

Guide for the Information Gathering Form for activities that may affect species or habitat protected under the *Endangered Species Act*

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.

If a species is listed on the Species at Risk in Ontario (SARO) list¹ as an extirpated, endangered or threatened species, it receives protection under section 9 of the ESA. If a species is listed as an endangered or threatened species, its habitat receives protection under section 10 of the ESA.

Subsection 9(1) of the ESA states that:

No person shall,

- (a) kill, harm, harass, capture or take a living member of a species that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species;
- (b) possess, transport, collect, buy, sell, lease, trade or offer to buy, sell, lease or trade,
 - (i) a living or dead member of a species that is listed on the Species at Risk in Ontario List as an extirpated, endangered or threatened species,
 - (ii) any part of a living or dead member of a species referred to in subclause (i),
 - (iii) anything derived from a living or dead member of a species referred to in subclause (i); or
- (c) sell, lease, trade or offer to sell, lease or trade anything that the person represents to be a thing described in subclause (b) (i), (ii) or (iii).

Clause 10(1)(a) of the ESA states that: No person shall damage or destroy the habitat of a species that is listed on the Species at Risk in Ontario list as an endangered or threatened species².

Where specific legislated requirements are met, the ESA enables the Minister of Natural Resources (Minister) to issue an authorization to a proponent that authorizes them to engage in an activity that would otherwise be prohibited by subsection 9(1) or 10(1) of the Act.

¹ SARO list (Ontario Regulation 230/08) on e-laws available at: http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_080230_e.htm.

² The application of habitat protection to individual species is subject to transition provisions outlined in subsection 10(3) of the ESA. As a result, the habitat of some threatened or endangered species is not currently protected under section 10(1) of the Act, although it will be protected on or before June 30, 2013. In addition, the prohibition against damaging or destroying habitat also applies to an extirpated species, if the species is prescribed by a regulation for that purpose.

Purpose and Instructions

The purpose of this form is to gather the information that proponents need to submit to the Ministry of Natural Resources (MNR) to inform the Ministry's determination of:

- whether any protected species at risk or their habitats are present at or near the location of the proposed activity³;
- the potential effects of the activity on these species and habitats and whether the activity is likely to contravene subsection 9(1) or 10(1) of the ESA; and
- whether it is advisable for the proponent to apply for an overall benefit permit under clause 17(2)(c) of the ESA prior to proceeding with the activity.

For additional information about the permitting process for permits issued under clause 17(2)(c) of the ESA, please refer to the "*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 MNR can offer advice to proponents on the completion of this form, it is the proponent's responsibility to complete this form with the required information. Once MNR has considered the information provided, and assessed whether an activity is likely to contravene subsection 9(1) or 10(1) of the ESA it will notify proponents of the assessment results.

Completing this form may involve iterative discussions between MNR and the proponent. Therefore, **proponents should contact their local MNR office early when planning and designing a proposed activity to allow sufficient time for proponents to acquire the information requested, for MNR to assess the potential effects of the activity on the protected species at risk or habitat and, if necessary, for the proponent to apply for and obtain an overall benefit permit under the ESA prior to proceeding with the proposed activity.**

Completion of this form does not constitute or guarantee approval to carry out all or any part of a proposed activity under the ESA. Further information will be required should the proponent choose to apply for an overall benefit permit.

In addition, before an activity can be initiated, permissions, approvals or authorizations may be required from landowners, or other agencies or levels of government (e.g., a conservation authority, municipality, federal or provincial government). Other authorizations from MNR may also be required for some activities (e.g., Wildlife Scientific Collectors Authorizations). To enhance coordination, proponents are encouraged to seek input from all relevant landowners and authorities early in the process to identify 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, such as species surveys or environmental impact studies to analyze the potential effects of the proposed activity on species at risk or other environmental features. It is possible that much of the information requested in this form is documented in such reports. 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.

At the bottom of every page of the form, proponents are encouraged to save the form to their local hard drives. Upon completion of the form, proponents should save the form, print a copy of the form for their files and click the email button to submit the form to their local MNR office.

³ In the context of this form, an activity is defined broadly to include all components associated with all stages of the activity including, but not limited to, site access and investigation, site preparation and construction, operation and maintenance, closure, decommissioning and completion, and rehabilitation and restoration stages.

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.

- Biodiversity Explorer - Natural Heritage Information Centre (NHIC) Database
<https://www.biodiversityexplorer.mnr.gov.on.ca/nhicWEB/mainSubmit.do>
- Caribou Conservation Plan (CCP)
<http://www.mnr.gov.on.ca/stdprodconsume/groups/lr/@mnr/@species/documents/document/277783.pdf>
- Caribou webpage (includes caribou specific direction and information)
<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/249504.html>
- Cervid Ecological Framework (CEF)
<http://www.mnr.gov.on.ca/stdprodconsume/groups/lr/@mnr/@fw/documents/document/263997.pdf>
- Committee on the Status of Species at Risk in Ontario (COSSARO)
<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/244543.html>
- Crown Land Use Policy Atlas (CLUPA)
<http://crownlanduseatlas.mnr.gov.on.ca/clupa.html>
- Fisheries and Oceans Canada (DFO)
<http://www.dfo-mpo.gc.ca/species-especes/index-eng.htm>
- *Endangered Species Act, 2007*
http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_07e06_e.htm
- Finalized Provincial Recovery Strategies
<http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/287123.html>
- Finalized Provincial Government Response Statements
http://www.mnr.gov.on.ca/en/Business/Species/2ColumnSubPage/STDPROD_075797.html
- Land Information Ontario (LIO)
<http://www.mnr.gov.on.ca/en/Business/LIO/index.html>
- Conservation Authorities
<http://www.conservationontario.ca>
<http://conservation-ontario.on.ca/projects/DFO.html>
- MNR office locations
http://www.mnr.gov.on.ca/en/ContactUs/2ColumnSubPage/STEL02_179002.html
- Municipalities
<http://www.mah.gov.on.ca/Page1591.aspx>
- Natural Heritage Information Centre (NHIC)
<http://nhic.mnr.gov.on.ca/>
- Ontario Breeding Bird Atlas
<http://www.birdsontario.org/atlas/index.jsp>
- Rare Species Reporting Form - Natural Heritage Information Centre (NHIC)
http://nhic.mnr.gov.on.ca/species/species_report.cfm
- 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 at Risk in Ontario List (Ontario Regulation 230/08)
http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_080230_e.htm

- Species at Risk Website
<http://www.mnr.gov.on.ca/en/Business/Species/index.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
- Species status reports from the Committee on the Status of Endangered Wildlife in Canada (COSEWIC)
http://www.sararegistry.gc.ca/default_e.cfm

3. Activity Details (Where, When and How)

Activity Methodology

The description should include, but is not limited to, the following:

- identification of the sequence, methodology and duration of the major stages of the proposed activity and how each stage contributes to the broader activity plan;
Note: Stages of the proposed activity may include:
 - preliminary site access and investigation components of the activity (e.g., drilling test holes, etc.);
 - site preparation components of the activity (e.g., clearing forest, grading, soil removal, etc.);
 - construction components of the activity (e.g., excavation, installation of utilities, building construction, landscaping, dredging, access roads, stockpiling of construction materials on site, etc.);
 - operation and maintenance components of the activity (e.g., number, height and speed of turbines; road or corridor maintenance plans; site access; agriculture; harvest/resource extraction plans; etc.);
 - closure and completion components of the activity (e.g., decommissioning or demolition undertakings, etc.);
 - rehabilitation/restoration components of the activity;
 - other components of the various stages of the activity (e.g., waste removal or disposal of excess materials, etc.);
- important deadlines or timing restrictions for various components of the activity (e.g., when would the construction, operation, decommissioning, etc components need to begin/end);
- site-related or technical limitations that limit when, where or how the activity can be carried out (e.g., slope, hydrology, etc.); and,
- copies of any engineering diagrams/drawings, site plans, development plans, concept plans, etc. created for the activity.

4. Indication of Species at Risk and Habitat Found at or near the Activity Location

Records Review

As a first step to outlining what protected species at risk or habitats may be present at or near the activity location, please consult the following information sources (see Information Sources Section of Guide):

- Biodiversity Explorer – available through the Natural Heritage Information Centre (NHIC);
- Land Information Ontario (LIO);
- local MNR office – species at risk information will only be shared in accordance with established protocols and policies for the management and dissemination of sensitive data;
- local municipality (e.g., screening information, species lists, range maps, official plan mapping, etc.);
- Species at Risk in Ontario (SARO) List (Ontario Regulation 230/08);
- species-specific habitat regulations under the ESA (Ontario Regulation 242/08);
- species-specific guidance or policy direction available on MNR’s Species at Risk website or through the local MNR district office (e.g., Caribou Conservation Plan and related policies, tools and information sources);
- Fisheries and Oceans Canada (DFO);
- Ontario Breeding Bird Atlas;
- local conservation authorities;
- finalized provincial recovery strategies;
- species-specific status reports and other federal species at risk information; and

- other information sources such as, but not limited to:
 - species experts;
 - species at risk surveys;
 - related environmental impact or screening reports; and
 - scientific literature.

5. Activity and Species at Risk Maps and Photos

Provide one or more maps of appropriate scale that clearly illustrates the following items. In cases where the activity will occur in multiple locations, the following should be illustrated for each location.

- Ecological Land Classifications (ELC), Forest Ecosystem Classifications (FEC), or Aquatic Resource Areas (ARA) for the location and surrounding area (if available);
- Topographic information (e.g., slope, valleys or gullies, cliffs or escarpments, hills, post-glacial features, etc.) of the landscape at or near the proposed activity location (if available);
- Any designated natural features (e.g., provincially significant wetlands (PSW), areas of natural and scientific interest (ANSI), other designated natural features) occurring at or near the activity location (if known);
- Name(s) of any waterbodies occurring at or near the activity location (if applicable);
- Current land uses (if available);
- Location and boundaries (i.e., footprint) of the proposed activity in relation to the surrounding landscape (e.g., property boundaries, roads, towns, transmission corridors, and other human and natural landmarks). A digital shapefile delineating the footprint of the proposed activity should be submitted with this form whenever possible;
- Location of each species at risk occurrence and habitat found at or near the proposed activity location. Also, include the location and description of any habitat features (e.g., nest, hibernaculum, calving area, vernal pools, spawning beds) found at or near the proposed activity location. Use high accuracy polygons or GPS points (or both) to identify these species occurrence and habitat locations whenever possible. A digital shapefile delineating these species occurrence and habitat locations should be submitted with this form whenever possible; and
- Data sources, scale, north arrow and legend for the maps.

Use of aerial photography and satellite imagery is strongly encouraged. Please indicate the date aerial photos or satellite images were taken, as well as the date maps were created.

6. Species at Risk and Habitat that may be affected by the Activity

When describing the effects the activity may have, please consider the following:

- species' life history, including lifespan, normal daily and seasonal behaviour patterns and how it carries out its various life processes;
- species' sensitivity to changes in its habitat;
- habitat features/components required by the species at various spatial scales and times to carry out its life processes (i.e., how the species uses different areas of habitat at different times of the year and a different times throughout its lifespan);
- the species' fidelity to various habitat features/components;
- relative availability of the habitat feature(s) in the local area (e.g., limited or abundant);
- resilience of the habitat (e.g., resistance to disturbance and ability to recover quickly);
- spatial (direct) footprint, location, timing, methodology and frequency of the components associated with all stages of the activity;
- indirect effects of the activity (i.e., effects beyond the physical footprint of the activity);
- immediate (short term) and delayed (long term) effects of the activity;
- duration (i.e., permanency) of the effects on the species or its habitat from each stage of the activity (e.g., days, months, years, decades or permanently); and
- severity and geographic extent of the effects of each stage of the activity on the species or habitat.

Help Section

Targeted start and completion dates

The target start and completion dates should reflect the dates of the earliest and latest components of the activity. Often the earliest components of the activity involve site access and investigation or site preparation work, while the latest stages reflect site decommissioning and restoration work.

Description of habitat features on site

Where you require assistance in completing the requested information, please contact the local MNR office species at risk representative.

How and when the species is (or may be) using the habitat to carry out its life processes

Where you require assistance in completing the requested information, please contact the local MNR office species at risk representative.

Further clarity around these terms is provided in SAR Bulletin 4.2 "*Explanation of key terms relating to habitat identification, description and protection under the Endangered Species Act, 2007* (link available in Information Sources)".

Date this form was submitted to the local MNR office

Once this form has been submitted to the local MNR office, MNR will assess the completeness of the form. Proponents will be notified if more information is required to complete the form. When sufficient information has been submitted by the proponent, MNR will proceed in assessing and determining whether the proposed activity is likely to contravene subsection 9(1) or 10(1) of the ESA.
