

# Species at Risk Act

A Guide

October 2003



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This document has been prepared for convenience of reference only, and has no official sanction. Official or more detailed information can be found in the legal text of the *Species at Risk Act*, available on the Government of Canada's *Species at Risk Act* Public Registry at: [www.sararegistry.gc.ca](http://www.sararegistry.gc.ca)



# Species at Risk Act

A Guide

*October 2003*







# MESSAGE FROM THE MINISTERS



The *Species at Risk Act* (SARA) is a major step towards protecting species at risk and their habitats in Canada. The Act is designed as a key tool for the conservation and protection of Canada's biological diversity and fulfills a key commitment under the United Nations Convention on Biological Diversity.

Science tells us that we are all connected in an ecosystem and that the biodiversity of our ecosystem is essential to its health and survival. It is a source of grave concern when species become extinct at a rate that outstrips nature's usual rhythms. Normally, worldwide, we would expect to lose a species every 1000 years. Estimates of current extinction rates suggest that, globally, we are now losing one to three species per day.

The loss of species is a warning light, signaling possible problems ahead for all species. As we learn more about what a species needs to survive, the strategies to ensure survival become clear. Protecting habitat—the places where species live, where they reproduce, where they feed — is essential. Protecting species from the effects of pollution, from over-harvesting and poaching, and from alien invasive species is essential. Finding ways to do this can be challenging, but with the approval of the *Species at Risk Act*, we are headed in the right direction.

Ultimately, the success of the new law will depend on people and their willingness to act to make sure that all species at risk survive. Cooperation and stewardship are key to conserving species and will require that governments, Aboriginal peoples, conservation organizations, landowners, resource users and other interested Canadians work together.

Imagine a Canada without burrowing owls, killer whales, whooping cranes, leatherback turtles, Atlantic whitefish, or small white lady's slippers. Imagine a Canada without the many hundreds of other species also protected by the Act. What can you do to make sure they are here in the future? A good first step is to find out more about the *Species at Risk Act*.

We all share the challenge of protecting Canada's wildlife species at risk.

David Anderson  
Minister of the Environment

Robert Thibault  
Minister of Fisheries and Oceans

Sheila Copps  
Minister of Canadian Heritage

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## Milestones

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- 1978** The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) began assessing wildlife species and classifying their chances of survival.
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- 1988** The Wildlife Ministers' Council of Canada established RENEW, or the committee on the Recovery of Nationally Endangered Wildlife.
- 
- 1992** Canada signed the United Nations Convention on Biological Diversity and commits to protect endangered and threatened wildlife.
- 
- 1996** The federal, provincial and territorial governments endorsed the Accord for the Protection of Species at Risk, agreeing to develop laws and programs that would work together to protect species at risk and their habitat throughout the country.
- 
- 1999** COSEWIC adopted updated criteria based on the criteria developed by the International Union for the Conservation of Nature to assess and classify wildlife species at risk.
- 
- 2000** Budget 2000 committed \$180 million over five years for a national strategy for species at risk.
- 
- 2000** The Habitat Stewardship Program for Species at Risk became operational.
- 
- 2002** The *Species at Risk Act* was passed by Parliament.
- 
- 2003** Budget 2003 committed \$33 million over two years for implementation of the *Species at Risk Act*. This amount was in addition to the \$180 million allocated in Budget 2000.
- 
- 2003** Two-thirds of the *Species at Risk Act* came into force. Sections 1, 134 to 136 and 138 to 141 of the *Species at Risk Act* came into force on March 24. Sections 2 to 31, 37 to 56, 62, 65 to 76, 78 to 84, 120 to 133 and 137 came into force on June 5.
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- 2004** The remaining sections of the Act (32 to 36, 57 to 61, 63, 64, 77, and 85 to 119) come into force on June 1.
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*The purposes of the Species at Risk Act are to prevent wildlife from becoming extinct in Canada, 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.*





# INTRODUCTION: THE NEED FOR A LAW

**C**oncern about the loss of wildlife in Canada is not new. Aboriginal peoples, scientists, farmers, ranchers, fishers and people with an interest in the natural world have noticed and documented the disappearance of certain plants and animals from some areas for some time.

Perhaps a key moment in public awareness of the risk and tragedy of species extinction occurred when it became known in the 1950s that only 22 migratory whooping cranes remained in the world. Luckily, these large and majestic birds, which breed and raise their young in the Northwest Territories, were saved from extinction and by 2002 the migratory whooping crane population had grown to 185 birds. While on the precarious road to recovery, whooping cranes remain listed as an endangered species in Canada and the United States.

Unfortunately, whooping cranes are not the only species in danger of disappearing. For over 25 years, a cross-country committee of Canadian scientists and species experts has been tracking the decline of wildlife species, and assessing the species in danger of extinction.

The *Species at Risk Act* provides a framework for actions across Canada to ensure the survival of wildlife species and the protection of our natural heritage. It sets out how to decide which species are a priority for action and what to do to protect a species. It identifies ways governments, organizations and individuals can work together, and it establishes penalties for a failure to obey the law.

SARA is one of several federal, provincial, territorial, and international laws that all share the goal of protecting wildlife species. These laws have become necessary to help ensure that species survive and biodiversity is maintained.

The *Species at Risk Act* builds on and complements existing wildlife legislation. It is one component of a three-part Strategy for the Protection of Species at Risk that also includes the Habitat Stewardship Program and the federal-provincial-territorial Accord for the Protection of Species at Risk.

The *Species at Risk Act* is being brought into force through a phased approach. This approach is described in detail in Appendix 1.



# A FOCUS ON COOPERATION, CONSULTATION AND STEWARDSHIP

**C**ertain themes run through the *Species at Risk Act* as it sets out how to protect wildlife species and ensure their survival:

- cooperation among governments
- consultation with people affected by a SARA-related action or decision
- stewardship
- information, and
- on-going review.

At every step of the way, SARA requires federal cooperation and consultation with provincial and territorial governments; Aboriginal peoples, landowners and resource users. SARA also supports stewardship and community conservation efforts.

## **Federal / provincial / territorial governments at work together**

The protection of wildlife species is a concern for the federal, provincial and territorial levels of government. That is why governments endorsed the Accord for the Protection of Species at Risk in 1996, agreeing to work together on legislation, programs and policies to protect wildlife species at risk throughout Canada.

Six provinces – Nova Scotia, New Brunswick, Quebec, Ontario, Manitoba, and Newfoundland and Labrador – have specific legislation to protect species at risk. Several provinces have amended existing wildlife laws to deal explicitly with species at risk, while other provinces and territories are working on developing legislation.

By cooperating together, federal, provincial and territorial governments can use the most effective ways to protect wildlife at risk, wherever the vulnerable animal or plant is found.

## **Working with Aboriginal peoples**

Traditionally, Aboriginal peoples have been closely connected to the land, hunting, fishing and harvesting plants to live. SARA recognizes the knowledge and experience of Aboriginal peoples and requires consideration of Aboriginal traditional knowledge when COSEWIC assesses a species, and cooperation and consultations with Aboriginal peoples that will be affected by a recovery strategy, action plan, or management plan or critical habitat protection measures.

A National Aboriginal Council on Species at Risk, required under SARA, will advise the Minister of the Environment on the administration of the Act and will make recommendations to the Canadian Endangered Species Conservation Council.

Consultation and cooperation with Aboriginal peoples are key to protection of wildlife species and to the effective implementation of SARA in land claims settlement regions, on reserve lands, and where traditional harvesting activities are carried out.

## **Canadian Endangered Species Conservation Council**

The Canadian Endangered Species Conservation Council is comprised of provincial and territorial government ministers who are responsible for the conservation and management of wildlife and the three federal ministers responsible for Environment, Canadian Heritage, and Fisheries and Oceans. The Council coordinates federal, provincial and territorial government activities relating to the protection of species at risk and provides general direction on the activities of the Committee on the Status of Endangered Wildlife in Canada (commonly known as COSEWIC) and the preparation of recovery strategies and action plans. The Council must be consulted on a number of SARA matters to ensure the successful coordination of species recovery efforts among governments.

## Stewardship

Stewardship refers to the wide range of voluntary actions that people are taking to care for the environment. Activities range from monitoring and conserving wildlife species and the places where they live, to protecting and improving the quality of soil, water, air and other natural resources. These types of conservation activities, particularly those that protect habitat, are essential to the recovery of species at risk. They are also important in preventing other species from becoming at risk.

Cooperation is the key to making stewardship successful. Federal, provincial and territorial governments encourage action by providing scientific information and technical assistance, as well as economic incentives. Non-governmental organizations help private landowners and concerned citizens to identify and implement effective stewardship activities. Many other people are involved, including resource users, fishers, ranchers, farmers, Aboriginal organizations, educational institutions, and community organizations.

As part of the National Strategy for the Protection of Species at Risk, the federal government established the Habitat Stewardship Program for Species at Risk. The program became operational in 2000 and allocates up to \$10 million per year to projects to conserve and protect species at risk and their habitats.

The program has been highly successful to date. It has protected nearly 60,000 hectares of habitat for species at risk, enhanced more than 195,000 hectares, reduced threats to hundreds of individual species at risk, and reached more than 400,000 Canadians. With a \$10 million annual investment in its second year, the program has levered an additional \$21 million in support from partners and worked with Canadians to protect species at risk habitat worth more than \$92 million.

Everyone can contribute to efforts to protect Canadian wildlife species at risk through participation in local community stewardship programs.

## THREE FEDERAL MINISTERS HAVE RESPONSIBILITIES UNDER THE ACT

**T**hree federal Ministers are responsible for the administration of SARA:

- The Minister of Fisheries and Oceans is responsible for aquatic species at risk;
- The Minister of Canadian Heritage (through the Parks Canada Agency) is responsible for individuals of species at risk found in national parks, national historic sites or other protected heritage areas;
- The Minister of the Environment is responsible for all other species at risk, and is also responsible for the administration of the Act.

SARA refers to these three ministers as “competent ministers” and gives them the authority to make decisions in their areas of responsibility and requires them to consult with each other on specific SARA-related matters.



# The Process for Protecting a Species at Risk

COSEWIC assesses and classifies a wildlife species: extinct; extirpated; endangered; threatened; special concern; data deficient; or not at risk.

COSEWIC provides its report to the Minister of the Environment and the Canadian Endangered Species Conservation Council, and a copy is included in the Public Registry.

Minister of the Environment indicates how he or she intends to respond to a COSEWIC assessment within 90 days.

Within nine months of receiving the COSEWIC assessment, the Governor in Council makes a decision about whether or not to add the species to the List of Wildlife Species at Risk. If no government action is taken, the species is automatically added.

## When a species is on or added to the List of Wildlife Species at Risk

extirpated, endangered or threatened species and their residences have:

- Immediate protection on federal lands (except for those species in the territories that go through the safety net process described below)
- Immediate protection if they are an aquatic species
- Immediate protection if they are a migratory bird
- Protection through a safety net process if they are any other species in a province or territory.

### For all species included on the List of Wildlife Species at Risk on June 5, 2003:

- a recovery strategy must be prepared within three years for endangered species and within four years for threatened species or extirpated species
- a management plan must be prepared within five years for a special concern species.

### For all species added to the List of Wildlife Species at Risk after June 5, 2003:

- a recovery strategy must be prepared within one year for endangered species and within two years for threatened or extirpated species
- a management plan must be prepared within three years for a special concern species.

Recovery strategies and action plans, which must include the identification of critical habitat for the species, if possible, and management plans are published in the Public Registry. The public has 60 days to comment on these documents.

Five years after a recovery strategy, action plan or management plan comes into effect, the competent minister must report on the implementation and the progress toward meeting objectives.

# THE PATHWAY TO A SARA LISTING

**The law protects the plants and animals** included in the List of Wildlife Species at Risk. Species are put on the list as a result of the work of the scientists and conservationists who are members of COSEWIC. The Committee has been meeting for over 25 years to assess the status of species found in Canada. Under SARA, COSEWIC will continue to provide scientific assessments of the status of species. The Government, through the Governor in Council, will decide which species are added to the List in SARA, as such action could result in serious economic or social implications.

233 species were included in Schedule 1 of the *Species at Risk Act* when Parliament passed the Act in December 2002. COSEWIC had already reassessed these species as at risk using new updated assessment criteria and current information. With the coming into force of the Act in June 2003, Schedule 1 becomes the initial List of Wildlife Species at Risk.

After June 5, 2003, the Governor in Council will follow the process set out in SARA to add a species to the List of Wildlife Species at Risk or change its status on the List. This is the listing process:

1. COSEWIC assesses the biological status of a species using the best available information on the biological status of the species. It reviews research, considers community and Aboriginal traditional knowledge, and applies strict assessment criteria established by COSEWIC and based on criteria developed by the International Union for the Conservation of Nature.
2. COSEWIC sends its assessment of the species to the Minister of the Environment. The assessment and the reasons for it are also posted in the Public Registry.
3. The Minister of the Environment has 90 days to publish, in the Public Registry, a report on how the Minister intends to respond to the COSEWIC assessment and, to the extent possible, provide time lines for action.

4. Within nine months of receiving the COSEWIC assessment, the Governor in Council must decide whether or not to add the species to the List of Wildlife Species at Risk. Or, it can ask COSEWIC for more information.
5. If the Governor in Council does not make a decision within nine months of receiving the COSEWIC assessment, the species is added by order to the List of Wildlife Species at Risk, according to the COSEWIC assessment.

SARA also currently includes 39 endangered or threatened species in Schedule 2 and 103 species of special concern in Schedule 3. These species are those that COSEWIC has added to its list over the past 25 years, but, as of the end of 2001, had yet to reassess with its updated criteria and current information. Once done, these reassessments will be sent to the Minister of the Environment who will follow the listing process set out above.

## Emergency listings

SARA provides a way for the government to take immediate action to add a wildlife species to the List in an emergency. When the Minister believes that there is an imminent threat to the survival of a wildlife species, the Minister must recommend to the Governor in Council that the species be added to the List of Wildlife Species at Risk as an endangered species. The Minister must consult with the Minister of Fisheries and Oceans and the Minister of Canadian Heritage before making the recommendation. If the species is added to the List, COSEWIC will be asked to prepare a status report on the species within one year.



# LIST OF WILDLIFE SPECIES AT RISK

**S**ARA lists 233 species that are to be protected with the coming into force of the new law. The List of Wildlife Species at Risk set out in Schedule 1 of SARA includes:

## 17 extirpated species

- wildlife species that no longer exist in the wild in Canada, but exist elsewhere in the wild

## 105 endangered species

- wildlife species that are facing imminent extirpation or extinction

## 68 threatened species

- wildlife species that are likely to become endangered species if nothing is done to reverse the factors leading to their extirpation or extinction

## 43 species of special concern

- wildlife species that may become threatened or endangered species because of a combination of biological characteristics and identified threats

# ACTIONS TO PROTECT SARA-LISTED SPECIES

## Immediate species protection

SARA makes it an offence in sections 32 and 33 to:

- kill, harm, harass, capture or take an individual of a listed species that is extirpated, endangered or threatened;
- possess, collect, buy, sell or trade an individual of a listed species that is extirpated, endangered or threatened, or its part or derivative;
- damage or destroy the residence of one or more individuals of a listed endangered or threatened species or of a listed extirpated species if a recovery strategy has recommended its reintroduction.

The federal government has responsibility for:

- federal lands
- aquatic species, and
- migratory birds covered by the *Migratory Birds Convention Act, 1994*.

Federal lands are lands owned by the federal government, such as national parks, lands used by the Department of National Defence, reserve lands and most of the land in the three territories.

Clearly, one of the first steps in implementing the new law is for the federal government to make

sure its operations respect SARA and protect listed species.

The federal government's responsibility for listed aquatic species and for birds covered by the *Migratory Bird Convention Act, 1994*, means that once the SARA prohibitions in sections 32 and 33 are brought into force in June 2004, they will apply immediately to these species wherever they are found, and to all listed species on federal lands. Listed species in the territories (except for aquatic species, migratory birds or species on land under the authority of the competent ministers) will go through the process described below.

For other listed species, the provinces and territories are given the first opportunity to protect them through their laws. If the province or territory does not act, SARA has a "safety net". The Governor in Council, on the recommendation of the Minister of the Environment, may order that the prohibitions in sections 32 and 33 apply for a given species in a province or territory. The Minister must make a recommendation if, after consultation with the provincial or territorial minister, the Minister finds that the species or its residence is not effectively protected.



## Emergency orders

SARA provides authority for the government to take emergency action to protect a listed species or its habitat. When the competent minister believes that a listed wildlife species is facing imminent threats to its survival or recovery, the competent minister must recommend to the Governor in Council that an emergency order be issued to prohibit activities that may adversely affect the species or its habitat.

## Project review

Projects that require an environmental assessment under an Act of Parliament will have to take into account the project's effects on listed wildlife species and their critical habitats. The assessment must include recommendations for measures to avoid or reduce adverse effects and plans to monitor the impact of the project, if it goes ahead. The project plan must respect recovery strategies and action plans. SARA prohibitions still apply.

## Recovery strategies

The competent minister must prepare recovery strategies for listed extirpated, endangered or threatened species. It falls to the Minister of Fisheries and Oceans, for example, to make sure that recovery strategies are prepared for listed fish and other aquatic species. The Minister of Canadian Heritage (through the Parks Canada Agency) leads on recovery strategies for listed species found mainly in national parks and other heritage sites. The Minister of the Environment is responsible for preparing recovery strategies and action plans for all other species listed as extirpated, endangered or threatened. When there is more than one competent minister for a species, they work together in preparing recovery strategies and action plans.

The ministers, however, do not work in isolation. Rather, they are responsible for bringing together people, organizations and governments with an interest in the species. Many people are to be involved in recovery teams or consulted during the development of a recovery strategy, including

other affected federal government ministers, provincial or territorial governments when the species is found in their area, wildlife management boards, Aboriginal organizations, landowners and other people likely to be affected by a recovery strategy.

Recovery teams use the information gathered by COSEWIC to begin developing a recovery strategy. The recovery strategy sets out the population goal and objectives and broad approaches to respond to the known threats to the survival of the species, identifies the species' critical habitat, if possible, and sets time lines for the preparation of an action plan or action plans.

Recovery measures should not be postponed even if there is a lack of full scientific certainty. However, a competent minister may decide that the recovery of a species is not feasible. In that case, the recovery strategy must include a description of the species and its needs, an identification of its critical habitat and the reasons why recovery is not feasible.

## Recovery at work

The wood bison is found in the Yukon, Northwest Territories, British Columbia and Alberta. It was assessed as an endangered species in 1978 but its status has improved through recovery efforts and it has been upgraded now to a threatened species. Recovery efforts have included monitoring of ecosystems and herd populations, establishing a long-term management program with rural and Aboriginal communities, breeding wood bison in captivity and then re-introducing them to the wild, controlling disease among captive and wild populations, and regulating private bison game farming.

A proposed recovery strategy must be prepared within one year of listing for an endangered species and within two years of the listing for a threatened or extirpated species, with the

exception of species on the initial List at the time Schedule 1 came into force on June 5, 2003.

Existing plans relating to a listed wildlife species may be adopted by the competent minister as the proposed recovery strategy for the species.

A proposed recovery strategy is posted in the Public Registry and the public has 60 days in which to send the competent minister written comments. A final recovery plan is then prepared and posted in the Public Registry. Every five years, the competent minister must report on the implementation of the recovery strategy and post the report in the Public Registry.

## Action plans

Action plans implement recovery strategies by identifying:

- measures to achieve the population objectives for the species
- activities that would destroy the species' critical habitat
- ways to preserve unprotected critical habitat, and
- methods to monitor the recovery of the species and its long-term viability.

Action plans also evaluate the socio-economic costs of the action plan and the benefits of its implementation. As with recovery strategies, they are developed through consultation and cooperation with people likely to be affected by the action plan and they are published in the Public Registry, with the public having 60 days to comment. Five years after a plan comes into effect, the competent minister must report on its implementation, including its ecological and socio-economic impacts.

A recovery strategy for a species may result in one or several action plans and the plans may change as more data are collected.

Existing plans relating to a listed wildlife species may be adopted by the competent minister as the proposed action plan for the species.

Transitional provisions for species included in the **List of Wildlife Species at Risk** at the time Schedule 1 came into force on June 5, 2003:

**endangered species** = three years to prepare a recovery strategy

**threatened and extirpated species** = four years to prepare a recovery strategy.

Recovery strategies and the action plans implementing them may take an ecosystem or multi-species approach when appropriate.

A competent minister may make regulations as necessary to put the action plan into effect on federal lands and with respect to aquatic species and migratory birds covered by the *Migratory Birds Convention Act, 1994*.

## Management plans

Management plans are developed for species of special concern in much the same way as recovery strategies are developed for endangered, threatened and extirpated species, through broad-based consultations and cooperative efforts and an opportunity for public input.

A management plan sets out measures for the conservation of a species and its habitat. A plan must be developed within five years for species of special concern included in the List of Wildlife Species at Risk at the time Schedule 1 came into force on June 5, 2003. Thereafter, when a species of special concern is added to the List of Wildlife Species at Risk, a management plan must be developed within three years.

Existing plans relating to a listed wildlife species may be adopted by the competent minister as the proposed management plan for the species.

A competent minister may make regulations as necessary to put the management plan into effect on federal lands and with respect to aquatic species and migratory birds covered by the *Migratory Birds Convention Act, 1994*.

# THE PROTECTION OF CRITICAL HABITAT

**T**he decline in the population of a species can often be explained by a loss of habitat. It is therefore essential to recovery efforts to identify habitat that is critical to a species' survival or recovery and to find ways to protect it.

How can all the places wild animals need to live, feed, breed and raise their young be protected? How can all the places wild plants need to live and propagate be kept safe? The key to preserving critical habitat is through information, education and stewardship programs.

By providing landowners – ranchers, farmers, fishers, cottagers, resource corporations, industries, governments, and others – with information about species at risk found on their properties and explaining what actions destroy critical habitat and what actions can help to preserve it, landowners can make informed decisions about what they do on their land.

For example, the Eastern Loggerhead Shrike is an endangered songbird with a hawk-like beak that needs grasslands or pasture lands for feeding and breeding. Avoiding major disturbances, such as pesticide application around nesting areas between April and August, and pasturing cattle nearby to maintain the short grass the birds need can help the last 40 breeding pairs of this species mate and raise their young. Stewardship programs can provide support for volunteer teams and free materials to fence suitable pastures so that farmers can use them for their cattle – a benefit to both the farmer and the endangered bird!

SARA's intent is to protect critical habitat as much as possible through voluntary actions and stewardship measures. The federal government has established the Habitat Stewardship Program to assist in such actions. If these measures do not protect the critical habitat, prohibitions against destruction of critical habitat come into play.

The law therefore requires that within 180 days of the identification of critical habitat in a finalized recovery strategy or action plan, critical habitat on federal lands or for aquatic species must be protected through stewardship arrangements, or under another Act of Parliament.

If not, the critical habitat offence in section 58 applies. The offence prohibits the destruction of the critical habitat of endangered and threatened species found on federal lands and the critical habitat of aquatic species. The offence also applies to the critical habitat of extirpated species that have been recommended for reintroduction within the terms of a recovery strategy. An order by the competent minister is required before the offence in section 58 can apply.

As well, regulations to protect critical habitat by directing what can and cannot be done on federal lands may be put in place if critical habitat remains unprotected and, in the opinion of the competent minister, requires protection.

When critical habitat, other than that referred to above, is located on private or provincial lands and is not protected through stewardship arrangements, conservation agreements, or provincial or territorial laws, SARA has another "safety net". As set out in section 61, the Governor in Council, on the recommendation of the Minister of the Environment, may make it an offence to destroy critical habitat in a province or territory. The Minister must make a recommendation if, after consultation with the provincial or territorial minister, the Minister finds that the critical habitat is not effectively protected.

Information about what is being done to protect unprotected critical habitat must be published in the Public Registry every six months until the critical habitat is protected or no longer needs to be protected.

## Compensation

Sometimes, the cost of conserving a species at risk has to be shared by everyone in Canada. The Minister of the Environment may provide fair and reasonable compensation to someone who has a loss as a result of an extraordinary impact of the prohibition against the destruction of critical habitat, or of an emergency order to protect habitat. Regulations will set out the details of how to apply for compensation.

# ENFORCEMENT

**T**he SARA approach is to encourage species protection through voluntary actions and supported stewardship activities. However, the law also creates offences and sets penalties for committing these offences.

The following are the range of penalties for a person or corporation found guilty of a SARA offence:

## Summary conviction offence (less serious) :

*Corporation* – a fine of up to \$300,000 for each offence

*Non-profit corporation* – up to a \$50,000 fine for each offence

*Individual* – up to a \$50,000 fine and/or a prison term of up to one year for each offence.

## Indictable offence (more serious):

*Corporation* – up to a \$1,000,000 fine for each offence

*Non-profit corporation* – up to a \$250,000 fine for each offence

*Individual* – up to a \$250,000 fine and/or a prison term of up to five years for each offence.

Depending on the severity of the alleged offence and other factors, SARA offences can be prosecuted as indictable or summary conviction offences.

# PERMITTED ACTIVITY AND EXCEPTIONS

**A**greements, permits and licences allow someone to do something that would otherwise be a SARA offence. The following activities may be allowed as long as measures are taken to minimize the impact, and the activities do not jeopardize the survival or recovery of the species:

- scientific research about the conservation of the species done by a qualified person
- an activity that benefits the species or enhances its chances of survival in the wild
- an activity whose effect on the listed species is incidental.

For example, a scientist may be allowed to handle and tag an endangered species so that its movements can be tracked. Or, water flow could be diverted in a marsh to improve habitat for listed species in the area, although this might disturb some individuals of the species in the short-term. Or, fishermen may be given a permit allowing the by-catch of endangered or threatened fish under certain circumstances.

SARA also makes some exceptions to allow actions for the protection of human health, plant or animal health, national security or the recovery of a listed species.





# PUBLIC ACCESS TO SARA MATERIAL – THE PUBLIC REGISTRY

**S**ARA requires the Minister of the Environment to post SARA-related documents and decisions on a Public Registry. The web-based Public Registry will include SARA regulations and orders; recovery strategies, action plans and management plans; COSEWIC classification criteria; COSEWIC status reports; the SARA List

of Wildlife Species at Risk; annual reports on the administration of SARA; and other SARA documents.

You can access the Public Registry through the web site: [www.sararegistry.gc.ca](http://www.sararegistry.gc.ca)

## OPPORTUNITIES FOR PUBLIC INPUT

**S**ARA also has specific ways that people with concerns about a species at risk can follow-up.

1. Anyone may apply to COSEWIC for an assessment of the status of a wildlife species.
2. Anyone who considers that there is an imminent threat to the survival of a wildlife species may apply to COSEWIC to assess the threat for the purpose of having the species listed as endangered on an emergency basis.
3. Anyone may provide the competent minister with written comments on a proposed recovery strategy, action plan or management plan for a wildlife species. The comments
4. Any resident of Canada who is over 18 years old may ask the competent minister to investigate whether a SARA offence has been committed. The person making the request must sign the request under oath or affirmation and provide information about the alleged offence.

must be sent to the competent minister within 60 days after the proposed recovery strategy, action plan or management plan is posted on the Public Registry.



## AN ON-GOING REVIEW

**H**ere are some of the built-in reviews required by SARA:

- COSEWIC must review the classification of a species at least once every ten years.
- The competent minister must report on the implementation of a recovery strategy every five years until recovery has been achieved or is no longer necessary.
- The competent minister must report on the implementation of an action plan and its ecological and socio-economic impacts five years after the plan came into effect.
- The competent minister must monitor the implementation of management plans for species of special concern every five years until its objectives have been met.
- The Minister must report on the steps taken to protect unprotected critical habitat every six months until the critical habitat is protected or the area is no longer identified as critical habitat.
- The Minister of the Environment must report to Parliament every year on the administration of SARA.
- Once every two years, the Minister of the Environment must host a roundtable, inviting people with an interest in the topic to provide advice on the protection of species at risk in Canada.
- Every five years, the Minister of the Environment must report to Parliament on the status of wildlife species.
- In 2008 – five years after section 128 came into force on June 5, 2003 – a committee of Parliament must conduct a review of SARA.

All these reviews and reports will be published in the Public Registry.

## WHERE TO GET MORE INFORMATION

**Call:** Environment Canada's Inquiry Centre  
1-800-668-6767

**Write to:** [enviroinfo@ec.gc.ca](mailto:enviroinfo@ec.gc.ca)

**Visit the site:** [www.speciesatrisk.gc.ca](http://www.speciesatrisk.gc.ca) or  
[www.sararegistry.gc.ca](http://www.sararegistry.gc.ca)





# GLOSSARY

**Action plan** A document that sets out specific ways to put a recovery strategy into effect.

**Competent minister** The Minister of Fisheries and Oceans is the competent minister for listed aquatic species. The Minister of Canadian Heritage (through the Parks Canada Agency) is the competent minister for listed species found in national parks, national historic sites and other national protected heritage areas. The Minister of the Environment is the competent minister for all other listed species and for the overall administration of the law.

**COSEWIC** Committee on the Status of Endangered Wildlife in Canada.

**Critical habitat** The 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.

**Endangered species** A wildlife species that is facing imminent extirpation or extinction.

**Extirpated species** A wildlife species that no longer exists in the wild in Canada, but exists elsewhere in the wild.

**Governor in Council** The Governor General of Canada acting on the advice of the Queen's Privy Council for Canada (i.e., Cabinet)

**Public Registry** A website where SARA-related documents are available for public information and review. [www.sararegistry.gc.ca](http://www.sararegistry.gc.ca)

**Recovery strategy** A document prepared by the competent minister in cooperation and consultation with other governments, wildlife management boards, Aboriginal organizations, landowners and others who are likely to be

affected by the strategy. It identifies the population goal and objectives, and broad recovery approaches to abate threats.

**Residence** A dwelling-place, such as a den, nest or other similar area or place that is occupied or habitually occupied by one or more individuals during all or part of their life cycles, including breeding, rearing, staging, wintering, feeding or hibernating.

**Species of special concern** A wildlife species that may become a threatened or an endangered species because of a combination of biological characteristics and identified threats.

**Threatened species** A wildlife species that is likely to become an endangered species if nothing is done to reverse the factors leading to its extirpation or extinction.

**Wildlife management board** A board or other body established under a land claims agreement that is authorized by the agreement to perform functions in respect of wildlife species.

**Wildlife species** A species, subspecies, variety or geographically or genetically distinct population of animal, plant or other organism, other than a bacterium or virus, that is wild by nature and is native to Canada or has extended its range into Canada without human intervention and has been present in Canada for at least 50 years.

# A QUICK GUIDE TO SARA

You will find a copy of the *Species at Risk Act* at: [www.sararegistry.gc.ca](http://www.sararegistry.gc.ca)

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# APPENDIX 1

## SPECIES AT RISK ACT: A PHASED APPROACH

**W**hen Parliament passes a law, the law rarely comes into force immediately. Usually, the date the law comes into force is some time in the future. This gives the government time to put all the necessary policies, programs, and regulations in place and to ensure that Canadians understand the law, including their rights and responsibilities.

Sometimes, a law comes into force in phases, with different sections of the law taking effect at different times. This is important as it can help to ensure smooth delivery of a new law and more effective policy and program development. Adopting a phased approach can also provide the time necessary to carry out the additional consultation and dialogue with those who will be most affected by new legislation.

The *Species at Risk Act* (SARA), which was passed by Parliament on December 12, 2002, is coming into force in three phases.

### Phase 1 – March 24, 2003

The first parts of SARA to come into force made changes to other related federal laws. SARA sections 134 to 136 and 138 to 141 set out amendments to the *Canada Wildlife Act*, the *Migratory Birds Convention Act, 1994*, and the *Wild Animal and Plant Regulation of International and Interprovincial Trade Act*. These amendments came into force on March 24, 2003.

**Phase 1: sections 1, 134 to 136 and 138 to 141 are in force as of March 24, 2003.**

### Phase 2 – June 5, 2003

As of June 5, 2003, two-thirds of the SARA sections are in effect. SARA's emphasis is on consultation, stewardship, cooperation and providing people with information about the law. The sections in force as of June 5, 2003 are central to this approach, promoting the protection of species at risk through collaborative efforts. The SARA offences will not come into effect until Phase 3.

As of June 5, 2003:

- The Minister of the Environment will be required to establish a National Aboriginal Council on Species at Risk. The Aboriginal Council will advise the Minister and the federal-provincial-territorial Canadian Endangered Species Conservation Council.
- The Minister of the Environment may establish a stewardship action plan creating incentives to support voluntary stewardship actions taken by any government, organization or person.
- Conservation, administrative, land acquisition, and funding agreements to protect wildlife species may be made with provincial and territorial governments, wildlife management boards, organizations and individuals.
- The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) will become legally constituted, and will continue to assess and classify wildlife species following the SARA framework.
- A comprehensive listing process for species at risk is established. The Governor in Council has 9 months after receiving a COSEWIC species assessment to make a decision on whether a species is listed, or else the species is listed according to COSEWIC's assessments. Species may also be listed on an emergency basis.
- Recovery strategies for endangered species now on Schedule 1 (the initial List of Wildlife Species at Risk) must be prepared by June 5, 2006 (within three years). Recovery strategies for endangered species, added to the List of Wildlife Species at Risk after June 5, 2003, must be prepared within one year of listing.
- Recovery strategies for threatened or extirpated species now on Schedule 1 (the initial List of Wildlife Species at Risk) must be prepared by June 5, 2007 (within 4 years). Recovery strategies for threatened and extirpated species added to the List of Wildlife Species at Risk after June 5, 2003 must be prepared within two years' of listing.

- All SARA requirements for developing action plans are in place.
- Management plans for species of special concern now on Schedule 1 (the initial List of Wildlife Species at Risk) must be prepared by June 5, 2008 (five years). Management plans for species of special concern, added to the List of Wildlife Species at Risk after June 5, 2003, must be prepared within three years' of listing.
- All consultation and cooperation requirements for recovery strategies, action plans and management plans are in place.
- The SARA rules for permits, licences and exceptions from the prohibitions in SARA are in place. They will be implemented when the prohibitions come into force in June 2004.
- Any projects requiring an environmental assessment under federal law that are likely to affect a listed species or its critical habitat need to identify the adverse effects, and, if the project goes forward, steps must be taken to avoid or lessen those effects and to monitor them.
- Authority is provided for the Governor in Council to make emergency orders respecting listed species or its habitat.
- The Public Registry will provide public access to documents that are to be made public under SARA.
- An annual report on the administration of SARA and other reports required by SARA must be prepared.
- The definition of environmental effect in the *Canadian Environmental Assessment Act* is amended to include, in respect of a project, any change that the project may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in SARA.

**Phase 2: sections 2 to 31, 37 to 56, 62, 65 to 76, 78 to 84, 120 to 133 and 137 are in effect as of June 5, 2003.**

### **Phase 3 – June 1, 2004**

The transitional stages for implementing SARA will be complete on June 1, 2004 when the remaining sections come into force. These sections cover the SARA prohibitions, including critical habitat protection, and enforcement of the law.

As of June 1, 2004:

- It is an offence to:
  - kill, harm, harass, capture or take an individual of a listed endangered, threatened or extirpated species
  - possess, collect, buy, sell or trade an individual of a listed endangered, threatened or extirpated species, or its parts or derivatives
  - damage or destroy the residence of one or more individuals of a listed endangered or threatened species, or a listed extirpated species if a recovery strategy has recommended its reintroduction into the wild in Canada

These offences apply to:

- aquatic species
- migratory birds covered by the *Migratory Birds Convention Act, 1994*
- all other listed endangered, threatened or extirpated species on federal lands (except those species in the territories that go through the safety net process described below)

They can also apply to:

- all other listed endangered, threatened or extirpated species found in a province or territory after discussions have taken place with the province or territory and the Governor in Council orders them to apply in the province or territory; and
- species listed as endangered or threatened by a provincial or territorial government that are found on federal lands and the Governor in Council orders them to apply on those federal lands.

- Prohibitions against the destruction of critical habitat come into play.
- When the critical habitat protection requirements in SARA have an extraordinary impact on someone, the Minister of the Environment may provide fair and reasonable compensation to the person for the losses.
- The enforcement measures come into force. A person accused of a SARA offence can raise the defence of “due diligence”.
- Anyone who is a resident of Canada and 18 years of age or older can apply to the competent minister for an investigation if he or she believes that a SARA offence may have been committed or something has been done towards the commission of a SARA offence.

**Phase 3: sections 32 to 36, 57 to 61, 63, 64, 77, and 85 to 119 are in effect as of June 1, 2004**

SARA is being put into effect in phases but, at every step of the way, SARA will work because of cooperation, consultation and the dedication of people committed to the protection of species at risk.



