



## ENDANGERED SPECIES ACT

The Ontario Home Builders' Association (OHBA) has a long history of advocacy with respect to the Endangered Species Act (ESA) on behalf of our 4,000 member companies and network of 30 local associations across Ontario. OHBA supports a balanced approach to the environmental, social and economic goals of the province to ensure a high quality of life and prosperity for Ontario citizens. OHBA has strongly advocated for the province to implement appropriate transition measures for new endangered or threatened species listings that respect previous approvals and land designations.

## ENDANGERED SPECIES ACT – ASSOCIATION INFORMATION SESSIONS

The MNR Director of the Species at Risk Branch will be providing two industry specific information sessions on the newly passed regulations for OHBA members this July. OHBA strongly encourages members to attend:

- **Thursday July 11<sup>th</sup> 10:00 a.m.** - Greater Ottawa Home Builders' Association
- **Friday July 19<sup>th</sup> 9:00 a.m.** - BILD (GTA)

## ENDANGERED SPECIES ACT – OHBA ADVOCACY

The OHBA has worked closely with numerous stakeholders and the Ministry of Natural Resources (MNR) to improve the implementation of the Endangered Species Act. OHBA is a member of the:

- MNR – Bobolink Roundtable
- MNR – Endangered Species Act Stakeholder Panel

### Key OHBA Advocacy Timeline:

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| <ul style="list-style-type: none"> <li>• 2010-11</li> <li>• June 2011</li> <li>• August 2011</li> <li>• January 2012</li> </ul>                                                        | <ul style="list-style-type: none"> <li>- Individual species submissions and consultation on Redside Dace transition</li> <li>- Province approves Redside Dace Transition policies</li> <li>- OHBA appointed to Bobolink Roundtable (regular meetings 2011-2013)</li> <li>- OHBA ESA sub-committee formed to work with MNR on Bobolink / Eastern Meadowlark implementation &amp; transition issues</li> </ul>                                                                                                                                       |
| <ul style="list-style-type: none"> <li>• Feb 2012</li> </ul>                                                                                                                           | <ul style="list-style-type: none"> <li>- MNR releases "Categorizing and Protecting Habitat under ESA" providing greater clarity</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                         |
| <ul style="list-style-type: none"> <li>• Feb 2012</li> <li>• May 2012</li> </ul>                                                                                                       | <ul style="list-style-type: none"> <li>- OHBA Submission – seven species at risk EBR 011-5306</li> <li>- Province approves Bobolink &amp; EML transition regulations specific to residential construction industry respecting earned planning approvals</li> <li>- OHBA supports PC MPP Laurie Scott private members bill to amend ESA</li> </ul>                                                                                                                                                                                                  |
| <ul style="list-style-type: none"> <li>• May 2012</li> <li>• June 2012</li> </ul>                                                                                                      | <ul style="list-style-type: none"> <li>- OHBA makes deputation to Standing Committee on Finance and Economic Affairs supporting proposed schedules in 2012 Budget Bill to transform and modernize components of the Endangered Species Act</li> </ul>                                                                                                                                                                                                                                                                                              |
| <ul style="list-style-type: none"> <li>• Nov 2012</li> <li>• Jan 2013</li> <li>• Jan 2013</li> <li>• Feb 2013</li> <li>• Feb 2013</li> <li>• March 2013</li> <li>• May 2013</li> </ul> | <ul style="list-style-type: none"> <li>- OHBA appointed to Endangered Species Act Stakeholder Panel</li> <li>- OHBA Submission to MNR on Modernization – EBR 011-7540</li> <li>- ESA Stakeholder Panel Report submitted to MNR – EBR 011-7980</li> <li>- MNR proposes ESA transition and streamlining policies</li> <li>- OHBA submission supporting transition and streamlining – EBR 011-7696</li> <li>- OHBA Presentation to Ontario Endangered Species Act Conference</li> <li>- Provincial Government approves new ESA regulations</li> </ul> |

## MODERNIZATION

The Ministry of Natural Resources (MNR) has embarked upon a modernization initiative with a view to streamline permitting processes and requirements. OHBA has been involved in this process by supporting the modernization initiative in the provincial budget, participating on the Bobolink Roundtable and on the ESA Stakeholder Panel that provided recommendations to improve the implementation of the ESA to the Minister of MNR. This process has not been without controversy, the provincial government has been under tremendous pressure from a variety of well positioned stakeholders and the media to not proceed with any amendments to the legislation.

## ENDANGERED SPECIES ACT – NEW TRANSITION/ NEW REGULATION

On May 31st, the Ministry of Natural Resources (MNR) made improvements to the implementation of the Endangered Species Act (ESA) in response to feedback received from the public, stakeholders and Aboriginal communities and organizations.

A decision notice associated with these changes can be viewed on the Environmental Registry (search ER # 011-7696) at <http://www.ebr.gov.on.ca>.

The simplified rules include industry specific transition provisions and rules in regulation approach, which includes registering with MNR that applies a risk-based approach to move away from the detailed review and approval of site specific activities. Specifically the new rules:



- Respects specific previously earned approvals while also acknowledging conditions may apply.
- Provides transition for the habitat protection of 65 species receiving general habitat protection in June 2013, provided projects obtain an eligible approval (e.g. Draft Plan of Subdivision) and commence construction by July 1, 2015. Conditions include requirements to take immediate steps to minimize adverse effects and to develop a mitigation plan. These transitioned projects will not have to obtain an overall benefit permit if the rules in regulation are followed.
- Provides transition window for new SAR that were added to the list on Jan 24, 2013. Activities that will adversely affect species added to the Species At Risk in Ontario list on Jan 24, 2013 must:
  - Have reached a specified stage of approval before the species was added to the list or within two years after the date the species was added to the list.
  - Begin no later than five years after the stage of approval was reached, or June 20, 2015 if the specified stage of approval was reached before June 30, 2010.
- Replaces the current requirement for certain activities to apply for and obtain approval from MNR before engaging in activities with:
  - Rules in regulation established for two types of activities;
  - Rules in regulation with registration established for 17 types of activities.
- Applies common elements: registering with MNR by providing information including name, location, species affected, and relevant regulatory provision; taking steps to minimize adverse effects; and, the development and implementation of a mitigation plan that may be requested by the Ministry and must be kept on record for five years. Scenarios where a higher-risk has been identified have resulted in the exclusion of some activities, locations and species from some of the provisions in the regulation.
- Includes provisions relating to standard approaches to benefit species at risk (SAR) for: Butternut, specific aquatic species, Bobolink and Eastern Meadowlark, Chimney Swift, and Barn Swallow.
- Clarifies timing windows for previously transitioned projects with respect to Redside Dace.
- Enables a transition for current ESA permit holders that have authorizations for species protection (Section 9) for any of the 65 transition species. The permit holder can carry out the activity authorized in the permit without requiring an amendment to the permit to address habitat protection that applies June 30, 2013 (Section 10).
- Includes clarification and extends the window for Redside Dace transitional exemptions.
- Includes a new online species at risk reference Toolbox & other guidance materials.

## MINISTRY OF NATURAL RESOURCES – ADDITIONAL TOOLS

You can learn more about the regulatory changes and associated implementation tools through the following MNR information sources and a new species at risk website:

- The new regulation O.Reg. 176/13, which amends existing regulation O.Reg. 242/08, was filed on May 31, 2013 and can be found on e-Laws at the following link <http://www.e-laws.gov.on.ca/index.html>.
- [New MNR Species at Risk website & toolbox resources for developers.](#)
- [New online MNR resources specific for planners, developers and resource professionals .](#)
- [New MNR online approvals and Fact Sheets that describe the regulatory changes .](#)
- The ESA Panel report and the recommendations are available at [mnr.gov.on.ca](http://mnr.gov.on.ca) .

Member companies can also contact the MNR Registry and Approval Services Centre at 1-855-613-4256 or [mnr.rasc@ontario.ca](mailto:mnr.rasc@ontario.ca).

## DILLION CONSULTING – ADDITIONAL RESOURCES

Dillon Consulting Limited has provided an [excellent document with a high level overview](#) of the new regulations including the transition policies, amendments to previous Redside Dace transition policies and the rules in regulation approach to a number of species that should improve the implementation of the Endangered Species Act.

## ENDANGERED SPECIES ACT – FUTURE OHBA ADVOCACY

Under the Endangered Species Act, 2007 (ESA) the purpose of a habitat regulation is to contribute to the protection of threatened and endangered species. The Committee on the Status of Species at Risk in Ontario continues to review and list species as endangered or threatened in Ontario and OHBA continues to provide policy analysis with respect to specific potential regulatory impacts on the new housing and development industry in Ontario and to provide the MNR with constructive industry advice and solutions to potential issues. OHBA strives to ensure effective habitat protection is balanced with fair transition provisions and a streamlined permitting process.



**Ontario** Home Builders' Association

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