

Emergency and Disaster Management Act

Interim Guidance on Indigenous Engagement Requirements



Background

The [Emergency and Disaster Management Act](#) (EDMA) came into force on November 8th, 2023. The Ministry of Emergency Management and Climate Readiness (EMCR) developed EDMA in consultation and cooperation with First Nations as required by the [Declaration on the Rights of Indigenous Peoples Act](#) (Declaration Act) and pursuant to action 1.10 of the [2022-2027 Declaration Act Action Plan](#). The Declaration Act requires the B.C. government to, in consultation and cooperation with the Indigenous peoples in B.C., take all measures necessary to ensure the laws of B.C. are consistent with the [United Nations Declaration on the Rights of Indigenous Peoples](#) (UN Declaration). In addition, EDMA is grounded in the [United Nations Sendai Framework for Disaster Risk Reduction](#) (Sendai Framework) that upholds an all-of-society approach to emergency management. These foundational documents, and the outcomes of a collaborative process with First Nations, provided the framework for new Indigenous Engagement Requirements included in EDMA. The intention of this document is to provide interim guidance describing the general engagement requirements with Indigenous Governing Bodies (IGBs). For specific details on what is required, refer to the Act. A more robust guide with specific information on the Indigenous engagement requirements is under development.



Modernizing Emergency Management

In 2021, the Province and First Nations began collaborative development of modernized emergency management legislation. As a result of this process, EDMA:

- recognizes that the **inherent right of self-government** of Indigenous peoples includes authority to make laws in relation to emergency management;
- facilitates **collaboration**, including through clarifying roles, responsibilities, and authorities;
- requires **consultation and cooperation** with Indigenous Governing Bodies (IGBs) through all stages of emergency management;
- incorporates **definitions** shaped by Indigenous peoples and Indigenous organizations;
- requires **coordinating emergency management plans** with IGBs;
- requires **cultural safety** in emergency management, including by incorporating relevant actions in emergency management plans, policies and programs thereby reducing anti-Indigenous racism and discrimination; and
- recognizes the importance of **local Indigenous knowledge**, advice, input, and stewardship activities in emergency management and requires risk assessments or emergency management plans to incorporate Indigenous knowledge, if available.

Regulated Entities – means a B.C. government Cabinet Minister, public sector agency, a local authority, or a critical infrastructure owner.

Local Authority - means a municipality, a regional district, the Nisga'a Nation and a Modern Treaty Nation. The Indigenous engagement requirements generally do not apply to the Nisga'a Nation and a Modern Treaty Nation.

Indigenous Governing Body (IGB) - As Defined in the Declaration Act, means an entity that is authorized to act on behalf of Indigenous peoples that hold rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.

EDMA requires that consultation and cooperation with IGBs is undertaken by municipalities and regional districts across all phases of emergency management. Municipalities and regional districts are required to work with IGBs to identify the areas of an IGB's traditional territory or treaty areas that fall within the municipalities and regional districts emergency management authority. Municipalities and regional districts are required to consult and cooperate with IGBs on certain actions that may affect these areas, or people in these areas, during response and recovery.

Consultation and Cooperation

- ➔ Now that EDMA is in force, municipalities and regional districts must start engaging IGBs regarding their territory or treaty area and any adjacent treaty lands. This is necessary to plan for the consultation and cooperation that is required to take place during the response and recovery phases of an emergency.
- ➔ During the response and recovery phases, consultation and cooperation is required when a municipality or regional district plans to use certain land-based response or recovery powers. To view a table with more detail on these powers and when consultation and cooperation is required please reference pages 20-27 in the [Technical Paper for B.C.'s Modernized Emergency Management Legislation \(PDF\)](#).
- ➔ Once regulations for municipalities and regional districts are in force, they will be required to consult and cooperate with IGBs on risk assessments and emergency management plans.
- ➔ The objective of consultation and cooperation with IGBs is obtaining free, prior, and informed consent, consistent with the UN Declaration. Municipalities and regional districts must adopt this as the standard, make every effort to achieve it, and reflect it in their approach when they engage with IGBs.
- ➔ EMCR is developing guidance materials for municipalities and regional districts on how to develop risk assessments and emergency management plans in consultation and cooperation with IGBs.
- ➔ Risk assessments and emergency management plans must include consideration of people who may be disproportionately impacted by emergencies must include a focus on people who may be disproportionately impacted by emergencies.
- ➔ Risk assessments and emergency management plans must incorporate available Indigenous knowledge.
- ➔ Emergency management plans must cover all phases of emergency management and describe measures to promote cultural safety.

- Emergency management plans must cover all phases of emergency management, describe measures to mitigate the effects of emergencies on people, animals, places, and people or things and describe measures to promote cultural safety.
- The requirement to prepare risk assessments and emergency management plans will be phased in with the development of regulations. Please follow us on the [Modernized emergency management legislation - Province of British Columbia](#) webpage to stay up-to-date.

Free, Prior and Informed Consent: In the UN Declaration the objective of consult and cooperate with Indigenous peoples is to obtain free, prior, and informed consent, before undertaking certain actions. “Free” means there is no coercion, manipulation, or intimidation and there is no pressure for Indigenous governing bodies to agree. “Prior” means that consent is sought in advance of a decision, with sufficient and appropriate respect for Indigenous decision-making processes. “Informed” means that necessary information is provided through a participatory process of consultation. “Consent” is a concrete expression of the right to self-government, and an affirmation of Indigenous laws, jurisdiction, and decision-making.

Engage and Cooperate

There may be times following the declaration of a State of Local Emergency when it is not practicable to observe consultation and cooperation requirements such as imminent risk of loss of life, risk of injury to individuals or animals, or immediate risk of significant loss or damage to property. In these cases, municipalities and regional districts are required to engage and cooperate with IGBs as soon as reasonably practicable after the emergency action is taken. Reasons why consultation and cooperation was not practicable will be required to be included in the report to the provincial administrator.

Cultural Safety & Consideration of Disproportionate Impacts

In developing EDMA, the province heard about the importance of recognizing the disproportionate impacts of emergencies on different people and places within the Province. We also heard the need for emergency management to help combat discrimination, including anti-Indigenous racism, and to ensure that services are culturally safe. Risk assessments and emergency management plans need to consider factors such as the physical proximity of people, animals, places, or things to hazards. They will also need to be sensitive to systemic factors like age, ability, economic status, Indigenous identity, race, sex, sexual orientation, and gender identify or expression. Emergency management plans will include actions to reduce those disproportionate impacts and promote cultural safety.

Local Indigenous Knowledge

Indigenous knowledge is based on millennia of accumulated experiences and can provide expertise and insight into how we reduce disaster risk and manage emergencies now. The United Nations Office for Disaster Risk Reduction has recognized that local Indigenous knowledge is a valuable contributor to

planning and decision-making in emergency management. EDMA recognizes the value and importance of Indigenous knowledge.

- Once regulations are developed and in force, municipalities and regional districts will be required to incorporate available Indigenous knowledge in risk assessments and emergency management plans. Plans will identify hazards and potential consequences, including consequences to sites of heritage value. Plans and risk assessments must also include a consideration of people disproportionately impacted by the effects of emergencies. In addition, risk assessments will identify hazards and potential consequences, including consequences to sites of heritage value.
- Indigenous knowledge is owned by the Indigenous people or knowledge keepers who hold the knowledge. It is their choice to share it, and if none is shared, municipalities and regional districts may continue to develop their plans and risk assessments.
- If Indigenous knowledge is provided in confidence, it must be treated as confidential and may only be disclosed in a manner prescribed in EDMA.



Additional Resources

- [Sendai Framework for Disaster Risk Management](#)
- [United Nations Declaration on the Rights of Indigenous Peoples \(PDF\)](#)
- [Declaration on the Rights of Indigenous Peoples Act](#) More information on the policy direction and requirements in EDAM can be found in the Technical Paper for [B.C.'s Modernized Emergency Management Legislation \(PDF\)](#)
- EMCR Modernized emergency management website: <https://gov.bc.ca/EmergencyManagementAct>
- Email your comments or questions on the Indigenous engagement requirements to: EMCR.IndigenousPeoplesPolicy@gov.bc.ca

