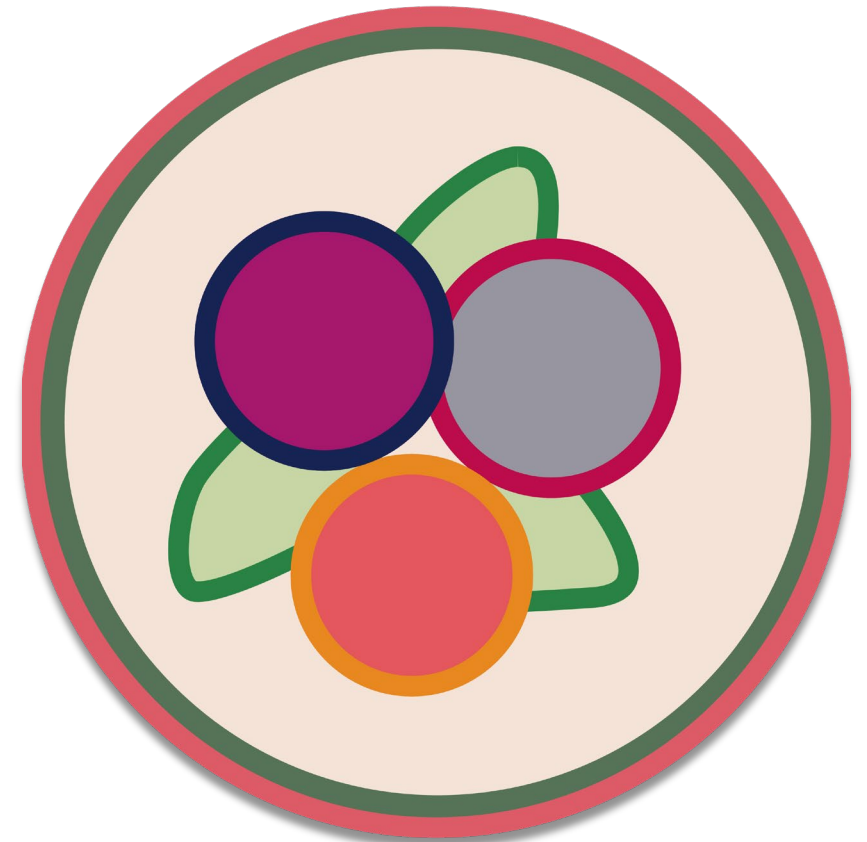


Species at Risk Act

- ▶ Dawn Pritchard Law Professional corporation
- ▶ For Law Society of Nunavut
- ▶ November 4, 2025



Outline

General Overview of
SARA

Indigenous Peoples

Interplay with Nunavut
Land Claims Agreement

General

Species at Risk Act (SARA) is federal legislation

A light pink arrow pointing downwards from the first box to the second box.

Became law on December 12, 2002

A light pink arrow pointing downwards from the second box to the third box.

Designed to meet one of Canada's commitments under the Convention on Biological Diversity (Article 8K)

Division of Powers - shared

Federal Jurisdiction

- Species located on federal land
- Migratory birds and aquatic species

Provincial Jurisdiction

- Species located on provincial land

Territorial Jurisdiction

- Species on federal land?

Environmental Law is Shared

SARA is a federal law

Purpose of SARA



Prevent

Prevent wildlife species from becoming extinct or extirpated



Recover

Provide for recovery of extirpated, endangered, or threatened species because of human activity



Manage

Manage species of special concern to prevent them from becoming endangered or threatened

References to Indigenous Peoples

- ▶ SARA recognizes the essential roles of Inuit and Indigenous Peoples
 - ▶ Preamble
 - ▶ Committees and subcommittees
 - ▶ COSEWIC's functions
 - ▶ Requirements to incorporate ATK
 - ▶ Reference to land claims agreement
 - ▶ Cooperation with wildlife management boards
 - ▶ S.3 non-derogation clause repealed and replaced by s. 8.3(1) *Interpretation Act*

Preamble

The roles of the Aboriginal Peoples of Canada and of wildlife management boards established under land claims agreements in the conservation of wildlife in this country are essential.

The traditional knowledge of the Aboriginal Peoples of Canada should be considered in the assessment of which species may be at risk and in developing and implementing recovery measures.

Players in SARA

Minister of Environment, Minister of Fisheries and Oceans

Provincial and Territorial Ministers

National Advisory Committee on Species at Risk

Committee on the Status of Endangered Wildlife in Canada (COSEWIC)

Aboriginal Traditional Knowledge Subcommittee (ATK Subcommittee)

Wildlife Management Boards

Steps in SARA



Roles of Indigenous Peoples

National Aboriginal Council on Species at Risk – NACOSAR

- Advisory Council to the Minister of Environment and Canadian Endangered Species Conservation Council
- Comprised of 6 members representing Indigenous Peoples of Canada
- Supposed to be a direct line to the Minister to have voices of Indigenous Peoples heard.

COSEWIC and ATK Subcommittee

- ▶ COSEWIC assesses species
- ▶ Independent advisory panel to the Minister of Environment
- ▶ Made up of scientists
- ▶ COSEWIC required to use the best available Aboriginal traditional knowledge
- ▶ ATK subcommittee required to review and vote on all species
- ▶ ATK subcommittee struggles to fit into COSEWIC framework
- ▶ No Inuit specific rep
- ▶ ATK subcom speaks for species, not for Indigenous Peoples

Listing Species



Minister receives COSEWIC Assessment

Within 90 days Minister must include response in public registry

Recommends to GIC



Before recommending to Governor in Council

Minister must take into account COSEWIC assessment

Consult competent ministers'

If species is in area managed by Wildlife Management Board, consult Board

Follow Land Claims Agreement



Minister Recommends to GIC

GIC lists species, decides not to list or refers back to COSEWIC

If GIC does nothing after 9 months Minister amends list per COSEWIC's assessment

Species of Special Concern

- ▶ May become threatened or endangered due to biological characteristics or threats
- ▶ Harvesting continues
- ▶ Management plan must be prepared
 - ▶ Within 3 years
 - ▶ Cooperating with wildlife management boards
 - ▶ Follow provisions of land claims agreements



Threatened, Endangered or Extirpated Species

- ▶ Prohibitions
 - ▶ No killing, harming, harassing, capturing or taking species
 - ▶ No possessing, buying, selling or trading listed species or parts
 - ▶ No damaging residence of listed species
- ▶ Prohibitions apply to aquatic species and habitat, to migratory birds, wherever located and to other species located on federal land. Otherwise need Order.
- ▶ If territorial laws do not effectively protect species or residences, Minister must recommend a protection order. Order only apply to terrestrial species located on territorial land.

Recovery Strategies and Action Plans

- ▶ Recovery strategies
- ▶ Action Plans
- ▶ Must be prepared in cooperation with wildlife management boards, other Aboriginal organizations directly affected and according to provisions of Land Claims Agreements

Exceptions to Prohibitions

- ▶ 83(3) provides that prohibitions do not apply to a person engaging in activities in accordance with conservation measures for wildlife species under a land claims agreement
- ▶ 83(5)(b) provides that prohibitions do not apply person who possesses individual of a SAR (or part of it) it is used by an Indigenous person for ceremonial or medicinal purposes, or if part of ceremonial dress used for ceremonial or cultural purposes by an Indigenous person.

SARA and Nunavut Land Claims Agreement

- ▶ 5.2.33 Recognizing that Government retains ultimate responsibility for wildlife management, the Nunavut Wildlife Management Board shall be the main instrument of wildlife management in the Nunavut Settlement Area and the main regulator of access to wildlife and have the primary responsibility in relation thereto in the manner described in the Agreement. Accordingly, the NWMB shall perform the following functions:
 - ▶ (d) establishing modifying or removing levels of total allowable harvest
- ▶ In addition to primary functions, the NWMB shall in its discretion perform the following functions related to management and protection of wildlife and wildlife habitat:
 - ▶ d)(i) approve plans for management, classification, protection... of particular wildlife, including endangered species; ...
 - ▶ f) approve designation of rare, threatened and endangered species

SARA Listing and NLCA

5.3.16 – 5.3.23

Minister notifies Board that it intends to list species

NWMB decides that species should not be listed and sends its decision to the Minister (5.3.8)

Minister disagrees and rejects the NWMB's decision. Minister sends rejection back to Board, giving reasons why he rejected that decision (5.3.18)

NWMB reconsiders Minister's rejection and reasons. Board issues its final decision (5.3.21)

Minister reviews Board's final decision and rejects it. Minister must provide reasons (5.3.21)

SARA Listing and NLCA

Minister must proceed forthwith
to implement decision (5.3.23)

Minister recommends to GIC to
list species

GIC amends SAR list by adding
species

Changes since 2002

2005 Labrador Inuit
Land Claims
Agreement

2006 Nunavik Inuit
Land Claims
Agreement

2016 Canada signed
onto the UNDRIP

2021 Canada
enacted the UNDA

2022 Inuit Nunangat
Policy

2024 Interpretation
Act amended setting
out a universal non-
derogation clause
and s. 3 repealed

2025 Inuit Nunangat
Cabinet Directive

Court decisions

Thank-you

- ▶ Dawn Pritchard Law Professional Corporation
- ▶ dawn@dawnpritchardlaw.com
- ▶ 819 827-3520