

Agreements with Indigenous governing bodies enabled by the **Emergency and Disaster Management Act**

The Emergency and Disaster Management Act (EDMA) emphasizes and supports reconciliation, self-determination, and decision-making with Indigenous governing bodies¹ (IGB) through different types of agreement opportunities.

The EDMA enables opportunities for local authorities (municipalities and regional districts) and the Ministry of Emergency Management and Climate Readiness (EMCR) to reach agreement with IGBs, and to develop agreements with IGBs for a variety of purposes including working to implement Indigenous engagement requirements such as consultation and cooperation, and to further support collaboration and coordinated decision making across all phases of emergency management.

The obligation for regulated entities to reach agreement² with IGB under the EDMA is new and is a requirement that will be phased in over time.

Developing and entering into emergency management agreements with IGB that are described further in this factsheet is not a requirement of the EDMA. These types of agreements are optional and the agreements framework in the EDMA is intended to enable and support stronger collaboration and decision-making that accommodates respective interests.

What types of agreements with IGBs are enabled by EDMA?

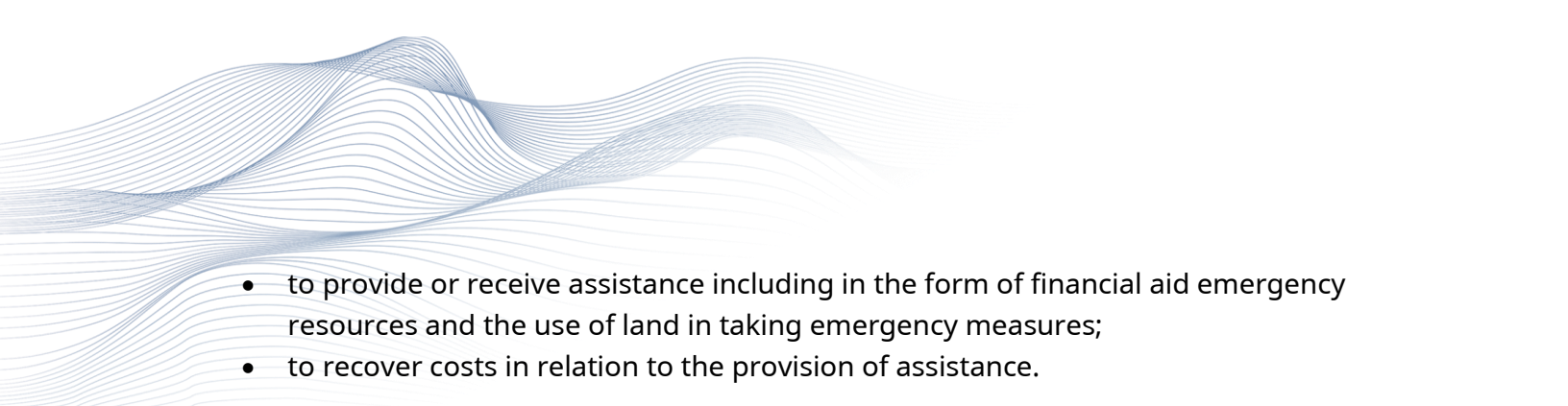
This factsheet describes three main types of agreements enabled by the EDMA including collaborative emergency management agreements, coordination agreements, and joint and consent-based decision-making agreements.

Collaborative emergency management agreements (CEMA) are not named in the act, but are enabled under Section 8, which allows the minister to enter into various types of agreements for the following purposes:

- to cooperate in taking emergency measures;

¹ Indigenous governing body (IGB), as defined in the Declaration Act, means an entity that is authorized to act on behalf of Indigenous Peoples who hold rights recognized and affirmed by section 35 of the Constitution Act (1982).

² One of the transitional provisions that is functional now is Section 179(7) that local authorities are required to **begin to work to reach agreement** with IGB on the areas to be described in the local authorities' emergency management plans for the purposes of consultation and cooperation during the response and recovery phases. Many requirements described in the EDMA including Section 55 are functional after regulations are made.

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- to provide or receive assistance including in the form of financial aid emergency resources and the use of land in taking emergency measures;
 - to recover costs in relation to the provision of assistance.

CEMAs are government-to-government agreements between an IGB and the Province, and can focus on strengthening relationship building, achieving shared interests and developing structures for collaboration in emergency management. Other governments could be invited to join these agreements. For example, the Government of Canada is a signatory to the CEMA with the T̓silhqot'in Nation.

The purpose of CEMAs is to identify common goals and objectives in emergency management and to map out ways to collaborate. The EDMA provides continued authority for existing agreements and enables the making of further agreements.

CEMAs may complement reconciliation agreements (for example, treaty or other types of reconciliation agreements).

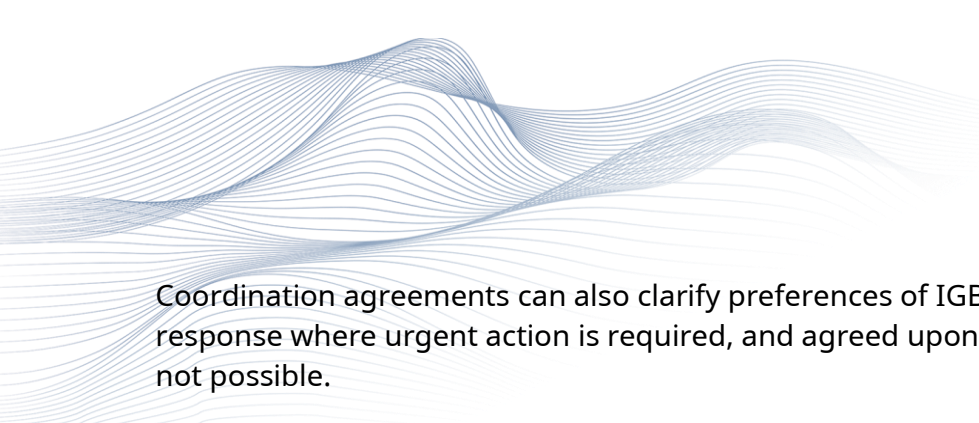
Coordination agreements can be made for the purpose of coordinating the exercise of statutory response and recovery powers held by the Province or local authorities with the exercise of an IGB's rights-based authority. In these cases, a coordination agreement would include steps that support coordination of authorities related to response and recovery actions.

Coordination agreements can also formalize certain aspects of how emergency management can work in a co-managed environment that recognizes the land-based authority of First Nations by outlining agreement related to harmonization of plans, policies, and programs.

Coordination agreements can be developed in relation to specific areas within the traditional territories of First Nations, and are made between the Province and an IGB. Local authorities can also be parties to these agreements.

By agreement, parties will shift decision-making processes in a variety of ways, including:

- requiring that a power be exercised, or a duty performed;
- requiring the Province or a local authority to refrain from exercising a power or performing a duty;
- setting limits or conditions on exercise of a power or performance of a duty;
- imposing requirements with respect to exercise of a power or the performance of a duty;
- requiring consultation and cooperation related to the exercise of a power or the performance of a duty.



Coordination agreements can also clarify preferences of IGB in circumstances of imminent response where urgent action is required, and agreed upon processes for engagement are not possible.

Joint and consent-based decision-making agreements can require that a decision-maker named by the EDMA must exercise their decision either jointly with an IGB or only after obtaining the consent of an IGB. These types of agreements were introduced as part of the Declaration on the Rights of Indigenous Peoples Act in 2019. The EDMA will authorize these agreements related to statutory powers or statutory powers of decision under the legislation.

Examples of what might be considered for a joint or consent-based decision-making agreement for statutory powers³ or powers of decision⁴:

- An IGB and the Province jointly exercise a statutory power of decision in EDMA such as to deciding on, or prescribing that a qualified person is required to provide a service or give assistance.
- An IGB consent is required before the exercise of a statutory power in the EDMA, such as before an emergency power is exercised to authorize or require alterations, removal, or demolition of trees, crops, structures, or landscapes.
- An IGB consent is required before the exercise of a statutory power of decision in EDMA such as before a decision or prescription is made by the Province to a regulated entity.

These agreements will outline the processes for joint or consent-based statutory decision-making, while clarifying the roles and responsibilities of the Province and the IGB.

A mandate from Cabinet is required prior to negotiating or entering into a joint or consent-based decision-making agreement.

For more information about Declaration Act Section 7 agreements, including examples of completed agreements, see [Making decisions together](#).

Multijurisdictional emergency management organizations

In addition to the agreement types described above, the EDMA introduces a framework for collaboration and partnerships that can include any combination of two or more local governments, IGBs, and the Province. These are called multijurisdictional emergency management organizations (MJEMO) and will enable members to work collaboratively at any phase of emergency management and allow planning requirements to be met collectively. Further information is provided in the [MJEMO factsheet](#).

³“statutory power agreement” for a statutory power in EDMA, entered into under Declaration Act Section 6

⁴“decision-making agreement” for a power of decision in EDMA, entered into under Declaration Act Section 7



More information

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The information in this document is for convenience and guidance and is not legal advice or a replacement for the legislation or independent legal advice.

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