



# Species at Risk and other protected wildlife



# Overview

- Significant changes to key legislation for wildlife, with implications for EIS:
  - Provincial Endangered Species Act, 2007 underwent 10-year review in early 2019
  - Administration of ESA fully transitioned from MNRF to MECP (as of April 1, 2019)
  - Fisheries Act changes as of August 2019
- Migratory Birds Convention Act
  - Bonus topic: Bird-Safe Design Guidelines

# Endangered Species Act

- All inquiries go to [SAROntario@ontario.ca](mailto:SAROntario@ontario.ca)
- Listing process revised
  - COSSARO reports to be submitted in January of each year (still waiting for 2018/2019)
  - Minister may send species back for review
  - Legal status changes within 12 months (not 3)
  - Protections may be delayed (up to 3 years)



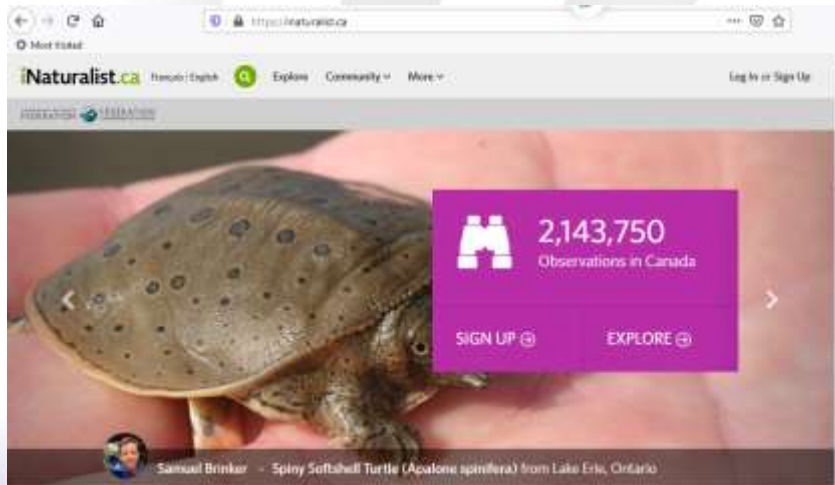
# ESA screening process

- MECP has issued draft guidelines for ESA preliminary screening process
  - Due diligence required prior to contacting MECP for determination regarding project
  - UTM coordinates preferred (note: street address preferred by most municipalities)

To provide the most efficient service, clients should initiate species at risk screenings and seek information from all applicable information sources identified in this guide, at a minimum, prior to contacting Government of Ontario ministry offices for further information or advice.

# ESA screening process

- Sources of information on SAR\*\*\*
  - Provincial datasets (LIO, NHIC)
  - Citizen science (eBird, iNaturalist, etc.)
  - Local agencies, other knowledgeable groups
  - **Site visits by qualified professionals**
  - Emerging technology and other tools



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# ESA screening process

- Guidance for impact assessment
  - Provincial toolbox of resources for habitat categories, harm and harassment, avoidance and mitigation, overall benefits...

<https://www.ontario.ca/page/species-risk-guides-and-resources>

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## Species at risk guides and resources

Standards, guidelines, reference materials and technical resources related to the *Endangered Species Act* and its regulations.

# ESA screening process

Once you've done your homework (i.e., completed the EIS) and contacted MECP:

**Option A:** Ministry staff may advise the client they can proceed with their activity without an authorization under the ESA where the ministry is confident that:

- no protected species at risk or habitats are likely to be present at or near the proposed location of the activity; or
- protected species at risk or habitats are known to be present but the activity is not likely to contravene the ESA; or
- through the adoption of avoidance measures, the modified activity is not likely to contravene the ESA.

**Option B:** Ministry staff may advise the client to proceed to Phase 1 of the overall benefit permitting process (i.e. Information Gathering in the previous diagram), where:

- there is uncertainty as to whether any protected species at risk or habitats are present at or near the proposed location of the activity; or
- the potential impacts of the proposed activity are uncertain; or
- ministry staff anticipate the proposed activity is likely to contravene the ESA.

# Other ESA authorizations

- Some types of project, or impacts to species, can still be registered instead
  - Circumstances and requirements are established through regulations





# Species of Special Concern

- Listed but not protected under ESA
  - Most (not all) are protected under Fish & Wildlife Conservation Act, Fisheries Act, and/or Migratory Birds Convention Act
  - Potential for Significant Wildlife Habitat



# Municipal Approvals

- Municipal staff need to be kept informed about ESA and Fisheries Act processes
  - PPS requires that municipal decisions be made in accordance with requirements of ESA (and/or SARA) and Fisheries Act
  - Typically this means applying conditions of approval or other mechanisms to secure proof of compliance with legislative requirements
  - Severances and land use changes can be problematic due to lack of direct physical impacts (ESA issue)

# Permits and Compensation

- Municipal staff need to be involved
  - Proponents should not assume that compensation can be achieved on public lands
  - Ongoing maintenance of physical works required for compensation must be accounted for (e.g., turtle fences)
- SAR Conservation Trust
  - Proposed new provincial compensation banking approach introduced through 10 year review

# Migratory Birds

- MBCA protects most (not all) species of birds and their nests
  - Incidental take prohibited – no permits
  - Timing windows used to avoid impacts (but birds do not use calendars)



# Bird-Safe Design Guidelines

- City is developing draft guidelines for review and approval in 2020
- Based in large part on CSA A460:19
- Covers buildings, other structures, landscaping and lighting

