

An overview of the *Species at Risk Act* in the context of the Critical Habitat Interdepartmental Program (CHIP)

Purposes of the Species at Risk Act

The purposes of the *Species at Risk Act* (SARA, the Act) are to prevent wildlife species from being extirpated or becoming extinct, to provide for the recovery of wildlife species that are extirpated, endangered or threatened as a result of human activity, and to manage species of special concern to prevent them from becoming endangered or threatened. The Act recognises that the protection of wildlife species is a joint responsibility and that all Canadians have a role to play in the protection of wildlife. It applies to, but is not limited to, all federal lands in Canada; all wildlife species listed as being at risk; and to their critical habitat.

- [Species at Risk: the Act, the accord and the funding programs](#)
- [Species at Risk Act: description](#)
- [Species at Risk Act](#) (in full)

SARA Listing process (s.27)

Schedule 1 of the Act refers to the official List of Wildlife Species at Risk (the List). The decision to amend the List is made after the consideration of assessments and supporting evidence from the [Committee on the Status of Endangered Wildlife in Canada](#) (COSEWIC). COSEWIC assesses the species as extinct, extirpated, endangered, threatened, special concern, data deficient, or not at risk. After reviewing the COSEWIC assessments, the Minister of Environment has 90 days within which to publish a Response Statement on the [Species at Risk Public Registry](#) (SAR Public Registry). These statements indicate how the Minister intends to respond to each COSEWIC assessment and, to the extent possible, provide timelines for action. The GiC, within nine months after receiving the assessment may, on the recommendation of the Minister, by order:

- 1) accept the assessment and add the species to the List;
- 2) decide not to add the species to the List; or
- 3) refer the matter back to COSEWIC for further information or consideration.

If the GiC does not make a decision within nine months of receiving the COSEWIC assessment, the Minister shall by order amend the List according to COSEWIC's assessment. More information on the species listing process can be found [here](#).

Once a species is added to Schedule 1, it benefits from all the legal protection afforded, and the mandatory recovery planning required, under SARA.

SARA General Prohibitions (s.32, s.33)

After a species is listed in Schedule 1 of the Act as threatened, endangered or extirpated, the provisions under s.32 and s.33 (when applicable) of SARA apply automatically on all federal lands in the Provinces and on land administered by federal organizations in the Territories.

Please note that while SARA also applies to non-federal lands, this document does not elaborate on responsibilities on non-federal lands. This should not be construed as an absence of responsibility under SARA on non-federal lands.

SARA General Prohibitions (s.32 & s.33)

Prohibitions under SARA (s.32 and s.33) make it an offense to:

- Kill, harm, harass, capture, or take an individual of a wildlife species that is listed as an extirpated, endangered or threatened species (s.32);
- Possess, collect, buy, sell or trade an individual of a wildlife species that is listed as an extirpated, endangered or threatened species, or any part or derivative of such an individual (s.32);
- Damage or destroy the residence of one or more individuals of a wildlife species that is listed as an endangered or threatened species, or that is listed as an extirpated species if a recovery strategy has recommended the reintroduction of that species into the wild in Canada (s.33).

Please note that while Schedule 1 lists species that are extirpated, endangered, threatened and of special concern, the prohibitions do not apply to species of special concern.

Definition of Federal lands (ss.2(1))

Under SARA (S.2(1)), federal land means:

- a) land that belongs to Her Majesty in right of Canada, or that Her Majesty in right of Canada has the power to dispose of, and all waters on and airspace above that land;
- b) the internal waters of Canada and the territorial sea of Canada; and
- c) reserves and any other lands that are set apart for the use and benefit of a band under the Indian Act, and all waters on and airspace above those reserves and lands.

Please note that the SARA general prohibitions apply for Migratory birds protected under the [Migratory Birds Convention Act, 1994](#) (MBCA) as well as aquatic species, anywhere they occur, including private lands, provincial lands and lands within a territory, when they are listed in Schedule 1 of SARA, as threatened, endangered or extirpated.

Recovery Documents (s.37, s.47, s.65)

Under s.37 of SARA, the competent minister must prepare and complete a recovery strategy within one year of a species being listed as endangered, and within two years of a species being listed as threatened or extirpated (ss.42(1)). The recovery strategy is used as a planning document that identifies what needs to be done to arrest or reverse the decline of a species. It describes the species and its needs, identifies the threats to survival of the species, identifies the species' critical habitat and its biophysical attributes, and more. More information on recovery strategies is available [here](#).

Under s.47 of SARA, the competent minister must also prepare one or more action plans based on the goals and objectives outlined in the recovery strategy, which indicates when an action plan will be completed. More information on actions plans is available [here](#).

Under s.65 of SARA, if a wildlife species is listed as a species of special concern, the competent minister must prepare a management plan within 3 years of a wildlife species being listed (ss.68(1)). A

management plan differs from recovery strategies and action plans as it sets goals and objectives for maintaining sustainable population levels of one or more species that are particularly sensitive to environmental factors, but which are not in danger of becoming extinct. More information on management plans is available [here](#).

All recovery documents can be found on the species profile page in the [SAR Public Registry](#).

Critical Habitat Protection Orders (s.58)

Definition of Critical Habitat (ss.2(1))

Under SARA (S.2(1)), the definition of critical habitat is:

- The habitat necessary for the survival or recovery of a listed endangered, threatened, or extirpated species. Critical habitat will be identified to the extent possible in the recovery strategy or action plan for those listed species and posted on the SAR Public Registry.

S.58(1) states that **no person shall destroy any part of the critical habitat of a listed endangered or threatened species, or of any species listed as extirpated if a recovery strategy has recommended the reintroduction of that species in the wild in Canada, if**

- a) the critical habitat is on federal land, in the exclusive economic zone of Canada or on the continental shelf of Canada;
- b) the listed species is an aquatic species; or
- c) the listed species is a species of migratory bird protected by the MBCA.

To that effect, under ss.58(5) of SARA, within 180 days after the recovery strategy or action plan that identified the critical habitat of a listed species is included in the SAR Public Registry, the competent minister must, after consultation with every other competent minister,

- a) make an order if the critical habitat or any portion of the critical habitat is not legally protected by provisions in, or measures under, this or any Act of Parliament, including Agreements under s.11;
- b) if the competent minister does not make an order, he or she must include in the SAR Public Registry a statement setting out how the critical habitat or portions of the critical habitat, as the case may be, are legally protected.

Each s.58 protection order identifies the land on which the order applies, or the reference document in which the identified land can be found. Consult individual orders on the species profile page of the SAR Public Registry for the specific details regarding the land on which it occurs.

Note: Protection of critical habitat in National Wildlife Areas, Migratory Bird Sanctuaries, National Parks, The Rouge National Urban Park and marine protected areas are addressed through other means than a s.58 order.

SARA Permits (s.73)

Authorization to carry out prohibited activities is dependent on a finding that the preconditions set out in ss.73(3) of SARA have been met. Permit applications will be reviewed using the best available information and a permit may only be issued if the competent minister is of the opinion that all three preconditions are met:

- a. all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted;
- b. all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals;
- c. the activity will not jeopardize the survival or recovery of the species.

Further guidance on the above preconditions and the use of offsets can be obtained by contacting [ECCC's Canadian Wildlife Service regional office](#).

- [Species at Risk Permitting System](#)
 - The SARA component of the e-permitting system provides the ability to complete a SARA permit application online.
- [Guidelines for permitting under Section 73 of SARA](#)
- [Service standard for SARA permits](#)
 - The service standard tells applicants how long it will normally take ECCC to process and respond to a permit application

Federal land managers and SARA

It is very important that federal land managers stay informed in order to promote compliance with SARA on the federal lands they manage by respecting the Acts general prohibitions (s.32, s.33), and by knowing when to apply for SARA permits when activities on their lands have the potential of affecting SAR and/or their critical habitat. The following section serves as a guide for federal land managers.

What you can do as a federal land manager

- 1. The first step towards the conservation and/or recovery of species at risk and their critical habitat as a federal land manager is to find out if there are species at risk present on the land you manage. The following resources can help with this:**
 - You can search for species listed under SARA in the [Species at Risk Public Registry](#);
 - There are accessible databases on species at risk by the [Canadian Wildlife Service \(CWS\) regional office](#), by [Parks Canada](#), and for aquatic species by [Fisheries and Oceans Canada](#);
 - [NatureServe Canada](#) provides links to the Conservation Data Centers, which can allow you to search for the occurrence of a species in a specific location. For information on Quebec species, refer to the [Centre de données sur le patrimoine naturel du Québec \(CDNPQ\)](#) (resource available in French only).

2. Once you have confirmed that species to which the SARA prohibitions apply may live or pass through the land you manage, you should:

- ensure that activities carried out on your land do not contravene the general prohibitions of SARA. Example of activities include:
 - o Causing damage or destruction to a SAR's residence (e.g. nest or den)
 - o Capturing a SAR for scientific research
 - o Killing or harming a SAR
 - o The illegal possession or harvest of a SAR
 - o Poaching a SAR
 - o Disturbing a listed species critical habitat by causing alterations to its biophysical attributes (e.g. removing vegetation or altering waterflow)
- evaluate the potential of certain activities will affecting species at risk or their critical habitat on your land, as **a permit under SARA s.73 may be required.**
 - o Resources are available in the SARA Permit (s.73) section of this document. For further information or questions, contact your regional permitting office or email ec.permislep-sarapermits.ec@canada.ca.
- consider consulting with stakeholders, neighbouring indigenous communities, and/or other partners whom may be impacted due to activities on your land related to SAR.
- share what you know about SARA with your partners and ensure land users are aware of SARA prohibitions so that we can all work together towards the conservation and recovery of species at risk and their critical habitat.

3. Finally, one of the easiest things you can do is stay informed by regularly consulting the [SAR Public Registry](#) for newly listed species, species status changes, newly identified critical habitat, and new orders.

- On each species profile of the SAR Public Registry, you can find the species description, species COSEWIC status reports, consultation documents, orders pertaining to the species, recovery documents such as recovery strategies and action plans, as well as issued permits and other relevant information. You can learn more about how to navigate the SAR Public Registry [here](#).
- [A guide to your responsibilities under SARA](#)
 - [Federal land managers and SARA](#)