



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



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# 1. Preface

In Canada, the protection and recovery of species at risk is a shared responsibility between the provinces and the territories, and the federal government. The *Species at Risk Act* (SARA; “the Act”) provides the federal government with the statutory tools and authorities to play an appropriate role in the protection and recovery of species at risk across the country. The purposes of the 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 specific tools 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. Specifically, the Act includes two emergency provisions: emergency listing and emergency orders. The Act intends for these tools to be used as a last resort, notably in situations where the Minister has determined that a wildlife species is facing imminent threat(s) to survival (emergency listing under section 29) or to survival or recovery (emergency order under section 80).

## 2. Policy Objective

The objective of this policy is to provide consistency in the interpretation of imminent threat(s) to the survival (under section 29) and to recovery or survival (under section 80) of a terrestrial wildlife species under SARA.

## 3. Policy Statement

A terrestrial wildlife species will be determined to be facing imminent threat(s) to its survival or recovery if the threat(s) identified would render its survival or recovery highly unlikely or impossible and cannot be eliminated or mitigated without immediate intervention.

A terrestrial wildlife species will be determined to no longer be facing imminent threat(s) to its survival or recovery if the threat(s) that led to the imminent threat finding are no longer present, or the threat(s) no longer renders the survival or recovery of the species highly unlikely or impossible.

## 4. Application

This policy applies to terrestrial wildlife species under the responsibility of the Minister of Environment and Climate Change and/or the Minister responsible for the Parks Canada Agency and replaces previous draft policies or guidance regarding the emergency provisions of SARA.

This policy does not apply to how the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) may undertake an assessment as per section 28 of the Act.

## 5. Federal Legislative Context

### Emergency Listing

SARA provides that, if the Minister of Environment and Climate Change (the Minister) forms the opinion that a wildlife species is facing imminent threat(s) 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

SARA also provides that if the competent minister is of the opinion that a listed wildlife species faces imminent threat(s) to its survival or recovery, they must, after consultation with all other competent minister(s), 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 threat(s) 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.

## 6. Principles

### 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.

### Best-available information

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

### Honour of the Crown

The federal government will uphold the Honour of the Crown as well as asserted or established Aboriginal and Treaty Rights, and to the extent possible, aim to avoid, minimize, or otherwise accommodate potential impacts when exercising authorities under the relevant sections of SARA related to Emergency Listings or Emergency Orders. Where appropriate,

accommodations will be completed in accordance with the Crown's Duty to Consult and Accommodate.

## 7. Policy Interpretation

Imminent threat is a fundamental concept associated with the application of authorities for emergency listing and to inform the making or repealing of an emergency order under SARA. Key interpretations include:

### Threats

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, community, or ecosystem) in the area of interest (global, national, or subnational).<sup>1</sup>

### Imminent

Whether a particular threat is "imminent" is assessed on a case-by-case basis, guided by the considerations outlined in section 8, taking into account the nature of the threat(s) and biological considerations related to the wildlife species and its habitat.

### Recovery and Survival

Recovery and survival are interpreted as per the [Policy on Recovery and Survival](#). According to the *Policy on Recovery and Survival*, the focus of recovery is to address the increased risk to a wildlife species resulting from human activity and threats that may jeopardize the achievement of population and distribution objectives outlined in the wildlife species' recovery strategy or action plan. If a recovery strategy or action plan has not yet been prepared, the best-available information is used to determine the population and distribution objectives and what would constitute recovery for a given wildlife species.

The focus of survival is the consideration of what a species needs to persist in the long term.

### Other Definitions

Definitions found in section 2 of SARA apply to where the terms are used in this document.

## 8. Imminent Threat Assessment

Imminent threat assessment is a tool to support the application of authorities for emergency listing and emergency protection under SARA. An imminent threat assessment can inform the making of an opinion by helping to, for example, clarify the state of the best-available

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<sup>1</sup> 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.

information and knowledge of a species, the source of the threats it faces, and explores their impacts.

An imminent threat assessment can be initiated when the department of the competent minister is in possession of sufficient and credible information upon which to make an assessment of the imminent threat(s) facing the recovery and/or survival of a wildlife species. The Department will also consider the nature of the situation and the need to provide timely, well-informed advice to the competent minister, consistent with a precautionary approach.

### **Information**

The information upon which an imminent threat assessment is based should consist of best-available information on:

- The species' biology and ecological needs
- The specific nature of the threat(s) the species is facing
- The likelihood and timing of those threats
- The impacts of those threat(s) on the species.

This information can originate from various sources, including:

- A COSEWIC emergency assessment
- Recovery documents
- Scientific publications
- Unpublished scientific data or analysis
- Indigenous knowledge
- Community knowledge

### **Consultations**

SARA requires that the competent minister consult with every other competent minister for the wildlife species when forming an opinion. In addition, and to the extent possible, the department of the competent minister would make every effort to consult with the implicated provincial, territorial, or Indigenous government. To the extent possible, the department of the competent minister may also consult with the relevant Indigenous organizations, communities, and other partners and stakeholders.

### **Scope and scale**

The scope and scale of an imminent threat assessment will be proportional to the nature of the threat. An imminent threat assessment can focus on specific areas, sub-populations, or ranges<sup>2</sup> of a wildlife species. For example, an imminent threat assessment may be undertaken in cases

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<sup>2</sup> The local, subpopulation or range level should, to the extent possible, align with how the wildlife species' population distribution objectives are defined in the relevant Recovery Strategy. If no Recovery Strategy has been developed for the wildlife species, the best-available information is used.

where the threat(s) being assessed is/are limited to a specific geographic area or where their impacts have been limited to certain sub-populations. In such cases, the imminent threat assessment will seek to determine whether the impacts of the threat(s) at a local or subpopulation level are likely to render recovery or survival of the wildlife species as listed under Schedule 1 of SARA highly unlikely or impossible.

In addition, the imminent threat assessment can assess the impacts of one threat or cumulative impacts from multiple threats, as relevant.

### **Considerations**

The answers to the following questions are key considerations in supporting the Minister in forming an opinion on whether a wildlife species is facing imminent threat(s):

1. Is the wildlife species facing a new or evolving human-induced threat(s) or is the impact of an existing human-induced threat intensifying?
2. Will the impact of the threat(s) 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(s) require immediate intervention beyond existing protection measures?

## **9. Measures to Address the Imminent Threat**

Where the Minister determines that a wildlife species is facing imminent threats to its recovery or survival, the Department will support the Minister in fulfilling their obligations under the Act. In addition, the Department will provide advice to the Minister on appropriate measures to implement to address the threats. These can include conservation and protection measures in collaboration with provincial, territorial, and municipal governments, Indigenous governments and organizations, and other conservation partners to address the imminent threat(s).

*Provincial/territorial measures:* Best efforts will be made to engage with the government(s) who have jurisdiction over the wildlife species in question and/or authority over regulating activities that are causing the threats to the wildlife species, to ensure that they are provided the opportunity to implement appropriate measures within their authority to address those threats.

*Collaborative agreements:* Consideration will be given to whether there is an opportunity to establish collaborative agreements that include measures and activities to address the imminent threat(s) with the responsible jurisdiction(s), Indigenous governments and organizations, and/or other partners or stakeholders. These can include, but are not limited to, funding agreements or conservation agreements under SARA.



*Other relevant provisions of SARA:* Consideration will be given to whether there are other tools within the scope of the Minister's authority, including under SARA or another Act of Parliament, which may be appropriate or effective for addressing the threats.

## **10. Re-assessment to Inform the Repeal of an Emergency Order**

If the department of the competent minister's opinion is in possession of sufficient and credible information indicating that the wildlife species would no longer face imminent threat(s) to its recovery or survival, even if the order were repealed, the department would undertake a re-assessment of the scientific analysis that led to the recommendation for the emergency order (as per section 8 above). The re-assessment would help inform the competent minister's new opinion, which could lead to a recommendation to the Governor in Council to repeal the order.

A key consideration in the re-assessment is whether measures equivalent to the emergency order have been implemented to address the imminent threat(s), 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.

## **11. Monitoring and Reporting**

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

This policy may be updated periodically to ensure it continues to meet its objectives. Public reporting on the implementation of this policy will be done through the SARA Annual Report.

## **12. Additional Information**

Imminent threat assessments and Ministerial opinions formed pursuant to this policy are posted on the [SAR Public Registry](#).

For further information, please consult the Species at Risk Public Registry or contact [dpeep-sarpd@ec.gc.ca](mailto:dpeep-sarpd@ec.gc.ca)