



BRITISH
COLUMBIA

April 30th, 2024

Reference: 640705

Ted Robbins
Chief Administrative Officer
Capital Regional District
Email: DMarquez@crd.bc.ca

Dear Ted Robbins:

Thank you for your correspondence received on February 9th, 2024, addressed to The Honourable David Eby, Premier, The Honourable George Heyman, Minister of Environment and Climate Change Strategy, and myself, concerning the *Emergency and Disaster Management Act* (EDMA). I am responding on behalf of the Premier and Minister.

I have received questions and feedback from a range of local governments. In response to this need for information, I have sent a letter dated March 12th, 2024, to all mayors and regional district chairs across the province that provides clarity on the most common concerns raised. Please see the letter attached. We are also working to produce and public helpful guidance on the EDMA (gov.bc.ca/gov/content/safety/emergency-management/local-emergency-programs/local-gov-operations), and technical questions can be referred to your local regional office or to modernizeEM@gov.bc.ca

I am sincerely grateful to all of the local governments that provided a submission in response to engagement that took place from October 2023 through January 2024 on the modernization of regulations for local authorities and for disaster financial assistance. All feedback we have received from local governments will be considered as part of our work to develop regulations under the EDMA. There is also a five-year review of the Act that is mandated under the legislation.

The Capital Regional District's request regarding the clarification of statutory obligations for entities responsible for infrastructure is noted and will be given consideration as the government looks ahead to regulations that will further shape risk assessment and planning by government ministers, local authorities, critical infrastructure owners, and public sector agencies.

Page 1 of 2

Our web page dedicated to the legislation also includes some up-to-date information that you may find useful. You can find this page at gov.bc.ca/EmergencyManagementAct.

Thank you again for taking the time to write.

Sincerely,



Bowinn Ma
Minister of Emergency Management
and Climate Readiness

Attachment: 640890 Minister letter to Chairs – EDMA.pdf

CC: The Honourable David Eby, Premier
The Honourable George Heyman, Minister of Environment and Climate Change Strategy
Capital Regional District Board
Kevin Lorette, General Manager, Planning and Protective Services,
Capital Regional District
Shawn Carby, Senior Manager, Protective Services, Capital Regional District



BRITISH COLUMBIA

March 12th, 2024

Reference: 640890

Dear Chairs:

On November 8th, 2023, the *Emergency and Disaster Management Act* (EDMA) was passed, replacing the *Emergency Program Act* (EPA). Since its adoption, we have received many questions seeking clarifications on a number of aspects of the EDMA. I write to you today to offer greater clarity that I hope will respond to questions and concerns you may have about the new Act.

As you know, people and communities across British Columbia are experiencing extreme weather emergencies – such as wildfires, drought, extreme temperatures, and floods – like never before. Exacerbated by climate change, these events are having profound impacts on people across the province, and we are committed to supporting your communities as we face this new reality together. The EDMA is part of our work to ensure that we are adapting to these challenges together.

While the EDMA largely carries forward powers that were afforded to provincial and local governments through the EPA, the EDMA also enables several key shifts. It takes us from a response focus to all four phases of emergency management: mitigation, preparedness, response, and recovery; it acknowledges modern-day realities like climate change; and it recognizes First Nations as equal partners in emergency management.

This letter has been sent to all B.C. regional district chairs and you are welcome to share it with your directors.

Background

Regional districts are vital partners in emergency management, and I want to acknowledge with gratitude the participation by B.C. regional districts in shaping the EDMA. This work began in 2019 with broad public consultation. Through 2019 and 2020, after releasing a discussion paper and holding a series of engagements around the Province, we received over 200 distinct submissions from members of the public, local governments, First Nations, business and industry, non-profit and volunteer organizations, and emergency management practitioners. In the years that followed, provincial staff remained in contact with local governments through the Union of B.C. Municipalities (UBCM) and worked in consultation and cooperation with First Nations.

Page 1 of 5

While considerable efforts have been made to engage partners on this legislation, we recognize the need to continue sharing information about the policies included in the EDMA, as well as guidance for implementation. Specifically, the Ministry of Emergency Management and Climate Readiness (EMCR) has heard concerns about the capacity of local authorities to implement the new legislation, funding needs and penalties under the EDMA. In light of these concerns, you may find the following information useful.

Capacity and Funding

In response to feedback about local government capacity that was received throughout the engagement and development process for the EDMA, obligations relevant to local governments will be phased in over time as regulations are developed. A key exception to this is the requirement to consult and cooperate with First Nations, which came into effect when the legislation was adopted.

To support local governments and First Nations in this work, the Province is providing \$18 million for communities to support consultation and cooperation in advance of emergency events. This funding is intended to help:

- support relationship-building across jurisdictions through consultation and cooperation with Indigenous governing bodies;
- ensure the incorporation of available Indigenous knowledge and cultural safety across emergency management practices;
- support policy improvements that reflect the lived experience of Indigenous Peoples; and
- address the disproportionate impacts on Indigenous Peoples during emergency events.

Eligible local authorities and First Nations have received a contribution agreement to be signed by **March 31st, 2024** to access these funds. Please ensure that your regional district has completed this contribution agreement.

For full program information, please visit:

<https://www2.gov.bc.ca/gov/content/safety/emergency-management/local-emergency-programs/financial/ierfp>.

In addition, we recognize that regional districts are different from municipalities. Their comparatively large jurisdictional boundaries and differences in population densities and distribution, coupled with differences between the *Local Government Act* and the *Community Charter*, mean that the approach to emergency management in regional districts may need to take a different form from the approach taken in municipalities.

We have heard concerns that the EDMA makes regional districts responsible for emergency management on Crown land. I would like to take this opportunity to confirm that the Province will continue to manage Crown land. The EDMA allows regional districts to use emergency powers and requires regional districts to perform duties in relation to Crown land, but this does not mean that local authorities are responsible for Crown land. Rather, this clarifies that if, during a state of local emergency, a regional district wishes to issue orders that affect Crown land, it is authorized to do so. Any duties that relate to those orders—such as consulting and cooperating with Indigenous governing bodies, or making a post-event report—would have to be performed. When provincial authorities are coordinating response or recovery actions in relation to Crown land, the EDMA requires regional districts to support those provincial authorities, for instance, by providing local knowledge or by coordinating local actions with provincial actions.

For greater certainty, we intend to make regulations aimed at refining the scope of regional district risk assessments and emergency management plans. These regulations will focus on prioritizing geographic areas where planning is deemed most crucial. This commitment was made in a technical paper (https://www2.gov.bc.ca/assets/gov/public-safety-and-emergency-services/emergency-preparedness-response-recovery/embc/legislation/tp_bc_modernized_em_legislation.pdf) issued by EMCR in July 2023, in response to regional district feedback received during the development of the legislation. Feedback from representatives of regional districts on the UBCM Flood and Wildfire Advisory Committee also helped to shape this policy. This commitment is echoed in the engagement paper on regulations for local authorities (<https://engage.gov.bc.ca/app/uploads/sites/863/2023/09/B.C.s-Modernized-Emergency-Management-Legislation-Regulations-for-Local-Authorities.pdf>) issued by EMCR in October 2023.

As noted earlier, the remaining obligations will be phased in over time as regulations are developed. These include the risk assessment and planning requirements under the EDMA. Until risk assessments and emergency management plans are prepared for the purposes of the new legislation, existing plans prepared according to the requirements of the *Local Authority Emergency Management Regulation* (LAEMR) made under the former *Emergency Program Act* can continue to be used.

You will find that there is significant overlap when the requirements of the EPA and LAEMR are compared to those in the EDMA. We know that most regional districts have already built a solid emergency management foundation through their existing plans and we expect that the risk assessments and emergency management plans under the EDMA will cover familiar territory.

For example, section 2(1) of the LAEMR required local emergency plans to reflect “the local authority’s assessment of the relative risk of occurrence and the potential impact on people and property” associated with “the potential emergencies and disasters that could affect all or any part of the jurisdictional area for which the local authority has responsibility.” This parallels the EDMA’s concept of a risk assessment. Similarly, many of the other elements of section 2 of the LAEMR can be found in the EDMA provisions that outline requirements for emergency management plans.

All local authorities were invited to submit written feedback and to participate in online meetings held during the broad engagement period that ran from October 2023 through January 2024. We received many submissions from regional districts and I am sincerely thankful for this input. As part of that feedback, I received a suggestion from some regional districts of a regional districts working group as a potential way to ensure regional district concerns are fully understood. I appreciate this suggestion and am taking this into consideration as we continue regulation development. EMCR will be releasing a What We Heard report in spring 2024 and will explore further engagement opportunities with local governments. I can commit to you that EMCR will continue to work directly with municipalities and regional districts, as well as with UBCM, to ensure that local authorities continue to have a voice in the design of regulations under the EDMA.

While the government intends to move forward with some regulations under the EDMA in 2024, new regulations for local authorities will not be brought into effect this year. Our current target for completion of regulations for local authorities is mid-2025.

Penalties

Under the EDMA, local authorities remain empowered to manage emergencies within their jurisdictional boundaries. After declaring a state of local emergency, a local authority may choose to order the evacuation of persons from hazardous areas. Evacuation orders can be issued in a way that allows the local authority to permit persons to temporarily re-enter evacuated areas for reasons authorized by the local authority—for example, to relocate livestock, to maintain critical infrastructure, or to retrieve important medication.

While some stakeholders have suggested that local authorities or their staff could face penalties for managing evacuations in this manner, that is not the case. As well, persons who do temporarily re-enter evacuated areas for authorized reasons are still in compliance with the emergency order and would not face penalties.

Like the former EPA, the EDMA provides for maximum penalties that may be imposed if offences are committed. Under the former EPA, a maximum monetary penalty and a maximum term of imprisonment was also established. In general, provincial statutes establish maximum penalties for legal certainty – these maximums are not the default penalties. The EDMA maximums are consistent with several dozen other provincial statutes and the Province does not regularly seek to impose the maximum penalties established by statutes.

The inclusion of these maximum penalties is not intended to signal a change in B.C.'s approach to managing emergencies. The Province continues to prefer approaches for seeking voluntary cooperation during emergencies and lower penalties are always considered if enforcement measures are required.

Next Steps

In addition to the information above, our web page dedicated to the legislation includes some information that you may find useful, including new guidance and templates

(<https://www2.gov.bc.ca/gov/content/safety/emergency-management/local-emergency-programs/local-gov-operations#sole>) for declaring a state of local emergency and reporting.

You can visit this page at gov.bc.ca/EmergencyManagementAct.

EMCR is working to develop more information to support local governments and others involved with emergency management in B.C. and will continue to make new resources available on our website.

Thank you for all of your work and leadership. Please do not hesitate to reach out if you have any further questions.

Sincerely,



Bowinn Ma
Minister of Emergency Management
and Climate Readiness