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# Canada Gazette

## Part II

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Statutory Instruments 2013  
SOR/2013-29 to 46 and SI/2013-24 to 28  
Pages 606 to 791

### *Aquatic species added to Schedule 1 of SARA*

Seven aquatic species (two freshwater fish and five molluscs) are added to Schedule 1. Brook Floater is added as a species of special concern. Two species — Mapleleaf Mussel (Great Lakes — Western St. Lawrence population), Westslope Cutthroat Trout (Alberta population) — are added as threatened. Four species — Eastern Pondmussel, Rainbow Mussel, Mapleleaf Mussel (Saskatchewan — Nelson population), and Spring Cisco — are added as endangered

### **Westslope Cutthroat Trout (Alberta population)**

The Alberta population of the Westslope Cutthroat Trout is restricted to southwestern Alberta, primarily the South Saskatchewan drainage. They tend to inhabit cooler, less productive streams than other closely related species. Native populations have been drastically reduced, by almost 80%, due to over-exploitation, habitat degradation and hybridization/competition with non-native trout. Forestry, hydroelectric development, mining, urbanization and agriculture have all contributed to the loss of habitat. COSEWIC assessed the species as threatened in November 2006.

In addition to the order listing the species as threatened under Schedule I, the GIC, on the recommendation of the Minister of Fisheries and Oceans, is making a related order under section 76 of SARA to exempt activities authorized under the Fisheries Act from the section 32 prohibitions of SARA for one year after the listing of the Alberta population of the Westslope Cutthroat Trout. This will provide sufficient time for the finalization of the recovery strategy and the completion of other measures by partners in the recovery planning process, including the Province of Alberta.

### **Consultations**

From 2007 to 2008, letters and workbooks were sent to 109 First Nation communities and organizations and 42 stakeholders. Public notices were placed in nine newspaper outlets. The stakeholders contacted directly included academics, 2 agricultural organizations, 10 businesses, 15 non-governmental organizations, 9 municipalities, and 3 recreational fishery organizations.

The Department of Fisheries and Oceans received a total of 100 responses, 78 of which supported the listing and 14 of which did not support the listing. Five of the responses were from First Nations, 64 from

the general public and 31 from stakeholders. The comments in support of the listing underscored the social, cultural and economic significance of the species. The comments that did not support the listing highlighted concerns about potential impacts on businesses and industry, as well as the recreational fishery. Concerns were focused on access to water and water management.

Water diversion occurs well downstream of any Westslope Cutthroat Trout populations. Therefore, additional new restrictions relating to water access and water management, impacting the existing irrigation and hydroelectricity generation industries, are not anticipated. It is anticipated that any impacts could be minimized as the recovery strategy will provide for flexible management, particularly through permits authorized by the Act. Furthermore, in recognition of such concerns, DFO is utilizing a broad consultative approach to recovery planning for this species. Many of the parties who raised concerns were invited to participate in the recovery team and are, and will continue to be, actively involved in the development of the recovery strategy.

None of the comments from First Nations indicated a lack of support for the listing. The Province of Alberta has indicated support for the listing.

With regard to the order issued under section 76 of SARA, this course of action has been discussed as a possible measure on a number of occasions with members of the recovery team, which is composed of a wide array of stakeholders. None of the participants has indicated opposition to this approach, which has been part of the recovery planning discussion from as early as January 2009.

### **Benefits**

The listing of the Westslope Cutthroat Trout (Alberta population) will provide protection pursuant to SARA (section 32 and 33 prohibitions). Canadians will benefit from the new protection afforded to this species, which will be centred on a collaborative effort with all stakeholders — including industry, non-governmental organizations and local and provincial governments — and First Nations. This approach will create synergies for comprehensive action since this species is presently listed as threatened under the provincial Wildlife Act. A detailed recovery strategy, action plan and subsequent actions to recover Westslope Cutthroat Trout throughout their historic range will have positive benefits as existence values are preserved for future generations. Recovery activities for this population undertaken under SARA will generate broader benefits to the ecosystem, which supports other threatened species.

With regard to the order issued under section 76 of SARA, the one-year time period will provide an opportunity for all parties to review and adjust other applicable regulatory tools to ensure compliance with SARA. It will also provide a reasonable window of time to formally approve the recovery strategy with clearly defined exemptions for acceptable activities that would not negatively impact the survival or recovery of the Westslope Cutthroat Trout. This approach ensures that ongoing fishing activities are not unduly impacted while the recovery strategy is being finalized following the listing of the species. This action will not negatively impact the survival or recovery of the Westslope Cutthroat Trout of the species.

### **Costs**

No significant socio-economic impacts are anticipated as a result of the listing. All of the water bodies outside national parks where the species is currently found receive protection under the Alberta Water Act. In addition, many of those water bodies are considered to have a heightened level of sensitivity under codes of practice created from the Water Act which regulate industrial operations in those areas. Since prohibitions and restrictions are currently in place under provincial legislation, incremental costs are anticipated to be low.

There is potential for some increased operating and capital costs due to modifications for forestry, recreational, hydroelectricity and oil and gas activities. However, such costs are expected to be low as the recovery team will work collaboratively to ensure that costs are mitigated to the extent possible. The diverse composition of the recovery team, which includes some of the stakeholders and partners who commented on the listing during the initial phases of the process, will help ensure that subsequent measures are wellbalanced. Furthermore, since the genetically pure stock of this species is now extremely restricted in its distribution and population sizes, potential impacts to ongoing operations will be minimal. Marginal costs to government will arise from compliance promotion and enforcement activities, and from recovery actions.

It is anticipated that recreational fishing will not be significantly impacted within the flexible management approach envisioned under section 83(4) of the Act. Notwithstanding this, if limited closures are deemed necessary under the recovery strategy, they will likely only affect portions of a small number of waterbodies. Given the abundance of other suitable sites for recreational fisheries in the area, these impacts will likely be negligible.

With regard to the order issued under section 76 of SARA, no new financial or environmental costs are expected as a result of this action.

### **Rationale**

The listing of the Westslope Cutthroat Trout (Alberta population) as threatened under SARA should result in a positive net benefit to Canadians. The species will receive protection under the Act, and the development of a flexible implementation approach through the recovery strategy would provide for permitting consistent with recovery goals. Historically important in biodiversity and recreational fisheries, this species is now quite restricted in distribution and population size. A recovery strategy and action plan will produce recovery risk assessments for each of the small, largely isolated populations, thus identifying threats to be mitigated and contributing to reversing trends of decline while providing insight into other species facing similar threats.

The scientific assessment of the potential for the recovery of the species provides for some allowable harm from controlled recreational angling as well as from research activities that are beneficial to the species and that will not jeopardize the survival or recovery of the species. DFO is working with a multi-stakeholder recovery team, which has drafted a recovery strategy for the species, addressing the key threats facing the species. As well, it is anticipated that the recovery strategy will provide for the continuation of the recreational fishery in a manner consistent with the scientific advice.

With regard to the order issued under section 76 of SARA, this has been determined to be the best course of action as it eliminates the potential costs associated with the need to issue additional SARA permits in the absence of clearly defined exemptions within a finalized recovery strategy. The order also fulfills a commitment to other parties interested in the recovery and protection of the species to provide a reasonable opportunity to review and adjust relevant regulatory and non-regulatory tools.