



**ONTARIO'S
ENDANGERED SPECIES ACT
REPORT CARD**

JUNE 2009

**FAILING THE ABCS
OF HABITAT PROTECTION**

This has been a milestone year for Ontario's new Endangered Species Act, 2007 (ESA). The law came into force a year ago, and since then the government has been putting measures in place to achieve the ESA's ambitious goal of protecting and recovering Ontario's endangered species.

A critical first step is the development of recovery strategies and habitat regulations for ten "fast-tracked" species. The recovery strategies are developed by expert recovery teams – one for each species – who conduct a thorough scientific review of the species' needs and present recommendations to government. The habitat regulations then follow. They are developed by government – again, one for each species. Each habitat regulation identifies the area covered as habitat for a particular species under the ESA.

A- to A+
Fulfilled requirements of the ESA. Will ensure protection and recovery of species.
B- to B+
Most requirements of the ESA have been met. Protection and recovery possible, but not assured.
C- to C+
Some of the requirements of the ESA were met. Protection and recovery is uncertain.
D- to D+
Limited requirements of ESA were met. Protection and recovery is unlikely.
F
Requirements of ESA were not fulfilled. Protection and recovery will not occur.

Habitat loss is the number one threat to most endangered species in Ontario. Thus the habitat regulations represent one of the most important tools under the ESA. Without strong, scientifically defensible identification and protection of all aspects of a species' habitat, that species will decline further.

Using Ontario's public school report card as a template, Save Ontario's Species (SOS) has evaluated the first year of ESA implementation, with a focus on the first ten draft habitat regulations to come out under the Act. The results suggest that in many respects the government has yet to grasp the basic ABCs of habitat protection. However, since these are draft regulations, the government still has time to improve its grades.

June 2009 marks the first anniversary of the Act coming into force. In moving forward, it is critical that the first habitat regulations set a strong precedent for all those to follow. These habitat regulations are a litmus test for how well the new ESA is going to work. Ontario's endangered species cannot afford a failing grade, or even a bare pass. To improve the long term prospects for these species, the government should be aiming for an A+. It is time to assess progress and to urge the government to make the grade.

GENERAL SUBJECTS	GRADE	COMMENTS
SCIENCE <ul style="list-style-type: none"> • sufficient habitat identified for recovery • sufficient habitat identified for species with limited known populations • interpretation of scientific data into strong policy 	D	Since the ESA relies heavily on sound science, it is critical that this subject matter be well understood and interpreted to ensure habitat regulations are adequate. The low grade in this subject can be attributed to: <ul style="list-style-type: none"> • Focus on areas of residence (e.g., dens, nests) instead of all areas on which species depend to carry out their life processes • Unwillingness to accommodate species that do not have well documented populations (e.g., protecting habitat that a species could potentially occupy, as allowed under the ESA) • Policy fails to fully reflect available science
LISTENING SKILLS (coordination with recovery teams) <ul style="list-style-type: none"> • employing recommendations of recovery strategies 	D	It is disappointing to see that in only one case (few-flowered club-rush) were the recommendations of recovery teams fully incorporated into the habitat regulation. Greater attention to detail is needed in this area.

GENERAL SUBJECTS**GRADE****COMMENTS**

LANGUAGE SKILLS (description of habitat) <ul style="list-style-type: none"> • appropriate use of all tools available in ESA • clear, concise descriptions 	B-	<p>Strong policy relies on clear language. Since the ESA allows for a certain amount of creativity in the way habitat can be described (e.g. using features, mapping or any other manner), some problem-solving ability is required so that methods of description are appropriate, concise and as clear as possible to ensure habitat protection. Much promise has been shown in this area, with a willingness to employ different methods for different species. However, further thought must be given to applying this technique in more challenging areas.</p>
GEOGRAPHY (types of protected habitat) <ul style="list-style-type: none"> • where species live • where species used to live • where species are capable of living 	C-	<p>While some effort has been made to identify all areas where species are currently known to reside, as previously noted, a strong habitat regulation must encompass all areas upon which a species depends to carry out its life processes; living means more than just sleeping and rearing young. As well, little has been done in terms of identifying historical and recovery habitat for species. Once again, habitat must be defined as being more than just presently occupied locations. Problem-solving skills must be applied to ensure that all areas are given the protection required to help species recover.</p>
LOGIC <ul style="list-style-type: none"> • automatic habitat protection for all newly discovered populations 	C	<p>Overall, some attention has been given to the importance of protecting habitat for new populations, should they be discovered. Unfortunately, some errors of omission have been made, and the habitat of newly discovered populations is not automatically included in all cases. More attention to detail is needed for all plants except few-flowered club-rush, wood turtle and Jefferson salamander.</p>

SPECIFIC SUBJECTS**GRADE****COMMENTS**

WOODLAND CARIBOU	F	<p>Homework incomplete. Deadline for posting the draft habitat regulation for 30 day comment period has been missed. Completion of habitat regulation by June 30 deadline (before the expiry of exemption for forestry) cannot be satisfied.</p>
AMERICAN BADGER	F	<p>While known, documented dens will receive protection, the habitat needs of the badger have not been adequately addressed. Poor effort in interpreting recovery strategy. Foraging habitat – limited to a five metre buffer around known, active dens and protection for the dens of two prey species—is grossly insufficient. No recovery habitat (e.g. remnant grasslands, scrublands) is identified.</p>
BARN OWL	D	<p>Incomplete. Foraging habitat not identified. No recovery habitat (e.g. remnant grasslands, scrublands) identified.</p>

SPECIFIC SUBJECTS**GRADE****COMMENTS**

PEREGRINE FALCON	C+	Getting there. All sites will receive some protection and habitat identification includes historic sites. However, inadequate comprehension of subject material presented in recovery strategy—incomplete allotment of foraging habitat for peregrine falcons nesting on cliff faces (one kilometre instead of recommended three kilometres) and no inclusion of foraging habitat for peregrine falcons nesting in open pit mines or rock cuts. Needs greater attention to detail.
JEFFERSON SALAMANDER	B+	Shows promise. Glad to see inclusion of breeding sites/ wintering sites and corridors, but still needs work. Go back to recovery team recommendations regarding newly discovered populations, potential recovery habitat and length of dispersal corridors (should be one kilometre rather than 700 metres)
WOOD TURTLE	C	Overall, good effort to provide buffers around areas used by wood turtle. However, a serious error has been made in the interpretation of recommendations for nesting sites. Shockingly, nesting sites, the most critical part of the species habitat, will receive less protection than other areas used by the wood turtle.
ENGELMANN'S QUILLWORT	B-	Good effort. The habitat of known populations is identified. However, application of the precautionary principle points to the need to buffer known populations from shoreline development and to include habitat for newly discovered populations regardless of their geographic location.
FEW-FLOWERED CLUB-RUSH	A	The habitat of populations listed under the ESA has been fully identified.
EASTERN PRAIRIE FRINGED-ORCHID	B-	Historically, this species is widespread in southern and eastern Ontario, yet habitat protection is limited to currently known locations only. Use imagination. There could be others out there. They should be protected.
WESTERN SILVERY ASTER	B	Creativity and solid understanding of the science demonstrated. However, the draft habitat regulation does not provide flexibility for including newly discovered populations outside of defined region.



SOS is a collaboration among CPAWS-Wildlands League, the David Suzuki Foundation, Ecojustice, ForestEthics and Ontario Nature.