

# **Project planning: Applying for a *Species at Risk Act* (SARA) permit administered by Environment and Climate Change Canada (ECCC)**

## **Context**

This Project Planning document provides an overview of [Species at Risk Act \(SARA\) permitting process administered by Environment and Climate Change Canada \(ECCC\)](#) and outlines the key requirements for the permit application, as well as some tips to support applicants in providing a timely and complete permit application.

Section 73 of SARA allows a competent minister, under certain conditions, to issue a permit for an activity affecting a listed wildlife species, any part of its critical habitat or the residences of its individuals. The Minister of Environment and Climate Change is the competent minister with respect to individuals of all species other than aquatic species (as defined under the *Fisheries Act*) and individuals found on lands administered by the Parks Canada Agency.

## **Do You Need a SARA Permit?**

Permits are required by any person engaging in an activity affecting a species listed on Schedule 1 of SARA as Extirpated, Endangered, or Threatened (hereafter, listed species), that would contravene any SARA prohibitions.

Where multiple individuals will engage in activities requiring a permit, on behalf of an entity (e.g., the employees or contractors of a company), the entity may apply for a permit that will cover all the individuals.

## **Species at Risk Act Prohibitions**

### *General Prohibitions*

Under s. 32 and s.33 of SARA, it is prohibited to:

- Kill, harm, harass, capture or take an individual of listed species,
- Possess, collect, buy, sell or trade an individual of a listed species, or
- Damage or destroy the residence of one or more individuals<sup>1</sup> of a listed species.

These general prohibitions automatically apply for terrestrial species upon listing under SARA, except on lands in the provinces that are not [federal lands](#) or lands in the territories that are not

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<sup>1</sup> Under SARA, a residence is 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.

lands under the authority of the Minister or Parks Canada. For Migratory Birds (identified under the *Migratory Birds Convention Act* [MBCA]), these prohibitions apply everywhere in Canada<sup>2</sup>.

#### *Additional SARA Prohibitions:*

Critical Habitat<sup>3</sup>, identified in recovery strategies or action plan, can be protected through a range of mechanisms. Where a critical habitat prohibition applies, SARA makes it an offence to destroy any part of the critical habitat of a species listed under SARA. For information about specific critical habitat protection on federal and non-federal lands in the province and territories, please visit: [Your responsibilities under the Species at Risk Act](#).

Additional specific prohibitions may be in force as a result of an Emergency or Protection Order issued under s.34, 61, or 80 of SARA, and regulations made under s. 53, 59, or 71 of SARA – such orders and regulations are published on the [SARA public registry](#).

### **SARA Permit Eligibility**

If your project requires undertaking an activity that is likely to affect a listed species in a manner that is prohibited under SARA, you may need a SARA permit to proceed. Certain conditions must be met in order for a SARA permit to be issued, notably:

- All reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution, with the conservation of the species in mind, has been adopted;
- All feasible measures will be taken to minimize the unavoidable impacts of the activity on the species, its critical habitat or the residences of its individuals; and
- The residual impacts of the activity, after avoidance and mitigation is applied, must not jeopardize the survival or recovery of the species.

### **Applying for a SARA Permit**

Complete applications for a SARA permit can be submitted via ECCC's [Species at Risk Act E-Permitting System](#). A complete and adequate application contains all of the documentation and information set out in the:

- [Guidelines for permitting under Section 73 of Species at Risk Act](#) and
- [Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations](#).

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<sup>2</sup> NOTE: Migratory Birds (both SARA-listed species, and non-SARA listed species), their nests, and eggs are protected under the MBCA and its Regulations.

<sup>3</sup> Critical habitat is the habitat that is necessary for the survival or recovery of a listed wildlife species and that is identified as the species' critical habitat in the recovery strategy or action plan for the species.

Sufficient detail must be included in the application for the Minister to decide whether or not to issue a SARA permit. The tips will help you submit a complete application, reducing the likelihood of delays.

Applicants are encouraged to proactively engage with the [species at risk permit regional offices](#) with expertise in the SARA regulatory process for additional advice on preparing a complete and adequate application for review.

### **Time Limits for Processing SARA Permits**

The time limit for ECCC to process an application is established in the [Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations](#) (the Regulations).

ECCC has 90 days to either issue or refuse to issue a SARA permit. This timeline starts on the date ECCC sends the applicant a written notice indicating that the application was received. This time limit will be suspended if additional information is needed to assess the proposed activity. The time limit is suspended on the day when ECCC sends the information request to the applicant and resumes once ECCC receives all the missing information.

The Regulations also list the circumstances under which the 90-day time limit does not apply, including when the following is required:

- Indigenous consultation
- A decision under another act of parliament, such as the Impact Assessment Act

### **Tips for a Successful Application**

*Tip 1: Plan Activities with Species at Risk in Mind*

#### Common mistake

- Not considering impacts to species at risk during project planning.

#### Best practices

1. Determine whether any species at risk and/or critical habitat is found in the area of the proposed activity through resources such as:
  - a. [Critical Habitat for Species at Risk National Dataset](#)
  - b. Provincial conservation data centers
  - c. Other publicly available data sets
  - d. Consultation with a qualified professional
  - e. Discussions with ECCC
2. Consult the recovery strategy or action plan of the species in question if available.
  - a. These documents will help identify the most sensitive life cycles of the species affected, as well as how to avoid negatively affecting the recovery objectives of the species or jeopardize the recovery or survival of the species (see Permit Eligibility above).

- b. You will find important information in these documents to better understand the species and their needs, the threats to their survival or recovery, their critical habitat (including examples of activities that are likely to result in its destruction).
  - c. These documents are available on the [Species at risk public registry](#). For listed species at risk that do not yet have a published recovery strategy or action plan, you can also consult the species' [Committee on the Status of Endangered Wildlife in Canada \(COSEWIC\) assessment](#) and other best available information.
3. Verify if best management practices, residence descriptions and other species documents are available for the species.
4. Integrate considerations related to species at risk into project planning from the start, including the implementation of the mitigation hierarchy (e.g., avoid, minimize, restore, offset) in project planning.

#### Benefit to applicant

- Demonstrating avoidance and minimization of impacts to species at risk is necessary to meet the mandatory preconditions, particularly that a species' survival or recovery is not jeopardized.

*Tip 2: Ensure sufficient detail in permit application*

#### Common mistake

- The permit application contains an insufficient level of information on the potential effects of your activity on species at risk, the residence of its individuals, or their critical habitat.
- The permit application does not consider impacts to individuals and residences outside of areas that have been identified as Critical Habitat.

#### Best practices

Use the [Guidelines for permitting under Section 73 of Species at Risk Act](#) to build your application, ensuring the details you provide:

- Reflect the scale and complexity of your project and its activities, as well as timing and schedule of activities.
- Explain the measures taken to avoid, mitigate and offset impacts to species at risk and their habitat.
- Demonstrate how you meet the purpose of SARA and the permitting preconditions in s.73.

#### Benefit to applicant

- This will reduce the likelihood of delays created by information requests as ECCC reviews your application for completeness and adequacy.

*Tip 3: Engage Indigenous Peoples early*

#### Common mistakes

- The permit application does not account for Indigenous concerns.

- Indigenous communities are engaged only after the project design is completed.

#### Best practices

- Begin communication with Indigenous Peoples early during the project design phase (including offsetting measures). Engage and work with Indigenous Peoples to identify and address concerns throughout the development of project plans.

#### Benefit to applicant

A project that has the consent (or non-opposition) of Indigenous groups would reduce the time it takes for:

- ECCC to consult with Indigenous Peoples whose Aboriginal and treaty rights may potentially be adversely affected by your project.
- ECCC and the applicant to ensure accommodations are made where necessary.

#### **Contact Information**

For further details or assistance, reach out to the [species at risk permit regional offices](#).

#### **Disclaimer**

This document is not intended to be a substitute for the SARA or its regulations. In the event of an inconsistency between this document and the SARA or its regulations, the SARA and associated regulations would prevail. For the most up-to-date versions of the SARA, please consult the [Department of Justice website](#).