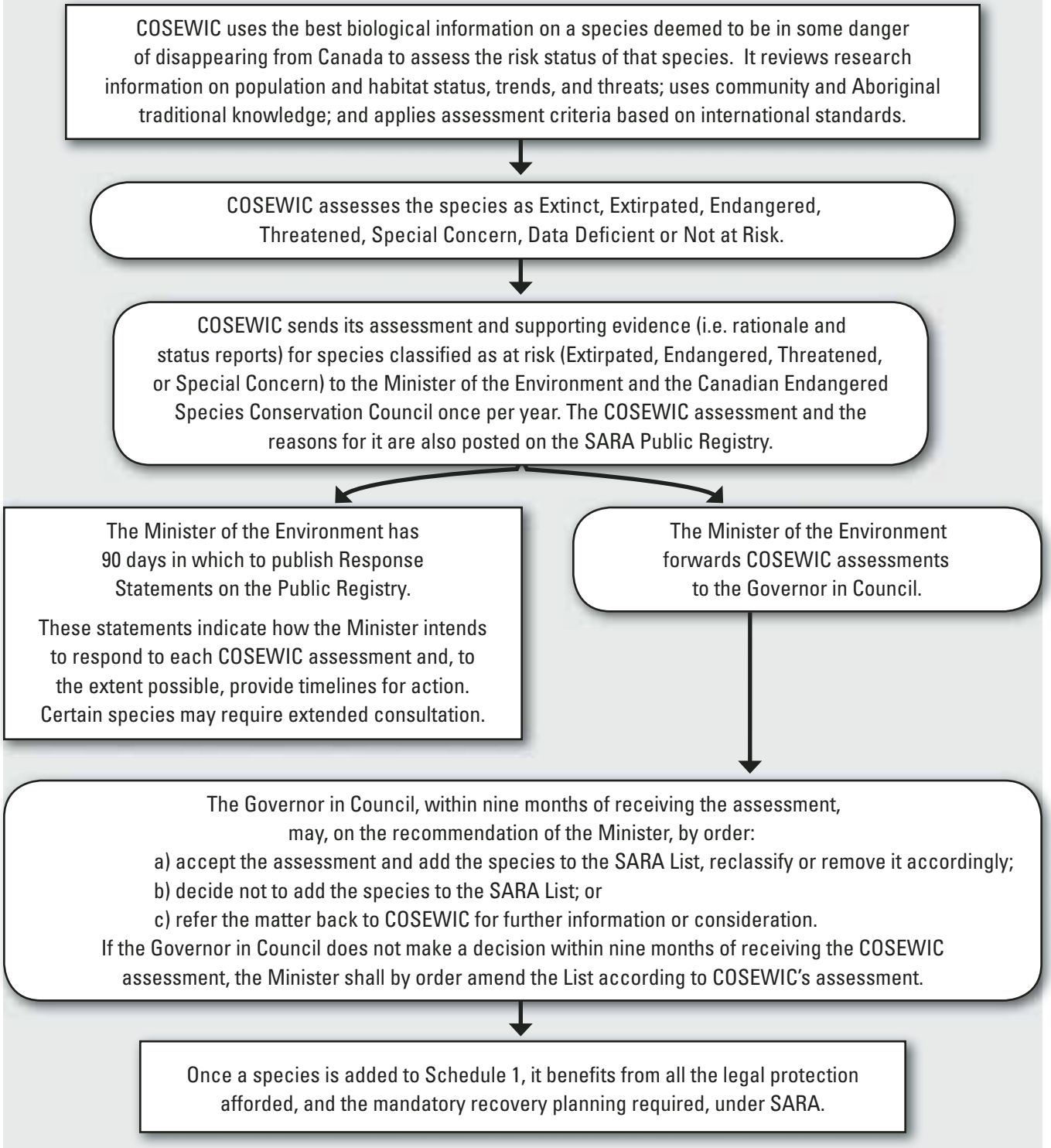
The protection that comes into effect following the addition of a species to the SARA List depends upon the degree of risk assigned to the species, the type of species and where it occurs.

Protection for listed Extirpated, Endangered and Threatened species

Under the Act, prohibitions protect individuals of Extirpated, Endangered and Threatened species. These prohibitions make it an offence to kill, harm, harass, capture or take an individual of a species listed as Extirpated, Endangered or Threatened or to damage or destroy the residence of one or more

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.



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 (e.g., 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 the SARA List 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 will be completed and made available on the SARA Public Registry (allowing for public review and comment) within one year of their addition to the SARA List for species newly assessed as Endangered and within two years for species newly assessed as Threatened or Extirpated.

Recovery strategies will address the known threats to the species and its habitat. They will identify areas where more research is needed and population objectives that will help ensure the species' survival or recovery. They also will include a statement of the 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.

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

Management plans for species of Special Concern

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

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

Detailed information on the status of species appearing in Table 1

For a brief summary of the reasons for the designation of individual species, please refer to the Response statements that Environment Canada has posted on the SARA Public Registry. For a more complete evaluation of the conservation status of an individual species, please refer to the 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
E-mail: cosewic@ec.gc.ca

Public comments solicited on the addition of 33 species to the SARA List

The 33 wildlife species that appear in Table 1 have been assessed or reassessed by COSEWIC as at risk and are being considered for addition to the SARA List.

Please e-mail your comments to the SARA Public Registry at:
SARAregistry@ec.gc.ca
by no later than **February 15, 2006**.
By regular mail, please address your comments to:

Director, Species at Risk
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 the SARA List.

PART II: SPECIES PROPOSED FOR AMENDMENT TO THE SARA LIST

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

Taxon	Species	Scientific name	Range
Endangered (12)			
Birds	Williamson's Sapsucker	*Sphyrapicus thyroideus*	BC
Reptiles	Blanding's Turtle, Nova Scotia population	*Emydoidea blandingii*	NS
Arthropods	Ottoe Skipper	*Hesperia ottoe*	MB
Arthropods	White Flower Moth	*Schinia bimatris*	MB
Vascular plants	American Chestnut	*Castanea dentata*	ON
Vascular plants	Branched Phacelia	*Phacelia ramosissima*	BC
Vascular plants	Dense Spike-primrose	*Epilobium densiflorum*	BC
Vascular plants	Dense-flowered Lupine	*Lupinus densiflorus*	BC
Vascular plants	Grand Coulee Owl-clover	*Orthocarpus barbatus*	BC
Vascular plants	Spalding's Campion	*Silene spaldingii*	BC
Vascular plants	White Meconella	*Meconella oregana*	BC
Mosses	Rusty Cord-moss	*Entosthodon rubiginosus*	BC
Threatened (12)			
Reptiles	Blanding's Turtle, Great Lakes / St. Lawrence population	*Emydoidea blandingii*	ON, QC
Reptiles	Eastern Yellow-bellied Racer	*Coluber constrictor flaviventris*	SK
Arthropods	Verna's Flower Moth	*Schinia verna*	AB, SK, MB
Vascular plants	Baikal Sedge	*Carex sabulosa*	YT
Vascular plants	Cliff Paintbrush	*Castilleja rupicola*	BC
Vascular plants	Dwarf Lake Iris	*Iris lacustris*	ON
Vascular plants	False Rue-anemone	*Enemion biternatum*	ON
Vascular plants	Hill's Thistle	*Cirsium hillii*	ON
Vascular plants	Macoun's Meadowfoam	*Limnanthes macounii*	BC
Vascular plants	Mountain Holly Fern	*Polystichum scopulinum*	BC, QC, NL
Vascular plants	Showy Phlox	*Phlox speciosa occidentalis*	BC
Mosses	Alkaline Wing-nerved Moss	*Pterygoneurum kozlovii*	BC, SK
Special Concern (9)			
Birds	Ancient Murrelet	*Synthliboramphus antiquus*	BC
Reptiles	Western Yellow-bellied Racer	*Coluber constrictor mormon*	BC
Vascular plants	Hill's Pondweed	*Potamogeton hillii*	ON
Vascular plants	Houghton's Goldenrod	*Solidago houghtonii*	ON
Vascular plants	Prototype Quillwort	*Isoetes prototypus*	NB, NS
Vascular plants	Swamp Rose-mallow	*Hibiscus moscheutos*	ON
Mosses	Banded Cord-moss	*Entosthodon fascicularis*	BC
Mosses	Pygmy Pocket Moss	*Fissidens exilis*	ON, QC
Lichens	Frosted Glass-whiskers, Nova Scotia population	*Sclerophora peronella*	NS

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

Taxon	Species	Scientific name	Range	Lead Region
Extirpated (1)				
Fishes (freshwater)	Striped Bass, St. Lawrence Estuary population	*Morone saxatilis*	QC, Atlantic Ocean	Quebec
Endangered (4)				
Mammals (marine)	North Pacific Right Whale	*Eubalaena japonica*	Pacific Ocean	Pacific
Fishes (marine)	Winter Skate, Southern Gulf population	*Leucoraja ocellata*	Atlantic Ocean	Gulf
Fishes (freshwater)	Copper Redhorse	*Moxostoma hubbsi*	QC	Quebec
Fishes (freshwater)	Shortnose Cisco	*Coregonus reighardi*	ON	Central and Arctic
Threatened (8)				
Mammals (marine)	Bowhead Whale, Davis Strait – Baffin Bay population	*Balaena mysticetus*	Arctic Ocean	Central and Arctic
Mammals (marine)	Bowhead Whale, Hudson Bay – Foxe Basin population	*Balaena mysticetus*	Arctic Ocean	Central and Arctic
Mammals (marine)	Fin Whale, Pacific population	*Balaenoptera physalus*	Pacific Ocean	Pacific
Fishes (marine)	Winter Skate, Eastern Scotian Shelf population	*Leucoraja ocellata*	Atlantic Ocean	Maritimes
Fishes (freshwater)	Black Redhorse	*Moxostoma duquesnei*	ON	Central and Arctic
Fishes (freshwater)	"Eastslope" Sculpin, St. Mary and Milk River populations	*Cottus spp.*	AB	Central and Arctic
Fishes (freshwater)	Striped Bass, Bay of Fundy population	*Morone saxatilis*	NB, NS, Atlantic Ocean	Maritimes
Fishes (freshwater)	Striped Bass, Southern Gulf of St. Lawrence population	*Morone saxatilis*	QC, NB, PE, NS, Atlantic Ocean	Gulf
Special Concern (9)				
Mammals (marine)	Bowhead Whale, Bering–Chukchi–Beaufort population	*Balaena mysticetus*	Arctic Ocean	Central and Arctic
Mammals (marine)	Fin Whale, Atlantic population	*Balaenoptera physalus*	Atlantic Ocean	Quebec
Mammals (marine)	Narwhal	*Monodon monoceros*	Arctic Ocean	Central and Arctic
Fishes (marine)	Winter Skate, Georges Bank – Western Scotian Shelf – Bay of Fundy population	*Leucoraja ocellata*	Atlantic Ocean	Maritimes
Fishes (freshwater)	Bering Cisco	*Coregonus laurettae*	YT	Pacific
Fishes (freshwater)	Grass Pickerel	*Esox americanus vermiculatus*	ON, QC	Quebec
Fishes (freshwater)	Green Sturgeon	*Acipenser medirostris*	BC, Pacific Ocean	Pacific
Fishes (freshwater)	Shortnose Sturgeon	*Acipenser brevirostrum*	NB	Maritimes
Fishes (freshwater)	Upper Great Lakes Kiyi	*Coregonus kiyi kiyi*	ON	Central and Arctic

GLOSSARY

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

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

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

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

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

RIAS:
Regulatory Impact Analysis Statement. A description of a regulatory proposal, including an analysis of the expected impact of each regulatory initiative.

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

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

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