

PROPOSED

Species at Risk Act
Policies and Guidelines Series

Species at Risk Act Policies

Policy on Protecting Critical Habitat with
Conservation Agreements under
Section 11 of the *Species at Risk Act*

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1.0 Preface

Section 11 of the *Species at Risk Act* ('SARA', the Act) authorizes a competent minister to enter into a conservation agreement to benefit a species at risk or enhance its survival in the wild. The agreement must provide for the taking of conservation measures consistent with the purposes of the Act, and may include measures with respect to protecting the species' habitat, including its critical habitat. Sections 58 and 61 of the Act indicate that a section 11 agreement can serve as a mechanism to protect critical habitat.

Further to the draft Policy on the Protection of Critical Habitat on Non-Federal Lands, this document provides a policy statement, and the criteria that will be applied to determine whether or not a particular section 11 agreement protects critical habitat under sections 58 or 61 of the Act.

2.0 Policy Statement

A section 11 agreement will be considered to protect critical habitat if and only if:

- The risk of critical habitat destruction occurring is low if the conservation measures it includes are undertaken; and
- It remains apparent that the measures are being undertaken.

3.0 Policy Requirements

For a section 11 agreement to satisfy the policy statement, it must articulate the conservation measures required to protect the critical habitat, and must include provisions that provide assurance that those measures will continue to be taken.

A given section 11 agreement will be assessed against the policy statement by applying the following criteria, all of which must be satisfied:

- The species at risk, and the geographical area to which the agreement applies, are specified in the agreement;
- The habitat to which the measures apply is identified as critical habitat in the final recovery strategy or action plan for the species;
- The conservation measures address any gaps in critical habitat protection such that there is a low level of risk that the critical habitat will be destroyed;
- Monitoring and reporting requirements and any financial considerations are structured in a manner that provides assurance that the conservation measures in the agreement are being and will continue to be undertaken;
- The duration of the agreement is specified, and does not exceed five years;

- The agreement includes a provision stating that if its terms are not met, it will be concluded that the critical habitat is not being protected;
- The “competent minister” or a federal official designated by the competent minister signs the agreement

Notwithstanding the specified duration of the agreement, undertaking the conservation measures it includes will be required only for as long as the best-available information indicates that they are needed to maintain a low level of risk that the critical habitat will be destroyed. Conversely, undertaking the conservation measures will no longer be recognized as sufficient if the best-available information indicates that undertaking them will result in a higher than low level of risk that the critical habitat will be destroyed.

The sources of best-available information are recovery documents, species status assessments by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), and peer-reviewed information regarding the species.

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