

November 10, 2025

DELIVERED VIA ONLINE FORM

Species at Risk Branch

40 St Clair Ave West
Toronto, ON M4V 1M2

To Whom it May Concern,

RE: Proposed legislative and regulatory amendments to enable the *Species Conservation Act, 2025* (ERO #025-0909)

Please accept the following submission on behalf of AEL Advocacy in response to the proposed legislative and regulatory amendments to enable the *Species Conservation Act, 2025* (the “SCA”) (ERO #025-0909).¹

AEL Advocacy strongly opposes these proposals and reiterates our call for the immediate repeal of the SCA and Bill 5.² The SCA represents a profound step backward in species at risk protection in Ontario. By weakening the definition of habitat, allowing discretionary species listing, removing mandatory recovery strategies, and prioritizing a registration-first model over precautionary, science-based assessment, the SCA dismantles the core safeguards of the *Endangered Species Act, 2007* (“ESA”). As previously outlined in our submissions on Bill 5, this framework will critically undermine Ontario’s capacity to preserve biodiversity and fulfill its obligations to protect species at risk.³

¹ <https://ero.ontario.ca/notice/025-0909>

² See our submissions on the “Proposed Interim Changes to the *Endangered Species Act, 2007* and a Proposal for the *Species Conservation Act, 2025* (ERO #025-0380)”:

https://www.aeladvocacy.ca/_files/ugd/c883e8_bc78e80f903749ecafe70e3836cf97bd.pdf; the *Special Economic Zones Act, 2025* (ERO #025-0391): https://www.aeladvocacy.ca/_files/ugd/c883e8_16e68380fa7d47a8b606319283bf4709.pdf;

Written Submission of AEL Advocacy to the Standing Committee on the Interior Regarding Bill 5, *Protect Ontario by Unleashing Our Economy Act, 2025*:

https://www.aeladvocacy.ca/_files/ugd/c883e8_84cc3c1280d94521b278c41fc9f08a0f.pdf.

³ See our submissions on the “Proposed Interim Changes to the *Endangered Species Act, 2007* and a Proposal for the *Species Conservation Act, 2025* (ERO #025-0380)”:

https://www.aeladvocacy.ca/_files/ugd/c883e8_bc78e80f903749ecafe70e3836cf97bd.pdf; the *Special Economic Zones Act, 2025* (ERO #025-0391): https://www.aeladvocacy.ca/_files/ugd/c883e8_16e68380fa7d47a8b606319283bf4709.pdf;

Written Submission of AEL Advocacy to the Standing Committee on the Interior Regarding Bill 5, *Protect Ontario by*

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At a time of accelerating biodiversity loss and global ecological crisis, Ontario must strengthen, not abandon, its commitment to safeguarding wildlife and the ecosystems they depend on. We therefore urge the Ministry to withdraw these proposals in full.

A. About AEL Advocacy

Animal Environmental Legal Advocacy (“AEL Advocacy”) is an intersectional animal and environmental law charity dedicated to advancing justice for animals, people, and the planet. Our lawyers understand the important interconnection between human, animal, and environmental well-being, and we leverage our legal and political expertise to support individuals, communities, and organizations working to protect animals and the environments where they live.

B. General Comments

I. Failure to Provide Full Text of Proposed Materials Undermines Meaningful Public Participation

AEL Advocacy is deeply concerned by the Ministry’s failure to provide the full text of the proposed regulations and legislative amendments, apart from the new Protected Species in Ontario List Regulation. Instead, the Environmental Registry of Ontario (“ERO”) posting offers only brief summaries of each proposal. This omission denies the public of the essential information needed to evaluate the scope, content, and environmental consequences of the proposals.

Compounding this issue, the proposal materials repeatedly rely on vague and conditional language such as “being considered,” “registrants *may* be required,” and “information submitted *may* be made publicly available.” This ambiguity prevents meaningful public participation and impedes the ability of Ontarians to provide informed and constructive feedback on regulatory changes that could have far-reaching impacts on the province’s species and ecosystems.

The Ministry’s approach undermines both the spirit and intent of the *Environmental Bill of Rights, 1993* (“EBR”), which guarantees Ontarians the right to meaningful participation in environmental decision-making. Public consultation cannot be considered meaningful when participants are not provided the materials on which

Unleashing Our Economy Act, 2025:

https://www.aeladvocacy.ca/files/uqdc883e8_84cc3c1280d94521b278c41fc9f08a0f.pdf.

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they are being asked to comment. This approach also defeats the statutory purpose of the ERO, which is to “provide a means of giving information about the environment to the public”⁴, including information about proposals, decisions and events that could affect the environment.⁵

As noted by Legal Advocates for Nature’s Defence (“LAND”) in their October 14, 2025 correspondence to the Ministry, consultation without access to draft materials represents a fundamental breach of both the intent and purpose of the EBR.⁶ The Ministry’s decision to conduct a consultation period without providing access to the proposed materials or supporting documentation also reflects a troubling and recurring pattern in the government’s consultation practices on the ERO.⁷

II. Premature Passage of Bill 56 Erodes Integrity of Public Consultation

AEL Advocacy is also concerned that the Government of Ontario passed Bill 56, *Building a More Competitive Economy Act, 2025*, before the consultation period for this proposal had concluded. According to the Ministry’s own ERO posting, Bill 56 implemented the legislative amendments described in section 7 of this proposal, rendering the consultation effectively meaningless.

By enacting legislative changes before the close of the consultation period, the government has signaled that it had already made its decision. This undermines the very purpose of the EBR, which is to ensure Ontarians have a genuine opportunity to influence decisions that impact the environment.

Based on the above, we urgently request that the Ministry:

1. **Repeal the provisions of Bill 56** (*Building a More Competitive Economy Act, 2025*) that prematurely implemented the related legislative and consequential amendments referenced in ERO #025-0909.
2. **Restart the 45-day comment period for ERO #025-0909** once the full text of all proposed legislative and regulatory materials is publicly available, including:
 - o All proposed SCA regulations;
 - o Proposed EBR amendments; and

⁴ [Environmental Bill of Rights, 1993](#) at s 6(1) [EBR].

⁵ EBR at s 6(2).

⁶

<https://naturesdefence.ca/wp-content/uploads/2025/10/Letter-from-LAND-October-14-2025-Request-for-Information-Disclosure.pdf>

⁷ See for example: https://www.aeladvocacy.ca/files/ugd/c883e8_eb88e3f50d7b4086ab725344c63fdaa0.pdf;
https://www.aeladvocacy.ca/files/ugd/c883e8_1c4475d98e774da5b5316af53cle5dae.pdf;
https://www.aeladvocacy.ca/files/ugd/c883e8_772d299e0f0f4098869591a1613da20b.pdf.

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- o Related legislative and consequential amendments to other statutes and regulations.
- 3. **Ensure all proposed materials are posted directly on the ERO**, with clear explanations of their environmental implications.
- 4. **Commit not to finalize decisions** until at least 45 days after all materials are accessible to the public.

C. Specific Comments

Insufficient information has been made available to fully assess the implications of the proposed regulations and amendments under the SCA. However, based on the limited information provided, it is clear that the proposals will substantially weaken protections for species at risk and their habitats. For the reasons outlined below, each of the following proposals should be withdrawn.

I. Protected Species in Ontario List Regulation

The proposed Protected Species in Ontario List Regulation would reduce the number of species protected under provincial law, from approximately 271 species under the ESA to 169 under the SCA. This represents one of the most dramatic rollbacks of species protections in Ontario's history, directly contradicting the precautionary principle and undermining the province's commitments to biodiversity conservation.

Removal of "Special Concern" Species

The Ministry proposes to eliminate protection for 64 species currently listed as "Special Concern" species on the Species at Risk in Ontario List (O. Reg. 230/08).⁸ According to the Committee on the Status of Endangered Wildlife in Canada ("COSEWIC") Species of Special Concern are those that "may become threatened or endangered because of a combination of biological characteristics and identified threats."⁹ Removing these species from protection ignores science-based risk assessments and will almost certainly accelerate their decline, increasing the likelihood that they will become threatened, endangered, extirpated, or extinct.

⁸ <https://www.ontario.ca/laws/regulation/080230>

⁹ <https://cosewic.ca/index.php/en/assessment-process/cosewic-assessment-process-categories-and-guidelines/status-categories.html>

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While the ERO posting states that “none of these species are subject to the prohibitions under the ESA,” this framing is misleading. Although Special Concern species are not automatically protected from being killed, harmed, or having their habitat destroyed, the ESA does provide critical safeguards for these species through mandatory management plans. These plans (required within five years of a species being classified as Special Concern) guide conservation, stewardship, and threat mitigation efforts, ensuring that proactive measures are in place to prevent further decline. While not prohibitory in nature, these ESA protections are vital to ensuring the long-term survival and recovery of these vulnerable species.

Removal of Species Protected Under Federal Legislation

The Ministry also proposes removing 43 species currently protected under federal legislation (e.g., migratory birds and aquatic species) on the grounds that federal protections suffice. This assumption is flawed. Federal frameworks, including the *Species at Risk Act* (“SARA”)¹⁰, the *Fisheries Act*¹¹, and the *Migratory Birds Convention Act, 1994*.¹² rely on intergovernmental cooperation and provincial enforcement for effective implementation. By eliminating Ontario’s role, the Ministry would create significant enforcement gaps and undermine coordinated conservation efforts across jurisdictions.

The proposal also fails to disclose the current status of federal recovery strategies, action plans, or critical habitat orders for these 43 species. In practice, the federal government has been slow and inconsistent in exercising its powers under SARA, and the absence of clear procedures for habitat identification has repeatedly delayed protection measures.¹³ The assumption that federal frameworks alone will ensure the survival of these species is therefore unfounded and contrary to experience.

By removing protections for both Special Concern species and federally protected species, the Ministry is prioritizing administrative convenience over scientifically grounded conservation and the long-term survival of Ontario’s wildlife. These species are at heightened risk and rely on continued provincial safeguards to prevent further decline. They should remain on the Protected Species in Ontario List, and the proposed rollbacks under the SCA should be withdrawn.

¹⁰

<https://www.canada.ca/en/environment-climate-change/services/environmental-enforcement/acts-regulations/about-species-at-risk-act.html>.

¹¹ <https://laws-lois.justice.gc.ca/eng/acts/f-14/>.

¹² <https://laws-lois.justice.gc.ca/eng/acts/M-7.01/>.

¹³ <https://www.fecpl.ca/wp-content/uploads/2021/04/facets-2020-0064.pdf>, referenced in: <https://catalog.ontarionature.org/joint-ltr-ero025-0909-enable-the-sca/page/1>

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II. Registration Regulation

The proposed Registration Regulation under the SCA marks a sharp departure from the long-established permit-based system that has protected species at risk in Ontario. By replacing precautionary oversight with a registration-first model, the proposal weakens accountability, removes essential safeguards, and risks irreversible harm to vulnerable species and habitats.

Under the ESA, any proponent planning activities that could harm endangered or threatened species (or their habitat) must secure a permit. That process provides essential protections, including detailed review of project impacts by Ministry staff, assessment of mitigation measures and conservation benefits, opportunity for public input and Indigenous consultation, and enforceable conditions tailored to specific circumstances.

By contrast, the proposed registration-first model allows proponents to begin activities immediately after submitting an online form, without any prior review, approval, or impact assessment. The Ministry has confirmed it will not have a decision-making role in the registration process, placing full responsibility on proponents to ensure compliance with all relevant laws.¹⁴ This shift eliminates critical oversight and fundamentally undermines the precautionary principle.

Inadequate Information About “Registerable” Activities

The ERO posting states that “any activity that adversely impacts a protected species to be registered before proceeding with it unless the activity is excepted from the SCA or prescribed as an activity that requires a permit.” However, it does not identify or propose a list of which activities would qualify for registration. This lack of detail leaves key questions unanswered, such as:

- Which activities will qualify as “registerable”?
- What criteria will be used to determine whether an activity requires registration, a permit, or is exempt? Will these criteria be guided by scientific, technical, or ecological standards?
- What process will be used to add new activities to the list?
- Will projects impacting *habitats* (not just species) be included?

¹⁴ Stated by the Ministry during their public information session regarding the SCA proposals (held on October 28, 2025), cited in LAND Informational Briefing Note: <https://naturesdefence.ca/wp-content/uploads/2025/10/Briefing-Note-Protect-Biodiversity-and-Environmental-Rights.pdf>.

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Without clear definitions and criteria, it is impossible to meaningfully evaluate the environmental consequences of the Regulation.

Vague and Insufficient Registration Requirements

The ERO posting lists several “common requirements” that would apply to *most* registered activities, such as identifying the location, timing, and nature of the activity, naming the affected species, and possibly requiring proponents to work with qualified professionals to develop conservation plans. However, these requirements appear primarily administrative and offer no assurance that they will result in tangible protections for species at risk or their habitats.

Notably, the proposal does not indicate that the Regulation would require the submission or approval of a conservation or mitigation plan before registration becomes effective. There is no indication that proponents must demonstrate that impacts will be avoided, minimized, or offset prior to proceeding, nor is there any provision for government review or authorization. As proposed, registration risks becoming a procedural formality rather than a meaningful safeguard.

For activities deemed higher-risk, the posting alludes to “specific requirements,” such as actions to reduce or monitor impacts. The proposal offers no criteria for when these apply, how standards will be set, or how compliance will be enforced. These omissions make it impossible to assess whether the Regulation fulfills the SCA’s stated purposes.

Limited Public Transparency and Public Oversight

The proposal states that registration information “may be made publicly available.” This discretionary language is inadequate. Full public disclosure of all registered activities is essential to ensure accountability, support community and Indigenous oversight, and allow independent monitoring of cumulative impacts. Without guaranteed transparency, Ontarians will have little to no insight into where, when, or how activities affecting species at risk are occurring, especially given the government’s reduced review role under the proposed model.

For all these reasons, the proposed Registration Regulation should be withdrawn.

III. Permit Regulation

The proposed Permit Regulation would outline which activities cannot be registered and would instead require a permit, such as those involving the killing of a protected

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species. However, the proposal's language, stating that "certain activities are being considered for inclusion", provides no clarity on which activities will actually require permits or what conditions will apply. Without a proposed list or defined criteria, there is no assurance that the permitting process will be any more rigorous than registration, leaving species and habitats vulnerable to harm.

The ERO posting also states that the Minister "has the discretion not to issue any specific permit," without outlining the criteria or circumstances under which this discretion will be exercised. Such unbounded discretion undermines accountability, enables arbitrary decision-making, and puts wildlife at risk. AEL Advocacy submits that any activity with the potential to harm a listed species or its habitat must be subject to a robust permitting process with enforceable conditions.

IV. Exception Regulation

The proposed Exception Regulation would allow certain activities to proceed without being registered or obtaining a permit. Given the SCA's diminished habitat protections and the removal of recovery planning obligations, introducing additional exemptions from even the limited prohibitions that remain is unacceptable. AEL Advocacy submits that this proposal should be withdrawn and no exemptions should be granted under a framework that already offers reduced protections for species at risk.

V. Transition Regulation

The proposed Transition Regulation would detail how activities authorized under the ESA will transition to the SCA. While the ERO posting states that existing activities under ESA permits may continue under their current terms, the proposal also allows proponents to request cancellation of ESA permits in order to reapply under the SCA. This creates a concerning opportunity for permit holders to abandon more stringent ESA requirements in favour of weaker, less protective approvals under the SCA.

Such a loophole should not be permitted. Allowing proponents to opt out of stronger, legally binding ESA conditions to seek approval under a diluted regime undermines the integrity of species protections and invites regulatory "shopping." The Transition Regulation should instead require that all existing ESA permits remain fully in force for their duration, or be updated only to incorporate stronger, not weaker, protections.

VI. Regulatory Amendments under the Environmental Bill of Rights

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The Ministry is proposing amendments to the EBR that would exempt permits and orders issued under the SCA from the requirements of Part II of the EBR. The proposal provides no explanation of the implications of this amendment, leaving the public unable to fully assess its potential effects. Part II of the EBR sets out minimum levels of public participation that must be met before the government can make environmentally significant decisions.¹⁵ By exempting SCA permits and orders from these requirements, the proposal would effectively eliminate the public's right to participate in decisions that could have significant impacts on species at risk and their habitats.

During an information session hosted by the Ministry on October 28, 2025, which was intended to provide an overview of the proposals and help the public provide informed feedback, the Ministry did not mention the proposed amendment to the EBR.¹⁶ When asked why this proposed amendment was omitted from the presentation, the Ministry responded that the onus is on the public to read and understand the full proposal, and declined to hold a separate information session on the proposed amendment to the EBR.¹⁷

The public's right to participate in environmentally significant decisions must be upheld

Ensuring that decisions to issue permits and orders are subject to Part II of the EBR is essential to safeguarding the public's right to be informed and to raise concerns. Without meaningful public participation, decision-making processes risk becoming opaque, and further protect the government from accountability.

The Ministry's approach to engagement on this proposal has been highly problematic throughout and this amendment would eliminate the few remaining avenues for public input when environmentally significant decisions are made under the SCA. The government's failure to clearly explain this amendment in both the ERO posting and the public information session raises serious questions about its commitment to good governance, transparency, and informed public participation.

For these reasons, the proposed amendment to the EBR must be withdrawn.

¹⁵ EBR at Part II.

¹⁶

<https://naturesdefence.ca/wp-content/uploads/2025/10/Briefing-Note-Protect-Biodiversity-and-Environmental-Rights.pdf>

¹⁷

<https://naturesdefence.ca/wp-content/uploads/2025/10/Briefing-Note-Protect-Biodiversity-and-Environmental-Rights.pdf>

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D. Conclusion

The proposed legislative and regulatory amendments to enable the SCA would dramatically weaken protections for species at risk and their habitats, undermine science-based decision-making, and erode public participation rights under the EBR.

AEL Advocacy calls on the Ministry to withdraw all proposed legislative and regulatory amendments to enable the SCA, and to repeal the SCA and Bill 5 in their entirety.

We thank the Ministry for the opportunity to provide these comments and would welcome further engagement to discuss strategies to strengthen protections for Ontario's animals and the environments they call home.

Sincerely,

ANIMAL ENVIRONMENTAL LEGAL ADVOCACY



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