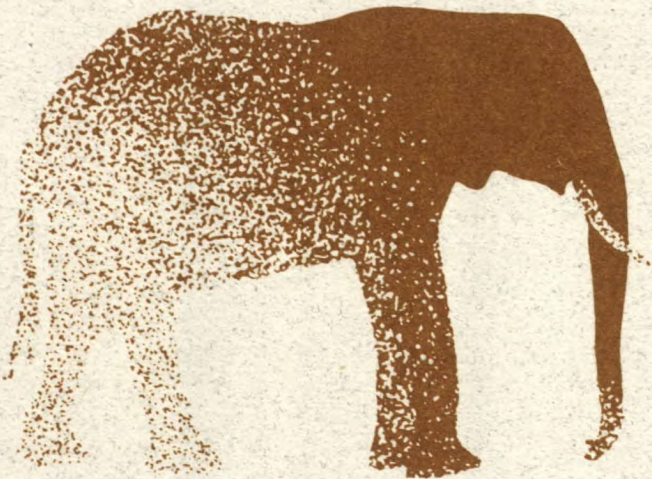
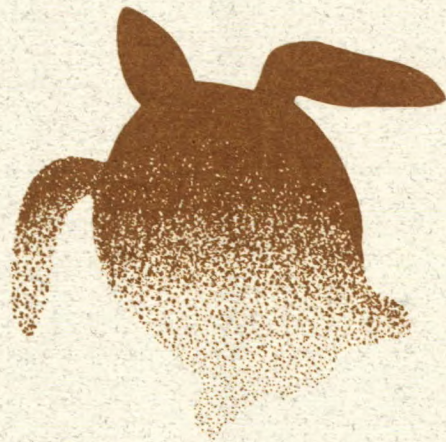
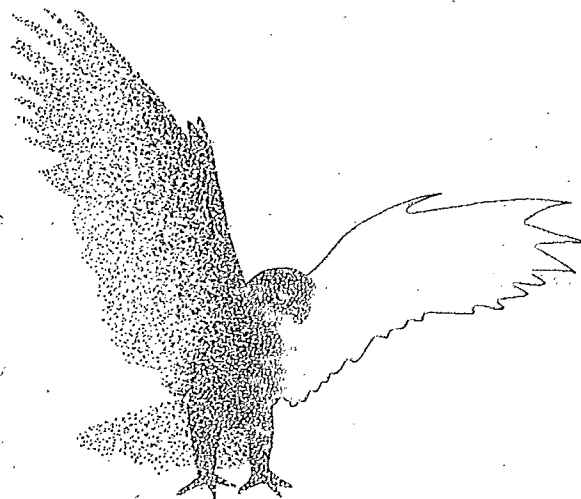


**WILD ANIMAL
AND PLANT
PROTECTION
ACT**

**HIGHLIGHTS
AND
STEPS
TO
IMPLEMENTATION**





There is still time to save species and their ecosystems... Our failure to do so will not be forgiven by future generations.

Our Common Future

*World Commission on Environment and
Development report – 1987*

The federal government believes that protecting and enhancing Canada's natural heritage is of vital importance. Canada's rich biological diversity must be a major component of our legacy to future generations.

Canada's Green Plan

CW66-119/1-1991
ISBN 0-662-58643-3



Environment
Canada

Environnement
Canada

Canada



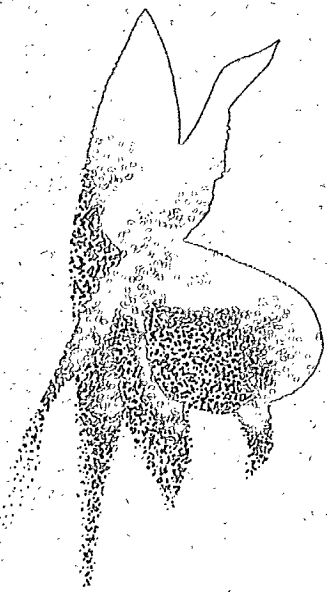
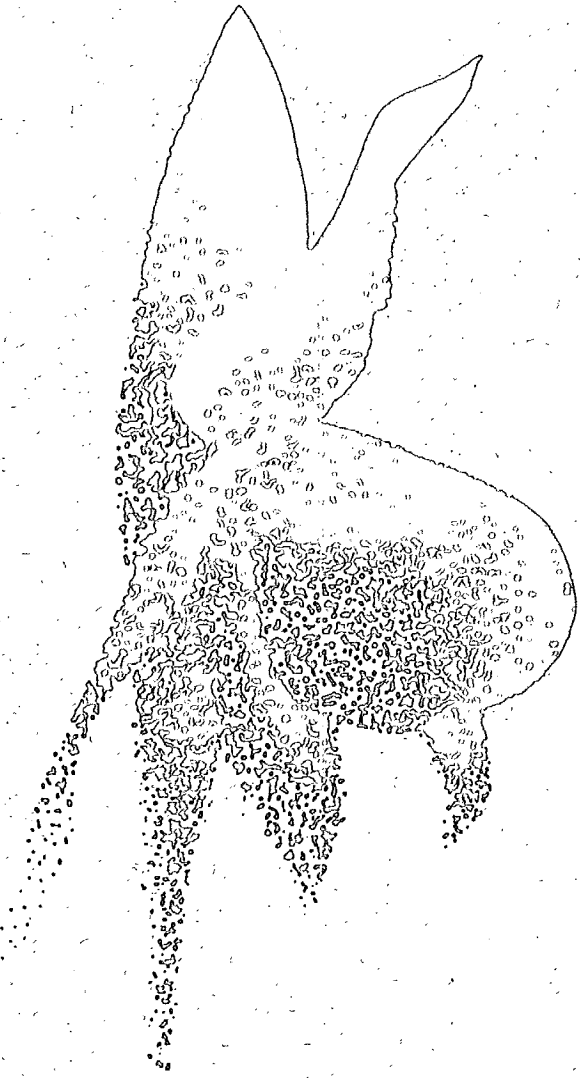
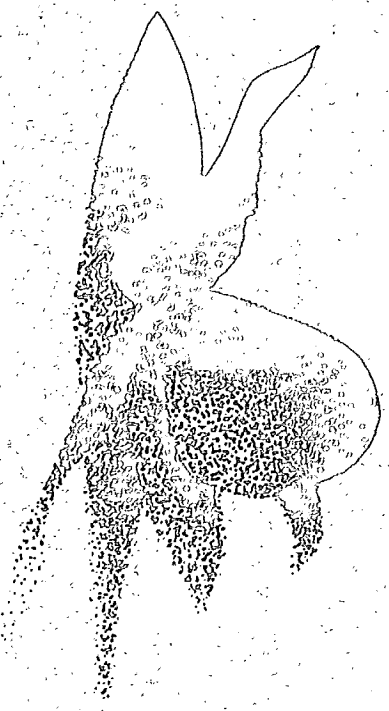
Highlights and Steps to Implementation

WILD ANIMAL AND PLANT PROTECTION ACT



PART OF
CANADA'S GREEN PLAN

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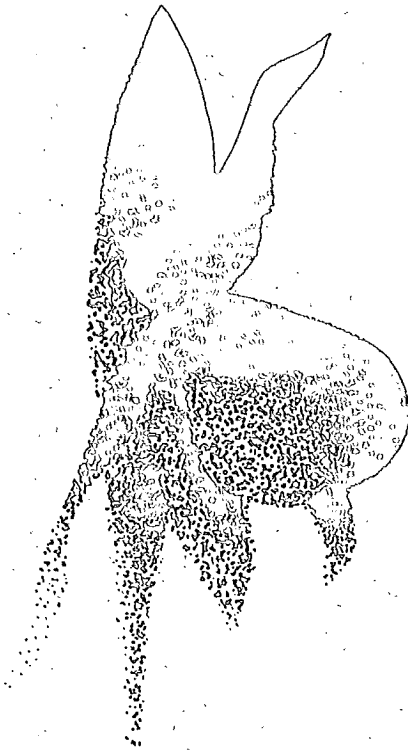
Introduction

Canada will reduce the threats that poaching and illegal trade pose to domestic and foreign wildlife conservation by introducing the Wild Animal and Plant Protection Act in 1991.

Canada's Green Plan

To conserve and protect "our special spaces and species" and to assist other countries to conserve their own wildlife populations, *Canada's Green Plan* proposes "new legislation to attack poaching and illegal trading" in wildlife. The federal government has introduced into Parliament the Wild Animal and Plant Protection Bill. Environment Canada's Canadian Wildlife Service (CWS) has worked closely with the private sector and interest groups, other federal departments and agencies and provincial¹ governments to develop the Bill, which when enacted will be referred to as the *Wild Animal and Plant Protection Act*.

This publication provides an overview of the Act, an explanation of the process which must take place for the Bill to become law and a description of the policies which will guide its implementation.



¹Throughout this publication, all references to a "province" or "provinces" should be understood to include "territory" or "territories". References to "provincial" legislation, jurisdictions or governments will also apply to the "territorial" counterparts.

Highlights of the Act

Special measures will be taken to reduce the poaching and smuggling of wildlife in Canada.

Canada's Green Plan

PROHIBITIONS

The *Wild Animal and Plant Protection Act* will:

- Prohibit import or export of wild animals and plants, or their parts and products, according to international agreements, provincial conservation laws and the conservation laws of other countries.
- Prohibit import or transport from one province to another of live wild animals or plants, thereby preventing the introduction of species potentially harmful to Canada's ecosystems, or to the ecosystems of a receiving province.
- Prohibit the transport from one province to another of any wild animals and plants, or their parts and products, that have been obtained or removed in contravention of the conservation laws of a province.
- Prohibit possession of wild animals and plants, or their parts and products, that have been imported or transported, or are about to be exported or transported, in violation of the Act.
- Prohibit possession of endangered wild animals and plants, or their parts and products, if possessed in order to sell them or otherwise distribute them.

REGULATIONS

The Act will control importation, exportation and interprovincial transport of wild animals and plants, or their parts and products by authorizing the Governor-in-Council to make regulations concerning:

- permits and permit exemptions;
- wild animals and plants that will be subject to, or exempted from, any provision of the Act;
- the places and times, and the manner in which wild animals and plants, or their parts and products, may be imported or exported;
- requirements for marking and packaging;

- requirements for record keeping by those who import, export, or transport wild animals and plants or their parts and products, from one province to another;
- fees and charges; and
- implementation of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES)² and of the Act generally.

IMPLEMENTATION AND ENFORCEMENT

To facilitate implementation and enforcement, the Act will enable the Minister of the Environment to:

- issue permits for international trade and interprovincial transport of wild animals and plants, or their parts and products;
- designate as enforcement officers government employees such as
 - Environment Canada game officers and park wardens;
 - Royal Canadian Mounted Police officers;
 - provincial conservation officers, and others (with the prior agreement of the relevant agency); and
- dispose of forfeited or abandoned wild animals and plants, their parts and products, and recover the costs incurred.

In addition, the Act will enable enforcement officers to:

- detain wild animals and plants, or their parts and products, to ensure compliance with the Act;
- carry out inspections necessary to ensure compliance, such as inspecting and taking samples of wild animals and plants, their parts and products; and inspecting and copying records;
- search with a warrant any place that they have reason to believe conceals wild animals and plants traded in violation of the Act. This includes the right to search for any equipment used to contravene the Act;
- search without a warrant if conditions for obtaining a warrant exist but circumstances make it impractical to do so;
- seize wild animals and plants; or their parts and products, and anything else found at the place of inspection or search that might be used as evidence of an offence against the Act or any of its regulations;
- order removal from Canada of a wild animal or plant, or its parts and products, if they have reason to believe that possession of the item violates the Act; and
- deal with seized wild animals and plants, or their perishable parts and products.

Enforcement will be strengthened by working in close co-operation with the provinces to avoid duplication and deliver the most cost-effective and efficient enforcement of environmental laws.

Canada's Green Plan

²The Convention on International Trade in Endangered Species of Wild Fauna and Flora is an international agreement for the protection of certain species of wild fauna and flora against over-exploitation through international trade. CITES operates through a permit system which varies according to how endangered a species is. A total of 112 countries are signatories to the Convention.

OTHER ASPECTS OF THE ACT

The new Act will improve the efficiency and effectiveness of Canadian and international measures to protect wild animals and plants by:

- consolidating in one Act all laws pertaining to interprovincial and international trade in wild animals and plants, or their parts and products, now being administered by Environment Canada and the Department of External Affairs;
- improving Canada's ability to implement CITES by strengthening enforcement powers; and
- facilitating the modification of CITES regulations in accordance with the Convention and Resolutions adopted by parties to CITES, to improve implementation of the Convention.



Summary of Compliance and Enforcement Policy

Under the proposed Wild Animal and Plant Protection Act, federal controls over the import, export and interprovincial transport of wild animals and plants (and their derivatives) will be strengthened, penalties stiffened and enforcement mechanisms improved.

Canada's Green Plan

To encourage interested parties to give their views in advance, Environment Canada is releasing a Compliance and Enforcement Policy for the proposed Wild Animal and Plant Protection Act. The Department's objective is to have a comprehensive, workable and clearly defined compliance and enforcement program ready to take effect as soon as Parliament passes the Bill.

The goal of the policy is to outline how Environment Canada will apply the new Act, how it will encourage and ensure compliance, and how it will respond when the Act is contravened. The policy will also influence the development of operational guidelines and procedures.

Officers responsible for securing compliance with the new Act will be guided by five underlying principles:

- I. The Department will emphasize conservation of Canadian and foreign wild animals and plants, and protection of Canadian ecosystems from introductions of harmful species.
- II. Compliance with the Act and its regulations will be mandatory.
- III. Enforcement must be securely grounded in law and must be fair, predictable, and consistent across Canada.
- IV. Enforcement officers will encourage individuals to report suspected violations of the Act, will review suspected violations, and will base their responses on operational guidelines developed from the *Compliance and Enforcement Policy*.
- V. Environment Canada will report annually to the public and to the Secretariat of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* on compliance and enforcement activities under the Act.

Environment Canada will encourage compliance with the law through a program of communication with the public, business and all levels of government. This will include an education and information program so that Canadians know how to lawfully transport and trade wild animals and plants, their parts and products. Environment Canada will also consult interested and affected parties when developing regulations to ensure that they are suitable and effective. By involving these people in the process, compliance with the regulations is more likely to be achieved.

Compliance with the legislation will be monitored through an inspection program. Imports and exports of wild animals and plants, or their parts and products, will be checked. Officers will also inspect facilities where there are wild animals or plants, or their parts or products, or activities governed by the Act.

Officers will review suspected violations of the Act and its regulations. Whenever a violation is discovered, officers will take the following into consideration when choosing an enforcement action:

- the nature of the violation;
- the means of achieving compliance in the shortest time, with no recurrence of the offence; and
- consistency in enforcement.

Enforcement actions under the Act include warnings, directives by officers, ticketing, seizure, prosecution and penalties (including fines and imprisonment) upon conviction. However, in some cases, the Department may determine that no action should be taken.

The *Compliance and Enforcement Policy* specifies some of the criteria and applicability of each type of enforcement action, which will be defined in more detail in operational guidelines. For example, officers will always recommend prosecution where the alleged violation has been seriously harmful to Canadian ecosystems or seriously detrimental to the survival of a species.

Passage of the Bill

**In order for wildlife to thrive
in the presence of man,
two things are needed:
habitat — a place to live that
meets all their needs for food, shelter
and reproduction;
and a measure of protection
from the harmful effects
of human activity.**

Canada's Green Plan

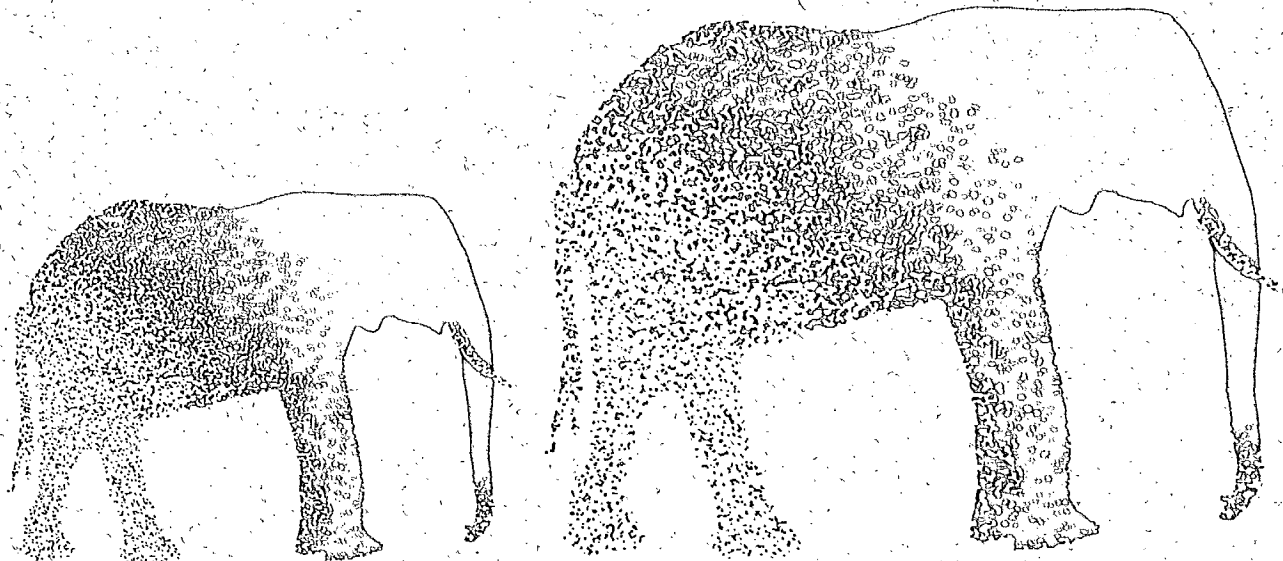
The Wild Animal and Plant Protection Bill will go through three stages of approval before it becomes an Act:

- consideration by the House of Commons;
- consideration by the Senate; and
- Royal Assent and Proclamation.

In the House of Commons, the Bill will proceed from First Reading, or introduction, to Second Reading debate. Clause-by-clause consideration by an all-party legislative committee appointed by the government is then followed by similar consideration by all members of the House and Third Reading debate.

Any interested person or group can comment in writing to the legislative committee. In addition, the committee may hold hearings and invite witnesses to present briefs on the proposed legislation.

After Third Reading, the Bill will be transmitted to the Senate, where it will follow the same steps. After acceptance by the Senate, the Act is presented to the Governor-General for Royal Assent and Proclamation as a law of the land.



Implementing the Legislation

The Government will stress co-operative measures with industry, other governments, native organizations and private-sector organizations.

Canada's Green Plan

The regulatory development process must be open and accessible, and must ensure the full participation of those most affected as well as the general public.

Canada's Green Plan

Wild animal and plant conservation and protection are the responsibilities of all nations. In Canada, federal and provincial governments share these obligations. However, business, environmental groups and the general public also have legitimate interests and responsibilities. Everybody concerned with the proper implementation of this legislation will be consulted so that consensus, which in the past has led to commitment, can be reached.

But while proclamation of the *Wild Animal and Plant Protection Act* is key to a strong federal commitment to wild animal and plant protection in Canada; it is only the beginning. Much more is needed, including:

- regulations to ensure effective control of interprovincial transport of, and international trade in, wild animals and plants, their parts and products;
- agreements between Environment Canada and other federal departments and agencies, and between Environment Canada and each province, to describe roles and responsibilities and to ensure effective use of resources; and
- a public awareness program to explain to interested or affected groups how the Act will affect them and how they can help to achieve its objectives by observing the law and its regulations.

REGULATIONS

All regulations made under any Act must satisfy the requirements of the federal regulatory process. An essential element of this process is the requirement that the public be provided with an opportunity to review and participate in the development of regulations.

Consultations with affected parties begin in the early stages of regulatory development. The impact of a proposed regulation is anticipated and discussed. A proposed regulation and a summary of

consultations are then published in Part I of the *Canada Gazette*³ to provide additional opportunity for comment. Final regulations are published in Part II of the *Canada Gazette* after approval by Cabinet. A public awareness program suitable for each initiative is developed.

Development of draft regulations for consultation will begin during the passage of the Bill so that they will be ready for discussion as soon as the Bill receives Royal Assent.

The circumstances under which persons will be exempt from holding federal permits to import or export wild animals and plants, their parts and products, or to transport them across provincial boundaries will be set out in the regulations.

A Federal Import Permit Exemption Regulation will exempt certain wild animals and plants, or their parts and products, from a federal import permit. However, certain species will not be exempt: specifically, those listed as endangered under CITES; those deemed to be potentially harmful to Canadian ecosystems; or those banned for export by another country.

General exemption criteria will be set and may include the following:

- possession of a CITES export permit from the country of export for specimens from non-endangered species;
- possession of a scientific certificate, relating to a non-commercial loan, donation or exchange;
- possession of a transit certificate for travelling zoos, circuses, menageries, plant or other travelling exhibitions; and
- adherence to foreign conservation laws.

A Federal Export Permit Exemption Regulation will exempt wild animals and plants, or their parts and products, that are not listed in CITES. However, a provincial ban on export of any species will be upheld at the federal level by preventing their export from Canada. In addition, if a province requires a provincial permit before a wild animal or plant specimen can be removed from its jurisdiction, export from the country will not be allowed until the provincial permit has been obtained.

Wild animals and plants carried across provincial boundaries will be exempt from a federal permit under an Interprovincial Transport Permit Exemption Regulation, unless the receiving province considers that the species involved may be harmful. If the province is unable under its own laws to prevent such introductions, it may request imposition of a federal permit requirement. Administration of the provision will be transferred to the province.

³The *Canada Gazette*, published under authority of the Statutory Instruments Act, consists of three parts. Part II contains Regulations and other classes of statutory instruments and documents; Part III contains Public Acts of Parliament and their enactment proclamations; Part I contains material required by federal statute or regulation to be published in the Gazette other than items described in Parts II and III.

Part I is published every Saturday. It is available from most libraries, from book stores that sell government publications, or through personal subscriptions. Part II is usually published every second Wednesday.

Other regulations to be made under the Act will concern administrative provisions necessary to ensure more effective implementation of the Act and will contribute to fulfilling the objectives of the legislation. Some of these regulations must be in place when the Act becomes effective, while others can be made during the months following proclamation. The more significant of these regulations include:

- the transfer to provincial governments of administrative responsibility for issuing federal export and interprovincial transport permits;
- the designation of places and times for the importation or exportation of wild animals and plants, their parts and derivatives;
- the marking of wild animals; and
- the records to be kept by importers or exporters of specimens subject to the Act.

AGREEMENTS

Agreements between Environment Canada and other federal departments and agencies, and between Environment Canada and each province, will identify the roles of each department and agency of each level of government in administering the Act and its regulations. This will ensure effective implementation of the legislation and avoid duplicating cost and effort by using government resources effectively at both levels.

PUBLIC AWARENESS

The legislation has been presented to Parliament for First Reading. Environment Canada has distributed copies of the Bill, copies of the *Compliance and Enforcement Policy* and the booklet, *Highlights and Steps to Implementation*, to a broad range of interested groups. The purpose is to stimulate debate on the wildlife issues addressed by the Bill and generally to enhance the public consultation and legislative review process which will follow the Second Reading.

When the Bill becomes law, Environment Canada will introduce a communications program to increase public knowledge and understanding of the Act, and maintain the interest raised during the legislative process. The program will include information designed for the needs of business, the travelling and general public, and other involved federal and provincial agencies. To ensure that the communications program meets these objectives, the Department will continue to consult with all affected and interested groups.

**The federal government
intends to meet, head on,
the challenge of maintaining and
enhancing the health and diversity
of Canada's wildlife.**

**Helping wildlife populations to
survive and flourish
must become a national effort, involving
all levels of government and
the public at large.**

Canada's Green Plan

Conclusion

For the benefit of current and future generations, all Canadians must act to help sustain our renewable resources and the ecosystems upon which they depend.

Canada's Green Plan

Canadians cherish the wild animals and plants that are part of both the heritage and the legacy they will pass to future generations. The *Wild Animal and Plant Protection Act* responds to growing concerns that wildlife, in Canada and in other parts of the world, must be protected. The new Act will provide the necessary framework for ensuring that this concern is addressed. With the Act in place, Canada will be able to meet its responsibilities for protecting and conserving wild animals and plants, not only within Canada, but as part of the world community.

ADDITIONAL INFORMATION

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