

Revised Draft Review Board Guidelines For Considering Wildlife at Risk In Environmental Impact Assessment in the Mackenzie Valley

Deleted: (including SARA Species)

Comment: Reference to SARA is not required in the title as Wildlife at Risk is an all encompassing term.

Comment: Overall, the reader may easily lose track regarding what the guidelines are specifically asking for on SARA listed versus non-SARA listed species, especially in sections 3 & 5. More clarification and simpler language is needed throughout.

Comment: This document remains inconsistent with whether it is a Guideline or Guidelines. For consistency with other MVEIRB documents we have used the plural form.

[Comment In our review of Draft 1 ENR made the following comment.

A variety of terms are used in the document without explanation on the difference between them (for example, "highly vulnerable species" wildlife that are rare & imperiled" and "wildlife are risk"). Other examples elsewhere, are used: p. 3: "imperiled wildlife"; p. 6 "wildlife species listed on Schedule 1 of SARA"; p. 7 "critical wildlife species"; p. 7 'species at risk"; p. 8 valued ecosystem components"; p. 8 "listed species of wildlife at risk"; p. 9 "listed wildlife species"; p. 11, p. 14 & p. 15 "species of biological concern"; p. 14 "species of wildlife at risk"; p. 14 "listed species"; p. 14 "species wildlife at risk"; p. 17 "listed wildlife at risk"; p. 17 "SARA Schedule 1 listed species". If there is no difference, use only one term. We suggest a review of all terms, and the selection of only terms that are needed for the guidelines. Use the same term for the same definition, in a consistent manner. If alternative terms are used in other documents, provide them as a list of synonyms as necessary.

GNWT would like to see MVEIRB use the terms extirpated, endangered, threatened and of special concern as opposed to rare, imperiled, or highly vulnerable to remain consistent with the terms in SARA. Using different terms will only add more confusion to the issue for developers etc. If the Board believes it necessary to use other terms the recommendation is to provide a list of synonyms]

1 Introduction

1.1 Preamble

The Federal Species at Risk Act (SARA) came into force on June 1, 2004. It is intended to prevent wildlife species from becoming extirpated or extinct, to provide for the recovery of extirpated, endangered or threatened species, and to encourage management of species of special concern to prevent them from becoming at further risks. Section 79 of SARA imposes legal obligations on persons required to ensure that the environmental effects of a project are assessed and mitigated when dealing with species listed under SARA Schedule 1.

Deleted: ¶

The Mackenzie Valley Environmental Impact Review Board (the Review Board) has issued these Guidelines under the authority of s.120 of the MVRMA.³ to clarify expectations and make the EIA process more efficient and effective when dealing with highly vulnerable, rare or imperiled species, or species of special concern in the Mackenzie Valley.

Part Five of the MVRMA requires that the Review Board and others consider environmental impact carefully when making decisions about proposed developments. The Review Board has a mandate to identify potential significant adverse impacts of a development. Adverse impacts on wildlife at risk may not be significant adverse environmental impacts but should still be mitigated. For species of wildlife at risk not listed under SARA, the steps described in these guidelines are required to meet the intent of the MVRMA.

Therefore, the purpose of these Guidelines is ultimately to prevent harm to species that are (Comment "POTENTIALLY" is a vague word its use throughout should be avoided) highly vulnerable, rare or imperiled, or species of special concern (Comment These terms should all be used together at all times as that's the target for this document and the definition of "wildlife at risk" in sec.1.3) by ensuring best practice in EIA. The Review Board anticipates these Guidelines will promote implementation of best practices for wildlife at risk and encourage early dialogue and discussion between developers and expert departments prior to the initiation of a project. These Guidelines have been produced with substantial input from Environment Canada, (Comment This implies endorsement by ENR. As the staff involved in the Review Board working group still have concerns with the document, please delete our department's name),

Their intended audiences are:

- organizations involved in the EIA processes of Preliminary Screening, Environmental Assessment and Environmental Impact Review under the *Mackenzie Valley Resource Management Act* (MVRMA), and
- developers proposing developments in the Mackenzie Valley.

These Guidelines are consistent with existing federal guidance on the subject.¹ They apply to wildlife species at risk and species that are highly vulnerable, rare or imperiled, or species of special concern. These Guidelines describe the various relevant listings of wildlife at risk (see section 1.3) including species listed under Schedule 1 of the federal *Species at Risk Act* (SARA)². and are consistent with the requirements of s.79 of SARA, SARA recognizes that in order to ensure the survival of wildlife species and the protection of critical habitat in Canada, it is necessary that cooperation be fostered among governments, institutions and individuals.

¹ These Guidelines should be used in conjunction with Canada Wildlife Service's *Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada* (2004)

² All references to SARA in this document refer to the federal *Species at Risk Act, 2002, c.29.*; unless otherwise noted.

These Guidelines will be updated once NWT species at risk legislation is enacted.

1.2 Overview of Guidelines

Deleted: prepared

Deleted: to describe its expectations regarding best practices for considering impacts on wildlife at risk in the environmental impact assessment (EIA) process in the Mackenzie Valley.

Deleted: potentially

Deleted: and the Government of the Northwest Territories (GNWT) Department of Environment and Natural Resources

Deleted: take an approach that is

Deleted: potentially

Deleted: This

Deleted: s

Deleted: and includes

Deleted: It describes a best practice approach that is practical and reasonable. This approach

Deleted: is

Deleted: when applied to SARA Schedule 1 listed species

Deleted: Its intended audience is:[¶]

- organizations involved in the EIA processes of Preliminary Screening, Environmental Assessment and Environmental Impact Review under the *Mackenzie Valley Resource Management Act* (MVRMA), and[¶]
- developers that propose developments in the Mackenzie Valley[¶]

Deleted: This

Formatted

Deleted: These Guidelines have been issued by the Review Board under the authority of s.120 of the MVRMA.³ The Review Board anticipates that these Guidelines will clarify ... [1]

Deleted: wildlife at risk

Deleted: . The Review Board also anticipates that the ... [2]

Deleted: if

Deleted: once NWT species at risk legislation is enacted ... [3]

Deleted: reviewed

These guidelines are organized in the following sections:

Section 1 Introduction to the guidelines, objectives, expected audience and definition of “wildlife at risk”

Deleted: and

Section 2 Description of SARA, and requirements for EIA

Section 3 Preliminary screening requirements for wildlife at risk, including SARA Schedule 1 listed species

Section 4 Requirements and tools for developers in preliminary screening

Section 5 How requirements apply to environmental assessment and environmental impact review

Section 6 Conclusion

There are four appendices at the end of the guidelines with tools and resources for project proponents and preliminary screeners.

³ Section 120 of the MVRMA states that the Review Board may establish guidelines to outline how the EIA process should be conducted, including the form and content of reports.

1.3 What is “Wildlife at Risk”?

The term “wildlife” throughout this document refers to all living undomesticated organisms, and includes plants and animals, but excludes bacteria and viruses. For the purpose of these Guidelines, the term is applied only to species which are native to Canada or with a range that extends into Canada. “Species” means a species, subspecies, variety or geographically or genetically distinct population of wildlife.⁴ [Comment: suggest a “definitions” section instead of this type of paragraph]

Deleted: other than

Deleted: a

Deleted: bacterium

Deleted: or

Deleted: s

Identification, protection and monitoring of wildlife at risk in Canada is a cooperative effort among many jurisdictions. The following three processes or organizations provide information on the status of species occurring in the Northwest Territories.

1. NWT General Status Ranking Program (GSRP).

The GNWT is a signatory to the Accord for the Protection of Species at Risk, and is responsible for non-migratory birds and other wildlife species not covered by federal jurisdiction. The GNWT is developing legislation for the NWT to deal with wildlife at risk. The GNWT has implemented the General Status Ranking Program to rank the general status of species occurring in the territory and identify species that require further detailed assessment by, for example, COSEWIC at a national level.⁶ species to provide a priority list of species that would require more detailed assessment.

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

COSEWIC assesses the biological status of wild species in Canada. When SARA was enacted, COSEWIC became legally designated as the independent body of experts that assess the biological status of species in Canada. COSEWIC recommends whether the status of a species should be listed under SARA as extinct, extirpated, endangered, threatened or of special concern.⁵ The federal government decision to list a species under SARA Schedule 1 may include socio-economic or political considerations, but assessment of species by COSEWIC is based on biological considerations alone. The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) assesses the biological status of species in Canada, including species occurring in the NWT. COSEWIC uses the general status of species, among other information to prioritize species for its detailed assessment.

3. Schedule 1 SARA

The Competent Ministers under SARA use COSEWIC's assessments as one factor in the decision to add a species to the SARA Schedule 1 list. [Comment: Likely need a sentence or two on the Listing process to make it comparable to the first two processes.]

(Comment The term is defined at the bottom of the page) IS THIS SENTENCE REALLY NEEDED?

The Canada Wildlife Service Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada (p4) emphasizes best practice. It states:

While legislation concerning wildlife at risk at the federal and provincial or territorial level pertains to certain lists, risk categories and habitats, best practice requires that consideration be given to all wildlife that are rare or imperiled in Canada, as well as the habitat and residences that are essential to their survival and recovery.

The national guide deliberately includes species listed under SARA, as well as those assessed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and species listed or ranked under provincial or territorial legislation, policies, or programs.

The Review Board supports this approach to best practice. Impacts on any imperiled wildlife species may be important, whether the species is described as "rare", "endangered", "at risk", or "threatened", or "special concern". for the purpose of these Guidelines, The term "wildlife at risk" includes the following:

- species listed under Schedule 1 of SARA
- species assessed and designated as endangered, threatened or of special concern by the Committee on the Status of Endangered Wildlife in Canada, and
- species ranked "At Risk" in the NWT General Status Rankings.

⁴ This is intended to be consistent with the definition of "wildlife species" defined under section 2(1) of SARA.

Deleted: Highly vulnerable, rare or imperiled species, or species of special concern are described here as.

Deleted: Part Five of the MVRMA requires that the Review Board and others consider environmental impact carefully when making decisions about proposed developments. The Review Board has a mandate to identify potential significant adverse impacts of a development. Adverse impacts on wildlife at risk may be significant adverse environmental impacts.

Deleted: The Review Board is of the view that when the existence of an entire species may rest on the survival of a small number of individuals, an appropriate precautionary approach should be reflected in environmental impact assessment.

Formatted

Deleted: This

Deleted: guidance

Deleted: For this reason, this document is consistent with the national approach, and

Deleted: uses the

Deleted: to

(Comment Redundant statement as is the Table 1),

Deleted: These Guidelines apply to species with certain designations on any of these lists, as indicated in Table 1.

5 **extirpated:** species which no longer exist in the wild in Canada, but exists elsewhere in the wild; **endangered:** species facing imminent extirpation or extinction; **threatened:** species which is likely to become endangered if nothing is done to reverse the factors leading to their extirpation or extinction; **special concern:** species that may become threatened or endangered because of a combination of biological characteristics and identified threats.

Deleted: SARA recognizes that in order to ensure the survival of wildlife species and the protection of critical habitat in Canada, it is necessary that cooperation be fostered among governments, institutions and individuals. Identification, protection and monitoring of wildlife at risk in Canada is a cooperative effort among many jurisdictions.

6 Unlike many other areas of Canada, the NWT does not have a Conservation Data Centre. Readers should contact the GNWT for information on the process for ranking species in the NWT. Contact information is located in Appendix 4.

Three processes or organizations provide information on the status of species occurring in the Northwest Territories.
• The NWT *General Status Ranking Program* (GSRP) ranks the general status of NWT species to provide a priority list of species that would require more detailed assessment.
• The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) assesses the biological status of species in Canada, including species occurring in the NWT. COSEWIC uses the general status of species, among other information to prioritize species for its detailed assessment.
• The Competent Ministers under SARA then use COSEWIC's assessments as one factor in the decision to add a species to the SARA Schedule 1 list. Complementary species at

(Comment Table does not add any useful information beyond the statements on page 3),

2 The Species at Risk Act and Environmental Impact Assessment

2.1 The MVRMA and the Species at Risk Act

Part Five of the MVRMA describes how Environmental Impact Assessment will be conducted in the Mackenzie Valley. There are three stages in the EIA process: 7

1. Preliminary Screening - conducted by Land and Water Boards, government organizations, and certain Aboriginal organizations
2. Environmental Assessment - conducted by the Review Board
3. Environmental Impact Review - conducted by an independent panel struck by the Review Board

This federal act sets out new requirements for those persons who make decision in the practice and processes of EIA in the Mackenzie Valley. Section 79 of SARA outlines these responsibilities. It states:

Deleted: Table 1.

Deleted: ¶

7 For further details, please see section 1.8 of the *Environmental Impact Assessment Guidelines*.

8 For more information on the *Species at Risk Act*, see www.sararegistry.gc.ca.

Deleted: When a board or government organization conducts any of these stages, it is a "person" under ss.79(1) of SARA and has

Deleted: certain

Notification of Minister

79. (1) Every person who is required by or under an Act of Parliament to ensure that an assessment of the environmental effects of a project is conducted must, without delay, notify the competent minister or ministers in writing of the project if it is likely to affect a listed wildlife species or its critical habitat.

Deleted: responsibilities under SARA.
SARA came into force on June 1, 2004. It is intended to prevent wildlife species from becoming extirpated or extinct, to provide for the recovery of extirpated

Required action

(2) The person must identify the adverse effects of the project on the listed wildlife species and its critical habitat and, if the project is carried out, must ensure that measures are taken to avoid or lessen those effects and to monitor them. The measures must be taken in a way that is consistent with any applicable recovery strategy and action plans.

(Comment It is unclear how this action could be carried out by preliminary screeners with no legislated mandate to cover such followup. While MVEIRB might be able to require certain followup as part of an EA or EIR, projects that proceed directly through regulatory approval may not have any followup in place).

Definition of 'person' and 'project'

(3) The definitions in this subsection apply in this section. "person" includes an association or organization, and a responsible authority as defined in subsection 2(1) of the *Canadian Environmental Assessment Act*. "project" means a project as defined in subsection 2(1) of the *Canadian Environmental Assessment Act*.⁹

Accordingly, any adverse effects on a SARA Schedule 1 listed species or its critical habitat must be identified, mitigated and monitored by everyone required to ensure an assessment is conducted. Also, while SARA specifies that the term "person" includes federal responsible authorities as defined by CEAA, it does not limit the definition of "person" to these. The MVRMA is an Act of Parliament, and accordingly, any organization that conducts an assessment of the environmental effects of a development under the MVRMA has legal responsibilities under SARA.

In the MVRMA the term "development" is used to mean "any undertaking, or any part of an undertaking, that is carried out on land or water...". Throughout this document, the term "development" will be used with a meaning that includes the "project" referred to in SARA s.79. Therefore, when a board or government organization conducts any of the stages under Part Five, it is a "person" under ss.79(1) of SARA and has responsibilities under SARA. For example, under the MVRMA, certain GNWT departments may be identified as a "person or body designated by the regulations as the responsible authority". This means that SARA s.79(1) applies when those GNWT departments when conducting preliminary screenings.

⁹ Subsection 2(1) of the *Canadian Environmental Assessment Act* states that " 'project' means... in relation to a physical work, any proposed construction, operation modification, decommissioning, abandonment or other undertaking in relation to that physical work".

2.2 Specific Actions Required by SARA s.79

When an organization conducting EIA under any stage of the MVRMA Part Five process identifies that a proposed development is likely to affect a wildlife species listed on Schedule 1 of SARA, or its critical habitat¹⁰, that organization must do the following:

1. Provide early written notification to the competent minister or ministers when a listed

Comment [j1]: For ease of use of this document the definitions of these terms should be added, not just the reference to the definitions.

Deleted: to SARA
Deleted: must be

Deleted: In the MVRMA the term "development" is used to mean "any undertaking, or any part of an undertaking, that is carried out on land or water...". Throughout this document, the term "development" will be used with a meaning that includes the "project" referred to in SARA s.79.

Deleted: The MVRMA is an Act of Parliament, and accordingly, any organization that conducts an assessment of the environmental effects of a development under the MVRMA has legal responsibilities under SARA.

Deleted: Although SARA specifies that the term "person" includes federal responsible authorities as defined by CEAA, it does not limit the definition of "person" to these. Under the MVRMA, the GNWT is identified as a "person or body designated by the regulations as the responsible authority". This means that SARA s.79(1) applies when the GNWT conducts preliminary screenings.

Comment [j2]: How do you define early, term is vague.

- wildlife species or its critical habitat is likely to be affected by a proposed project.
- 2. Identify the adverse effects the project may have on listed wildlife species.
- 3. If the development is carried out, ensure that **measures** are taken to avoid or lessen those effects.
- 4. Ensure that **adequate monitoring** of the adverse effects of the project on listed wildlife species occurs and is consistent with **species recovery strategies and action plans**.

A step-by-step guide on how to do each of these steps in preliminary screening, environmental assessment and environmental impact review is described in Sections 3 - 5. The same steps apply to all wildlife at risk, for the reasons described in Section 1.2.

2.3 Considering Habitat for Wildlife at Risk

Evaluating impacts on species of wildlife at risk requires consideration of impacts to their habitat. Any impact to habitat that is important to wildlife at risk, including the **“critical habitat”** and **“residences”** specified under SARA, must be considered during EIA. If the habitat is known to be used by a species of wildlife at risk, and its importance is unclear, a precautionary approach requires treating that habitat as important unless evidence suggests otherwise. This should be reflected in EIA processes. Any critical habitat in the **NWT** that is protected under SARA will be identified in recovery strategies or action plans **for that particular species**.

¹⁰ Critical habitat is the legal term used to describe habitat that is necessary for the survival or recovery of a listed species and that is identified as the species' critical habitat in a recovery strategy or action plan. Under SARA, it is applicable only to extirpated, endangered or threatened species.

3 Preliminary Screening

This section describes how a preliminary screening **board or organization** can fulfill **its** responsibilities under SARA **s.79** and implement best practices for considering wildlife at risk. Section 4 **addresses the** EA and EIR processes.

[Comment To be clear, the MVLWB and their panels, if mitigation measures for listed wildlife are not sufficient to pass the "might" test, the project will have significant adverse environmental effects that are likely to affect listed species and/or their critical habitat and must recommend the project for EA.]

3.1 Preliminary screening and the determination of “Might” vs “Likely”

SARA s.79 describes requirements if a development is likely to affect a listed wildlife species or

Comment [j3]: What if the mitigation measure is outside of the mandate of the screener?

Comment [j4]: Vague

Comment [j5]: What about screeners that only have a limited ability to monitor (or no ability in the case of the LWB's if INAC decides its outside of their mandate)

Deleted: suitable

Comment [j6]: What if there are no plans yet developed?

Deleted: As a matter of best practice in EIA, t

Deleted: Because habitat is necessary to wildlife, e

Comment [j7]: Should be defined.

Deleted: the

Deleted: balance of

Deleted: , in the opinion of the organization responsible for the preliminary screening, environmental assessment or environmental impact review

Deleted: , in the context of the steps described below

Deleted: Northwest Territories

Deleted: will

Deleted: their

Deleted: of this guidance document will speak

Deleted: specifically

Deleted: to

its critical habitat. The MVRMA (s.128) uses the term “likely” to set a threshold of proof for significance determinations in environmental assessments. However, according to the MVRMA s.125, preliminary screeners must determine not whether a project is *likely* to cause significant adverse impacts, but only whether it *might*.¹¹

The test required by SARA is different from the test required by the MVRMA. The MVRMA test that usually¹² applies during preliminary screening is: **Might the development be a cause of significant adverse impacts?** If so, then the development must be referred to the Review Board for an environmental assessment. The test of SARA, which applies at all levels of EIA, is: **Is the project likely to affect a SARA Schedule 1 listed wildlife species or its critical habitat?**

Preliminary screeners therefore face two different questions, one from the MVRMA and the other from SARA. The SARA “likely” test implies a higher probability of occurrence than the MVRMA “might” test. However, unlike the MVRMA test, the effect need not be significant for the SARA test to be met. If the development is likely to affect wildlife at risk or its critical habitat, then certain SARA responsibilities exist regardless of whether or not that effect is significant.

Deleted: a critical
Deleted: species

(Comment: should be in section 4 as indicated in the section 3 intro paragraph)
Might verses Likely is still not very clear. Perhaps a table to depict what the Board is trying to say would be helpful.

Deleted: SARA requirements, in the event that a development is likely to affect a SARA Schedule-1 listed species or its critical habitat, apply not only to preliminary screeners but also to the Review Board during an environmental assessment and to a panel during an environmental impact review.

	Likely	Might	Significant Impact	Action
SARA	Yes			Notification Required
MVRMA		Yes	Yes	Notification Required

¹¹ Detailed explanations of these terms are available in the Review Board’s Reference Bulletin titled *Operational Interpretation of Key Terminology in Part Five of the MVRMA*.
¹² Within municipal boundaries a different test applies during preliminary screening, as per MVRMA s.125(2)(a).

3.2 Requirements for preliminary screeners

(Comment The guidelines are not clear where in the EIA process the developer is to submit information about potential Wildlife at Risk- prior to submitting an application to regulatory boards or along with application submitted to regulatory boards. Example, Section 1.1 "prior to the initiation of a project." or Section 3.2 "This should occur at the beginning of the preliminary screening process." - does this mean after the conformity check and within the 42 days allocated for preliminary screening by lwbs?)

Preliminary screeners are required to ensure that proponents provide adequate information on wildlife at risk that is likely to be adversely affected by a proposed project, and must provide early notification to appropriate government agencies about species that will likely be affected.

[Comment The text is not clear that the notification and 'test' for Wildlife at Risk is to be conducted within the 10 day plus 42 day timeframe allocated for preliminary screening by a Iwb.]

In summary, preliminary screeners must ensure:

1. Potentially affected wildlife at risk have been identified
2. The appropriate agency(ies) has(ve) been alerted
- 2.
3. Any potential adverse impacts have been identified and mitigations are identified
4. A determination is made-- Is it likely to affect wildlife at risk? If so, notify competent ministers
5. Mitigations are reviewed
6. Monitoring is reviewed
7. Mitigations and monitoring fit with species recovery strategies, action plans or management plans

Deleted: Potentially affected wildlife at risk has been identified

Each of these steps is described in more detail below:

[Comment It would be helpful to include bolded titles before the description of each step.]

Step 1: Ensure project proponents have identified all wildlife at risk, and their habitat, that may be affected by the project. Appendix B outlines tools for researching wildlife at risk. When proposed developments are small in scale and level of disturbance, it may be sufficient for proponents to determine the potential existence of wildlife at risk by consulting a government expert or through a literature review. For larger projects, field surveys may need to be undertaken at a level of detail appropriate for the project size and scope.

Step2: Notify appropriate government agencies if the materials submitted in support of a preliminary screening indicate that the proposed development overlaps with the range of a listed species of wildlife at risk. This should occur at the beginning of the preliminary screening process.¹³ (Section 3.3 describes in detail how to identify the appropriate agencies and Appendix D provides contact information.) These agencies may be able to provide expertise on other considerations (such as seasonality of use) and may provide expert advice during the preliminary screening steps.

Formatted

Deleted: Tell

Deleted: can

Deleted: that

Deleted: be useful considerations, and can be

Deleted: asked for input in anyof the following

Deleted: authorization

Deleted: in

Deleted: potential

Appendix A contains a sample table that could be added to application templates, such as land use permits and water licence application package(s), to request information on wildlife at risk. This information should be reviewed by experts during the preliminary screening process to evaluate the anticipated adverse impacts the project will have on wildlife at risk, and proposed mitigation and monitoring strategies. Each species of wildlife at risk, and habitat important for its survival, should be treated as valued ecosystem components.

Appendix B contains information resources on wildlife at risk listed by SARA, COSEWIC and the GNWT *General Status Ranking Program*, including range maps and critical habitat descriptions. The guide has been designed to assist preliminary screening organizations and proponents who are completing the wildlife at risk section of authorization applications.

¹³ This is not intended as a substitute for the early notification required by SARA s.79, which should occur after the determination has been in Step 4 (below). Appropriate agencies are informed here as an early “heads-up” so that they may contribute expert input into the preliminary screener.

Step 2:

Step 3: Verify that proponents have sufficiently identified the potential adverse effects of the project on the listed species and its important habitat(s) ¹⁴. Any potential adverse effects must be identified, regardless of their environmental assessment “significance”.

If the information in the application is inadequate for the above steps, the preliminary screener should return the application as incomplete until adequate information on wildlife at risk has been provided.

Step 4: Determine whether the development is likely to affect wildlife at risk. This includes effects on SARA Schedule 1 species and their critical or important habitat(s) or residences. This is a subjective test that requires the preliminary screener to exercise professional judgment based on the evidence provided by the proponents, expert advisors or traditional knowledge holders. The determination should be made when the evidence is sufficient to satisfy the test that the development is “is likely to affect” wildlife at risk. If it is likely to affect wildlife at risk, then provide notification to the appropriate government agencies as soon as possible¹⁵. (see Appendix C for a template notification letter). [Note: This should happen at any time in these steps, if a preliminary screener determines that that a development is likely to affect a SARA listed wildlife species.]

The following steps (5-7) are only required if a preliminary screener determines that the development is likely to affect a listed wildlife species.

Step 5: For the species identified in section 1.3, preliminary screeners must ensure that developers have proposed mitigation measures to avoid or minimize adverse impacts if these species or their habitat could be affected by the development.¹⁶ Mitigation measures that avoid the adverse effects are preferred over those that minimize the adverse effects. Typically, no activities that could destroy the critical habitat of a SARA-listed species can be allowed.

For species ranked ‘May be at Risk’ on the GNWT *General Status Ranking Program*, preliminary screeners should ensure that developers indicate whether the species are likely

¹⁴ For SARA Schedule 1 listed species, this step is intended to partially satisfy SARA s.79(2).

¹⁵ For SARA Schedule 1 listed species, this step is intended to satisfy SARA s.79(1).

¹⁶ For SARA Schedule 1 listed species, this step is intended to partially satisfy SARA s.79(2).

Deleted: Ensure project proponents have identified all wildlife at risk, and their habitat, that may be affected by the project. Appendix B outlines tools for researching wildlife at risk. When proposed developments are small in scale and level of disturbance, it may be sufficient for proponents to determine the potential existence of wildlife at risk by consulting a government expert or through a literature review. For larger projects, field surveys may need to be undertaken at a level of detail appropriate for the project size and scope. Government agencies described in Step 1 may be asked provide information that is useful to the preliminary screening.

Deleted: suspend consideration of the application

Deleted: wildlife

Deleted: at risk

Deleted:

present within the proposed project area. Monitoring procedures may not be required for these species.¹⁷

Step 6: Review monitoring programs proposed by the developer for wildlife at risk.¹⁸ The scale of the proposed monitoring program must be appropriate for the scope of the project, the degree of concern regarding wildlife at risk, level of uncertainty, and potential for adaptive management. Monitoring programs should be carried out by the developer for the most part, although long-term pre-existing monitoring data and programs carried out by other agencies may also provide relevant information.

Comment [J8]: Perhaps something could be added here about collaborative monitoring, or Govt doing the monitoring on the proponents dime (as in the case of Paramount, EC and song birds). Although this section may need to be re-written because it appears to be talking about monitoring the Species and not the mitigation measures which SARA calls for.

Step 7: Verify that all proposed mitigation measures and monitoring programs fit with species recovery strategies, action plans or management plans for the species of wildlife at risk, if such documents are available. ¹⁹

Table one in Appendix E provides useful information from Environment Canada that may be helpful to preliminary screeners when considering impacts on wildlife at risk.

If adverse impacts on wildlife at risk are likely, and these cannot be avoided or reliably reduced, through mitigation, then the proposed development might be a cause of significant adverse impacts on the environment. In that case, the preliminary screener should refer the development to the Review Board for an environmental assessment.

Deleted: or avoided

The Review Board may evaluate how well these steps have been followed when considering whether to exercise its MVRMA s.126(3) prerogative to “call up” developments for environmental assessment. (Comment The Review Board should not evaluate 'how well these steps have been followed when considering whether to exercise...s.126' The Review Board should be evaluating the outcomes of the process and whether concerns remain about significant adverse impacts to the environment or a likelihood of adverse effects.)

3.3 Early notification of appropriate government agencies

[Comment In 3.3 and 3.4, a section on coordination of multiple permits for a single project should be added in here. Given the current climate for regulatory improvement, having everyone who does a PS on the project write a letter to the Competent Minister and then try and the try to craft mitigation measures to deal with the issue, all in isolation, may cause problems down the road. Perhaps there someone could be assigned as a lead Pser for SARA (on a case by case basis).]

Section 79 of SARA requires that every person or organization that conducts an environmental impact assessment provide early notification to competent ministers if a proposed project is likely to affect a listed wildlife species or its critical habitat.

Deleted: must

Information on wildlife at risk in the land use permit or water license application form should be sent by the preliminary screener to the appropriate government agencies for review. Federal Government agencies should be notified if the wildlife at risk is a SARA-listed or COSEWIC assessed species described in section 1.3 of this Guideline. For species ranked as “At Risk”,

Deleted: g

“May be at Risk” under the GNWT *General Status Ranking Program*, the GNWT

¹⁷ There is a species listing hierarchy as identified in Table 1. If a species has a SARA- or COSEWIC-listing, this supersedes its GNWT *General Status Ranking Program*-listing, and therefore the SARA or COSEWIC procedures for reporting on the species apply.

¹⁸ For SARA Schedule 1 listed species, this step is intended to partially satisfy SARA s.79(2).

¹⁹ For SARA Schedule 1 listed species, this step is intended to partially satisfy SARA s.79(2).

Wildlife Environmental Assessment Specialist should be notified.²⁰ Appendix C contains a sample notification letter for government agencies, requesting expert opinions on adverse project effects, mitigation and monitoring, and addresses of government agencies that must be notified.

The preliminary screener must notify at least one federal government agency if the proposed development is likely to affect a SARA-listed species. Under SARA, three different federal departments and ministers have responsibilities for protecting listed species. If the range of a SARA Schedule 1 listed species overlaps with the proposed development location or if the development is near critical habitat, the appropriate competent minister, as outlined in Table 2a, should be notified in writing. A notification letter must be sent even if the proposed project may have a positive effect on a SARA-listed species.

Deleted: at risk

Table 2a. Conditions under which the three federal agencies must be notified if a proposed development is likely to impact SARA Schedule 1 listed species,

Deleted: a Species at Risk

Table 2b. Agencies to notify when a proposed development is likely to affect wildlife at risk not listed on SARA Schedule 1,

Situation

The project is likely to affect a terrestrial species listed by COSEWIC assessed by COSEWIC (as described in section 1.3 of this Guideline) if the species occurs outside of lands administered by Parks Canada

Notify

Environment Canada – *(Comment Shouldn't this be GNWT as this includes grizzlies, wolverine, etc...?)*

Deleted: besides

Deleted: listed species

Formatted

²⁰ For the latter (“May be at Risk”), no further actions are required by the organization conducting the EIA.

²¹ Contact information for each agency can be found in Appendix C.

In some circumstances, two or more federal agencies require notification. For example, if the Whooping Crane may be affected by a project, it is necessary to notify Parks Canada, because some of the critical habitat of the Whooping Crane is found within Wood Buffalo National Park, and Environment Canada because the Whooping Crane is a migratory bird.

3.4 Mitigation and Monitoring as Permit Conditions

SARA s.79 requires that preliminary screeners ensure that suitable mitigation measures and monitoring occur if a proposed project that will likely have adverse impacts on a SARA Schedule 1 species proceeds. Therefore, proposed mitigation and monitoring measures need to be included in an approval as developer's commitments or permit conditions. Mitigation and monitoring requirements should be appropriate for both the scale of the development and the types of impacts that are predicted.

Deleted: Species at Risk

If monitoring programs show that adverse effects of the project on wildlife at risk or their important habitat are greater than anticipated, appropriate adaptive management measures may be needed, or the project may need to be changed. If monitoring reports are received by preliminary screeners, they will be forwarded to appropriate territorial and federal government agencies for review, and to determine if project changes or additional mitigation measures are needed to minimize impacts to species.

[Comment More information is needed in this paragraph about when the reviews and implementation of adaptive management measures would take place ie: upon licence review/renewal.]

(Comment You are starting to lose the intent of the guidelines on what you want done for non-SARA listed species. The first paragraph of sec 3.4 is pretty clear on obligations for SARA species, but what do you want the implications to be for the second paragraph of sec 3.4?)

Preliminary screeners may add a new section on wildlife at risk in authorization applications that requires developers to complete a table similar to that found in Appendix A. This table requests information on wildlife at risk that will likely be affected by the proposed project, a description of potential adverse effects on species or their habitat, and proposed mitigation and monitoring activities.

(Comment – Keep PS info separate from the developer info to avoid confusion

(Comment The table idea is just that, an idea that the LWB or other may never do. It might help to rationalize the concept of certainty and efficiency in the review as a benefit.)

Figure 1. Steps for considering wildlife at risk in preliminary screening

[Comment Need to add to figure where application to regulator, conformity check and preliminary screening process starts.]

4 Requirements and Tools for Developers in Preliminary Screening

This section describes the recommended approach for developers to gather and provide sufficient information on wildlife at risk to preliminary screeners. The responsibilities imposed by SARA on those conducting environmental impact assessments create a need for proponents preparing an authorization application that will go through the preliminary screening process to provide more information at the application stage.

Deleted: more information from

Deleted: who are

(Comment: since you redo the steps below then this paragraph is surplus as well as confusing.) Developer's should undertake the following steps to ensure that they are providing the appropriate information:

Deleted: Preliminary screeners may add a new section on wildlife at risk in authorization applications that requires developers to complete a table similar to that found in Appendix A. This table requests information on wildlife risk that will likely be affected by the proposed project, a description of potential adverse effects on species or their habitat, and proposed mitigation and monitoring activities.

1. Identify whether your proposed development overlaps with the ranges of wildlife at risk. If there is no overlap, no further actions regarding species at risk are necessary.
2. If there is an overlap or potential overlap, identify all possible adverse effects of the proposed development on wildlife at risk.
3. For each possible adverse effect, provide your proposed mitigation measures to avoid or minimize adverse impacts on wildlife at risk.
4. Describe any proposed monitoring efforts, and include a description of how monitoring results will be evaluated and how any adaptive management will result.
5. Describe how proposed mitigation measures and monitoring programs fit with species recovery strategies, action plans or management plans for the species of wildlife at risk, if such documents are available.

Deleted: The criteria preliminary screeners will be using to evaluate the information that project proponents provide about wildlife at risk have been outlined above (see Section 3). Steps 2 – 6 in Section 3 are particularly relevant for project proponents as a guide in preparing their authorization applications.

Appendix B contains a list of information resources on wildlife at risk designated by SARA, COSEWIC and the NWT *General Status Ranking Program*, including range maps and critical habitat descriptions.

Deleted: ¶

Deleted: From the d

The Review Board recommends that all project proponents contact species at risk biologists with the GNWT, Environment Canada, Fisheries and Oceans Canada and or Parks Canada to discuss wildlife at risk in the conceptual stage of project development. Contact information for these organizations is listed in Appendix D. These agencies can make suggestions on how to identify wildlife at risk and their habitats for a project area, assist with predicting adverse effects, and help propose mitigation measures and monitoring procedures that are suitable for the scope of a given project.

Deleted: perspective,

Deleted: are summarized below

Deleted: between the area of the proposed development and the range of any species at risk

Deleted: I

Deleted: P

Deleted: proposed. I

Deleted: In the conceptual stages of project development, the

Deleted: and

Deleted:

Regarding steps two to four, the Review Board recognizes that there is a wide discrepancy in the size and scope of projects and project proponents that go through the preliminary screening process, and that many factors affect the capacity of a project proponent to adequately access information on wildlife at risk. Developers proposing larger projects should expect to put forth more effort in evaluating potential impacts on wildlife at risk.

Table Two in Appendix E provides useful information from Environment Canada that may be helpful to developers when characterizing impacts on wildlife at risk.

Deleted: two

Table 3 (below) provides a general outline of the level of effort to expect for developments of

Deleted: three

different sizes. Project costs in this table are approximated and used only as convenient general indicators of levels of proposed activity. The degree of potential impacts may be more or less depending on other project details, such as location (including presence of particularly sensitive habitat) or timing. For this reason, the actual level of effort will likely vary on a case-by-case basis. Table three is only intended to provide a rough approximation for illustrative purposes.

Table 3. Level of effort from developer and government expert agencies when completing species at risk information requirements for a preliminary screening authorization application

Table 3 small development : 1-2 year drill program
Medium development: - 5 – 10 year advanced exploration program
Large Development: - Full Mine Development and Operation

Formatted
 Formatted
 Formatted
 Formatted

Developers should ensure that their applications clearly describe the results of the above steps. If information on wildlife at risk is incomplete, the preliminary screener will return the application until the information has been provided.

[Comment Last paragraph- Since the conformity check has already been completed by the time the preliminary screener reviews the application how can it be deemed incomplete?]

5 Requirements during Environmental Assessment and Environmental Impact Review

This section describes how the Review Board can fulfill its responsibilities under SARA s.79 a during an environmental assessment and to a panel during an environmental impact review. SARA requirements, in the event that a development is likely to affect a SARA Schedule-1 listed species or its critical habitat, apply not only to preliminary screeners but also to the Review Board. The requirements for wildlife (?) at risk for (or do you mean SARA Schedule 1 species? Be clear.) the Review Board when conducting an environmental assessment, or for a panel formed by the Review Board when carrying out an environmental impact review, are the same as those outlined for preliminary screeners in Section 3. The Review Board or Panel must provide written notification to the appropriate government agencies if a wildlife at risk will likely be impacted by a proposed development undergoing EA or EIR, as described in Section 3 and Appendix C. The terms of reference for a project must request that developers identify potential adverse effects to wildlife at risk that could be caused by the proposed project, and strategies for mitigation and monitoring.

Deleted:
 Deleted: species at risk
 Deleted: species

The *Terms of Reference for the Gahcho Kué Environmental Impact Statement* for a review of a proposed diamond mine provide an example of how wildlife at risk, including SARA Schedule 1 listed species, can be addressed in the EIA process. Box 1 outlines the section of the *Terms of Reference* dealing with species at risk. Although *Terms of Reference* are issued on a case-by-case basis, developers may expect a consistent approach to be followed in other environmental assessment and environmental impact reviews, unless special considerations dictate otherwise.

Comment [j9]: Same question as above SARA species or wildlife at risk?

When reviewing a proposed project, each species of wildlife at risk, and habitat important for its

Comment [j10]: Back to wildlife at risk?

survival, will be treated as valued components.

Box 1. Terms of Reference regarding wildlife at risk for the Gahcho Kué Environmental Impact Statement

Deleted: species

The analysis provided in the EIS must be of sufficient detail to allow the Panel, as well as relevant other parties, to discharge its responsibilities under the Species at Risk Act, which includes:

- determining whether the proposed development is likely to affect a listed species or its critical habitat;
- identifying the adverse effects on the species and its critical habitat;
- ensuring that measures are taken to avoid or lessen those effects, consistent with any applicable recovery strategy and action plan; and
- monitoring the effects.

Deleted: lesses

For the purpose of this environmental impact review, the term “species at risk” includes all species listed under any applicable schedule of the Species at Risk Act, as well as species listed by COSEWIC, and species listed by the GNWT with designations “may be at risk” or “at risk” in the General Status Rankings for Species in the NWT.

Deleted: any

Deleted: the Committee on the Status of Endangered Wildlife in Canada

Comment Not “sensitive” species. No where else in this document do you mention GSR “sensitive” species. “Sensitive” species, that are not on SARA or assessed as at risk by COSEWIC, are considered not “at risk” according to the definitions under the GSR program so they are best left out of this process.

Deleted: . It also includes any

Deleted: ,

Deleted: or “sensitive”

Any developer commitments or Board or Panel measures resulting from the environmental assessment or environmental impact review regarding wildlife at risk should be captured in regulatory conditions for the development, to the extent possible.

6 Conclusions

These guidelines have been written to clarify the expectations of the Review Board regarding how individuals and organizations involved in the EIA process must consider wildlife at risk, including SARA Schedule 1 listed species. The Review Board has produced these Guidelines according to s.120 of the MVRMA, with substantial input from Environment Canada,

Deleted: and the GNWT Department of Environment and Natural Resources

The Guidelines describe how organizations conducting EIA processes can consider impacts on wildlife at risk species and meet legal requirements outlined in SARA. If in a given EIA situation, special circumstances regarding wildlife at risk species should apply, situations can be evaluated on a case-by-case basis.

Deleted: species

Deleted: species

These guidelines reflect the laws affecting EIA in the Mackenzie Valley, including both the MVRMA and SARA, and the current thinking and good practices for implementing EIA processes. Careful consideration of the potential impacts a proposed project may have on wildlife at risk is an important contribution towards conserving biological diversity and protecting wildlife at risk in the Mackenzie Valley.

Appendices

Appendix A Template Form for Considering Wildlife at Risk in Preliminary Screening

Deleted: Wildlife

Table A.2. Fictional Example – Whooping crane and Northern leopard frog

le. Whooping crane

(*Grus americana*)

SARA – Endangered

COSEWIC – Endangered

GSR – At Risk

Deleted: (Endangered)

Northern leopard frog

Lithobates pipiens

SARA: Special concern

COSEWIC: Special concern

GSR: Sensitive

Deleted: Rana

Formatted

Appendix B How to search for wildlife at risk, species ranges and critical habitat

Table B.1. Resources to help identify SARA Schedule 1 listed species and their ranges
SARA Registry

Species at Risk Web Mapping Application

- Shows the presence of SARA Schedule 1 listed species found in any region of Canada

- http://www.sararegistry.gc.ca/sar/index/map_e.cfm

This weblink has been moved. But there is a larger problem here. The architect for this web-mapping application is no longer updating this site. As a result some species ranges are out of date old and do not reflect the latest information. The most current information is available in the 2008 Species at Risk booklet and on the GNWT website at: <http://maps.gnwtgeomatics.nt.ca/portal/index.jsp>

Deleted: http://www.speciesatrisk.gc.ca/map/default_e.cfm

Field Code Changed

Formatted

Formatted

Formatted

Appendix C Sample Notification Letter Template

Notification Addresses:

Government of the Northwest Territories

For all and **GNWT General Status Ranking-listed** species, a notification letter should be sent to the Government of the Northwest Territories at the following address:

Environmental Assessment Specialist – Wildlife
Wildlife Division, Environment & Natural Resources, GNWT

PO Box 1320

Yellowknife, NT X1A 2L9

Phone: (867) 920-~~8064~~ Fax: (867) 873 - 0293

Deleted: 6362

[It should be made clear (clearer than it is) that the letter to the GNWT is in addition to the letter to the Competent Minister if the species appears on both the GNWT and SARA lists.]

Appendix D: Contact Information for Government Agencies

Appendix E: Selected tables from existing guidance

Page 2: [1] Deleted gmore 8/18/2008 2:00:00 PM

These Guidelines have been issued by the Review Board under the authority of s.120 of the MVRMA.³ The Review Board anticipates that these Guidelines will clarify expectations and make the EIA process more efficient and effective when dealing with highly vulnerable, rare or imperiled species, or species of special concern

Page 2: [2] Deleted gmore 8/20/2008 12:03:00 PM

. The Review Board also anticipates that these guidelines will encourage early dialogue and discussion about wildlife at risk, prior to the initiation of a project. These Guidelines will be reviewed

Page 2: [3] Deleted gmore 8/18/2008 2:03:00 PM

once NWT species at risk legislation is enacted.

Section 79 of SARA imposes legal obligations on persons required to ensure that the environmental effects of a project are assessed when dealing with species listed under SARA Schedule 1. For other species of wildlife at risk, the steps described in this guideline are required based on the Review Board's authority under MVRMA s.120, but not by SARA. The consideration of wildlife at risk, as described in this guideline, is intended to be consistent with best practices in environmental impact assessment.

Page 5: [4] Deleted gmore 8/18/2008 2:26:00 PM

SARA recognizes that in order to ensure the survival of wildlife species and the protection of critical habitat in Canada, it is necessary that cooperation be fostered among governments, institutions and individuals. Identification, protection and monitoring of wildlife at risk in Canada is a cooperative effort among many jurisdictions.

Three processes or organizations provide information on the status of species occurring in the Northwest Territories.

- The NWT *General Status Ranking Program* (GSRP) ranks the general status of NWT species to provide a priority list of species that would require more detailed assessment.
- The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) assesses the biological status of species in Canada, including species occurring in the NWT. COSEWIC uses the general status of species, among other information to prioritize species for its detailed assessment.
- The Competent Ministers under SARA then use COSEWIC's assessments as one factor

in the decision to add a species to the SARA Schedule 1 list. Complementary species at risk legislation for the Northwest Territories is currently under development.

COSEWIC assesses the biological status of wild species in Canada. When SARA was enacted, COSEWIC became legally designated as the independent body of experts that assess the biological status of species in Canada. COSEWIC recommends whether the status of a species should be listed under SARA as extinct, extirpated, endangered, threatened or of special concern.⁵ The federal government decision to list a species under SARA Schedule 1 may include socio-economic or political considerations, but assessment of species by COSEWIC is based on biological considerations alone.

The GNWT is a signatory to the *Accord for the Protection of Species at Risk*, and it is responsible for non-migratory birds and other wildlife species not covered by federal jurisdiction. The GNWT is developing legislation for the NWT to deal with wildlife at risk. The GNWT has also implemented the *General Status Ranking Program* to rank the general status of species occurring in the territory and identify species that require further detailed assessment by, for example, COSEWIC at a national level.⁶ Table 1 may be updated with the passing of NWT species at risk legislation.

Page 5: [5] Deleted	gmore	8/18/2008 2:44:00 PM
---------------------	-------	----------------------

responsibilities under SARA.

SARA came into force on June 1, 2004. It is intended to prevent wildlife species from becoming extirpated or extinct, to provide for the recovery of extirpated, endangered or threatened species, and to encourage management of species of special concern to prevent them from becoming at further risk⁸. This federal act sets out new requirements for those persons who make decision in the practice and processes of EIA in the Mackenzie Valley.