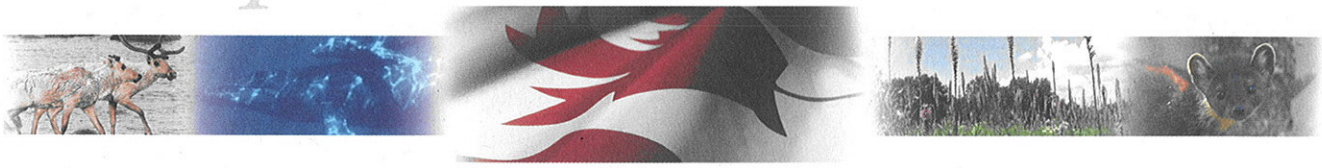
SCF155-4E

Species at Risk Act



Loi sur les espèces en péril

Species at Risk Act: A Phased Approach

When Parliament passes a law, the law rarely comes into force immediately. Usually, the coming into force date is some time in the future. This gives the government time to put all the necessary policies, programs, and regulations in place and to ensure that Canadians understand the law, including their rights and responsibilities.

Sometimes, a law comes into force in phases, with different sections of the law taking effect at different times. This is important as it helps to ensure smooth delivery of a new law and more effective policy and program development. Adopting a phased approach also provides the time necessary to carry out the additional consultation and dialogue with those who will be most affected by new legislation.

The *Species at Risk Act* (SARA), which was passed by Parliament on December 12, 2002, is coming into force in three phases.

Phase 1 – March 24, 2003

The first parts of SARA to come into force made changes to other related federal laws that were amended through the legislative process enacting SARA. SARA sections 134 to 136 and 138 to 141 set out the amendments that are made to the *Canada Wildlife Act*, the *Migratory Birds Convention Act, 1994*, and the *Wild Animal and Plant Regulation of International and Interprovincial Trade Act*. These amendments came into force on March 24, 2003.

Phase 1: sections 1, 134 to 136 and 138 to 141 are in force as of March 24, 2003.

Phase 2 – June 5, 2003

As of June 5, 2003, two-thirds of the SARA sections are in effect. SARA's emphasis is on consultation, stewardship, cooperation and providing people with information about the law.

The sections in force as of June 5, 2003 are central to this approach, promoting the protection of species at risk through collaborative efforts. The SARA offences will not come into effect until Phase 3.

As of June 5, 2003:

- The Minister of the Environment will be required to establish a National Aboriginal Council on Species at Risk. The Aboriginal Council will advise the Minister and the federal-provincial-territorial Canadian Endangered Species Conservation Council.
- A stewardship action plan identifying incentives to support voluntary stewardship may be developed.
- Conservation, administrative, land acquisition, and funding agreements to protect wildlife species may be made with provincial and territorial governments, wildlife management boards, organizations and individuals.
- The Committee on the Status of Endangered Wildlife in Canada (COSEWIC) will become legally constituted, and will continue to assess and classify wildlife species following the SARA framework.
- A comprehensive listing process for species at risk is established. The Governor in Council has 9 months after receiving a COSEWIC species assessment to make a decision on

whether a species is listed, or else the species is listed according to COSEWIC's assessments. Species may also be listed on an emergency basis.

- Recovery strategies for threatened or extirpated species now on Schedule 1 (the initial List of Wildlife Species at Risk) must be prepared by June 5, 2007 (within 4 years). Recovery strategies for threatened and extirpated species added to the List of Wildlife Species at Risk after June 5, 2003 must be prepared within two years' of listing.
- All SARA requirements for developing action plans are in place.
- Management plans for species of special concern now on Schedule 1 (the initial List of Wildlife Species at Risk) must be prepared by June 5, 2008 (five years). Management plans for species of special concern, added to the List of Wildlife Species at Risk after June 5, 2003, must be prepared within three years' of listing.
- All consultation and cooperation requirements for recovery strategies, action plans and management plans are in place.
- The SARA rules for permits, licences and exceptions from the prohibitions in SARA are in place. They will be implemented when the prohibitions come into force in June 2004.
- Any projects requiring an environmental assessment under federal law that are likely to affect a listed species or its critical habitat need to identify the adverse effects, and, if the project goes forward, steps must be taken to avoid or lessen those effects and to monitor them.
- Authority is provided for the Governor in Council to make emergency orders respecting listed species or its habitat.
- The Public Registry will provide public access to documents that are to be made public under SARA.
- An annual report on the administration of SARA and other reports required by SARA must be prepared.
- The definition of environmental effect in the *Canadian Environmental Assessment Act* is amended to include, in respect of a project, any change that the project may cause to a listed wildlife species, its critical habitat or the residences of individuals of that species, as those terms are defined in SARA.

Phase 2: sections 2 to 31, 37 to 56, 62, 65 to 76, 78 to 84, 120 to 133 and 137 are in effect as of June 5, 2003.

Phase 3 – June 1, 2004

The transitional stages for implementing SARA will be complete on June 1, 2004 when the remaining sections come into force. These sections cover the SARA prohibitions, including critical habitat protection, and enforcement of the law.

As of June 1, 2004:

- It is an offence to:
  - kill, harm, harass, capture or take an individual of a listed endangered, threatened or extirpated species
  - possess, collect, buy, sell or trade an individual of a listed endangered, threatened or extirpated species, or its parts or derivatives
  - damage or destroy the residence of one or more individuals of a listed endangered or threatened species, or a listed extirpated species if a recovery strategy has recommended its reintroduction into the wild in Canada

These offences apply to aquatic species and migratory birds covered by the *Migratory Birds Convention Act*, 1994 wherever they are found and to all listed endangered, threatened or extirpated species on federal lands. (Listed species in the territories, except for aquatic species, migratory birds or species on land under the authority of the competent ministers go through the safety net process described below.)

They can also apply to:

- all other listed endangered, threatened or extirpated species found in a province or territory after discussions have taken place with the province or territory and the Governor in Council orders them to apply in the province or territory; and
- species listed as endangered or threatened by a provincial or territorial government that are found on federal lands and the Governor in Council orders them to apply on those federal lands.

- Prohibitions against the destruction of critical habitat come into play.
- When the critical habitat protection requirements in SARA have an extraordinary impact on someone, the Minister of the Environment may provide fair and reasonable compensation to the person for the losses.
- The enforcement measures come into force. A person accused of a SARA offence can raise the defence of "due diligence".
- Anyone who is a resident of Canada and 18 years of age or older can apply to the competent minister for an investigation if he or she believes that a SARA offence may have been committed or something has been done towards the commission of a SARA offence.

Phase 3: sections 32 to 36, 57 to 61, 63, 64, 77, and 85 to 119 are in effect as of June 1, 2004.

SARA is being put into effect in phases but, at every step of the way, SARA will work because of cooperation, consultation and the dedication of people committed to the protection of species at risk.