

Have You Met SARA?

Long before there was legislation that introduced rules about wildlife, people were managing and protecting wildlife in the North. However, the pressures on wildlife have now changed. With climate change and industry pressures, how do we decide what to protect and how to protect it?

One factor that influences this decision is the federal Species At Risk Act (SARA), which has started to shape priorities and set directions for northern science. SARA is one of the results of Canada's 1992 ratification of the United Nations Convention on Biological Diversity. On signing this Convention, Canada pledged to provide "effective protection" for Canadian species at risk and the ecosystems on which they depend. The Convention led to the Accord for the Protection of Species at Risk in Canada in 1996. The Accord saw every jurisdiction in Canada commit to a national approach for protecting species at risk, with the goal of preventing species in Canada from becoming extinct as a consequence of human activity.

The federal government fulfilled many of its commitments under the Accord by enacting SARA in 2004. SARA is a new, large, and somewhat complex piece of legislation. The federal government is still developing policy positions and legal opinions on how to treat some provisions. However, SARA has already acted as a force of change in the northern scientific landscape.

Much of SARA's influence stems from the following elements: 1) the process of legally listing a species and its legal consequences; 2) the federal "safety net" clauses, which require the competent federal minister to take action if a jurisdiction is not providing effective protection; 3) the need to identify and protect "critical habitat" for threatened and endangered species; 4) the requirements to assess and mitigate environmental effects on species at risk; and 5) the requirement to develop strategies and plans to recover or manage species at risk within a given time frame.

Species don't just appear on a *species-at-risk list*. The first step in creating such lists is to identify which species might be in danger of being at risk, by assessing the general status of wild plants and animals. In the Northwest Territories (NWT), the last general status assessment of species was done in 2006 and included over 1700 species.

In the next step, information from the general status ranks is rolled up with information from other Canadian jurisdictions to produce a national general status rank for each species. Species that are ranked as "may be at risk" at the national level are sent to the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) for a detailed assessment. COSEWIC then assesses whether a species should be classified as a species at risk and sends its assessment to the federal minister.

Generally, the process from COSEWIC assessment to SARA listing has worked well, but there have been some "hiccups," resulting in differences between the COSEWIC and SARA lists. For example, COSEWIC has assessed the Dolphin-Union population of barren-ground caribou (*Rangifer tarandus groenlandicus*), polar bears (*Ursus maritimus*), grizzly bears (*U. arctos*), and wolverine (*Gulo gulo*) as species of special concern, and Peary caribou (*R. t. pearyi*) as endangered. However, these species have not been added to the legal list under SARA, largely because of consultation issues or socioeconomic considerations.

One result of SARA is that the COSEWIC list is no longer used to indicate which species need special attention. Instead, the focus has shifted noticeably to the more limited SARA list.

The federal *safety net* refers to the requirement for federal action in the face of provincial or territorial inaction. Under SARA, the federal minister must recommend to the cabinet that federal prohibitions and protection be applied to a threatened or endangered species if he or she thinks that a province or territory is failing to protect listed species or their critical habitat effectively.

Although the federal safety net has not yet been invoked, recent legal proceedings have tried to force the federal government to action over the spotted owl (*Strix*

occidentalis caurina) in British Columbia and the boreal population of woodland caribou (*R. t. caribou*) in Alberta, among other species. The NWT, Yukon, and Nunavut are in the enviable situation of still having vast areas of intact habitat for our wildlife species. Consequently, some species, such as the boreal population of woodland caribou, are at risk nationally, but not at risk in the North. However, the SARA listing still applies, and effective protection must be provided to SARA-listed species. To keep the federal government from stepping in, northern jurisdictions must proactively show they are effectively protecting these species.

The SARA requirement to identify and protect *critical habitat* for all endangered and threatened species listed by SARA has brought about a shift in habitat-based management. Critical habitat is not simply range use or functional habitat; it is a specific legal term defined in SARA as “the habitat that is necessary for the survival or recovery of a listed wildlife species, and is identified in a Recovery Strategy or Action Plan for that species.” Once a critical habitat has been identified in a recovery strategy or action plan, the relevant protection measures in SARA apply to all federal lands and waters, including all federal Crown land in the North.

Identifying critical habitat and understanding how it functions on the landscape is something that each jurisdiction must now address. For species found in multiple jurisdictions both on and off federal lands, like the boreal population of woodland caribou, the process of defining and identifying critical habitat has taken years and will require years more. A further complication is that both federal policy issues regarding critical habitat and the content requirements for recovery strategies and action plans are still being refined.

SARA’s requirement to identify and protect critical habitat should not be the only motive for identifying wildlife research needs. Northern wildlife research priorities should be set in the North for the North’s needs; however, funds drive priorities, and species-at-risk funds drive nationally determined priorities, which do not necessarily fit northern needs. For example, because habitat loss is the primary reason for species’ becoming at risk in most of Canada, SARA funding tends to be directed towards activities such as re-introduction studies or habitat enhancement projects. However, these types of activities are almost never valid as recovery actions in the North. Simple inventories of lesser-known species and population monitoring of species at risk may be priorities for the NWT, but species-at-risk funds rarely cover these kinds of activities.

SARA has changed how industrial proponents and their contractors study the wildlife and landscapes associated with their projects in the North. Its *environmental assessment* component requires them to identify, monitor, and mitigate impacts on SARA-listed species resulting from a development project. But best-practice guidelines would advocate that environmental assessments also consider impacts on species listed by COSEWIC and other territorial processes. While these responsibilities ultimately rest on the body conducting the environmental assessment, in practice they shape the type of information that developers provide to the environmental assessment body.

In the NWT, one of the territorial government’s roles in environmental assessment is to provide expert advice and recommendations for the mitigation and monitoring of wildlife impacts near developments. Because information about many species listed under SARA is lacking, the government has initiated programs to help develop and substantiate the recommendations being put forward.

The system of land tenure in the North complicates the issue of development and its impacts on species at risk, particularly in the NWT and Nunavut, which lack devolution agreements with the federal government. Under SARA, listed species other than fish or migratory birds receive immediate protection only in national parks, migratory bird sanctuaries, and other areas under the purview of the competent federal ministers under SARA: Environment Canada and Fisheries and Oceans Canada. However, the majority of the land base in Nunavut and the NWT is considered unoccupied federal Crown land. While the governments of the NWT and Nunavut have authority for wildlife management on this land, they do not have control over the land or, therefore, over most wildlife habitat. Indian and Northern Affairs Canada (INAC) administers the land, but the minister of INAC is not a competent minister under SARA. Thus, there are species listed

in a federal act, on federal land in the North, but the role of the primary land manager in implementing SARA is limited, and the role of land and water boards in the North further complicates matters.

While Environment Canada is ultimately responsible for ensuring the application of SARA throughout the North, all parties involved need to work more closely together when making and implementing recommendations related to SARA, especially on land-use permit authorizations. SARA has increased the need for inter-jurisdictional cooperation as well as for enforcement.

Once on the SARA list, species have a *legal timeline for recovery planning* requirements, whereas species listed by COSEWIC do not. SARA has now created a two-tiered recovery system. The focus on SARA-listed species can create problems, as priority for recovery planning is no longer related to a higher risk of extirpation. For example, the Peary caribou, an endangered subspecies of caribou that only occurs in the NWT and Nunavut, is one of the species most at risk in the North. However, because it is not yet on the SARA list, it has no legislated timelines for recovery planning and no federal funding committed for recovery actions.

SARA deadlines for recovery strategies and management plans have already changed some northern planning priorities with respect to wildlife research, monitoring, and management. Also, recovery planning under SARA can be challenging. Many of the protocols and policies required to guide recovery planning under SARA are still being developed. Because recovery planning under SARA often involves multiple jurisdictions and national priorities, northern biologists, wildlife managers, wildlife co-management boards, governments, and aboriginal self-governments need to plan for recovery or monitoring actions that will not only help the species in the North, but also take into consideration the populations outside their jurisdiction. This means priorities and research needs may not be determined in the North.

There are still vast expanses of pristine wilderness areas north of the 60th parallel; as a result, the list of species considered to be at risk in the North is significantly smaller than in southern jurisdictions. However, SARA, with its legal list of species at risk, is having a considerable impact on northern wildlife management. The fifth anniversary of SARA is in December 2007. Northern jurisdictions should take this opportunity to cooperatively investigate how SARA has influenced priorities and modified wildlife research and monitoring activities so we can better set priorities for the future. We need to increase efficiencies in listing and recovery planning. We need to come to an understanding about roles and responsibilities with respect to species at risk and environmental assessment and land use. And finally, northern jurisdictions have the opportunity to design their own territorial species-at-risk legislation in a way that will not only complement SARA, but also assert the needs and priorities of northern species.

*Robert J. Gau, Suzanne Carrière, Karin Clark and Lynda Yonge
Wildlife Division, Department of Environment & Natural Resources
Government of the Northwest Territories
Yellowknife, Northwest Territories X1A 2L9*