



Policy on Assessing Imminent Threats under Sections 29 and 80 of the *Species at Risk Act* – terrestrial species



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Introduction

In Canada, the protection and recovery of species at risk is a shared responsibility between the provinces, territories and the federal government. Provincial and territorial governments lead the protection and recovery of terrestrial species at risk on non-federal lands.¹ The *Species at Risk Act* (SARA; “the Act”) provides the federal government with the statutory tools and authorities to play a role in the protection and recovery of species at risk across the country. The purposes of SARA are to: 1) prevent wildlife species from being extirpated or becoming extinct; 2) provide for the recovery of wildlife species that are extirpated, endangered, or threatened as a result of human activity; and 3) manage species of special concern to prevent them from becoming endangered or threatened.

The Act includes discretionary authorities that enable emergency intervention in exceptional circumstances where a wildlife species’ conservation status may warrant more immediate action than what can be provided through the standard SARA process and measures: namely emergency listing and emergency orders. The Act intends for these authorities to be used as a last resort, notably in situations where the Minister of the Environment has determined that a wildlife species is facing imminent threats to survival (emergency listing under section 29) or in situations where the competent minister has determined that a listed wildlife species is facing imminent threats to its survival or recovery (emergency order under section 80).

This policy describes the approach taken to the assessment of imminent threats to inform decisions under the discretionary authorities under section 29 and section 80 of the Act. Related policy instruments will describe the listing and emergency order processes that depend on the results of an imminent threat assessment. Policies and guidance on topics related to effective protection of critical habitat, public reporting on protection of critical habitat, and the use of conservation agreements, may inform elements of these statutory provisions.

Purpose

The purpose of this policy is to:

- Provide consistency in the timely assessment of imminent threats to the survival (under section 29) and to the survival or recovery (under section 80) of a terrestrial wildlife² species under SARA; and
- Support the transparency of how Environment and Climate Change Canada and Parks Canada conduct imminent threat assessments in support of the forming of ministerial opinions under section 29 and section 80 of SARA.

¹ Non-federal Lands: Lands that do not meet the definition of federal lands under subsection 2(1) of SARA.

² A ‘terrestrial’ wildlife species means all species other than an aquatic species that is a fish as defined in section 2 of the *Fisheries Act*, or a marine plant, as defined in section 47 of that Act.

Application

This policy applies when:

- A minister³ receives a request to assess an imminent threat to the survival of a terrestrial species to form an opinion under section 29 of the Act, provided no request is made to the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) to assess the same threat for the same species under section 28 of the Act and that COSEWIC is not, independent of any request, undertaking an emergency assessment of the same species; or
- A minister receives a request to assess an imminent threat to the survival or recovery of a terrestrial species to form an opinion under section 80 of the Act; or
- Environment and Climate Change Canada or Parks Canada undertakes, independent of a request, an assessment of an imminent threat to the survival or recovery of a terrestrial species, to support a minister in forming an opinion under section 29 or section 80 of the Act.

This policy applies to terrestrial wildlife species under the responsibility of the Minister of the Environment and/or the Minister responsible for Parks Canada and replaces previous policies or guidance regarding the assessment of imminent threats.

This policy does not apply to the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) and imminent threat assessment work it may undertake under section 28 of the Act.

Roles and Responsibilities

Environment and Climate Change Canada and Parks Canada officials are responsible for undertaking an imminent threat assessment and developing advice to inform the minister based on the results of the assessment.

The Minister of Environment is responsible for forming an opinion on whether a wildlife species is facing an imminent threat to its survival or recovery, exercising the duties set out in the emergency provisions in a manner consistent with the purposes of SARA, and communicating the decision.

³ In this document, the use of the term “the minister” should be interpreted as the Minister of the Environment in the context of the emergency listing provisions or as the competent minister responsible for the listed terrestrial wildlife species in the context of the emergency order provisions.

A person requesting an imminent threat assessment is responsible for complying with the requirements of the *Operational Guide: Requesting an imminent threat assessment for terrestrial species under the Species at Risk Act*.

Policy Statement

Emergency Listing

For the purposes of advising the minister on whether a wildlife species is facing an imminent threat to its survival for the purposes section 29 of SARA:

- A terrestrial wildlife species will be determined to be facing an imminent threat to its survival if a human-induced threat is identified and is occurring or likely to occur in the near term and the threat would render the species' survival highly unlikely or impossible (e.g., greater than 50% chance of extinction or extirpation within 10 years).

Officials will answer two key questions, relying on the best-available scientific information and expert opinion, the principles and purpose of SARA, and consistent, to the extent possible, with the approach to emergency listing taken by COSEWIC under section 28 to determine whether a species is facing an imminent threat to its survival warranting emergency listing:

1. Is the wildlife species facing an extreme human-induced threat?
2. Will the impact of the threat make the survival of the wildlife species highly unlikely or impossible?

Emergency Protection

For the purposes of advising the minister on whether a wildlife species is facing an imminent threat to its survival or recovery for the purposes of section 80 of SARA:

- A terrestrial wildlife species will be determined to be facing an imminent threat to its survival or recovery if an identified new or intensifying human-induced threat is occurring or is likely to occur in the near term, would render the species' survival or recovery highly unlikely or impossible, and its new or additional impacts cannot be eliminated or mitigated without immediate intervention.
- A terrestrial wildlife species will be determined to no longer be facing an imminent threat to its survival or recovery if the threat that led to the imminent threat finding is no longer present, is unlikely to occur in the near term, or no longer renders the survival or recovery of the species highly unlikely or impossible.

Officials will answer three key questions, relying on the best-available scientific information and expert opinion and the principles and purpose of SARA to determine whether a species is facing an imminent threat to its survival or recovery for the purposes of section 80 of SARA:

1. Is the wildlife species facing a new or intensifying human-induced threat?
2. Will the impact of the threat make:
 - a. Survival of the wildlife species highly unlikely or impossible?
 - b. Recovery of the wildlife species highly unlikely or impossible?
3. Does the threat require immediate intervention beyond existing protection measures?

In a circumstance where a wildlife species has been listed on an emergency basis under section 29 as a result of facing an imminent threat, that threat will be considered to be “a new or intensifying” threat for the purposes of question 1 of assessing survival or recovery for the purposes of section 80 but taking into account any mitigation of that threat through the SARA general prohibitions.

Consultation

Officials will consult with the implicated provincial and territorial governments. For the purposes of discharging the duty to consult and upholding the honor of the Crown and meeting the requirements of the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDA), officials will also consult Indigenous peoples who could be affected by a ministerial decision on imminent threat.

In addition to covering any impacts on rights, consultations would provide an opportunity for Indigenous peoples to inform the ITA itself by sharing:

- Information related to the threats, their potential impacts on the species, and measures that could address them
- Indigenous knowledge and other considerations relevant to the situation

Consultation timelines would take into account the emergency nature of the situation. To the extent possible, the department may also consult relevant Indigenous organizations and other partners and stakeholders.

Monitoring and Reporting

Environment and Climate Change Canada and Parks Canada will, following the forming of an opinion by the minister, communicate the findings and reasons for the decision on the Species at Risk Public Registry.

Where the minister has formed the opinion that a wildlife species is facing an imminent threat, and measures have been put in place to address the threat, the effectiveness of those measures will be monitored, as required.

Policy Interpretation

For the purposes of this policy, SARA definitions apply to any terms defined in the Act, relevant scientifically accepted standards are adopted where referenced, and other concepts are interpreted in a contextually appropriate manner to support the Act's objectives.

Wildlife species

An assessment made under this policy may consider the species as a whole or a relevant element of the species, such as a local population identified in a recovery strategy. A minister's opinion on imminent threat applies to the wildlife species as listed, or as it would be listed, under Schedule 1 of SARA.

Imminent threat

Imminent threat is a concept that is not defined in the Act. For the purposes of this policy, the application of the term is generally described in the section above. Under this policy, threats are the human activities or processes that have caused, are causing, or may cause the destruction, degradation, and/or impairment of the entity being assessed (population, species) in the area of interest (national or subnational).⁴ This definition is drawn from Salafsky et al (2008), which is a well-recognized and accepted standard for the lexicon of conservation biodiversity, and is consistent with the definition of threat used by COSEWIC and by the International Union for the Conservation of Nature, which are based on the same reference.

To inform a decision on emergency listing under section 29, officials will strive to apply an assessment threshold consistent with that used by COSEWIC when it undertakes emergency assessments. The assessment for emergency listing focuses on whether the threat faced by the species is extreme and would lead, more probably than not, to extinction or extirpation in the relatively near term (e.g., within 10 years).

An assessment under section 80 takes into account that the species is necessarily already facing a threat and focuses on whether a new or intensifying threat exists. The concept of intensifying is understood broadly and includes a threat that is evolving in its nature or evolving in the magnitude of its impact on the species.

An assessment under this policy is contextual and undertaken to support the purpose of SARA while reflecting the emergency nature of these provisions. An assessment can apply to a range of threats and ecological considerations and will consider the nature and circumstances of the species; the nature, likelihood and immediacy of the threat to the species; and the timing and severity of the threat's impacts on the species and its habitat. Where a threat is referred to in the singular it can encompass more than one threat if the species under assessment is facing more than one threat relevant to the assessment.

⁴ Adapted from Salafsky, N., D. Salzer, A.J. Stattersfield, C. Hilton-Taylor, R. Neugarten, S.H.M. Butchart, B. Collen, N. Cox, L.L. Master, S. O'Connor, and D. Wilkie. 2008. A standard lexicon for biodiversity conservation: unified classifications of threats and actions. *Conserv. Biol.* 22:897–911.

Scope

An assessment under this policy may relate to a geographically localized threat or to situations where relevant impacts have been limited to certain subpopulations. If a species is facing more than one such threat, each threat is assessed in parallel and the cumulative impacts from the multiple threats are considered.

An assessment would seek to determine whether the impacts of the threat at a local or subpopulation level will result in an imminent threat to the survival or recovery of the wildlife species as it is listed or would be listed under Schedule 1 of SARA.

Survival and Recovery

An assessment under this policy of the impacts of the threat on recovery and survival for a given species will be done through the lens of the [Policy on Recovery and Survival](#) and is informed by the best-available information.

- **Impact on survival** is assessed according to the taxonomic rank at which the wildlife species is listed or would be listed on Schedule 1 based on its general survival characteristics. An assessment of survival considers the needs of a species to persist in the long term. An assessment will consider characteristics of the species' likelihood of survival such as population stability, resilience, redundancy, connectivity, and protection from human-caused threats.
- **Impact on recovery** focuses on whether the increased risk from the impact of the threats to the species or its habitat will be sufficiently immediate and severe to have a significant impact on the ability to recover the wildlife species. An assessment will be informed by a species' recovery strategy or management plan, if one exists, and may include a range of considerations including the population and distribution objectives, the minimum recovery threshold, the trajectory of the species' population, and the condition of its critical habitat.

Species recovery may also consider Indigenous perspectives on recovery, as brought forward by affected Indigenous peoples, if not already reflected in the recovery objectives outlined in the wildlife species' recovery strategy.

Information

An assessment of an imminent threat would be based upon the best available information, including but not limited to:

- The species' biology and ecological needs
- The specific nature of the threat the species is facing
- The likelihood and timing of the threat
- The impacts of the threat on the species
- Whether measures are in place, or are expected to be in place in a relevant timeframe, that would be expected to address the threat

This information can originate from various sources, including but not limited to:

- A COSEWIC assessment, including an emergency assessment
- Recovery documents
- Peer-reviewed scientific publications
- Other scientific or technical research data or analysis (industry-led, citizen science)
- Indigenous knowledge, including information on traditional and cultural use
- Community knowledge
- Completed environmental/impact assessments

More detail on the process and information required to make a request for an imminent threat assessment is provided in the *Operational Guide: Requesting an imminent threat assessment for terrestrial species under the Species at Risk Act*.

Measures that can address an imminent threat

An assessment will consider whether there are measures in place, or that are expected to be in place in a relevant timeframe, that would be expected to have an impact on the likelihood, timing or impact of the threat sufficient to mitigate the need for immediate intervention.

Measures that could be considered include:

- *Other Acts of Parliament:* Measures taken under another Act of Parliament (e.g., pollution prevention legislation or wildlife conservation legislation) may regulate/prohibit a threat.
- *Provincial/territorial/Indigenous measures:* Best efforts will be made to engage with any provincial, territorial, or Indigenous government(s) who have jurisdiction over the wildlife species in question and/or authority over regulating activities that are causing the threat to the wildlife species, to ensure that their measures are appropriately considered as part of the assessment.
- *Collaborative agreements:* Consideration will be given to whether any collaborative agreements that include measures and activities to address the threat, with the responsible jurisdiction(s), Indigenous governments and organizations, and/or other partners or stakeholders. These agreements should include milestones, measurable targets, clear accountability measures, and sufficient information to track and assess meaningful progress and results.
- *Other relevant provisions of SARA:* Consideration will be given to whether there are other tools within the scope of the minister's authority under SARA, which are available to address the threat.

Re-assessment to inform the repeal of an emergency order

If the department is in possession of sufficient and credible information indicating that the wildlife species would no longer face an imminent threat to its survival or recovery, even if the order were repealed, the department would undertake an assessment, based on current

information of the threat that led to the recommendation for the emergency order. The assessment would help inform the minister's new opinion, which could lead to a recommendation to the Governor in Council to repeal the order.

An assessment will consider whether measures equivalent to the emergency order have been implemented to address the imminent threats, including an agreement under section 11 of SARA; an order under section 61 of SARA; conservation measures taken under another Act of Parliament; or conservation measures implemented by a provincial, territorial, or Indigenous government.

Review and Evaluation

This policy may be updated two years after coming into force and then five years thereafter to ensure it continues to meet its objectives.

Public reporting on the implementation of this policy will be done through the SARA Annual Report.

Authority

This policy is established under the authority granted by the *Species at Risk Act* (SARA), R.S.C., 2002, c. 29 which provides the legal framework for the protection and recovery of species listed as at risk, including provisions for the assessment of imminent threats to their survival or recovery.

The Minister of Environment and Climate Change Canada has the authority to form an opinion on the imminent threats posed to species at risk under section 29 (survival) and section 80 (survival and recovery) under the Act. This policy supports compliance with legal obligations and the promotion of the conservation of Canada's biodiversity in accordance with the mandates of the Act.

The Minister of Environment and Climate Change Canada has authority to implement, amend, and ensure compliance of this policy for the administration of section 29 and section 80 of the Act.

Related documents

This policy and any directive, standard or procedure established pursuant to it shall be read with the following SARA instruments:

- [*Species at Risk Policy on Recovery and Survival*](#)
- [*Operational Guide: Requesting and imminent threat assessment for terrestrial species under the Species at Risk Act*](#)

The interpretation and application of this policy may be supported through the development of additional directive, standard or procedure documents.

Federal Legislative Authority

Emergency Listing

Section 29 of SARA provides that if the Minister of the Environment forms the opinion that a wildlife species is facing imminent threats to its survival, they must, after consultation with every other competent minister, recommend to the Governor in Council that the wildlife species be added to Schedule 1 as endangered on an emergency basis.

Emergency Protection

Section 80 of SARA provides that if the competent minister is of the opinion that a listed wildlife species faces imminent threats to its survival or recovery, they must, after consultation with all other competent ministers, recommend to the Governor in Council the making of an emergency order to provide for the protection of the wildlife species, unless they are of the opinion that equivalent measures have been taken under another Act of Parliament.

Repealing an Emergency Order

SARA does not prescribe a duration for an emergency order. However, it does prescribe that if the competent minister is of the opinion that the wildlife species to which the emergency order relates would no longer face imminent threats to its survival or recovery, even if the order were repealed, the competent minister must make a recommendation to the Governor in Council that the order be repealed.

Principles

Best-available information

In making their opinion, the minister will use the best-available information, including scientific information and Indigenous and community knowledge.

Precautionary Principle

As set out in the preamble of SARA, the minister's opinion is to be guided by the principle 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 wildlife species should not be postponed for a lack of full scientific certainty.

Timeliness

The department will provide timely analysis and advice to the minister, balancing the emergency nature of the provision with the need to ensure that advice to support a ministerial decision is evidence-based.

Transparency

The department will support transparency of decision-making under the emergency provisions by: conducting consultations; publicly communicating ministerial decisions; and posting imminent threat assessments to the Species at Risk Public Registry.

UN Declaration Act, Duty to Consult and Honour of the Crown

The exercise of authorities related to the emergency provisions of SARA will be guided by the *United Nations Declaration on the Rights of Indigenous Peoples Act*, the constitutional duty to consult, the Honour of the Crown, and Aboriginal and Treaty Rights, aiming to avoid, minimize, or otherwise accommodate potential impacts.

Additional Information

Under SARA, various types of documents are required to be published. Documents relating to the administration of SARA are published in the [Species at Risk Public Registry](#). Imminent threat assessments and ministerial opinions formed pursuant to this policy are posted on the Registry. Information on scientific assessments, status, recovery documents and other information for individual species can be found on the Registry through [the species search function](#).

The Environment and Climate Change Canada [Data Catalogue](#) provides a one-stop solution to describing, publishing, and discovering the department's environmental and scientific data, including the [Critical Habitat for Species At Risk national data set](#).

For further information, please consult the Species at Risk Public Registry or contact dpeep-sarpd@ec.gc.ca.

Inquiries

Anyone requiring additional information should contact:

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