

# Species at Risk Act



## *Loi sur les espèces en péril*

### Species at Risk Act: Regulations and Orders

The *Species at Risk Act* (SARA) is one of three elements of the Strategy for the Protection of Species at Risk. The other two are complementary stewardship and incentive programs, and the federal-provincial/territorial Accord for the Protection of Species at Risk. SARA aims to prevent wildlife species from becoming extinct or lost from the wild, and to help species at risk recover.

Much of the legislation in Canada is “enabling” in nature, in that the details and substantive provisions are dealt with by regulations or by orders. This is not the case with SARA. SARA includes a great deal of detail that does not require further elaboration through regulations or orders for implementation – including species assessment, general prohibitions, a comprehensive process and timelines for recovery and management planning, permitting and stewardship and critical habitat protection provisions.

There are, however, a number of regulation-making authorities contained in SARA. Most of these authorities, however, are intended to address or provide further guidance on the Act’s substantive provisions. Of the regulations and orders for which there is authority in SARA, not all are necessary to implement the Act. In fact, most will not be required for some time after the Act comes into force. Most will occur when the appropriate programs, policies and procedures are put in place, and in particular, once recovery strategies and action plans are finalized. These potentially include regulations or guidelines addressing some of the procedural aspects of the Committee on the Status of Endangered Wildlife in Canada (COSEWIC); regulations that would allow for the inclusion of additional matters to be covered in recovery strategies, action plans or management plans; regulations necessary to implement action plans; regulations respecting

administrative aspects of agreements and permits; regulations respecting alternative measures agreements; regulations prescribing possible fees and charges; and regulations regarding the public registry.

It is through a Governor in Council Order that amendments will be made to the List of Wildlife Species under the Act. Soon after the Act comes into force, work will begin to consider listing of species that were assessed or reassessed by COSEWIC during 2002 and in May 2003. Other orders that may be prepared, if needed, include those for emergency listings, emergency orders, and those extending the general prohibitions against killing and destroying the residence of listed species through the safety net approach.

Orders required to protect critical habitat cannot be contemplated until such time as critical habitat has been identified in a finalized recovery strategy or action plan, and following the required consultations.

#### **Initial Regulations and Orders under SARA**

One order has been made that provides for a transition measure authorized under the Act. This order extends, to three years, the 30-day deadline that COSEWIC has to assess 26 species listed in Schedule 2 of the Act that have not yet been assessed. This is necessary to provide COSEWIC with enough time to carry out the scientific assessments required, and to incorporate any relevant Aboriginal traditional knowledge.

Work is also ongoing to develop a general compensation regulation. This proposed regulation will set out the procedures governing applications for compensation by those persons who have suffered a loss resulting from an extraordinary impact of the application of the critical habitat prohibition. Consultations on the proposed regulation will take place with affected and interested Canadians later this year.

#### **Consultations on Proposed Regulations and Orders**

The public will have extensive opportunities to become involved in the development of regulations and orders under the *Species at Risk Act*. Many of the regulation-making sections of the Act prescribe consultations requirements, including consultations with Aboriginal peoples, wildlife management boards, the provinces and territories, and affected stakeholders. Early notice of the Government's intention to develop and consult on regulations under the Act will be available on the public registry, as well as through general mailouts of information to interested parties.

Furthermore, development of all proposed regulations will follow the federal government's *Federal Regulatory Policy*. The policy sets out the government's consultation requirements, including publication of proposed regulations in Part I of the *Canada Gazette* for a final period of public review and comment. Most regulations are prepublished in Part I of the *Canada Gazette* for a 30-day period. Prepublication in Part I of the *Gazette* supplements consultation requirements, and provides the public with a further opportunity to comment and provide input on proposed regulations.

#### **For Additional Information**

For more information on proposed regulations and orders under the *Species at Risk Act*, consult the public registry at

<http://www.sararegistry.gc.ca>

or contact (819) 997-2800. Information on the federal government's *Regulatory Policy* may be obtained from the Regulatory Affairs and Orders in Council Secretariat, Privy Council Office, at (613) 943-5076, or from the website at

<http://www.pco-bcp.gc.ca>