

Attachment E: Proposed Guidance and Regulations to Enable Implementation of the Species Conservation Act

Proposed Guidance/Regulation	Description
<p>General guidance to support implementation of the Species Conservation Act</p>	<p>The government is proposing guidance materials to assist in assessing whether an activity is likely to have an impact to a protected species or species' habitat such that a registration or permit would be required. The proposed new guidance will aim to update and replace the existing ESA policies and technical direction on species and habitat protection. The Ministry is considering including the following information in the guidance:</p> <ul style="list-style-type: none"> • guidance on key concepts • guiding principles and considerations (such as activity-related details and a species' biological factors) • public sources of information about protected species locations, and • other information to support the identification and delineation of habitat as it is defined under the SCA, including habitat guidelines for specific groups of species (such as turtles, snakes, birds, fish, plants, and bats). <p>The draft guidance is still in development. At this time, the government is inviting input on:</p> <ul style="list-style-type: none"> • specific aspects of the previous policies and technical direction that you would suggest retaining, updating, or removing • which components of the proposed guidance would be of greatest interest or value to you or your organization • which species groups would most benefit from detailed habitat guidance • any other advice or feedback you would like to share about guidance that would be helpful
<p>Proposed Protected Species in Ontario List Regulation</p>	<p>This proposed regulation would list approximately 169 species to be protected under the SCA and set out the classifications assigned to each by the Committee on the Status of Species at Risk in Ontario (COSSARO), i.e., extirpated, endangered, or threatened.</p> <p>The proposed list of protected species includes all of the species currently listed on the Species at Risk in Ontario List (O. Reg. 230/08), excluding those that the SCA would not apply to. Four species which had not been previously assessed and were newly classified as threatened or endangered in COSSARO's 2024 Annual Report are also proposed to be added to the list. The list will also be updated to reflect changes in classification for two species based on the 2024 COSSARO reports.</p> <p>Species currently listed on the Species at Risk in Ontario List that will not be listed in the proposed regulation include:</p>

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	<ul style="list-style-type: none"> • 64 species classified by COSSARO as special concern (Special Concern species are not subject prohibitions under the ESA) • 42 aquatic species (fish and mussels) and migratory bird species listed as extirpated, endangered or threatened under the federal Species at Risk Act. This removes duplication for species already receiving protections federally. Activities impacting these species will still need to comply with the following federal legislation: the Species at Risk Act, the Fisheries Act, and the Migratory Birds Convention Act, 1994
<p>Proposed Registration Regulation</p>	<p>The proposed regulation would set out rules and conditions that must be met in order to conduct an activity in compliance with the Act. Rules and conditions may be activity or species specific, and may include requirements related to impacts to a species' habitat, including:</p> <ul style="list-style-type: none"> • taking actions to avoid impacts • taking actions to minimize adverse impacts • taking actions to mitigate lasting impacts • documenting actions in a conservation plan • conducting monitoring and preparing monitoring reports <p>The proposed regulation will set out common requirements that must be met for all (or most) registerable activities and specific requirements that may apply for certain activities depending on the impacted species and/or habitat, or severity of impacts.</p> <p>Common Requirements</p> <p>Individuals undertaking registerable activities impacting species would be required to register activities to an online registration system to provide details such as:</p> <ul style="list-style-type: none"> • who is undertaking the activity • what the activity is • where and when the activity will occur • which species may be impacted • the extent of any species' habitat impacted <p>Registrants may be required to work with qualified professionals to develop site-specific conservation plans that include actions to avoid or reduce impacts on species and their habitats. This may include carrying out activities outside of sensitive timing windows and site-specific steps to avoid, minimize or mitigate impacts.</p>

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	<p>Specific Requirements</p> <p>Additionally, specific requirements may apply for certain activities depending on the impacted species and/or habitat, or the severity of the impacts, such as:</p> <ul style="list-style-type: none"> • activities involving impacts to unhealthy Butternut or Black Ash trees • the operation of infrastructure that may pose a considerable risk of impact to species or species habitat • projects funded through the Species Conservation Program • activities undertaken in response to a non-imminent threat to human health or safety <p>Additional conservation actions may be required in specific circumstances to mitigate lasting impacts. These may include:</p> <ul style="list-style-type: none"> • creating, enhancing, or restoring species' habitat • mitigating long-term impacts to local species' populations • supporting key research priorities and projects
<p>Proposed Permit Regulation</p>	<p>This regulation will set out activities that would require a permit before proceeding. These activities would not be eligible to proceed by way of a registration. The Minister has the discretion not to issue any specific permit.</p> <p>Certain activities are being considered for inclusion in the permit regulation, including:</p> <ul style="list-style-type: none"> • killing a protected animal species (e.g., mammal, fish, reptile) if the activity is not already subject to an exception (e.g. threats to human health and safety) or eligible for registration (e.g. euthanasia for rabies testing) • introducing or reintroduction of most protected species to an area where it does not currently occur
<p>Proposed Exception Regulation</p>	<p>This regulation will set out activities that may proceed without being registered or obtaining a permit. The Ministry is proposing to retain the exceptions currently set out O. Reg. 242/08 made under the ESA, with the following exceptions:</p> <ul style="list-style-type: none"> • exemptions under O.Reg. 242/08 that are spent or relate to species that will not be protected under the SCA • stewardship activities are to be included in the proposed registration regulation

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<p>Proposed Transition Regulation</p>	<p>This proposed regulation will detail how activities commenced under instruments or conditional exemptions under the ESA would transition to the SCA.</p> <p>The Ministry is proposing that a person engaging in an activity authorized under a permit, agreement, or subject to a conditional exemption that required giving notice through the Registry would be able to continue that activity subject to the requirements that were applicable under the ESA.</p> <ul style="list-style-type: none"> • the definition of habitat that was in place at the time the permit was issued, the agreement was entered into, or the registration was confirmed would apply • the conditions of the permit, agreement, or registration exemption regulation would continue to apply to the extent that the impacted species to which the conditions apply is subject to the SCA <p>The Ministry is also proposing to allow persons to seek the cancellation of certain permits, agreements, and registrations and proceed under a new registration or permit under the SCA in certain circumstances.</p> <p>Changes to an activity that would result in impacts to a new species would require a new registration or new permit under the SCA. Specific to registrations transitioned from conditional exemptions under the ESA, we are proposing that only administrative amendments would be allowed after December 31, 2026.</p> <p>Orders and other instruments under the ESA would have similar transition rules.</p>