

Ontario to Overhaul Its Endangered Species Protection Laws



The Ontario government says it will cut red tape by speeding up and streamlining the regulatory process for granting environmental approvals. Critics say it will gut environmental protections and invite endangered species to a “slaughterfest.” The one thing on which both sides agree is that newly introduced Bill 5, the *Protect Ontario by Unleashing our Economy Act, 2025*, will totally change the way the province protects endangered species. Here are the 6 things Ontario EHS directors need to know about the law.

1. No More Provincial Protection for Species Protected by Federal Law

Under the current system, businesses pursuing projects that might impact endangered species and their habitat must get separate regulatory approval under both the Ontario *Endangered Species Act* (ESA) and the federal *Species at Risk Act* (SARA). Bill 5 proposes to eliminate this duplication by eliminating the need for provincial approval of projects affecting certain aquatic species and migratory birds that are also protected under SARA. Critics worry that unlike the ESA, SARA wasn’t created for the specific conditions of Ontario.

2. Narrower Definition of “Habitat” Protected by the Law

The Bill 5 plan is to first overhaul and then totally replace the ESA with a different law called the *Species Conservation Act* (SCA) whose stated purposes would include not just protecting species at risk but also enabling sustainable economic growth. To balance those seemingly competing interests, the SCA would narrow the definition of a “habitat” requiring protection. The ESA defines “habitat” as including all areas that the species relies on for living, gathering food, migrating, hibernating, and reproducing. The SCA limits that definition to “a dwelling place . . . for breeding, rearing, staging, wintering, or hibernating” and the immediate area while omitting areas the species uses to find food.

3. End of Ban on Harassing At-Risk Species

The ESA makes it illegal to “kill, harm, harass, capture, or take a living member” of an at-risk species. Bill 5 proposes to omit the word “harass” from that list of prohibited activities. While “harass” isn’t specifically defined in the ESA or its regulations, taking “harass” off the bad list is clearly going to reduce protections.

4. Online Registration Instead of Permits

One of the most significant and controversial changes involves the regulatory approval process. Under the current ESA system, developers of projects that threaten at-risk species or their habitat must apply for permits. The government then assesses the project’s environmental implications in deciding whether to grant the permit and the conditions to incorporate into it

to minimize environmental risk. The SCA would replace permitting with a new registration-first process requiring only that developers register with the government by completing an online form. Once registration is completed, developers may start work on the project. Replacing permits by clicks is a “developer’s dream and an environmental nightmare,” environmental groups complain.

5. Government Discretion to Change the SARO List of Protected Species

The ESA protects species included on the Species At Risk in Ontario (SARO) list. Under current rules, a body of independent experts called the Committee on the Status of Species at Risk in Ontario (COSSARO) decides which species go on the list and whether to classify them as extirpated, endangered, or threatened. The operative word in the previous sentence is “independent,” as in independent from the government. Bill 5 would keep COSSARO in place but compromise its independent authority by giving the provincial government discretion to add or remove species from the SARO list.

6. Species Recovery Plans No Longer Mandatory

The ESA currently requires the government to create a plan to recover the population of a species designated as being at risk. In other words, the purpose of the law is to not only protect but restore threatened species. Bill 5 eliminates that requirement. Thus, while the government will still be allowed to establish recovery plans, it won’t be required to do so.

Takeaway & Timeline

The government will be accepting public comments on Bill 5

until May 17, 2025. It may revise the Bill in response to the feedback. It's a pretty good bet that some version of the Bill will pass the Assembly this year. The Ministry of Environment, Conservation, and Parks will likely create regulations to flesh out the new rules, which will then be phased in 2 stages some time in 2026.