



The
SPECIES
AT
RISK ACT
and You

A GUIDE TO THE SPECIES AT RISK ACT (SARA): INFORMATION FOR BUSINESSES

Many Canadian businesses are actively engaged in helping to protect and recover species at risk. The following information will assist you, as a business person, to:

- understand how the *Species at Risk Act* (SARA) may affect you and your business;
- determine whether species at risk may be present in the areas where you operate;
- take action to comply with the Act; and
- learn what more you can do to help protect species at risk and their habitat.

WHAT IS THE ROLE OF CANADIAN BUSINESSES IN THE IMPLEMENTATION AND ADMINISTRATION OF SARA?

The Government of Canada is working collaboratively with Canadian businesses to protect and recover species at risk. Canadian businesses play a key role in many aspects of SARA implementation and administration. For example:

- through the Species at Risk Advisory Committee, business sector representatives provide advice on policies and regulations developed under SARA;
- through the SARA public consultation process, businesses are actively providing input to the Minister of Environment into the species listing process;
- with representatives as key members of recovery teams, Canadian businesses are contributing valuable expertise into the recovery planning process; and
- through the Habitat Stewardship Program (www.cws-scf.ec.gc.ca/hsp-pih), businesses are collaborating with other Canadians to help protect and recover species at risk and to prevent other wildlife species from becoming at risk.

HOW MIGHT SARA AFFECT MY BUSINESS?

The ways in which SARA may affect your business depend on the location of your business activities, whether or not your activities impact a species listed in Schedule 1 of SARA and the designation of the impacted species. The information below offers further insight on how SARA may apply to your business sector.

HOW DOES SARA PROTECT SPECIES AT RISK?

To ensure the protection of species at risk, SARA contains general prohibitions that make it an offence to:

- kill, harm, harass, capture, or take an individual of a species listed in Schedule 1 of SARA as endangered, threatened or extirpated;
- possess, collect, buy, sell or trade an individual of a species listed in Schedule 1 of SARA as endangered, threatened or extirpated;
- damage or destroy the residence (e.g. nest or den) of one or more individuals of a species listed in Schedule 1 of SARA as an endangered or threatened species or as an extirpated species if a recovery strategy has recommended the reintroduction of the extirpated species into the wild in Canada.

What does “Schedule 1” of SARA mean?

Schedule 1 is the official federal list of wildlife species at risk, which receive legal protection under SARA.

The list is amended on a regular basis and can be found on the SARA Public Registry (www.sararegistry.gc.ca)

Endangered species:

Species facing imminent extirpation or extinction.

Threatened species:

Species which are likely to become endangered if nothing is done to reverse the factors leading to their extirpation or extinction.

Special concern species:

Species which may become threatened or endangered because of a combination of biological characteristics and identified threats.

Extirpated species:

Species which no longer exist in the wild in Canada, but exist elsewhere in the wild.

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Environment Canada Species at Risk web site (www.speciesatrisk.ec.gc.ca)

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

Species at risk in Canada may also be protected by provincial or territorial laws. You may wish to consult the appropriate authorities for information on the requirements in your province or territory.

I OPERATE ON PRIVATE, PROVINCIAL OR TERRITORIAL LAND. HOW DO THE GENERAL PROHIBITIONS APPLY ON THESE LANDS?

On private, provincial or territorial land, the general prohibitions apply only to:

- aquatic species listed as endangered, threatened or extirpated in Schedule 1 of SARA; and
- migratory birds listed in the *Migratory Birds Convention Act, 1994* and also listed as endangered, threatened or extirpated in Schedule 1 of SARA.

In some circumstances, the general prohibitions could also be applied, through an order, to other species listed as endangered, threatened or extirpated in Schedule 1 when found on private, provincial or territorial land if provincial/territorial legislation or voluntary measures do not adequately protect the species and its residence. Public consultation would first be sought in accordance with normal federal government regulatory procedure.

I OPERATE ON FEDERAL LAND AND/OR CANADA'S OCEANS AND WATERWAYS. HOW DO THE GENERAL PROHIBITIONS APPLY?

Under SARA, the definition of federal land includes, but is not limited to:

- Canada's oceans and waterways;
- national parks;
- military training areas;
- national wildlife areas;
- some migratory bird sanctuaries; and
- First Nations reserve lands.

Many federal lands are exceptionally rich in wildlife and undisturbed habitat. As such, proper stewardship of these lands is vital to successfully protect and recover many species at risk.

The general prohibitions apply on all federal lands in a province and all federal lands in a territory under the authority of the Minister of the Environment or the Parks Canada Agency.

In addition, provincial and territorial governments develop their own lists of species at risk that are separate from Schedule 1 of SARA. By way of an order, the SARA general prohibitions can protect a wildlife species not listed in Schedule 1 of SARA that occurs on federal lands if the species is designated endangered or threatened by a provincial or territorial government (consultations would first take place). These prohibitions would only apply to the species, residences and habitats targeted, as well as the lands or sections of lands designated in the order.

If you are a commercial fisher, aquaculturist, or involved in any other activity that might impact an aquatic species listed in Schedule 1, you can either visit the Fisheries and Oceans Canada aquatic species at risk website for more information (www.dfo-mpo.gc.ca/species-especes) or contact your local Fisheries and Oceans Canada office.

WHAT IS CRITICAL HABITAT?

Critical habitat is the habitat necessary for the survival or recovery of a listed endangered, threatened or extirpated species (if a recovery strategy has recommended the reintroduction of that extirpated species into the wild in Canada). Critical habitat will be identified in the recovery strategy or action plan for each listed species and posted on the SARA Public Registry (www.sararegistry.gc.ca).

A recovery strategy is a planning document that identifies what needs to be done to arrest or reverse the decline of a species.

The action plan outlines the projects or activities required to meet the goals and objectives outlined in the recovery strategy.

To the extent possible, the strategies and plans are developed in co-operation with various agencies and groups and, to the extent possible, in consultation with people who Environment Canada, Fisheries and Oceans Canada and/or Parks Canada Agency consider directly affected by the strategy or plan.

SARA contains a prohibition against destroying any part of critical habitat of endangered, threatened or extirpated species (if a recovery strategy has recommended the reintroduction of that extirpated species into the wild in Canada), but also provides other options for protection.

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SARA recognizes that protecting the critical habitat of species at risk is key to their conservation. The intent of SARA is to protect critical habitat as much as possible through voluntary actions and stewardship measures. If these measures are unable to protect the critical habitat, the SARA's critical habitat prohibition may come into play.

HOW IS CRITICAL HABITAT PROTECTED ON PRIVATE, PROVINCIAL OR TERRITORIAL LAND?

On private, provincial or territorial land, SARA requires that the critical habitat of aquatic species be protected within six months after it has been identified in a finalized SARA recovery strategy or action plan. Critical habitat of these species must be protected by one of the following methods:

- application of the SARA critical habitat prohibition by ministerial order;
- other legal means under SARA such as a conservation agreement; and
- other federal legislation.

For other, non-aquatic species found on private, provincial or territorial land, SARA sets out a variety of ways critical habitat is to be protected. In most situations, provincial/territorial legislation can provide protection for critical habitat. Alternatively, the SARA critical habitat prohibition can be applied by way of an order from the Governor in Council (consultations would first take place). Other provisions in, or measures under, federal legislation (including SARA) may also be used.

HOW IS CRITICAL HABITAT PROTECTED ON FEDERAL LAND?

SARA requires that the critical habitat of all listed species, when found on federal lands, be legally protected within six months once identified in a finalized SARA recovery strategy or action plan.

To protect critical habitat located on federal land that is a national park, a marine protected area, a migratory bird sanctuary, or a national wildlife area, the SARA critical habitat prohibition applies automatically (without a ministerial order). In respect of other federal land, critical habitat must be protected by one of the following methods:

- application of the SARA critical habitat prohibition by ministerial order;

- other legal means under SARA such as a conservation agreement; or
- other federal legislation.

WHEN DOES SARA REQUIRE SOCIAL AND ECONOMIC FACTORS BE TAKEN INTO ACCOUNT?

SARA requires that social and economic factors be considered when action plans are developed, during the recovery planning process. Action plans must include an evaluation of socio-economic costs and benefits to be derived from its implementation. The Minister must monitor action plan implementation and the progress being made toward meeting its objectives as well as assess and report on implementation, including socio-economic impacts.

Socio-economic factors are also taken into consideration when species are proposed for addition to Schedule 1 of SARA. Listing proposals follow the regulatory process, and are subject to the Government of Canada's Regulatory Policy, which requires departments to consider the benefits and costs of regulatory proposals that could affect Canadians.

HOW DOES SARA AFFECT THE ENVIRONMENTAL ASSESSMENT PROCESS?

SARA includes the following provisions that directly relate to the environmental assessment (EA) process:

1. All EAs conducted under federal legislation, such as the *Canadian Environmental Assessment Act*, must identify any species at risk listed under SARA, or critical habitat that is likely to be affected by the project.
2. If the project is likely to affect a listed species or its critical habitat, SARA requires that Environment Canada, Fisheries and Oceans Canada and/or Parks Canada Agency be notified, in writing, without delay. For aquatic species, Fisheries and Oceans Canada must be notified. For species and their critical habitat found exclusively or partly in or on federal lands administered by the Parks Canada Agency, Parks Canada must be notified. For all other species, Environment Canada must be notified.

What is an Environmental Assessment?

An Environmental assessment (EA) is a process to predict the environmental effects of proposed initiatives before they are carried out.

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Two notifications might need to be sent if the affected species falls under the responsibility of two ministers. For example, for aquatic species found on lands you manage and on lands administered by the Parks Canada Agency, notification should be sent to the Parks Canada Agency as well as to Fisheries and Oceans Canada.

There are regional EA contacts within each department and notification should be sent through them. The Canadian Environmental Assessment Agency regional offices can provide you with their contact information.

3. When an EA is being carried out on a project that may affect a listed species or its critical habitat, SARA requires that the potential adverse effects be identified. If the project is carried out, measures need to be taken to avoid or monitor and lessen those adverse effects. Such measures must be consistent with any applicable recovery strategies, action plans and management plans for those particular species.
4. SARA also amends the definition of "environmental effect" under the *Canadian Environmental Assessment Act* to clarify, for greater certainty, that environmental effects include any change the project may cause to a listed species on Schedule 1 of SARA, their residence or critical habitat.

Please note that while the general prohibitions only apply to species listed as endangered, threatened or extirpated in Schedule 1 of SARA, the provisions related to EAs listed above apply to all species listed in Schedule 1, including species of special concern.

In addition to identifying the adverse effects of your project on all species listed in Schedule 1, it is recommended that all other species at risk be considered, including:

- species that are currently under consideration for addition to Schedule 1 of SARA (search for these species by using the "Advanced Search" tool on the SARA Public Registry);
- those designated at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), but not listed under SARA;
- species which have been assessed by COSEWIC as being at risk, but require reassessment according to new criteria, and may eventually be added to Schedule 1 (species listed in Schedule 2 and Schedule 3 of SARA); and
- provincially or territorially designated species.

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The *Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada* is an excellent resource for those conducting EAs. The Guide is available on the Environment Canada website (www.ec.gc.ca/wild_e.html).

For more information on the EA process, you can visit the Canadian Environmental Assessment Agency website (www.ceaa.gc.ca) or contact your Canadian Environmental Assessment Agency regional office.

ARE THERE ANY EXCEPTIONS TO THE PROHIBITIONS?

SARA provides for a number of exceptions in a variety of circumstances. For example, activities related to public safety, health or national security may be exempted from the application of SARA prohibitions.

CAN I APPLY FOR A PERMIT UNDER TO ENGAGE IN ACTIVITIES THAT WOULD OTHERWISE CONTRAVENE SARA?

Yes. Under SARA, permits may be issued or agreements may be entered into to authorize certain activities that would otherwise contravene the general or critical habitat prohibitions, if certain conditions are met.

These authorizations are sometimes called "Section 73 Permits", referring to the section of the Act that deals with authorizations. The SARA Public Registry has information on how to apply for a permit.

HOW CAN I FIND OUT IF THERE COULD BE SPECIES AT RISK IN THE AREAS I AM OPERATING IN?

There are a number of resources that may be able to assist you in finding out whether species at risk, their residences or critical habitat may be present in the areas in which you are operating:



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- The SARA Public Registry has an “Advanced Search” tool that allows you to search for species listed under SARA based on their distribution, taxonomic group and risk category;
- Environment Canada’s species at risk website (www.speciesatrisk.gc.ca) offers general biological information about species at risk in Canada, including their distribution and habitat requirements;
- Environment Canada’s Canadian Wildlife Service (CWS) regional offices can access databanks on species at risk found on federal lands. If your business is located near federal land, CWS may be able to assist you;
- Fisheries and Oceans Canada maintain databanks on aquatic species at risk and can also assist you in correctly interpreting information from other databanks;
- Parks Canada maintains a national database of species found in the areas it administers. If the land you manage is near an area administered by Parks Canada, this park or other area may have information that could help you; and
- *NatureServe Canada* provides links to the Conservation Data Centers, which in some cases offer the possibility to search for the occurrence of species at risk in particular areas of your province or territory.

Keep in mind that while a species may be found within a certain geographical range, the species may not be present in the particular area you operate because the habitat may not be suitable.

If the land you operate on has potential habitat or previous occurrences of species at risk, it is recommended that you perform an inventory on the property. However, taking stock of rare species is a complex task and should be conducted by specialists.

Please notify your CWS regional office of any new information regarding species at risk in the areas in which you operate. Any new record of a listed species at risk is highly valuable to recovery teams.

WHAT STEPS CAN I TAKE TO COMPLY WITH THE ACT?

Once you have determined that species at risk may live in or pass through the land in which you operate, or if you are aware that residences or critical habitat may exist, you should:

- ensure that the activities you carry out in those areas comply with SARA requirements;
- ensure that Environment Canada, Fisheries and Oceans Canada and/or Parks Canada Agency are notified if your project requires an assessment of environmental effects and is likely to affect a SARA listed species or its critical habitat;
- apply for a permit in advance if a proposed or current activity could contravene a SARA prohibition;
- take SARA requirements into account when you sign agreements with subcontractors;
- provide colleagues with accurate and reliable information on SARA using official information available from the SARA Public Registry or from your CWS regional office.

To ensure you continue to comply with SARA, you should also:

- be aware of species which may be added to Schedule 1 in the future by keeping abreast of:
 - species that are currently under consideration for addition to Schedule 1 of SARA ; and
 - the COSEWIC list of Status Reports that are currently in preparation as these species will soon be assessed by COSEWIC and may be added to Schedule 1.
- consult the SARA Public Registry regularly for:
 - newly listed species and other changes to Schedule 1 of SARA;
 - newly identified critical habitats for species identified in recovery strategies or action plans; and
 - new orders affecting species, residences and critical habitat.

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HOW ELSE CAN I HELP CONSERVE SPECIES AT RISK?

All Canadians have a role to play in protecting and recovering species at risk. As a business, you can:

- apply for funding through the Habitat Stewardship Program (www.cws-scf.ec.gc.ca/hsp-pih), to carry out recovery projects;
- direct activities toward less sensitive areas and time projects to avoid or minimize impacts to species at risk; and
- participate and encourage colleagues to participate in public consultations.

For additional information on SARA programs and activities and how you can help protect species at risk, please contact the following:

Environment Canada
Inquiry Centre
351 St. Joseph Boulevard
Gatineau, Quebec K1A 0H3
Tel : (819) 997-2800
Tel : (800) 668-6767
Fax : (819) 953-2225
E-mail: enviroinfo@ec.gc.ca

PLEASE NOTE: *This Guide has been prepared for information purposes and convenience of reference only, and has no official sanction. It is not a substitute for the Species at Risk Act or any regulation under this Act. In the event of an inconsistency between the information included here and the Act or its regulations, the latter would prevail. Official or more detailed information can be found in the legal text of the Species at Risk Act.*

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