

“Unleashing” the Economy: Ontario Enacts Bill 5 to Reduce Regulations for Infrastructure, Mining, and Other Economic Projects

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On June 5, 2025, Ontario enacted Bill 5: *Protect Ontario by Unleashing Our Economy Act, 2025* (Bill 5), omnibus legislation amending, repealing, and enacting various statutes establishing the regulatory framework for infrastructure, mining, and resources development in the province of Ontario. In particular, Bill 5:

- enacts the *Special Economic Zones Act, 2025* (the SEZA), establishing broad regulation-making power to exempt certain proponents and projects from provincial regulation and municipal by-laws;
- amends and introduces a transition framework for the *Endangered Species Act, 2007* (the ESA), to streamline and phase out the ESA; and
- enacts a new *Species Conservation Act, 2025* (the SCA) that proposes a new “registration first” approach to endangered species.

Bill 5 also proposes to grant the province expanded enforcement and order-making powers under various statutes, including the ESA, the *Mining Act* and the *Ontario Heritage Act*, in particular, Bill 5 empowers the Ministry of Mines to suspend or remove registrants and limit the participation of foreign entities in mining and energy projects.

The province’s stated purpose for Bill 5 is to quickly mobilize and approve new mining, infrastructure, and natural resource extraction projects. In Ontario, these projects are often subject to a complex web of project-wide environmental assessments and implementing permits for various aspects of the project, including but not limited to environmental compliance approvals for effluent discharges, air emissions, and waste disposal and management. Infrastructure related to the overall project, such as access roads, may also require additional assessments, permits, and agreements. The province cites inefficiencies and the complexity of approvals as a major impediment to new projects.

Bill 5’s impacts may be further reaching, as many details of the legislation will be further detailed through regulations. In particular, the province’s ability to exempt trusted proponents from municipal by-laws under the SEZA could also have implications for land use planning and other municipal projects.

Although Bill 5 contains amendments to ten statutes, our comment focuses on the enactment of the SEZA,

the streamlined requirements in the ESA, and its transition to the new SCA.

Summary

The Special Economic Zones Act, 2025

The SEZA empowers the province with broad regulation-making powers to designate areas in Ontario as special economic zones, and designate proponents or classes of proponents as “trusted proponents” and projects or classes of projects as a “designated project.” The SEZA contemplates that an area, proponent, and/or project must respectively meet prescribed criteria, but defers such criteria to future regulations. The SEZA also authorizes the province to enact regulations that could exempt a trusted proponent or designated project from requirements from provincial statutes, regulations, and other instruments like permits, as well as municipal by-laws and permitting requirements, within a special economic zone.

Any exemptions may be subject to compliance with conditions specified in the regulation. The SEZA further empowers the province to enact regulations modifying the application of any provincial or municipal regulatory requirement with respect to a trusted proponent or designated project in a special economic zone.

What Does this Mean for You?

The SEZA is intended to dramatically speed up approvals for important economic priorities. The criteria for which proponents, projects, and areas could benefit are not precisely known, as these will be set out in regulation, but provincial briefings on Bill 5 provide some guidance on how the province intends to use the SEZA. The province has suggested that it intends to focus on critical mineral projects first in the Ring of Fire, but has left the door open to other projects that could strategically benefit Ontario's economy and security. These projects could include infrastructure projects, such as new roads, energy production projects, and certain types of development. Of note for residential and mixed-use development, the province already has various tools to exempt and/or accelerate development projects, including ministerial zoning orders under the *Planning Act* and powers to override conservation authorities under the *Conservation Authorities Act*. It remains possible that the province could also enact regulations under the SEZA to streamline regulations for development that it views as critical to meeting provincial objectives. The scope of which provincial and municipal instruments will be the subject of exemptions is currently unknown, although the province has signaled that its focus is to significantly reduce permitting and approval processes, such as environmental assessments. The province has recognized that its regulations and regulation-making decisions are required to comply with and have due regard for Aboriginal and treaty rights enshrined under the *Constitution Act, 1982*. As such, these matters remain subject to the province's Duty to Consult with impacted Indigenous communities.

Narrowed Ecological Protections Under the *Endangered Species Act, 2007*

Bill 5 narrows the definition of “habitat” for animals to their physical dwellings and immediate surrounding area necessary for breeding, rearing, or hibernation. Bill 5 also requires the Ministry of Environment, Conservation and Parks (the MECP) to specifically weigh socio-economic factors when making decisions under the ESA, including with respect to habitat identification. Bill 5 further removes the requirement for the province to develop recovery strategies and management strategies for listed species. These strategies are prepared for each listed species that identify the species’ habitat needs, a description of the threats to survival, and recommendations to protect and recover the species.

Under the ESA, it is prohibited to engage in an activity that harms or kills a listed species, or which damages or destroys that species’ habitat without a permit. The narrowed definition for habitats is significant and may reduce some of the uncertainty surrounding the MECP’s assessment of whether an activity triggers the ESA’s protections. The MECP typically prepares general habitat descriptions to identify a species’ use of the natural environment for key life processes, and uses these general habitat descriptions to determine whether an activity is occurring in a species habitat (triggering the ESA’s requirements). The Ontario Court of Appeal recently confirmed that the MECP’s general habitat descriptions are not legal instruments and can only provide information about the types of areas that a species might use as habitat.[\[1\]](#) With Bill 5 these descriptions will hold less weight and may need to be revisited to comply with the revised definition. As part of the transition process, the new definition of “habitat” will only apply to new decisions and not existing permits.

Modifications to the Listing Process for Species

Bill 5 grants the province the discretion to add or remove species from the Species at Risk in Ontario List.

The ESA establishes a process by which species are listed either as “extirpated,” “endangered,” “threatened,” or of “special concern,” and empowers the Committee on the Status of Species at Risk in Ontario (COSSARO) to identify those species and periodically update their recommendations. The province was previously required to adopt COSSARO’s recommendations and list any species under the Species at Risk in Ontario List regulation. As a result of Bill 5, the province can now refuse to accept COSSARO’s recommendations, and remove species from the Species at Risk in Ontario List if it deems it appropriate. However, the province does not have the power to remove and re-list a species under a

different category, or otherwise change a listing. The province must still adopt the same listing as recommended by COSSARO if it decides to add a species. As such, Bill 5 does not permit the province to “downgrade” a species.

No More Species Conservation Charges

Bill 5 prevents the Species at Risk Conservation Trust (the Agency), which funds activities likely to protect or recover or that support the protection or recovery of listed species, from accepting new species conservation charges or funding specified in the ESA. Bill 5 also provides a process for the wind up of the Agency by granting the Minister discretion to order the Agency’s board of directors to wind up the affairs of the Agency.

The ESA previously granted proponents the option to pay a species conservation charge to the Agency in lieu of conducting on the ground mitigation. The removal of species conservation charges will mean that the province will now require mitigation of harm to species and species’ habitat. As described above, the reduced scope of the ESA may reduce the amount or scope of required mitigation.

The *Species Conservation Act*, 2025 and a new “Registration First” Approach

The new SCA will carry forward the changes to the ESA that are described above. The key feature of the SCA is to replace the requirement to obtain permits to destroy or damage habitat with a new “registration-first” model. Proponents that engage in an activity designated by regulation as a “registerable activity” must register on a Species Conservation Registry maintained by the province before it can carry out the activity. A proponent will need to provide any prescribed data, information, or reports before the province will accept the registration. The Minister of the Environment retains the discretion to suspend a registration in various circumstances, including if the registrant has contravened the SCA or its regulations. Certain activities will still be deemed to be “permit activities” and will continue to require a permit from the MECP.

The SCA will likely streamline a proponent’s permitting requirements for endangered species. The province has indicated that most activities that currently require a permit will be listed as a “registrable activity,” meaning that most activities can now proceed via registration. It is anticipated that the registration process will be significantly faster and function in a similar manner to the existing Environmental Activity Sector Registry (EASR) process under the *Environmental Protection Act* and *Ontario Water Resources Act*, which governs various types of routine discharges to the environment and water-takings. The process to obtain an EASR registration is significantly faster than the process to obtain an Environmental Compliance Approval, which is intended to permit more significant discharges, and can take months to obtain.

Reduce Overlap with Federal Species at Risk Legislation

The SCA will not apply to extirpated, endangered, or threatened birds protected under the federal *Migratory Birds Convention Act, 1994*, listed under the federal *Species at Risk Act*, as well as aquatic species similarly protected under the *Species at*

Currently, proponents undertaking projects on non-federal lands must obtain both federal and provincial permits to comply with both the ESA and *Species at Risk Act*. The SCA proposes to remove this overlap, reducing the permitting requirements

Risk Act.

for projects.

Transition to the SCA

Bill 5 proposes to repeal the ESA in the future and replace the ESA with the new SCA at a future date, namely when the province develops regulations and conducts further public consultation.

The ESA amendments in Bill 5 are intended to transition the current framework to the new SCA. Existing permits and conditions will remain valid and the previous definition of “habitat” continues to apply to those permits. New permits issued before the SCA comes into force will follow a more streamlined process.

Next Steps

Bill 5 received Royal Assent, but much of its content is not in-force until the province develops regulations and consults with Indigenous communities, the public, and other stakeholders.

For the SEZA, the Province is expecting to move quickly, and is planning to designate the first economic zones in regulation by September 2025. Other draft regulations, including for the SCA, may be less forthcoming.

Please contact any member of the [Municipal, Planning & Environmental Group](#) for more information.

¹ 2025 ONCA 41 at paragraph 44.