



Government
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Species at Risk Act
Policies and Guidelines Series

Species at Risk Act Guidelines

Guidelines for Permitting Under
Section 73 of the *Species at Risk*
Act



Canada 

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1. Preface

Under section 73 of the *Species at Risk Act* (SARA), the competent minister may enter into an agreement or issue a permit authorizing a person to engage in an activity affecting a listed wildlife species, any part of its critical habitat, or the residences of its individuals. These guidelines provide information to permit seekers on how to apply for a SARA permit. Permit seekers are also encouraged to refer to the [Species at Risk Act Permitting Policy](#) for clarification on the permitting provisions of the Act.

2. When to apply for a permit

Permits are required by those persons conducting activities affecting species listed on [Schedule 1](#) of SARA as Extirpated, Endangered, or Threatened, that is, activities which contravene the Act's general or critical habitat prohibitions, an Emergency Order issued under s.80 of SARA or regulations made under subs. 53, 59 or 71.

Under subsection 73(2) of SARA, permits may only be issued if the proposed activity falls under one or more of the following purposes:

- (a) the activity is scientific research relating to the conservation of the species and conducted by qualified persons;**
- (b) the activity benefits the species or is required to enhance its chance of survival in the wild;**
- (c) affecting the species is incidental to the carrying out of the activity.**

If you are unsure if your activity is prohibited, please contact your regional Environment and Climate Change Canada (ECCC), Department of Fisheries and Oceans (DFO) or Parks Canada Agency (PCA) office.

3. Where to send applications

Responsibility for implementing SARA in Canada lies with the Ministers responsible for ECCC, PCA and DFO. Each of these Ministers is referred to as a “competent minister” in SARA.

- DFO issues permits for aquatic species (as defined by SARA¹), other than species in waters found on federal lands administered by the Parks Canada Agency.
- PCA issues permits for species that occur on federal lands administered by the Agency, including species of fish (as defined by SARA) and of migratory birds.²
- ECCC is responsible for issuing permits as they relate to all listed species not described above.

The appropriate authority for consideration of a permit application therefore depends on the species affected by the proposed activity and its location.

To apply for a permit affecting an aquatic species, please visit the [SARA Permits - Department of Fisheries and Oceans website](#).

To apply for a permit for an activity affecting a species in any national park, national historic site or national marine conservation area administered by Parks Canada (protected heritage areas), please visit the [Parks Canada website](#).

For all other SARA permit applications, please use Environment and Climate Change Canada’s [SARA E-permitting System](#).

¹ SARA defines “aquatic species” as a wildlife species that is a fish, taken from the definition in s. 2 of the [Fisheries Act](#), or a marine plant, as written in s.47 of that Act.

² While the Minister of ECCC is currently responsible for the PCA, note that PCA operates separately from ECCC in fulfilling its own particular role under SARA, and it should never be assumed that information exchanged with ECCC will be automatically shared with PCA or vice versa.

It should also be noted that more than one department or agency may be involved in assessing a given project to ensure it meets the requirements of SARA (for example, when the proposed activity occurs within a national park and on adjacent lands outside of the national park which are also federal lands). In such cases, a copy of the application should be sent to each relevant department or agency.

4. Permit Application Assessment

4.1 Preconditions

Authorization to carry out prohibited activities is dependent on a finding that the preconditions set out in subs. 73(3) of SARA have been met. Permit applications will be reviewed using the best available information and a permit may only be issued if the competent minister is of the opinion that all three preconditions are met:

- (a) all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted***
- (b) all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals***
- (c) the activity will not jeopardize the survival or recovery of the species***

Further guidance on the above preconditions and the use of offsets can be obtained by contacting the regional office of the responsible department or agency.³

4.2 Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations

The *Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations* (the Regulations) establishes that permit seekers must submit an application to the competent minister in a manner and form that is satisfactory to that minister. This includes:

- Demonstrating that the purpose of the activity is one that would satisfy subs. 73(2) (i.e., activity is scientific, benefits the species or where affecting the species is incidental to performing the activity, see [Section 2 - When to apply for a permit](#));
- Demonstrating that all reasonable alternatives have been considered to reduce the impact on the species and the best solution was chosen;

³ Contact Info for Regional Contacts/Offices can be found at the following sites:

DFO: <http://www.dfo-mpo.gc.ca/species-especes/permits-permis/guidelines-directives-eng.htm>

ECCC: <http://www.sararegistry.gc.ca/default.asp?lang=En&n=7A3F641F-1>

PCA: http://www.pc.gc.ca/apps/rps/itm1-/RPSCoord_E.asp

- Demonstrating that all feasible measures will be taken to minimize the impact of the activity on the species, its critical habitat or the residences of its individuals; and
- Describing any changes that the activity may cause to the listed wildlife species, its critical habitat or the residences of its individuals, the possible effects of those changes and the significance of those effects.

The Regulations specify that the competent minister must either issue a permit or notify the applicant that the permit has been refused within 90 days following the notification, in writing, that the application has been received.⁴ The 90-day timeline will be suspended if the application is incomplete. The suspension begins on the day that the applicant is informed in writing that their application is incomplete and ends on the day the competent minister receives all the required information.

The Regulations also specify that the 90-day time limit does not apply in the following circumstances:

- Additional consultations are required, including consultations with wildlife management boards and bands under the *Indian Act* which are required by subs. 73(4) and (5) of SARA;
- Another Act of Parliament or land claims agreement requires a decision be made before a permit is issued or refused, for example, in the case of an environmental assessment;
- The terms and conditions of a permit previously issued to the applicant have not been met, for example, if required reports were not received;
- The applicant requests or agrees that the time limit not apply; or
- The activity described in the permit application is modified before the permit is issued or refused.

5. Document Checklist for SARA Permit Applications

In addition to the above required information, applicants are asked to provide sufficient information to ensure timely consideration of the applications and issuance of the permit, if appropriate. Therefore, it is recommended that the following pieces of information be included in the application:

- Applicant information:
 - Contact information of the applicant such as email address, physical address and telephone number; and
 - Qualifications of the applicant and those to whom a permit will be granted, demonstrating the necessary competency and knowledge to

⁴ It should be noted that this regulatory requirement applies only to permits issued under s.73 of SARA. Authorizations may also be issued under the permitting regime of another Act, in conjunction with the requirements of s. 74 of SARA. In the case of s. 74 permits issued by ECCC, the 90-day service standard still applies. In the case of s. 74 permits issued by DFO and PCA, service standards may differ and applicants are, therefore, encouraged to contact DFO or PCA for more information on the applicable service standard.

carry out the proposed activity, particularly if the activity is scientific research or involves the handling of wildlife species.

- Project information:
 - Names of listed species that will be affected;
 - Description, purpose (research, benefit for species, or incidental) and objective of activity;
 - Detailed location of the activity (maps, UTM coordinates, borden number for archeological sites, latitude and longitude coordinates);
 - Start and end dates; and
 - A description of: field collection methods, study techniques, project design, animal handling activities (can be supported by existing protocols or standard operating procedures).
- Supporting documentation, such as environmental assessments, industry standards, and research protocols, etc.;
- When applicable, copies of other relevant permits, authorization (e.g., provincial permits, Canadian Council on Animal Care approved animal protocols or equivalent);
- Documentation in support of the project from the Band Council, or First Nation if it takes place on a reserve or any lands managed or owned by the department of Indigenous and Northern Affairs Canada;
- Any information that the applicant may have on whether asserted aboriginal rights could be affected and any consultation/engagement work that they have done with Indigenous Peoples;
- An explanation of any uncertainty associated with the impacts of the project on the species, its critical habitat or the residences of its individuals and the effectiveness of any proposed mitigation measures.

Applicants are invited to refer to section 3.2.3 of the [Species at Risk Act Permitting Policy](#) to identify information required for demonstrating that subs.73(3) conditions have been met.

There may be occasions when the reviewing department or agency will require additional information. In this case, the applicant will be notified and the 90 day deadline will be suspended. If more than one listed species will be affected, the application must provide the relevant information for all of the species that will be affected. The level of detail required in an application will be proportional to the scope and complexity of the activity and its potential impact on the affected species, their habitat and the residences of those individuals.

6. Permit Duration

The duration of a permit would normally not exceed the length of the permit duration that is being requested by the proponent. Beyond that, the main factor in determining permit duration will be how long, in the opinion of the competent minister based on best available information, the preconditions under subs. 73(3) can continue to be met. In order to make this determination, the following factors may be taken into consideration:

- Length of the permit duration being requested;

- Duration of the activity;
- Nature and purpose of the activity;
- Current status of the species, its habitat and any broader ecological processes directly relevant to the species' survival or recovery;
- Terms of any other federal, provincial or territorial permits issued or being issued for the project;
- Status and sensitivity of the ecosystem where the activity is taking place;
- Cumulative effects of the proposed activity or other activities affecting the same species;
- Tracking or monitoring systems in place to track the impact of the activity;
- Potential effect to the species including life cycle of the species – temporal and spatial scale and capacity of the species to recover;
- Timeline alignment with other tools such as recovery strategies and action plans; and
- Reporting and monitoring conditions that allow for action based on monitoring results.

7. Terms and Conditions

SARA requires that a permit issued under s.73 contains terms and conditions necessary to protect the species, minimize the impact of the activity on the species, or to provide for its recovery. The potential impacts of the activity will inform the nature and extent of the terms and conditions. For example, some activities may have conditions requiring that the effect of the activity on the species or habitat be monitored, or provide direction on how a species should be handled during the activity itself.

As per para. 97(1)(c) of SARA, any person who fails to comply with a term or condition of a permit issued under subs. 73(1) commits an offence. Compliance promotion and enforcement activities related to terms and conditions of permits will be conducted in accordance with the compliance and enforcement policies of the responsible department or agency.

8. Amendments, Revocations and Renewals

Amendments to permits will be considered if there are no substantial changes to the parameters of the permit. Examples of changes that would normally be considered substantial are as follows:

- The purpose of the activity under subs. 73(2) has changed;
- The authorized activity under subs. 73(1) has changed;
- The activity has been moved to a new location within the species range;
- There is a proposed significant change to the permit duration;
- There are proposed changes to the timing/schedule of the activity;
- There is a proposed change in the location of the activity;
- There is an increase to the number of individuals or species being affected by the activity (increased impact on species at risk);

- There are greater impacts to the species, area or ecosystem;
- There is a change in the SARA status of the species to a higher risk category; or
- There is a change to the mitigation strategies listed in the activity.

Applicants should contact the issuing office to verify if a new permit application needs to be submitted given the changes to the proposed activity.

8.1 Amendments at the Request of the Permit Holder

In order to qualify for a requested amendment to the permit, the permit holder must demonstrate that the terms and conditions of the existing permit were effectively complied with; that the objectives set out in the permit were accomplished; and, that mitigation measures were successful. It is expected that review of amendment requests will be shorter than the standard 90 day timeline. Amendments can take two forms – administrative amendments, or scientific amendments:

- *Administrative amendments* will be issued when the changes to the parameters of the permit have negligible effect on the species, their residences or critical habitat identified in the permit and no new listed species would be affected. The review process for administrative amendments will normally be shorter when compared to a new application.
- *Scientific amendments* are required when the changes to the original permit parameters will have an effect on the species, or the residences of their individuals or their critical habitat that is more than negligible. They are also required if new information becomes available as a result of monitoring or research. In this case, a new scientific review will be required. Although the review process for a scientific amendment will normally be shorter than the 90-day review period, it will likely be lengthier than an administrative amendment.

The amendment matrix in Annex 1 outlines some parameters which would prompt an administrative or scientific amendment, or a new application.

8.2 Reviewing and revoking a permit

Under subs. 73(7) of SARA, the competent minister must review the permit if an emergency order is made with respect to the species. If the current permit no longer meets the SARA preconditions under paras. 73(3)(a) to (c), the permit may need to be revoked.

Under subs. 73(8), the competent minister may revoke a permit to ensure the survival or recovery of a species. For example, a permit could be revoked for reasons such as:

- Non-compliance of permit terms and conditions by the permit holder that could jeopardize survival or recovery of a species;
- Unexpected decline in the species, even if this change was not a result of the authorized activity; or

- New information with regards to the species is made available.

Under both circumstances, applicants will be given an opportunity to re-apply for a permit or a permit amendment if they can demonstrate that they have made changes to their activities that allow them to meet the preconditions of paras. 73(3)(a) to (c).

8.3 Notification of Amendment or Revocation by the Competent Minister

Under subs. 73(8) the competent minister may revoke or amend a permit issued under SARA to ensure the survival or recovery of a species. If the conservation status or recovery goals of a species has changed and activities being carried out could jeopardize the survival or recovery of the species, all permits authorizing the undertaking of activities that affect that species will be reviewed in order to ensure that, given the new information, the activities permitted would not jeopardize the survival or recovery of the species. The competent minister will notify existing permit holders when the Minister is considering a decision that could affect their permits.

8.4 Permit renewals

A permit may be renewed if it has not yet expired. A permit renewal should be submitted at least 30 days before the expiry of the permit. A permit may be renewed when there are little to no changes to the parameters set out in the original permit, monitoring has demonstrated that the applicant has effectively complied with the terms and conditions of that permit, that the objectives set out in the permit, as they relate to the survival or recovery of the species, were met and that the implementation of the measure taken to minimize impacts of the activity on the species or its critical habitat or the residences of its individuals were effective. The review process for renewal requests will normally be shorter when compared to a new application.

The renewal matrix in Annex 2 outlines the parameters under which a renewal could be considered.

8.5 Appeals

There is no formal appeal process set out in SARA or its regulations to challenge a decision to issue, refuse, suspend or revoke a permit. Applicants will, however, be provided with reasons as to why their application was denied, or their permit suspended or revoked. Should an applicant or permit holder wish to discuss any such decision, they may contact the [regional office](#) of the department to which they applied.

Annex 1 – Amendment matrix

Table 1 Possible Permit Amendment Situations and Implications for 90-day review period

Possible Permitting Situations	Amendment		New Application (90 day review period)
	Administrative (< 90 days to review)	Scientific (< 90 days to review)	
Change(s) to the permit holder(s) (i.e., change to company or the liable person as long as conditions to date have been met).			✓
Change(s) to the person undertaking the activity (e.g., environmental consultant) or inclusion of additional people who will be undertaking the activity. Qualifications remain the same.	✓		
Change to the purpose of the activity as described under s. 73(2) of SARA.			✓
Change to the authorized activity.			✓
Change to location of the activity (greater impact on the species).			✓
Change to location of the activity (lesser impact on the species).		✓	
Slight change to the permit duration.		✓	
Significant change to the permit duration.			✓
Greater impact to the species, area or ecosystem.			✓
Increase to the number of individuals or species at risk in the area (increased impact of the activity).			✓
Decrease to the number of individuals or species at risk in the area (decreased impact of the activity).		✓	
Change in the SARA status of the species impacted (lower risk category).		✓	
Change in the SARA status of the species impacted (higher risk category).			✓
Change in the timing/schedule of the activity.			✓
Small change to the mitigation strategies listed in the activity.		✓	
Significant change to the mitigation strategies listed in the activity.			✓

Annex 2 – Renewal Matrix

Table 2 Possible Permit Renewal Situations and Implications for 90-day review period

Possible Permitting Situations	Renewal (<90 day review)	New Application (90 day review)
Change(s) to the permit holder(s) (e.g., new corporation).		✓
Change(s) to the person undertaking the activity (e.g., environmental consultant) or inclusion of additional people who will be undertaking the activity. Qualifications remain the same.	✓	
Change to the purpose of the activity as described under subs. 73(2) of SARA.		✓
Change to the authorized activity.		✓
Change to location of the activity (greater impact on the species).		✓
Change to location of the activity (lesser impact on the species).	✓	
Slight change to the permit duration.	✓	
Significant change to the permit duration.		✓
Change to the species area/ecosystem.(higher impact).		✓
Change to the species area/ecosystem (lesser impact).	✓	
Change in the SARA status of the species impacted (higher risk category).		✓
Change in the SARA status of the species impacted (lower risk category).	✓	
Addition of new information demonstrating that the activity affects the species in a negative way.		✓
Addition of new information demonstrating that the activity affects the species in a positive way.	✓	
Change in the timing/schedule of the activity.	✓	
Small change to the mitigation strategies listed in the activity.	✓	
Significant change to the mitigation strategies listed in the activity.		✓
Increase to the number of species at risk in the area (number of species or number of individuals).		✓
Decrease in the number of species at risk in the area (number of species or individuals).	✓	