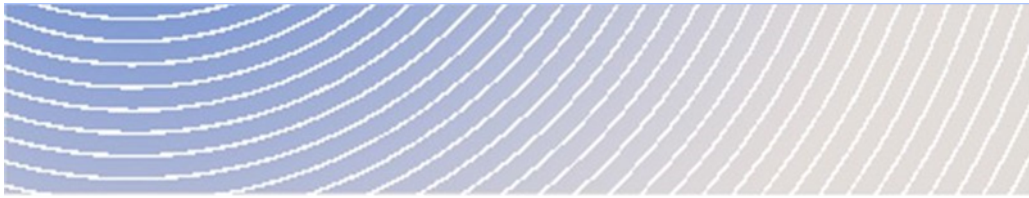


Permitting Plan



NORTHERN ROAD LINK PROJECT

AUGUST 18, 2023



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1. Introduction

On May 23, 2023, the Impact Assessment Agency of Canada (the Agency) determined that an impact assessment is required for the Northern Road Link Project (the Project) pursuant to Section 16 of the *Impact Assessment Act*.

This permitting plan was developed by the Agency to outline the federal permits, licences and authorizations (regulatory instruments) that may be required for the Project should the Minister of Environment and Climate Change issue a decision statement to Marten Falls First Nation and Webequie First Nation (the proponent) with enforceable conditions, to allow the project to proceed.

The Agency may revise a permitting plan during the impact assessment process to incorporate new information or advice from the proponent, regulators, jurisdictions or other participants in the process, and to accommodate any changes with respect to the project that may occur during the assessment.

2. Project Description

Marten Falls First Nation and Webequie First Nation are proposing the construction and operation, including maintenance, of an all-season multi-use road located in northern Ontario. As proposed, the Northern Road Link Project would be about 117 to 164 kilometres long and cross the Attawapiskat River. It would connect the proposed Marten Falls Community Access Road and the proposed Webequie Supply Road. The Project would become part of a future all-season road network connecting mineral development activities in the Ring of Fire area to the provincial highway system at Nakina, Ontario.

3. Required Regulatory Instruments Identification and Justification

Based on the [Detailed Project Description](#) submitted to the Agency by the proponent on May 1, 2023, and information provided by federal authorities, five^{1,2} regulatory instruments may be required for the

¹ There are currently no Schedule 1 aquatic species at risk (Endangered or Threatened) that are anticipated to be affected by the Project. Lake sturgeon are currently listed as Special Concern. Should the status of lake sturgeon change to Endangered or Threatened, or should another aquatic species at risk be identified within the project vicinity including Critical Habitat, a *Species at Risk Act* (SARA; sections 73 and 74) authorization may be required.

² Based on current project information, SARA permits for terrestrial species likely will not be required, given there is no federal land, and currently no order in place to bring prohibitions into effect on non-federal land, within the project area. However, it may be possible that a SARA permit could be required should chimney swifts nest or roost in the project area. As a migratory bird, residences (nests and roosts) of this species are protected year-round under SARA wherever they occur. The proponent should contact Environment and Climate Change Canada regarding potential SARA permitting requirements, if chimney swift



Project, should the Minister issue a Decision Statement to the proponent allowing the Project to proceed. These instruments would be issued under the *Fisheries Act*, the *Canadian Navigable Waters Act*, the *Explosives Act* and the *Species at Risk Act* (SARA).

3.1 Authorization under paragraphs 34.4(2)(b) or 35(2)(b) of the *Fisheries Act*

An authorization under paragraphs 34.4(2)(b) and 35(2)(b) of the *Fisheries Act* may be required for proposed works, undertakings or activities that could result in the death of fish or harmful alteration, disruption or destruction of fish habitat.

3.2 Approvals under the *Canadian Navigable Waters Act*

The *Canadian Navigable Waters Act* (CNWA) prohibits the construction or placement of any works in a navigable waterway that may interfere with the public right to navigation without complying with the requirements of the CNWA.

An approval is required for any major work on navigable waters, whether listed or not in the Schedule to the CNWA (paragraph 5(1)(a)). An approval is required for a work, other than a minor work (subsection 4(1)), on navigable waters listed in the Schedule (paragraph 5(1)(b)). A work, other than a major work or minor work, on a navigable water body that is not listed in the Schedule to the CNWA, requires either an approval (paragraph 10(1)(a)) or a public notice and a deposit of information (paragraph 10(1)(b)).

An exemption from the Governor in Council (section 24) is required for the deposit of stone in navigable waters or in a watercourse flowing through navigable waters (section 22) and for the dewatering or lowering of water levels in navigable waters (section 23).

3.3 License for explosives and magazines under subsection 7(1) of the *Explosives Act*

Explosives storage, primarily for the development of aggregate pits and bedrock quarries, are proposed for this project. Surface magazines at mine sites or quarries are licensed by the Ministry of Labour in Ontario, as is the use of explosives. Magazines in other locations are licensed by Natural Resources Canada (NRCan) under subsection 7(1)(a) of the *Explosives Act*.

3.4 Authorization under Paragraph 73(1) of the *Species at Risk Act*

A permit is required by those persons that conduct project activities affecting species listed on Schedule 1 of SARA as Extirpated, Endangered, or Threatened, and which contravene the SARA prohibitions where they are in force. The project activities include, but are not limited to: species surveys, site preparation, construction of temporary and permanent works and infrastructure, activities

residences may be destroyed during any of the proposed project activities. Furthermore, prohibitions may come into force on land other than federal land pursuant to orders or regulations under SARA. It is possible that further prohibitions may come into force in the future through orders in Council for individuals, residences and/or critical habitat on non-federal lands.



that create sensory disturbances (e.g., noise, artificial lighting, vibration, vehicular traffic), vehicular traffic during all project stages, creation of new roads, rail lines or powerlines, infilling of wetlands and watercourses, and any monitoring that requires capture or release of individuals.

3.5 Permit for use of Indigenous Lands under the *Indian Act*

If the proponent intends to use resources from or occupy reserve lands, such as sourcing aggregate for road construction or maintenance, permitting under the *Indian Act* may be required. For further information, please contact the Ontario regional office of Indigenous Services Canada:

Indigenous Services Canada

Tel: 807-623-3534

Fax: 807-623-3536

Email: aadnc.infopubs.aandc@canada.ca

4. Information on Required Regulatory Instruments

4.1 Authorization under paragraphs 34.4(2)(b) or 35(2)(b) of the *Fisheries Act*

4.1.1 Description

This authorization is the responsibility of Fisheries and Oceans Canada (DFO).

Subsection 34.4(1) of the *Fisheries Act* prohibits the carrying on of any work, undertaking or activity, other than fishing, that results in the death of fish. Under paragraph 34.4(2)(b) of the *Fisheries Act*, the Minister of Fisheries and Oceans may issue an authorization with conditions relating to the carrying on of the work, undertaking or activity that results in death of fish.

Subsection 35(1) of the *Fisheries Act* prohibits carrying on any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat. Under paragraph 35(2)(b) of the *Fisheries Act*, the Minister of Fisheries and Oceans may issue an authorization with conditions relating to the carrying on of the work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat.

The Fish and Fish Habitat Protection Program from DFO ensures compliance with the provisions of the *Fisheries Act* and SARA. The program considers any proposed work, undertaking or activity that may result in adverse effects on the fish and its habitat.



4.1.2 Regulatory process

4.1.2.1 Application submission

The proponent must first request from DFO, a review of the Project using the Request for Review form, available on DFO's [Request a review of your project near water](#) website. This request can be made as soon as sufficient information is known regarding how the proposed project may affect fish and fish habitat. Following review, DFO will make a decision whether an authorization under the *Fisheries Act* will be required and will instruct the proponent to submit the appropriate application.

An authorization will be required if DFO considers that the Project may result in the death of fish (paragraph 34.4(2)(b)) or in harmful alteration, disruption or destruction of fish habitat (paragraph 35(2)(b)). In order to seek an authorization, the proponent must submit an application to the Minister of Fisheries and Oceans in accordance with the *Authorizations Concerning Fish and Fish Habitat Protection Regulations* (hereafter the Fish and Fish Habitat Regulations). This application is transmitted to the relevant regional office of DFO.

4.1.2.2 Application analysis and consultation

Once an application for authorization is received, it is reviewed to ensure the information and documentation are complete. The information and documentation that must be submitted in an application for authorization are laid out in Schedule 1 of the Fish and Fish Habitat Regulations. Among others, the following information is required when submitting an application:

- description of proposed work, undertaking or activity;
- phases and schedules;
- location (maps);
- description of fish and fish habitat (aquatic environment);
- description of effects on fish and fish habitat;
- measures and standards to avoid or mitigate death of fish or harmful alteration, disruption or destruction of fish habitat;
- residual death of fish or harmful alteration, disruption or destruction of fish habitat after the implementation of avoidance and mitigation measures;
- offsetting plan (if required);
- summary of public and Indigenous engagement activities; and
- financial guarantees to cover the cost for the implementation of the offsetting plan.

A decision as to whether the information is complete must be issued within 60 days of receipt of the application. If the application is incomplete or inadequate, the applicant will be informed and provided an opportunity to provide the information or documentation to complete the application. Once the application is deemed complete and adequate, the applicant will be notified.

4.1.2.3 Regulatory decision

The authorization decision under the *Fisheries Act* is made during the 90-day period following the notification that the application is complete and adequate. The process for reviewing the application can be ceased under certain circumstances, which may include: awaiting the outcome of other federal requirements, such as a federal impact assessment; addressing requirements under SARA; consultation with Indigenous Peoples relative to the potential effects of the authorization decision on



Aboriginal and treaty rights; and if additional or amended information is required to make the decision. Therefore, this decision can only be made after the Minister's Decision Statement relative to the impact assessment is posted on the Canadian Impact Assessment Registry Internet site (the Registry). Several factors are taken into consideration when making a determination as to whether to issue an authorization, as described in subsection 34.1(1) of the *Fisheries Act*.

4.1.3. References

Fisheries Act, R.S.C. 1985, c F-14

<https://laws-lois.justice.gc.ca/eng/acts/F-14/>

Authorizations Concerning Fish and Fish Habitat Protection Regulations (SOR/2019-286)

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2019-286/index.html>

Applicant's Guide to Support the *Authorizations Concerning Fish and Fish Habitat Protection Regulations*

<http://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/applicants-guide-candidats-eng.html>

Request a review of your project near water

<http://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/request-review-demande-d-examen-001-eng.html>

4.1.4 Contact information

For more detailed guidance on this authorization, please contact the DFO Fish and Fish Habitat Protection Program:

Fish and Fish Habitat Protection Program - Linear Development

Fisheries and Oceans Canada

650-2010 12th Avenue

Regina SK S4P 0M3

Email: [DFO.CA_Linear_Development-Developpement_Lineaire_CA.MPO@dfo-mpo.gc.ca](mailto:CA.MPO@dfo-mpo.gc.ca)

4.2 Approval of works under the *Canadian Navigable Waters Act*

4.2.1 Description

Transport Canada is the lead department for the administration of the CNWA, where the Minister of Transport is responsible for the approval of works that may interfere with navigation. The mandate of the CNWA is focused on assessing impacts of a work or project on navigation.

The CNWA, requires owners of "works" to comply with requirements of the CNWA for the protection of navigation on navigable waters. As per the CNWA, a work includes "(a) any structure, device or other thing, whether temporary or permanent, that is made by humans, including a structure, device or other thing used for the repair or maintenance of another work; and (b) any dumping of fill in any navigable water, or any excavation or dredging of materials from the bed of any navigable water." Examples of works are dams, bridges, weirs, causeways, aerial cables, ferry cables among many other types of



structures that can meet the above definition. The CNWA also requires a Governor in Council exemption for any proposed prohibited activities (throwing or depositing of materials, dewatering of a navigable water body).

4.2.1.1 Navigability assessment

As per section 23(1) of the CNWA, it is prohibited to take any action that lowers the water level of a navigable water or any part of a navigable water to a level that extinguishes navigation for vessels of any class that navigate, or are likely to navigate, the navigable water in question. If the proponent plans such action, they must apply for a Governor In Council Exemption.

The CNWA only applies to navigable waters, as defined under the Act. The proponent is required to gather information to determine if any of the waterways impacted by the Project meet the definition of navigable water, as defined under the CNWA.

Transport Canada must determine navigability for the waterways within the footprint of a project that have proposed prohibited activities. In order for Transport Canada to complete a navigation assessment in a timely and efficient manner, the department must develop a comprehensive understanding of its potential conduct in the project as early as possible. In determining whether a waterway is navigable, these questions are asked:

- What are the physical characteristics (e.g., size and depth)?
- Is it used for transport or travel for commercial or recreational purposes?
- Is it used for transport or travel by Indigenous peoples?
- Is it likely to be used in the future?
- Was it used in the past?
- Is there public access by land or water?
- Are there two or more waterfront owners?
- Is the Crown the only waterfront owner?

The proponent is responsible for providing the information to Transport Canada to facilitate the navigability assessment for any water bodies that have proposed prohibited activities. The proponent should note that Governor in Council Exemption can potentially take one to two years and it is therefore critical that this information be provided to Transport Canada as soon as possible.

4.2.1.2 Major Works and in any navigable water

As per subsection 5(1) of the CNWA, owners of major works that may interfere with navigation are required to apply to Transport Canada. The following classes of works established in the Major Works Order are designated as likely to interfere substantially with navigation on any navigable water:

- water control structures;
- bridges;
- ferry cables, excluding the repair and replacement of existing ferry cables;
- causeways; and
- aquaculture facilities.



4.2.1.3 Works in navigable waters listed on the Schedule

The CNWA uses a list of waterways (known as “the Schedule”) to identify navigable waters where project proponents must apply to Transport Canada for approval. The owner of a work – other than a minor work – in, on, over, under, through or across any navigable water that is listed in the Schedule, which may interfere with navigation, must apply to Transport Canada.

4.2.1.4 Works in navigable waters not listed on the Schedule

The owner of a work – other than a major work or a minor work – in, on, over, under, through or across any navigable water that is not listed on the Schedule, which may interfere with navigation, has the option to either:

- apply to the Minister of Transport; or
- seek authorization through the public resolution process.

The owner of a work – other than a major work or a minor work – in, on, over, under, through or across any navigable water that is not listed on the Schedule, which is not likely to interfere with navigation, may proceed if:

- the work, or its construction, placement, alteration, rebuilding, removal or decommissioning, would not interfere with navigation; and
- the owner deposits information and publishes a public notice before beginning the construction, placement, alteration, rebuilding, removal or decommissioning of the work.

4.2.2 Regulatory process

4.2.2.1 Application submission for works

There are different requirements for owners of works regarding approvals, deposit of information and public notice depending on the type of work, and if the work is located on a navigable water listed on the Schedule. With any application to Transport Canada, the owner is required to deposit information on the proposed work, and to invite interested persons to provide written comments on the owner’s proposal to the Minister within 30 days after publication of the notice, or within any other period specified by the Minister. For works that do not interfere with navigation, the owner is required to deposit information on Transport Canada’s registry and publish a public notice (a 30 day comment period is not required).

The application process is done online through Transport Canada’s External Submission Site. The submission timing depends on the proponent who should consider their operational needs and the time required to process the application. The proponent shall describe the proposed work that could affect navigation and potential alternatives and mitigation strategies to ensure continued navigability.

The minimum information needed to apply for an approval is:

- a completed Application for Approval;
- a map showing the work’s exact project location;
- the legal site description and position of the work in latitude and longitude;
- the plan view drawings (top down) with all related dimensions;
- the profile view drawings (side view) with all related dimensions;

- the general arrangement drawing (depicting new and entire existing work);
- a detailed project description;
- the construction methodology explaining how the work will be done; and
- the expected start and end dates.

4.2.2.2 Application analysis and consultation

Transport Canada analyzes the application to see if the file is complete and if the work will have an impact on navigation. Transport Canada may conduct a site visit and may request additional information.

Should Transport Canada have a role in the Project and it is determined that there will be the potential for adverse impacts to section 35 Aboriginal and/or Treaty rights as a result of Transport Canada's Crown Conduct, the department will consult with Indigenous communities. Where possible, consultation activities will be coordinated with other departments, ministries, and the proponent to streamline the consultation process. Information may be provided by the proponent or by Indigenous communities, if possible, as part of the federal impact assessment process. If information is missing or coordination of consultation is not feasible, Transport Canada will consult independently with Indigenous communities to address questions or concerns related to Transport Canada's role in the Project.

Before issuing an approval, the Navigation Protection Program is required by law to consider the following assessment factors:

- the characteristics of the navigable water in question;
- the safety of navigation in that navigable water;
- the current or anticipated navigation in that navigable water;
- the impact of the work on navigation, including as a result of its construction, placement, alteration, rebuilding, removal, decommissioning, repair, maintenance, operation or use (this includes impacts of construction methodology, including temporary works, on navigation);
- the impact of the work, in combination with other works, on navigation, if the Minister is provided with, or has in their possession, information relating to that cumulative impact;
- any Indigenous Knowledge that has been provided to the Minister;
- any comments that the Minister receives from interested persons within the period provided for under subsection 7(4);
- the record of compliance of the owner under CNWA; and
- any other information or factor that he or she considers relevant.

4.2.2.3 Regulatory decision

If the Project proposes a Prohibited Activity, the proponent must submit an Application for a Governor in Council Exemption. The Exemption process can take one to two years from submission of the completed Application for Exemption. The timeline is subject to the processes and requirements of the Governor in Council and is independent of the *Impact Assessment Act*. If the Project proposes to construct, place, alter, rebuild, remove or decommission a work in, on, over, under, through or across



any navigable water, the works will be subject to the CNWA and may require approval by the Minister of Transport.

The Minister of Transport issues terms and conditions with the approval of a work to mitigate navigation safety risks and protect the public right to navigation.

4.2.3 References

Canadian Navigable Waters Act

<https://www.tc.gc.ca/eng/canadian-navigable-waters-act.html>

Guide to the Navigation Protection Program's Notification, Application and Review Requirements

<https://tc.canada.ca/en/programs/guide-navigation-protection-program-s-notification-application-review-requirements>

Apply to the Navigation Protection Program

<https://tc.canada.ca/en/marine/apply-npp>

Navigation Protection Program External Submission Site

<https://npp-submissions-demandes-ppn.tc.canada.ca/>

4.2.4 Contact information

For more detailed guidance on the CNWA approval process, please contact the Transport Canada regional office:

Navigation Protection Program

Transport Canada, Marine Office

100 South Front Street, 1st Floor

Sarnia ON N7T 2M4

Phone: 519-383-1863

Fax: 519-383-1989

Email: NPPONT-PPNONT@tc.gc.ca

4.3 License for explosives and magazines under subsection 7(1) of the *Explosives Act*

4.3.1 Description

These licences and certificates are the responsibility of Natural Resources Canada (NRCan).

Under section 6 of the *Explosives Act*, it is prohibited to make or manufacture any explosive, either wholly or in part, except in a licensed factory or to store any explosive in a magazine that is not a licensed magazine. Under paragraph 7(1)(a), however, the Minister of Natural Resources may issue licences for factories and magazines.

The Minister may make any licence, permit or certificate referred to in subsection 7(1) subject to any term or condition, in addition to those prescribed by the regulations, that the Minister considers



necessary for the safety of any person or property, including, without limiting the generality of the foregoing, compliance with security or safety standards in respect of any factory or magazine or any class thereof that are supplementary to but not inconsistent with those provided for under paragraph 5(g.1).

NRCan issues different types of licences for explosives magazines including User, User Zone and Vendor licences. Magazines may also be licenced as part of a factory. Part 6 of the *Explosives Regulation, 2013* indicates how to obtain a magazine licence and sets out the requirements for storing explosives in a licensed magazine. In most jurisdictions, magazines located at mine sites and quarries are authorized by provincial or territorial agencies.

4.3.2 Regulatory process

4.3.2.1 Application submission for works

Applications for factory and magazine licences and certificates are submitted to the Explosives Regulatory Division's Electronic Licence Management System through NRCan eServices Portal at:

<https://eservices.nrcan-rncan.gc.ca/web/epp-ppe/login-connexion?goto=https%3A%2F%2Feservices.nrcan-rncan.gc.ca%2Fpriv%2Fepp-ppe%2Fhome-accueil%3Freset%3Dtrue>

In the case of factory licences, applications must include, several types of plans or drawings are required including area plan, site plan, building layout, process schematics, and piping, instrumentation and equipment layout drawings. Area plan and detailed site plan show the location of the factory site and any neighbouring vulnerable features or hazardous facilities.

Explosives quantity-distance limits are specified in guidelines for bulk explosives and site plans must include information such as distances between explosive operations, including washing/maintenance facilities, AN storage, fuel storage, and magazines; and distances to roads and public thoroughfares, operating pits, mine facilities, and offices/accommodation complexes. In addition, a licence application must be supported by spill contingency, emergency response, security and site evacuation plan together with other documents (e.g. operating procedures).

4.3.2.2 Application analysis and consultation

Applications are reviewed by the Explosives Regulatory Division to ensure that they are complete with all the necessary plans to conform with regulations and guidelines. Division inspectors will request additional information and revisions when there are deficiencies or errors in the applications and supporting information. Licences for factories associated with major projects are usually issued to companies contracted to provide explosives supply and related services.

NRCan (Explosives Safety and Security Branch) will engage Indigenous communities once an application is received to determine if there are concerns, questions or requests for more information. If consultation on a licence is requested, NRCan will involve the licence applicant in the process. Although basic information about explosives manufacturing and storage facilities is provided and reviewed during impact assessment processes, licence applicants can provide more detailed information for consultation with Indigenous communities including construction plans and operating procedures for the safe and secure operation of explosives facilities.



4.3.2.3 Regulatory decision

NRCan issues factory licences (with or without a wash bay) within 60 days following receipt of a complete application or, for certificates and other licences, within 30 days.

4.3.3 References

Explosives Act (R.S.C. [1985], c. E-17)

<https://laws-lois.justice.gc.ca/eng/acts/E-17/index.html>

Explosives Regulations, 2013 (SOR/2013-211)

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-211/page-1.html>

Application forms for licences and certificates

<https://www.nrcan.gc.ca/maps-tools-publications/publications/explosives-publications/explosives-forms/9939#ii1>

NRCan, 2018, Guidelines for Bulk Explosives Facilities

<https://www.nrcan.gc.ca/explosives/resources/guidelines/9925>

4.3.4 Contact information

For more detailed guidance, please contact the NRCan's Explosives Regulatory Division in Ottawa:

Explosives Regulatory Division

Explosives Safety and Security Branch

Natural Resources Canada

588 Booth Street, 4th Floor

Ottawa, ON K1A 0Y7

Tel.: 1-855-912-0012

Email: ERDmms@nrcan.gc.ca

4.4 Authorization under Paragraph 73(1) of the *Species at Risk Act*

4.4.1 Description

Responsibility for implementing SARA in Canada lies with the Ministers responsible for Environment and Climate Change Canada (ECCC), Parks Canada Agency (PCA), and DFO.

- DFO is responsible for issuing permits for aquatic species (as defined by SARA), other than species in waters found on federal lands administered by the Parks Canada Agency.
- PCA is responsible for issuing permits for species that occur on federal lands administered by the Agency, including aquatic species (as defined by SARA) as well as terrestrial species.
- ECCC is responsible for issuing permits for all listed species not described above. This includes for all terrestrial species on federal land and any land affected by a SARA protection order, and for migratory birds wherever they are found.



SARA permits for aquatic species must be obtained from DFO. An “aquatic species” under SARA includes:

- fish, shellfish, crustaceans and marine animals including any parts thereof;
- all of their life stages, such as eggs, sperm, spawn, larvae, spat and juvenile stages of fish; and
- marine plants, including algae and phytoplankton.

Permits are required by those persons conducting activities affecting species listed on Schedule 1 of SARA as Extirpated, Endangered, or Threatened and which contravene the Act’s general prohibitions where they are in force.

Pursuant to sections 32 and 33 of SARA (general prohibitions), it is prohibited to:

- kill, harm, harass, capture or take an individual of a species listed under SARA as extirpated, endangered or threatened;
- possess, collect, buy, sell or trade an individual of a species listed under SARA as extirpated, endangered or threatened, or any part or derivative of such an individual;
- damage or destroy the residence of one or more individuals of a listed endangered or threatened species or of a listed extirpated species if a recovery strategy has recommended its reintroduction into the wild in Canada.

The general prohibitions apply to federal species (migratory birds, as defined by the *Migratory Birds Convention Act, 1994*, and aquatic species covered by the *Fisheries Act*) everywhere in Canada and to other listed species where found on federal land.

Permits are also required by those persons conducting activities that contravene the Act's critical habitat destruction prohibitions (subsection 58(1)).

Prohibitions may be in force on land other than federal land pursuant to other orders or regulations under SARA including, but not limited to, under s.34, 53, 59, 61, 71 and 80.

Under section 73, the competent minister may enter into an agreement or issue a permit authorizing a person to engage in an activity affecting a listed wildlife species, any part of its critical habitat, or the residences of its individuals if the proposed activity falls under one or more of the following purposes:

- (a) the activity is scientific research relating to the conservation of the species and conducted by qualified persons;*
- (b) the activity benefits the species or is required to enhance its chance of survival in the wild;*
- (c) affecting the species is incidental to the carrying out of the activity.*

If another authorization, licence or permit is being issued by the same department under another federal Act, that authorization, licence, or permit can act as a SARA permit, provided certain conditions are met.

It is possible that further prohibitions may come into force in the future through orders in Council for individuals, residences and critical habitat on non-federal lands and/or through ministerial order for critical habitat on federal lands. It is also possible that, over the course of the assessment or after the assessment, additional species could be listed under SARA; permits may be required for project



activities that affect these additional species. Proponents are advised to monitor for such developments on the SARA Registry <https://www.canada.ca/en/environment-climatechange/services/species-risk-public-registry.html>.

4.4.2 Regulatory process

4.4.2.1 Application submission for works

Proponents must submit an application to the regional office of DFO, ECCC or PC in a manner and form that is satisfactory to those organisations. After DFO has reviewed a Request for Review form and has determined a SARA permit is required, they will inform the proponent that an application is required. The following information is required in the application:

- Names of listed species that will be affected.
- Description, purpose (research, benefit for species, or incidental) and objective of activity.
- Detailed location of the activity (maps, UTM coordinates, Borden number for archeological sites, latitude and longitude coordinates)
- Planned start and end dates.
- A description of: field collection methods, study techniques, project design, animal handling activities.
- Supporting documentation, such as information provided as part of environmental assessments, industry standards, and research protocols, etc.
- When applicable, copies of other relevant permits, authorization (e.g., provincial permits, Canadian Council on Animal Care approved animal protocols or equivalent).
- Documentation in support of the project from the Band Council, or First Nation if it takes place on a reserve or any lands managed or owned by Crown-Indigenous Relations and Northern Affairs Canada.
- Any information that the applicant may have on whether asserted aboriginal rights could be affected and any consultation/engagement work that they have done with Indigenous Peoples.
- An explanation of any uncertainty associated with the impacts of the project on the species, its critical habitat or the residences of its individuals and the effectiveness of any proposed mitigation measures.

To seek a permit under SARA from DFO, the proponent must submit an application to the relevant regional office of the Fish and Fish Habitat Protection Program. If it is determined that a *Fisheries Act* Authorization is required for the Project, DFO will notify the proponent and the process to apply for a SARA permit can be combined with the process to seek an authorization under the *Fisheries Act*. To seek a permit under SARA from ECCC, the proponent must submit an application using the online Species at Risk Act Permit System: <https://splep-saraps.az.ec.gc.ca/index.cfm?fuseaction=permit.list>

4.4.2.2 Application analysis and consultation

An analysis of the application is conducted by ECCC, PCA, or DFO upon receipt of the application, although there may be occasions when the reviewing department or agency will require additional information. A focus of the analysis is on how the application meets the pre-conditions listed under subsection 73(3). Authorizations may be issued only if the competent minister is of the opinion that all three of the following pre-conditions are met:

- (a) *all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the best solution has been adopted*
- (b) *all feasible measures will be taken to minimize the impact of the activity on the species or its critical habitat or the residences of its individuals*
- (c) *the activity will not jeopardize the survival or recovery of the species*

During this analysis stage, and before the regulatory decision, ECCC may undertake additional Indigenous consultations, as required under s.73(4) and s.73(5).

4.4.2.3 Regulatory decision

The *Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations* specify that the competent minister must issue a permit or notify the applicant that the permit has been refused within 90 days following the receipt of the application. This time limit is suspended if the application is incomplete and the applicant is notified. The time limit suspension ends when all the information is received from the applicant.

The Regulations also specify that the 90-day time limit does not apply in the following circumstances:

- Additional consultations are necessary, including consultations with wildlife management boards and bands under the *Indian Act* which are required by subs. 73(4) and (5) of SARA;
- Another Act of Parliament or land claims agreement requires that a decision be made before the competent minister issues or refuses to issue a permit;
- The terms and conditions of a permit previously issued to the applicant have not been met;
- The applicant requests or agrees that the time limit not apply; or
- The activity described in the permit application is modified before the permit is issued or refused.

For activities requiring a decision under the IAA, permit applications are not subject to the 90-day timeline because another Act of Parliament requires that a decision be made before the competent minister issues or refuses to issue a SARA permit. These applications can be reviewed concurrently with the impact assessment to facilitate alignment of the authorization-securing processes.

If wildlife surveys are necessary to obtain more baseline information about SARA listed species at risk that may be impacted by a project, SARA permits may be required if these surveys affect individuals of species, their residence or Critical Habitat (for example, if they require capture, handling, fencing, baiting, disturbing of normal behaviour, etc.). Permit applications for these baseline surveys would be subject to the 90-day timeline.

It is the proponent's responsibility to identify and carry out all species at risk surveys necessary to support the permit application and review, and to monitor for additional species being listed during the planning of their project. Proponents are invited to consult early with the CWS on survey plans.

4.4.3 References

Species at Risk Act (S.C. 2002, c. 29)

<https://laws-lois.justice.gc.ca/eng/acts/S-15.3/>



Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations

<https://laws-lois.justice.gc.ca/eng/regulations/SOR-2013-140/index.html>

Permitting under the *Species at Risk Act*

<https://www.dfo-mpo.gc.ca/species-especes/sara-lep/permits-permis/index-eng.html>

Guidelines for permitting under section 73 of *Species at Risk Act*. Available at:

<https://www.canada.ca/en/environment-climate-change/services/species-risk-public-registry/policies-guidelines/permitting-under-section-73.html>

4.4.4 Contact information

Ontario Region

Canadian Wildlife Service

Environment and Climate Change Canada

4905 Dufferin Street

Downsview ON M3H 5T4

Phone : 416-739-5830

E-mail: ec.enviroinfo.ec@canada.ca

5. Interpretation

This permitting plan is not a legal document and does not change any existing federal, provincial, or Indigenous legislative or regulatory jurisdiction, right, power, privilege, prerogative or immunity by virtue, nor does it create any new legal powers, duties or legally binding obligations.

6. Contact Information

The Agency office designated for administering the impact assessment of the project is:

Impact Assessment Agency of Canada

Ontario Office

55 York Street, 6th Floor

Toronto, ON M5J 1R7

Tel.: 416-952-1576

Fax: 416-952-1573

Email: northernroad-routedunord@iaac-aeic.gc.ca

7. Summary Table – Anticipated Regulatory Activities

The following table suggests timing to initiate anticipated regulatory activities. The proponent is strongly encouraged to submit applications in accordance with regulatory timelines outlined in section 4 above. Timely submission of applications and information by the proponent would promote greater efficiency in meeting federal regulatory requirements that would necessitate decisions following an impact assessment decision.

	Impact Assessment Phase				
Activity	Planning	Impact Statement	Impact Assessment	Decision	Post-Decision
Information gathering and engagement with the public and Indigenous communities	<i>Fisheries Act</i> – Proponent <i>CNWA</i> – Proponent <i>Explosives Act</i> – Proponent <i>SARA</i> – Proponent	<i>Fisheries Act</i> – Proponent <i>CNWA</i> – Proponent <i>Explosives Act</i> – Proponent <i>SARA</i> – Proponent	<i>Fisheries Act</i> – Proponent <i>CNWA</i> – Proponent <i>Explosives Act</i> – Proponent <i>SARA</i> – Proponent	<i>Fisheries Act</i> – Proponent <i>CNWA</i> – Proponent <i>Explosives Act</i> – Proponent <i>SARA</i> – Proponent	<i>Fisheries Act</i> – Proponent <i>CNWA</i> – Proponent <i>Explosives Act</i> – Proponent <i>SARA</i> – Proponent
Application submission			<i>Fisheries Act</i> – Proponent <i>CNWA</i> – Proponent <i>SARA</i> – Proponent	<i>Explosives Act</i> – Proponent	
Analysis of information, application			<i>Fisheries Act</i> – DFO <i>CNWA</i> – Transport Canada	<i>Explosives Act</i> – NRCan <i>SARA</i> – ECCC	
Public and Indigenous consultation		<i>Fisheries Act</i> – DFO	<i>Fisheries Act</i> – DFO <i>CNWA</i> – TC <i>SARA</i> – ECCC	<i>Fisheries Act</i> – DFO <i>Explosives Act</i> – NRCan <i>SARA</i> – ECCC	<i>Fisheries Act</i> – DFO
Regulatory decision					<i>Fisheries Act</i> – DFO <i>CNWA</i> – Transport Canada or Governor in Council <i>Explosives Act</i> – NRCan <i>SARA</i> – ECCC