

## Legal Context

The purposes of the *Endangered Species Act*, 2007 (“ESA” or “the Act”) are:

- to identify species at risk based on the best available scientific information, including information obtained from community knowledge and Aboriginal traditional knowledge;
- to protect species that are at risk and their habitats, and to promote the recovery of species that are at risk; and
- to promote stewardship activities to assist in the protection and recovery of species that are at risk.

Under section 17 of the ESA, the Minister of Natural Resources (“Minister”) may issue a permit to a person, with respect to one or more species at risk<sup>1</sup>, authorizing the person to engage in an activity<sup>2</sup> that would otherwise be prohibited by subsection 9(1) or 10(1) of the Act.

This application form is specific to overall benefit permits issued under clause 17(2)(c) of the Act. An overall benefit permit may be issued by the Minister where the following legislated requirements are satisfied:

The Minister is of the opinion that the main purpose of the activity authorized by the permit is not to assist in the protection or recovery of the species specified in the permit, but,

- (i) the Minister is of the opinion that an overall benefit to the species will be achieved within a reasonable time through requirements imposed by conditions of the permit,
- (ii) the Minister is of the opinion that reasonable alternatives have been considered, including alternatives that would not adversely affect the species, and the best alternative has been adopted, and
- (iii) the Minister is of the opinion that reasonable steps to minimize adverse effects on individual members of the species are required by conditions of the permit.

In addition to the above, subsection 17(3) of the ESA requires the Minister to consider any Government Response Statement (GRS) that has been published under subsection 11(8) of the Act with respect to the species specified in the permit before an overall benefit permit may be issued.

The Minister is not obligated to issue an overall benefit permit. As noted above, an overall benefit permit can only be issued where it is the opinion of the Minister that the legislated requirements under clause 17(2)(c) of the ESA are likely to be met through requirements imposed by the conditions of the permit.

<sup>1</sup> “Protected species” refers to species that receive protection under the ESA; these species are listed on the Species at Risk in Ontario (SARO) List (O.Reg. 230/08) as extirpated, endangered, or threatened, on e-laws available at: [http://www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_080230\\_e.htm](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_080230_e.htm).

<sup>2</sup> In the context of this form, “activity” is defined broadly to include the components associated with all the stages of the activity including, but not limited to, the components associated with the site investigation, site preparation and construction, operation and maintenance, closure, decommissioning and completion, and the rehabilitation and restoration phases.

## Purpose and Instructions

To support MNR's assessment of the overall benefit permit application, the combined information provided in the Information Gathering Form (IGF), Avoidance Alternatives Form (AAF) and this permit application form (C-PAF) must:

1. Demonstrate how reasonable alternatives have been considered, including alternatives that would not adversely affect the species (see the AAF), and provide the proponent's rationale as to how the best alternative has been adopted;
2. Describe the reasonable steps that will be taken to minimize adverse effects on the protected species or habitat; and
3. Describe the actions that will be taken to achieve an overall benefit within a reasonable time for each protected species for which the permit is being sought and how these actions will contribute to the protection or recovery of the species.

This information will be used by MNR staff to assess and determine if the proposed permit application is likely to meet the legislated requirements of 17(2)(c) of the ESA and will be used to inform the drafting of permit conditions. The Minister will in turn use this information to form a decision on the issuance of the permit. For additional information about this permitting process, please refer to the document "Endangered Species Act Submission Standards for Activity Review and 17(2)(c) Overall Benefit Permits" available at:

<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/244440.html>.

While it is the proponent's responsibility to provide the necessary information to MNR throughout the overall benefit permitting process, MNR staff can provide advice to proponents with respect to actions that minimize adverse effects and development of overall benefit actions. MNR may also recommend that proponents seek input from species experts. In addition, completion of this form may involve iterative discussions between MNR and the proponent. **It is strongly recommended that proponents contact their local MNR office as early as possible in the application process to avoid unanticipated delays.**

Completion of this application does not constitute an approval to proceed with all or any part of the proposed activity. A permit holder must fulfil all of the conditions within the overall benefit permit. Failure to do so may lead to prosecution under the Act. Where a permit holder uses a third party to fulfil the conditions of the permit, the permit holder remains responsible for ensuring the permit conditions are satisfied.

Permissions, approvals or other authorizations may be required from landowners or other agencies and/or levels of government (e.g., a conservation authority, municipality, federal or provincial government, etc.) before an activity can be initiated. Additional authorizations from the MNR may also be required for some activities (e.g., Wildlife Scientific Collectors Authorizations). Proponents are encouraged to seek the necessary input from the appropriate landowners and authorities early in the process to enhance coordination by identifying any requirements they may have. It is the proponent's responsibility to ensure that all other permissions, approvals and authorizations are acquired prior to proceeding with the proposed activity.

It is recognized that in many cases a proponent may have developed comprehensive reports that may contain information requested in this form. In such cases, the proponent can copy and paste the relevant information into the appropriate spaces provided in this form. Where proponents are copying and pasting relevant information, references to the title, author, and date of the report(s) from which the copy and paste sections originate should be included. MNR may request copies of the referenced report(s) and other related information.

Proponents are encouraged to save the form as they complete each section. Once fully completed, proponents should save the form, print a copy for their files and click the email button to submit the form to the local MNR office.

## Information Sources

MNR's Species at Risk website (link provided below) will continue to be updated as new information and species specific guidance and direction is developed to support the implementation of the ESA. Proponents are encouraged to consult this website prior to completing this form to ensure they have the latest available species at risk information and direction.

- Caribou webpage (includes caribou-specific direction and information)  
<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/249504.html>
- *Endangered Species Act, 2007*  
[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_07e06\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07e06_e.htm)
- *Environmental Assessment Act, 1990*  
[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90e18\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90e18_e.htm)
- Environmental Registry  
<http://www.ebr.gov.on.ca/ERS-WEB-External/>
- Finalized Federal Government of Canada Species at Risk Recovery Strategies  
[http://www.sararegistry.gc.ca/sar/recovery/timelines\\_e.cfm](http://www.sararegistry.gc.ca/sar/recovery/timelines_e.cfm)
- Finalized Provincial Government Response Statements  
[http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/STDPROD\\_075797.html](http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/STDPROD_075797.html)
- Finalized Provincial Recovery Strategies  
<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/287123.html>
- Fisheries and Oceans Canada (DFO)  
<http://www.dfo-mpo.gc.ca/index-eng.htm>
- *Freedom of Information and Protection of Privacy Act*  
[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90f31\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90f31_e.htm)
- Conservation Authorities  
<http://www.conservationontario.ca>
- MNR office locations  
[http://www.mnr.gov.on.ca/en/ContactUs/2ColumnSubPage/STEL02\\_179002.html](http://www.mnr.gov.on.ca/en/ContactUs/2ColumnSubPage/STEL02_179002.html)
- Municipalities  
<http://www.mah.gov.on.ca/Page1591.aspx>
- Ministry of Municipal Affairs and Housing – Provincial Policy Statement  
<http://www.mah.gov.on.ca/Page215.aspx>
- Natural Heritage Information Centre (NHIC)  
<http://nhic.mnr.gov.on.ca/>
- SAR Bulletin 4.2 “*Explanation of key terms relating to habitat identification, description and protection under the Endangered Species Act, 2007*”  
<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/241604.html>
- SAR Policy 4.1 “*Habitat protection for endangered, threatened and extirpated species under the Endangered Species Act, 2007*”  
<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/241604.html>
- Species-specific habitat regulations under the ESA (Ontario Regulation 242/08)  
[http://www.e-laws.gov.on.ca/html/regs/english/elaws\\_regs\\_080242\\_e.htm](http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_080242_e.htm)
- Species at Risk Website  
<http://www.mnr.gov.on.ca/en/Business/Species/index.html>
- Species status reports from COSEWIC (Committee on the Status of Endangered Wildlife in Canada)  
[http://www.sararegistry.gc.ca/default\\_e.cfm](http://www.sararegistry.gc.ca/default_e.cfm)

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## 2. Legislated requirements for an overall benefit permit under clause 17(2)(c) of the ESA

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### 2.1 Consideration of reasonable alternatives

Alternative approaches to the proposed activity can include (but are not limited to) modifying the:

- location of the proposed activity;
- geographic scale of the potential effects;
- activity design (e.g., engineering and technological);
- timing of the proposed activity;
- duration and frequency of adverse effects;
- approaches and timing for any site restoration or rehabilitation stages (e.g., phasing in progressive rehabilitation while other stages of the activity are still in progress); and
- general operational protocols.

The level of detail used to describe the alternatives and the breadth of alternatives considered should be greater for more complex activities or those anticipated to have more severe effects on a protected species at risk or habitat. Alternatives that were considered but not deemed reasonable due to biological, technical, social or economic limitations should also be identified.

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### 2.3 Describe how overall benefit will be achieved for each protected species affected by the activity

The overall benefit plan should include (but is not limited to) the following information:

- A detailed description of actions that will be taken to achieve overall benefit;
- How these actions are likely to achieve an overall benefit for the affected species or habitat(s) within a reasonable time; Note: Where appropriate, please reference sources of information. When citing communications with independent species experts, please provide their professional contact information.
- Details on the specific location (i.e., lot/concession, assessment roll number, geographic township, and local municipality) of the overall benefit actions, including its proximity to the proposed activity; Note: additional maps, aerial photographs, satellite imagery (including dates when images were captured) or drawings may be required. Please ensure no personal information is included in images, maps or drawings.
- The timing of the overall benefit actions, including each stage of their implementation as well as monitoring and maintenance efforts; Note: it may be appropriate to carry out overall benefit actions over multiple years.
- An explanation as to how the overall benefit actions will result in tangible outcomes and how they will contribute to the protection or recovery of the species or habitat in Ontario; Note: please refer directly to species recovery strategies and government response statements where applicable.
- An effectiveness monitoring plan for the overall benefit actions (e.g., type of monitoring, frequency, timing, reporting, measures of success).

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## Help Section

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<b>Best Alternative</b>	An alternative may be viewed as the best alternative because it contains the best means of minimizing adverse effects on protected species or habitat but can also consider technical, social or economic perspectives. The best alternative may be different from the alternative that is considered best for the species or habitat. The Minister will refer to the rationale provided in forming an opinion as to whether the best alternative has been selected, as required under 17(2)(c)(ii) of the Act.
<b>Supplementary Actions</b>	Supplementary actions are specific actions that are undertaken when desired outcomes are not being achieved as identified by impact or effectiveness monitoring (i.e., low performance for mitigation measures).
<b>Impact Monitoring</b>	Impact monitoring involves the collection and summary of scientific data about the adverse effects of the activity on species at risk to improve future predictions.
<b>Effectiveness Monitoring</b>	Effectiveness monitoring involves the collection and summary of scientific data about the success of steps taken to 1) minimize adverse effects on the species and 2) achieve an overall benefit for the species.

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