

## Ontario Ministry of Transportation

### SPECIES AT RISK BEST MANAGEMENT PRACTICE ENDANGERED SPECIES ACT, 2007

#### Vegetation Management

#### 1.0 DESCRIPTION OF THE ACTIVITY AND POTENTIAL IMPACTS ON SPECIES AT RISK

This Best Management Practice (BMP) applies to activities associated with the management of vegetation within the Right of Way (ROW) of the highway to maintain access and sight lines for the safety of the traveling public. Activities include:

- Mowing – Grass is mowed in the ROW near the road and at intersections to maintain clear sightlines;
- Weed Control – Where noxious and other weeds are identified, they are eradicated by mechanical means; use of herbicide is generally uncommon;
- Brush Control & Tree and Shrub Maintenance – Removal of shrubs and branches that impede traffic, or that obstruct sight lines or view of regulatory signs, etc.;
- Tree Removal – Removal of trees that obstruct sightlines, and/or are at risk of falling onto the road creating a road hazard; and
- Ground Cover – reseeding disturbed ground with seed mix.

Mowing or vegetation removal solely for aesthetic purposes is not eligible for exemption under O. Reg 242/08, Threats to Health and Safety – not imminent. If any SAR are present in areas where vegetation management for aesthetic purposes is proposed, consultation with MNRF may be required to determine authorization requirements.

This BMP applies to locations where Species at Risk (SAR) may occur. For more information see *BMP – Determining Locations for BMP Implementation*.

This BMP does not apply to vegetation management activities that are determined to be in response to an imminent threat to health and safety. For more information on imminent threats to health and safety see *General Information*.

**Potentially Affected SAR Groups:** Turtles (SAR), Snakes and Lizards (SAR), Birds (Ground- and Tree/shrub-nesters), Mammals (SAR Bats), Mosses, Lichens, and Vascular Plants (SAR)

SAR mosses, lichens, and vascular plants may be present in vegetated areas in the ROW and may be killed or harmed by any and all vegetation maintenance activities.

## **Mowing**

Mowing equipment may kill, harm, or harass turtles moving to road shoulders to nest, snakes and lizards under cover in the ROW or on the road shoulder, and ground nesting birds in grassy areas of the ROW. Mowing may also damage or destroy nests of ground-nesting birds.

## **Brush Control and Tree and Shrub Maintenance**

The pruning or removal of shrubs or branches may kill, harm, or harass nesting birds, and damage or destroy nests present in vegetation.

## **Tree Removal**

Complete tree removal may kill, harm, or harass nesting birds, roosting bats or bat maternity colonies, and may remove bird nesting and bat roosting habitat. Some trees are SAR (e.g., Butternut).

## **Ground Cover**

Non-native invasive species may be introduced in seed mix which can out-compete existing vegetation and destroy habitat.

## **2.0 BEST MANAGEMENT PRACTICES**

### **Step 1: Planning Work Activities**

1.A. When planning the activities, the Service Provider shall:

- 1.A.1. Determine the locations where this BMP must be applied using the approach detailed in *BMP – Determining Locations for BMP Implementation*. If the *BMP – Determining Locations for BMP Implementation* is not followed, this BMP shall be applied at all locations within the work area.
- 1.A.2. Undertake the work in accordance with the following:
  - *MTO Best Management Practices Manual for Fisheries: Maintenance of Riparian Vegetation in Existing Rights-of-Way*.
- 1.A.3. Plan the work to avoid carrying out the activities during the following timing restrictions when the following species groups are potentially present in the work area:

## **Mowing, Brush Control, Tree and Shrub Maintenance**

### Turtles, Snakes, and Lizards (SAR)

West Region: **April 15 – July 10**

Central Region: **May 1 – July 10**

East Region: **May 1 – July 10**

Northwest Region: None (No protected turtle, snake, or lizard species)

Northeast Region: **May 1 – July 10**

### Birds (SAR Ground- and Tree/shrub-nesters)

West Region: **May 15 – September 15**

Central Region: **May 15 – September 15**

East Region: **May 15 – September 15**

Northwest Region: **May 15 – August 1**

Northeast Region: **May 15 – August 1**

### Mosses, Lichens, and Vascular Plants (SAR)

No timing restriction.

## **Tree Removal**

### Birds (SAR Ground- and Tree/shrub-nesters)

West Region: **May 15 – September 15**

Central Region: **May 15 – September 15**

East Region: **May 15 – September 15**

Northwest Region: **May 15 – August 1**

Northeast Region: **May 15 – August 1**

### Mammals (SAR Bats)

All Regions: **May 1 – September 30**

### Mosses, Lichens, and Vascular Plants (SAR)

No timing restriction.

## **Weed Control and Ground Cover**

No timing restrictions.

Note that the timing of sensitive life stages of certain species may vary over a geographic region and/or from year-to-year based on climate and other environmental factors.

- 1.A.4. Follow Step 3 (Encountering SAR) as necessary.

- 1.A.5. Document as per Step 4.
- 1.B. For those locations where the timing restrictions cannot be adhered to due to operational requirements, the Service Provider shall:
- 1.B.1. Plan the work to avoid carrying out the activities in the following **core** timing restrictions when the following species groups are potentially present in the work area:

**Mowing, Brush Control, Tree and Shrub Maintenance**

Turtles, Snakes, and Lizards (SAR)

West Region: **May 1 – July 10**

Central Region: **May 1 – July 10**

East Region: **May 1 – July 10**

Northwest Region: None (No protected turtle, snake, or lizard species)

Northeast Region: **May 1 – July 10**

Birds (SAR Ground- and tree/shrub-nesters)

All Regions: **May 15 – July 31**

Mosses, Lichens, and Vascular Plants (SAR)

No timing restriction.

**Tree Removal**

Birds (SAR Ground- and Tree/shrub-nesters)

All Regions: **May 15 – July 31**

Mammals (SAR Bats)

All Regions: **May 15 – July 31**

Mosses, Lichens, and Vascular Plants (SAR)

No timing restriction.

**Weed Control and Ground Cover**

No timing restrictions.

Note that the timing of sensitive life stages of certain species may vary over a geographic region and/or from year-to-year based on climate and other environmental factors.

- 1.B.2. Modify the activity as per Step 2.
- 1.B.3. Follow Step 3 (Encountering SAR) as necessary.
- 1.B.4. Document as per Step 4.
- 1.C. For those locations where the core timing restrictions cannot be adhered to due to operational requirements, the Service Provider shall:
  - 1.C.1. Modify the activity as per Step 2.
  - 1.C.2. Follow Step 3 (Encountering SAR) as necessary.
  - 1.C.3. Document as per Step 4.

## **Step 2: Undertaking the Activity**

- 2.A. When undertaking the activity at locations where the BMP must be applied and the timing restrictions cannot be adhered to, the Service Provider shall:
  - 2.A.1. **All Activities (mowing; weed control; brush control & tree and shrub maintenance; tree removal; and ground cover)**
    - 2.A.1.1. Carry out activities with care and caution<sup>1</sup> with the awareness of the potential presence of SAR.
    - 2.A.1.2. When planning activities in vegetated areas, maximize the retention of vegetation and minimize the damage to trees and tree limbs, shrubs, and other plants: when selecting access routes, when choosing the size and location of staging areas, when selecting equipment (including considering using hand tools for smaller work), and by prohibiting access to vegetated areas outside the work area.
    - 2.A.1.3. Minimize the disturbance of gravel shoulders (to protect turtle nests etc.) when planning and undertaking activities by avoiding or minimizing parking equipment on the shoulder, avoiding or minimizing the use of the shoulder for staging, and restricting access to gravel shoulders outside the work area.

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<sup>1</sup> See *General Information, Section 6.0 (Step 2)* for descriptions of care and caution.

## **2.A.2. Mowing Only**

2.A.2.1. Mow to a minimum height of 20 cm to prevent harm to ground nests and animals (such as turtles and snakes).

2.A.2.2. Do not mow beyond 2 m from the shoulder, if possible.

### **Step 3: Encountering SAR**

3.A. When undertaking the activity at any and all locations where the activity is required, the Service Provider shall implement the *BMP – Species at Risk Encounters* if a member of the potentially affected SAR Groups listed in Section 1.0 of this BMP is encountered.

### **Step 4: Documentation**

4.A. The Service Provider shall document, as a minimum, the following information in a Schedule<sup>2</sup>:

- Locations and dates where the maintenance activities were undertaken
- List of species potentially impacted as determined by background search
- Locations where this BMP was applied
- For locations where the BMP was applied:
  - Dates of when the work was started and completed by location
  - Locations where the timing restrictions (and core timing restriction, if applicable) were adhered to
  - Locations where the timing restrictions (and core timing restriction, if applicable) could not be adhered to
- Rationale for all locations where the Service provider did not adhere to the timing restrictions (and core timing restriction, if applicable)
- Any modifications to activities implemented as indicated in the BMP
- Any training staff received on using the BMPs

4.B. The Service Provider must provide strong rationale for not adhering to the timing restriction or the core timing restriction, if applicable. Not adhering to the timing restriction(s) without sufficient rationale could result in unfulfilled regulation

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<sup>2</sup> Note that for the purpose of this BMP, MNRF identifies the required documentation as a 'schedule'.

conditions and potential compliance actions under the Endangered Species Act, 2007.

- 4.C. Documentation of the above information shall be signed and dated by the Service Provider and be completed within 5 days of the work being done. This documentation shall be provided to the Ministry of Transportation bi-weekly when requested.
- 4.D. The Service Provider must also provide MNRF with the documentation as described above (schedule) within 14 days of receiving a request for it.