CONSULTATION WORKBOOK

on the addition of the Eastern Pondmussel to the SARA List:



December 2007

Fisheries and Oceans Canada Pêches et Océans Canada

Canada

Please send your comments on this consultation to one of the following Fisheries & Oceans Canada (DFO) offices:

Central and Arctic Region
SARA Coordinator
Freshwater Institute
Fisheries & Oceans Canada
501 University Avenue
Winnipeg, Manitoba
R3T 2N6
Email: fwisar@dfo-mpo.gc.ca
Fax: 204-983-5192

To request additional copies of the workbook, please call 1-866-538-1609.

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

For more information on species at risk, please visit the Fisheries & Oceans Canada aquatic Species at Risk website:
http://www.aquaticspeciesatrisk.gc.ca

or

Environment Canada's Species at Risk website:
www.speciesatrisk.gc.ca

Information on species at risk is also available on the website of the Committee on the Status of Endangered Wildlife in Canada (COSEWIC):
www.cosewic.gc.ca

Credit:
Eastern Pondmussel - National Water Research Institute

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PART 1: ADDING A SPECIES OR POPULATION TO THE SARA LIST

INTRODUCTION

The *Species at Risk Act* (SARA) was proclaimed on June 5, 2003, by the Government of Canada. SARA provides a framework for actions across Canada to promote the survival of wildlife species and the protection of our natural heritage. It sets out how to decide which species are a priority for action and what to do to protect a species. It identifies ways governments, organizations and individuals can work together, and it establishes penalties for failures to obey the law.

Two federal Ministers are responsible for the administration of SARA. The Minister of Fisheries and Oceans is the competent Minister for aquatic species. The Minister of the Environment is the competent Minister for all other species at risk, including those found in national parks, national historic sites and other protected heritage areas. The Minister of the Environment is also responsible for the overall administration of the Act.

The Act protects the plants and animals included on a list within SARA (Schedule 1). Schedule 1 is also referred to as the List of Wildlife Species at Risk and will be referred to as the SARA List in the rest of this workbook. Candidate species are proposed for addition to the SARA List as a result of the work of the scientists and conservationists who are members of the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). They conduct scientific assessments of the status of species. Community and Aboriginal traditional knowledge are also included in species assessments when available. The Government then decides which species are added to the SARA List as such action could have economic or social implications.

233 species were included on the SARA List of the Act when Parliament passed SARA in December 2002. COSEWIC had already assessed these species as “at risk” using new updated assessment criteria and current information. When the Act came into force in June 2003, these species were on the initial SARA List.

Since then, COSEWIC has identified more species that are at risk. The Minister of Environment is now considering recommending those species for addition to the SARA List. As part of that process, the Minister of Fisheries and Oceans is currently carrying out public consultations on the Eastern Pondmussel. It was assessed as Endangered. The purpose of this consultation workbook is to invite Canadians to let us know whether the Eastern Pondmussel should be added to the SARA List.

BACKGROUND

The Species at Risk Act

The *Species at Risk Act* strengthens the Government of Canada’s ability to protect Canadian plants and animals in danger of becoming extinct. This protection applies only to species which are included on the SARA List. Adding a species to the SARA List requires a two-step process. The first step is identifying a species at risk and the second step is the listing of that species.

Identifying a species at risk

COSEWIC is an independent group whose mandate is to assess the status of plants and animals in Canada and identify those at risk. The committee is made up of biologists, ecologists, geneticists and individuals with Aboriginal traditional knowledge who are experts on wildlife species at risk. Members come from many areas, including government, universities, Aboriginal organizations and non-government agencies.

COSEWIC assesses the biological status of a species using the best available information on the biological status of the species. It reviews research, considers community and Aboriginal traditional knowledge, and applies strict assessment criteria. COSEWIC meets once a year to assess the biological status of species. Species that COSEWIC considers to be "at risk" are designated to one of the following categories:

Extinct – A wildlife species that no longer exists.

Extirpated – A wildlife species that is no longer found in the wild in Canada but may be found elsewhere.

Endangered – A wildlife species facing imminent extirpation or extinction.

Threatened – A wildlife species likely to become Endangered if nothing is done to reverse the factors threatening it.

Special Concern – A wildlife species that may become a Threatened or Endangered species because of a combination of biological characteristics and identified threats.

Listing a species at risk

The process of listing a species begins when COSEWIC submits its assessment to the Minister of the Environment. Upon receiving the assessment the Minister has 90 days to issue a Response Statement on how he or she intends to respond to the assessment and, to the extent possible, provide time lines for action. The Minister then forwards the species assessment to Governor in Council (GiC)[1]. Nine months after receiving the COSEWIC assessment the GiC, on the recommendations of the Minister of the Environment, can decide to…

a) Accept the COSEWIC assessment and add the species to the SARA List;
b) Not add the species to the SARA List; or,
c) Refer the matter back to COSEWIC for further information or consideration.

GIC has nine months after receiving the COSEWIC assessment to decide whether the species should be added to the SARA List. If a decision has not been made within that time period, the Minister of the Environment will add the species to the SARA List.

[1] Governor in Council is the Governor General of Canada acting on the advice of the Queen's Privy Council of Canada (i.e. Cabinet).

What does it mean when a species or population is added to the SARA List?

The amount of protection the SARA provides depends on the assessed category. It is an offence to kill, harm, harass, possess, collect, buy, sell or trade an individual of an Extirpated, Endangered and Threatened species. It is also illegal under the Act to damage or destroy the residences of Endangered and Threatened species, or for Extirpated species if a recovery strategy has recommended the introduction of the species into the wild in Canada.

SARA protects all listed birds covered under the *Migratory Birds Convention Act*, 1994, all listed aquatic species and all listed species on federal lands. The provinces and territories are responsible for making sure that all listed Extirpated, Endangered and Threatened species that are located outside federal lands receive adequate protection. However, if that protection is not given, the federal government can intervene, using "safety-net" provisions of SARA, but only after consulting with the province or territory concerned and carrying out public consultations.

The ministers of the Environment and of Fisheries and Oceans can, under special circumstances, make exceptions to SARA. For example, they can issue a permit that would allow a qualified scientist to carry out a research project that benefits a listed species or is required to enhance its chances of survival in the wild. Exceptions can only be made if all reasonable alternatives have been considered and if the Minister can be assured that the survival or recovery of the species will not be jeopardized.

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

If a wildlife species is added to the SARA List as an Extirpated, Endangered or Threatened species, the competent Minister must prepare a strategy for its recovery. Recovery Strategies must be completed and made available on the SARA Public Registry, for public review, within one year for newly listed Endangered species and within two years for Threatened and Extirpated species. The Recovery Strategy addresses known threats to the species, identifies critical habitat to the extent possible and gaps in knowledge. It also sets a recovery goal. The Recovery Strategy is followed up with one or more Action Plans that identify ways to reduce threats to the species and protect its critical habitat, as well as other measures to be taken to implement the Recovery Strategy.

The Recovery Strategy and Actions Plans are prepared in cooperation and consultation with Wildlife Management Boards, Aboriginal communities that are directly affected by the Recovery Strategy, and jurisdictions such as provincial or territorial governments who are responsible for the management of the species. Landowners and others who are directly affected will also be consulted. Upon completion, the recovery strategy is posted on the SARA Public Registry and the public has 60 days to inform the Minister of their views.

Management plans for Species of Special Concern

If a wildlife species is listed as a species of Special Concern, the responsible Minister must prepare a Management Plan. It must be posted on the SARA Public Registry within three years of the species being added to the SARA List. The Management Plan identifies conservation measures aimed at protecting the species and its habitat. A Management Plan is prepared in cooperation with groups directly affected by the plans, including Wildlife Management Boards and Aboriginal organizations. To the extent possible, landowners, land users and others who may be directly affected by the plans will also be consulted. Upon completion, the Management Plan is posted on the SARA Public Registry and the public has 60 days to inform the Minister of their views.

PUBLIC CONSULTATION

Why are we having these consultations?

Before the Minister of the Environment makes a recommendation to GIC about whether to add a species to the SARA List, he or she will consider the balance between the social and economic benefits and costs associated with adding the species to the SARA List and the potential consequences for the species and Canadians of not adding it. The Government will meet with wildlife management boards, Aboriginal groups or organizations and other members of the public who have either a direct interest in the species under consideration or wish to comment on the issue. This includes – but is not limited to – landowners, land users, non-government environmental organizations, industries and industry groups. This consultation workbook is another way in which you can let us know what you think.

Comments received from Canadians will be carefully reviewed, evaluated and documented in a Regulatory Impact Analysis Statement (RIAS). The RIAS is an important part of the federal government's regulatory process. In addition, a draft Order (an instrument that serves notice of a decision taken by the executive arm of government) proposing to add the species to the SARA List is prepared. This draft Order along with the RIAS will be published in the Canada Gazette Part I for a period of time to allow Canadians another opportunity to comment. The Minister of the Environment will take into consideration all received comments before recommending to the GIC whether to add the species to the SARA List or not. The GIC's decision will be published in the Canada Gazette Part II and made available on the SARA Public Registry.

Invitation to submit comments

Consultations concerning adding species to the SARA List are part of the Government's commitment to encourage public participation in programs designed to protect Canadian plants and animals and their habitat. The Eastern Pondmussel has been recently assessed and designated by COSEWIC and is being considered for addition to the SARA List. We welcome your comments about whether the Eastern Pondmussel should be added to the SARA List.

A questionnaire has been provided near the end of this workbook. Please fill it out and mail or fax your answers to one of the following DFO offices:

Central and Arctic Region
SARA Coordinator
Freshwater Institute
Fisheries & Oceans Canada
501 University Avenue
Winnipeg, Manitoba
R3T 2N6
Email: fwisar@dfo-mpo.gc.ca
Fax: 204-983-5192
Toll-free: 1-866-538-1609

The deadline for submission of comments is **April 25, 2008**.

SARA PUBLIC REGISTRY

The SARA Public Registry, available on the Internet, is a complete source of information on topics covered by the Act and offers access to public records concerning the administration of SARA. It is a key instrument that allows the government to respect its commitment to support public contribution in the environmental decision-making process. The Public Registry can be found at the following address:

http://www.sararegistry.gc.ca

PART 2: INFORMATION ABOUT THE SPECIES

Eastern Pondmussel

Status: Endangered

Last examined by COSEWIC: April 2007

Biology
The Eastern Pondmussel is a medium-sized freshwater mussel with an elongated-oval-shaped and laterally compressed shell. The outside of the shell varies in colour from yellowish-black or greenish-black in juveniles and dark brown or black in adults. Narrow green rays, mostly at the posterior end of the shell, are often visible in juveniles and light-coloured adults. The average length of the adult shell is 70 mm.

The Eastern Pondmussel is a long-term brooder. Adults spawn in late summer and females brood the young from egg to larval stage in their gills over the winter months. In spring the mature larvae are released into the water and when they encounter a suitable fish host will attach themselves onto the gills of the fish. The larvae then are encased in the gills and proceed to undergo a period of development into juveniles. Juveniles eventually drop off the fish host and grow to adulthood in habitats that are sheltered, with slow-moving water, and fine sand and mud bottom. Adults and juveniles have similar diets which consist of organic debris, algae and bacteria gathered from the water column and/or sediments.

Where are they found?
In the delta area of Lake St. Clair and in a small tributary of the Upper St. Lawrence, Lyn Creek, near the outlet of Lake Ontario.

How many mussels are there?
In Lake St. Clair, studies indicate that the Eastern Pondmussel is widely distributed throughout the delta but in small numbers. The population is estimated to be 22,000 – 44,000 individuals. There is no population estimate for those mussels occurring in Lyn Creek.

Threats to the population
The introduction and spread of non-native mussels particularly the zebra mussel is the most significant threat to the existence of the Eastern Pondmussel in Lake St. Clair. Any changes to water levels in the lake as a result of climate change, for example, could negatively impact the species. Threats to the population of Lyn Creek have not been assessed.

COSEWIC Reason for Designation:
This was one of the most common species of freshwater mussel in the lower Great Lakes prior to the invasion of the zebra mussel (*Dreissena polymorpha*) in the late 1980s. Zebra mussels attach to the shells of native freshwater mussels in the hundreds or even thousands, causing the native mussels to suffocate and die from lack of food. Over 90% of historical records for the species are in waters that are now infested with zebra mussels and therefore uninhabitable. The species has declined dramatically and

now occurs as two small, widely separated populations, one in the delta area of Lake St. Clair and one in a tributary of the upper St. Lawrence River. There is evidence that declines may be continuing at one location. Although zebra mussels appear to be declining in some areas, their impacts on this species may be irreversible if insufficient breeding adults have survived. Climate change is likely to cause a drop in water levels in the delta and further reduce the amount of habitat available to the mussel. Recent surveys in Lake St. Clair, which were conducted as a collaborative effort between Environment Canada and the Walpole Island First Nation, resulted in the identification of a significant refuge for this species within First Nation territory. The refuge is being managed by the First Nation for the protection of this and other aquatic Species at Risk with which it co-occurs.

What will happen if this mussel is added to the SARA List?
A recovery strategy must be prepared within one year of the Eastern Pondmussel being added to the SARA List.

PART 3: LET US KNOW WHAT YOU THINK

By answering the following questions you will help the federal government understand the benefits and impacts of adding the Eastern Pondmussel - to the SARA List.

Please fill out the questionnaire that follows and send us your answers by mail or fax to one of the following DFO offices:

Central and Arctic Region
SARA Coordinator
Freshwater Institute
Fisheries & Oceans Canada
501 University Avenue
Winnipeg, Manitoba
R3T 2N6
Email: fwisar@dfo-mpo.gc.ca
Fax: 204-983-5192
Toll-free: 1-866-538-1609

The deadline for receiving comments is **April 25, 2008**.

For questions or comments concerning the *Species at Risk Act* or concerning this consultation process, please write to us at the address given above or call us at (204) 984-0599.

THANK YOU

Eastern Pondmussel Questionaire

Species of interest: Eastern Pondmussel

Your name (optional):

Your Organization/Community/First Nation affiliation (Optional):

1a) Are you in favour of the Government of Canada adding the Eastern Pondmussel to the SARA List?

☐ Yes ☐ No ☐ Undecided

b) If 'Yes' or 'No', please let us know why

c) If 'Undecided', please tell us why

2. Why is listing or not listing Eastern Pondmussel important to you?

Please choose an option that best reflects your level of agreement or disagreement with the following statements.

	Strongly disagree	Somewhat disagree	Neither agree nor disagree	Somewhat agree	Strongly agree	I have no opinion
Has social and/or cultural significance (e.g. traditional purposes) to my community						
Is an important part of the Aboriginal or Canadian heritage						
Is or was an important subsistence food source						
Has economic value (e.g. recreational or commercial fishery)						

Provides job opportunities (e.g. tourism) to the local economy						
Plays an important role in maintaining a healthy freshwater ecosystem						
Will be valuable to future generations						
Many people in Canada value it even though they may never personally see one						
Other (please specify):						

3. Do you have additional reasons why you **support the legal listing** of Eastern Pondmussel?

4. If you **do not support legal listing** of Eastern Pondmussel, please tell us why.

5. If adding Eastern Pondmussel to the SARA List will have a negative effect on you or your activities, please let us know how you could change your activities to reduce the impact?

6. Please add any other comments or concerns (include additional sheets, if necessary) you would like to be considered.

The following questions are optional:

7. Did this consultation workbook help you:
a) Understand how the listing process under the SARA works?

☐ Yes ☐ No ☐ Undecided

b) Understand the important issues concerning Eastern Pondmussel?

☐ Yes ☐ No ☐ Undecided

c) Provide an effective way to communicate your views on the potential listing Eastern Pondmussel to DFO?

☐ Yes ☐ No ☐ Undecided

d) What changes or additions can we make to this workbook to make it more easily understood and user friendly?

8. We would like to get an idea of how well you understand the *Species At Risk Act* (SARA). Please tell us how familiar you are with SARA:

_____ Not at all
_____ Very little
_____ Average
_____ Quite well
_____ Expert

9. Which sector(s) do you represent? Check all that apply.

___ General public
___ Aboriginal organization
___ Aboriginal community
___ Academic community
___ Agriculture
___ Commercial Fishing/Processing/Sales
___ Environmental organization
___ First Nation
___ Farming
___ Forestry
___ Government (please state level) _____
___ Hydroelectric power generation
___ Industry or manufacturing
___ Oil and gas
___ Private sector – other (please indicate) _____
___ Professional services
___ Stewardship group

PLEASE SUBMIT COMMENTS BY April 25, 2008