



Identification of Critical Habitat when Habitat Loss/Degradation in Canada is Not a Significant Threat to Recovery or Survival

Species at Risk Act Policies



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1.0 Introduction

The federal *Species at Risk Act* (SARA)¹ requires that critical habitat be identified in a recovery strategy to the extent possible for all listed endangered, threatened and extirpated wildlife species based on the best available information. Critical habitat is necessary to support the population and distribution objectives which are set out to assist the recovery and/or survival of listed species in Canada and established in the recovery strategy. Depending on where the listed species is found, the federal recovery strategy and action plan are prepared to the extent possible in cooperation with the appropriate federal, provincial and territorial ministers, wildlife management boards, Indigenous organizations that are considered to be directly affected by the recovery strategy and action plan, as well as other persons or organizations considered appropriate. To the extent possible, consultation on the preparation of the recovery strategy will also take place with landowners, and other persons considered to be directly affected by the recovery strategy and action plan, including lessees, municipalities and the government of any other country in which the species is found.

Habitat loss and degradation in Canada is the most common driver of species imperilment for species listed under SARA. However, some SARA-listed species have been listed under SARA due to other factors such as hunting/harvest, persecution, disease, habitat loss outside of Canada and ecological context (e.g., there are naturally very few populations in Canada).

When the recovery planning process determines that habitat loss or degradation in Canada is not a significant threat to recovery or survival, efforts should focus on the primary threats to the species (e.g., factors causing direct mortality such as disease or harvest) and may include activities outside of Canada. However, in these cases, there may still be habitat-related measures needed in Canada that are appropriate in the context of recovery or survival for the species. As in cases where habitat *is* a significant threat to recovery and/or survival, critical habitat must be identified to support the population and distribution objectives.

2.0 Purpose

The purpose of this policy is to outline the SARA competent ministers' approach regarding the identification of critical habitat when habitat loss and degradation in Canada is not considered to be a significant threat towards attaining a recovered or survival state in Canada.

3.0 Legislative Context

¹ This document is not a substitute for SARA or any of its regulations. In the event of any inconsistency between this document and SARA or any of its regulations, the Act and its regulations will prevail. For the most up-to-date versions of SARA and its regulations, please consult the Department of Justice website: <http://www.justice.gc.ca/eng/>.

This policy may be updated periodically. To ensure that you have the most up-to-date version, please consult the Species at Risk Public Registry: <https://www.registrelp-sararegistry.gc.ca/default.asp?lang=En&n=24F7211B-1>.

Under SARA, a recovery strategy or action plan which identifies critical habitat must be prepared for all listed extirpated, endangered, and threatened species. Critical habitat must be identified to the extent possible for all of those species – even those for which human-induced habitat loss/degradation in Canada is not a significant threat towards attaining a recovered or survival state in Canada.

The definition of “habitat” for non-aquatic species in subsection 2(1) of SARA is:

“...the area or type of site where an individual or wildlife species naturally occurs or depends on directly or indirectly in order to carry out its life processes or formerly occurred and has the potential to be reintroduced.”

The definition of “habitat” for aquatic species in subsection 2(1) of SARA is:

“...spawning grounds and nursery, rearing, food supply, migration and any other areas on which aquatic species depend directly or indirectly in order to carry out their life processes, or areas where aquatic species formerly occurred and have the potential to be reintroduced.”

The definition of “critical habitat” in subsection 2(1) of SARA 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 in an action plan for the species.”

The contents of a species’ recovery strategy where recovery is feasible are described in subsection 41(1) of SARA and must include:

“...an identification of the species’ critical habitat, to the extent possible, based on the best available information, including the information provided by COSEWIC, and examples of activities that are likely to result in its destruction.”

The contents of a species’ recovery strategy where recovery is not feasible are described in subsection 41(2) of SARA and must include:

“... an identification of the species’ critical habitat, to the extent possible”

Similarly, the contents of an action plan are described in subsection 49(1) of SARA and must include, with respect to the area to which the action plan relates:

“an identification of the species’ critical habitat to the extent possible, based on the best available information and consistent with the recovery strategy, and examples of activities that are likely to result in its destruction.”

In practice, the quantity, distribution and attributes of critical habitat are those that are required to achieve the population and distribution objectives stated in the recovery strategy.

4.0 Policy

4.1 Scope of Application

This policy focuses on species with few, low or negligible habitat-related threats, that are not considered to be limiting recovery or survival of the species. The assessment of threats is made on a case-by-case basis during the recovery planning process, based on the best available information, including information provided by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC).

This policy does not apply to the identification of critical habitat for SARA-listed species where habitat loss or degradation is a significant threat to recovery or survival.

4.2 Consideration of Ecological Needs

In determining the critical habitat for a listed species, consideration will be given to its ecological needs in order to achieve the population and distribution objectives set out in the recovery strategy. In cases where habitat loss or degradation in Canada is not a significant threat to recovery and/or survival, the identification of critical habitat will, in practice, still facilitate the protection of habitat necessary to support recovery or survival once non-habitat related threats are addressed in Canada or habitat related threats outside of Canada are addressed through international efforts.

In some cases, there may be an abundance of habitat that provides the functions, features and attributes that are necessary to achieve recovery or survival of the species. This may, depending on the listed species, provide greater flexibility in identifying critical habitat. In these circumstances, we will prioritize the designation of adequate amounts of habitat which are well known to have the qualities most needed by the species. Threats and biological considerations may also be incorporated into determining the locations of identified critical habitat.

In other cases, it may be ecologically appropriate to identify the full range of the species as critical habitat and then describe the habitat conditions that must be maintained within the range to achieve the population and distribution objective. For example, critical habitat may be identified across the entire range for certain wide-ranging species that require the use of their entire range throughout their life cycle depending on environmental conditions and other factors.

In situations where habitat loss or degradation in Canada is not currently considered a significant threat to recovery or survival of the species, the identification of critical habitat may benefit species where the currently available habitat is not limiting, but declines in habitat quantity and quality may have occurred or are anticipated that may limit survival or recovery in the future.

As with all species, habitat quantity and quality will need to be assessed periodically to ensure that sufficient habitat remains to support survival or recovery of the species.

4.3 Consideration of Non-biological Factors

In situations where habitat loss or degradation in Canada is not a significant threat to the potential recovery of a listed wildlife species, recovery practitioners may consider non-biological considerations in the identification of critical habitat. For instance, consideration would be given first to supporting public policy priorities, such as supporting the social and economic development priorities of Indigenous peoples on lands over which they have authority. Additionally, consideration may be given to reducing constraints on the use of other lands.

However, even in these cases, biological and ecological considerations are paramount in the identification of critical habitat, and non-biological considerations are secondary. For example, when the configuration of critical habitat could be done in a manner that minimizes impacts upon communities or stakeholders, provided that all configurations are of at least equal benefit to recovery, i.e. recovery is not compromised.

Furthermore, socio-economic considerations can only be considered when the best available information clearly indicates that the identified critical habitat will support the species' recovery and/or survival.

4.4 Public Transparency

In situations where the competent minister employs this policy for the identification of critical habitat, it will be clearly indicated in the recovery strategy or action plan that this approach was used, and the reasons/rationale for why it was used.

4.5 Activities Likely to Result in the Destruction of Critical Habitat

Examples of activities likely to result in the destruction of critical habitat are included in federal recovery strategies and action plans and take into account the nature and significance of the threats to the species and its habitat. The inclusion of examples of activities likely to destroy critical habitat is mandatory under subsection 41(1) of SARA and although they do not constitute a regulatory statement, they do inform and support the protection and management of critical habitat as well as provide information to Canadians to support recovery by proactively avoiding harming and destroying critical habitat.

As per federal guidance, an activity is considered to be destructive when there is a temporary or permanent loss of a function when it is required by the species. In situations where habitat loss or degradation in Canada is not a significant threat towards attaining a recovered or survival state, the examples of activities likely to result in the destruction of critical habitat may reflect that habitat-related threats in Canada (either in isolation or cumulatively) are not

significant. For example, the identified critical habitat may be able to withstand a certain level of development activities before the functionality of the critical habitat is lost.

4.6 Application of Precaution

In carrying out its responsibilities under SARA, the Government of Canada will apply precaution, consistent with the [Framework for the Application of Precaution in Science-based Decision Making about Risk \(Government of Canada, 2003\)](#); and the preamble and section 38 of SARA which state that: "...if there are threats of serious or irreversible damage to a wildlife species, cost-effective measures to prevent the reduction or loss of the species should not be postponed for a lack of full scientific certainty." For the purposes of this policy statement, competent ministers will weigh the best available information and apply precaution during the determination of how to identify critical habitat.