

# **AAMDC Submission to Environment and Climate Change Canada Species at Risk Policies**

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Partners in Advocacy & Business

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## INTRODUCTION

The Alberta Association of Municipal District and Counties (AAMDC) is a provincial association that represents Alberta's rural municipalities which include 64 municipal districts and five incorporated specialized municipalities. Together, AAMDC members cover 85% of Alberta's land mass and represent 18% of Alberta's population. Through proactive leadership, strategic partnerships and effective advocacy, the AAMDC works to build strong, vibrant, and resilient communities.

A balanced approach is needed to consider the broad economic, social and environmental impacts of implementing policies under the *Species at Risk Act* (SARA). Mandatory consultation and dialogue with municipalities and impacted landowners regarding SARA policies needs to be strengthened to understand the associated social, economic, and environmental impacts.

Enabling a collaborative and cooperative process will better support the intent of protecting species and habitat and promote understanding between parties. Cooperative agreements are a preferred method to addressing protection in comparison to regulatory action.

Rural municipalities are stewards of the land, and environmental consideration is a high priority for all AAMDC members. Natural resource extraction and agriculture are important contributors to Alberta's economy. All levels of government must balance the need for increased environmental protection with community viability when developing policy and regulations.

The livelihoods of many rural and remote residents are linked to activities on their lands and conservation and species protection efforts, including those under SARA, have the potential to negatively impact the ability of landowners to maintain their livelihoods. The Government of Canada should consider this when designing habitat protection plans.

For each of the draft Species at Risk policies, the following two key questions will be considered:

1. Is the policy clear and understandable?
2. What concerns or recommendations regarding these policies are being made?

### 1. POLICY ON CRITICAL HABITAT PROTECTION ON NON-FEDERAL LANDS

Critical habitat is defined in the *Species at Risk Act* (SARA) as "the habitat that is necessary for the survival or recovery of a listed wildlife species and that is identified in a recovery document for the species." The purpose of the policy is to determine factors guiding the assessment of whether existing laws and measures protect critical habitat that has been identified on non-federal lands, and actions that must be taken following completion of the assessment.

- Is the policy clear and understandable?

The policy is clear and understandable.

- What concerns or recommendations regarding these policies are being made?

AAMDC appreciates that the draft policy on Critical Habitat Protection on Non-federal land includes consultation of municipalities and other stakeholders; however, consideration of socio-economic and ecological impacts be incorporated into the consultation process. It is essential that this consultation occur early and throughout the process and input received be reflected in any resulting protection measures.

## **2. SPECIES AT RISK ACT PERMITTING POLICY**

The SARA permitting policy deals with instances where the Minister responsible for the administration of the SARA may issue a permit to a person that will allow them to engage in an activity that affects a listed wildlife specifically, any part of its critical habitat, or where the species resides. Permits may be issued if they are for scientific purposes, benefit the species, or if the activity is considered 'incidental,' meaning that the effect that the activity has upon the species is not the purpose of the activity. One such way permits can be secured is through the application of 'offsets' to the wildlife species habitat. Such offsets must be sustainable and must be a net-positive to the species.

- Is the policy clear and understandable?

Additional clarity is required as to when 'incidental' activity is justification for issuing a permit. For municipalities, none of their activities are aimed to affect a wildlife species at risk. For instance, where industrial development is proposed, greater clarification is needed when such projects satisfy the SARA.

- What concerns or recommendations regarding these policies are being made?

The policy, as outlined, does not provide timelines to secure permits. Municipalities in Alberta operate in a relatively short construction season and permits to develop projects that align with the goals of the SARA should be acquired in a timely manner.

In cases where there are conflicting interests and priorities, the rational for decisions must be clearly and publicly articulated. Recovery plans, protection orders and permitting decisions must be based on field research and not solely rely on computer models to ensure they reflect the reality of local landscapes.

## **3. POLICY ON PROTECTING CRITICAL HABITAT WITH CONSERVATION AGREEMENTS UNDER SECTION 11 OF THE SPECIES AT RISK ACT**

Section 11 of the SARA allows the Minister responsible for implementing SARA to enter into a conservation agreement to benefit a species at risk or to enhance its survival in the wild. The agreement must be consistent with the SARA and may include action to protect the species habitat.

- Is the policy clear and understandable?

The policy is not clear or specific to what types of conservation measures are allowable to protect the species habitat. Additionally, a distinction is made between the *Policy on*

*the Protection of Critical Habitat on Non-Federal Lands* but it is not clear to what lands this specific policy applies to.

- What concerns or recommendations regarding these policies are being made?

There should be flexibility in working with landowners to protect portions of land related to section 11 to balance the environmental, economic, and social impacts to landowners. It is recommended that conservation agreements be voluntary and for a limited term, and financial compensation should be provided to impacted landowners as incentive for entering these agreements.

The lands in which a conservation agreement applies would be considered federally-protected, but there is no stated assurance that landowners will not be subject to further actions or onerous activities, such as environmental protection orders.

The larger impacts of conservation of lands needs to be considered. Recognizing that conservation efforts may result in local economic impacts due to reduced access for land-use and industry activity, consideration of the broader economic impacts on the region and province is needed. It is recommended that a federally funded compensation program be developed to support landowners who are negatively impacted through the loss of use of their land for conservation purposes.

#### **4. POLICY ON SURVIVAL AND RECOVERY**

The terms “recovery” and “survival” are used frequently throughout SARA, but these terms are not defined in the Act. This policy explains these terms and establishes criteria for applying them, specifically as they relate to the determination and feasibility of recovery. This policy replaces related guidance in the Draft SARA Policies (2009).

- Is the policy clear and understandable?

The policy is clear and understandable.

- What concerns or recommendations regarding these policies are being made?

The AAMDC encourages the federal government to consult with municipalities in areas where determinations of recovery are feasible to ensure that objectives are clearly understood, and that cumulative impacts of recovery strategies are considered. The AAMDC appreciates that the draft Policy recognizes that species may naturally shift their range over time to respond to changing conditions.

#### **5. POLICY REGARDING THE IDENTIFICATION OF ANTHROPOGENIC STRUCTURES AS CRITICAL HABITAT UNDER THE *SPECIES AT RISK ACT***

This policy deals with the reality that some SARA species are dependent on human constructed or maintained structures. If a given structure is necessary for the survival or recovery of the listed wildlife species, such structures can be identified as critical habitat. This is completed after an assessment of the structure and whether it is in fact critical habitat to the species. If it is

deemed critical, the structure will be identified in the recovery document with a rationale for its inclusion. With respect to the operation, maintenance, or modification of existing anthropogenic structures, the federal government is expected to work with the owners and managers of said structures to achieve compliance under SARA and promote species recovery.

- Is the policy clear and understandable?

The extent to which owner or managers of the structure are responsible for the required upkeep and maintenance of the structure is not clear.

Further, no process is identified for if the structure is destroyed (e.g. wildfire) and what additional steps are required at that point.

- What concerns or recommendations regarding these policies are being made?

There should be a clear process to identify and work with the owners and managers of the structure throughout the assessment of the structure as a critical habitat, and through the development of the recovery document. Concerns regarding liability, health and safety, and costs to structure owners associated with the implementation of this policy need to be clarified.

## **6. APPROACH TO THE IDENTIFICATION OF CRITICAL HABITAT UNDER THE *SPECIES AT RISK ACT* WHEN HABITAT LOSS AND DEGRADATION IS NOT BELIEVED TO BE A SIGNIFICANT THREAT TO THE SURVIVAL OR RECOVERY OF THE SPECIES**

This policy is in response to situations where critical habitat loss or degradation is *not* believed to be a significant threat to the survival or recovery of the species. In these instances, critical habitat should be identified for proactive purposes but the recovery efforts should focus on the primary threats to the species (e.g. disease or harvest).

- Is the policy clear and understandable?

The policy is clear but appears unnecessary.

- What concerns or recommendations regarding these policies are being made?

There is concern that the identification of critical habitat for proactive purposes would unnecessarily restrict land use activities. It is recommended that the federal government instead focus solely on the primary threats to the species and utilize the policy on protecting critical habitat when appropriate.

## **7. LISTING POLICY FOR TERRESTRIAL SPECIES AT RISK**

The *Listing Policy For Terrestrial Species At Risk* outlines the process through which a wildlife species is placed on the List of Wildlife Species at Risk (also known as Schedule 1 or the List). The approving authority for this process is the Governor in Council (Cabinet). The Policy outlines the process for listing which starts with an assessment from the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). Once the assessment is completed, the

relevant federal departments are required to complete an analysis and the Minister of Environment is required to provide a response to the assessment to either proceed towards listing or not. The relevant departments then consult based on that decision and the recommendation is taken to the Governor in Council where they may either list the species, not list the species, or refer the species back to COSEWIC for further assessment.

- Is the policy clear and understandable?

The policy is clear and understandable.

- What concerns or recommendations regarding these policies are being made?

Given the local governments are the level of government most frequently and significantly impacted by a Schedule 1 listing, there should be specific requirements that local governments, along with provincial and territorial governments, be consulted as part of the listing process. Further, the local and provincial socio-economic impacts of listing a species must be considered. To improve clarity of the process for reviewing species once listed, a clearly communicated process that includes a schedule of timelines for species review is needed.