

Policy:

**Environmental Prosecutions**

Policy Code:

**ENV 1**

Effective Date:

March 1, 2018

Cross-references:

[APP 1](#) [CHA 1](#) [CHA 1.2](#)

This policy applies to all prosecutions of environmental and forestry-related offences under the provisions of various provincial statutes, including the *Environmental Management Act*, *Wildlife Act*, *Forest Act*, *Forest & Range Practices Act*, *Heritage Conservation Act* and *Water Sustainability Act*, as well as the federal and provincial *Fisheries Acts*.

Reports to Crown Counsel on environmental and forestry-related offences, should be forwarded for charge assessment to designated Environmental Resource Crown Counsel for that region, who will assess the case and, in significant, sensitive or particularly complicated cases, consult with a Regional Crown Counsel, Director, or their respective deputy.

Cases which, in the opinion of designated Environmental Resource Crown Counsel, do not require their involvement may be referred to the Crown Counsel office closest to the location of the alleged offence for prosecution, in which case the designated environmental Crown Counsel will be available to provide advice and assistance.

The *Charge Assessment Guidelines* ([CHA 1](#)) policy, rather than the *Charge Assessment – Social Regulatory Offences* ([CHA 1.2](#)) policy, is to be applied to environmental offences. In applying the charge assessment standard, Crown Counsel should keep in mind the importance of both the general legislative scheme to protect the environment and the overarching principle of general deterrence. The public interest test for prosecution will generally be met where one or more of the following factors apply:

- other methods of enforcement have proven ineffective in relation to previous offences, or there is reason to believe that other enforcement methods will not be effective
- the accused is a repeat offender
- the action of the offender was wilful, or fell significantly below the standard of due diligence
- there is more than minimal damage to the environment, or there is substantial potential for damage to the environment

- there is a significant non-compliance with environmental legislation, regulations or standards
- the lives or safety of persons were endangered
- the public interest in the maintenance of environmental values otherwise requires a prosecution

## Appeals

Designated Environmental Resource Crown Counsel will generally have conduct of all appeals to the Supreme Court of British Columbia arising out of environmental cases. Decisions with respect to Crown appeals will be made following consultation between a Regional Crown Counsel and the Deputy Director, Commercial, Police, and Regulatory Prosecutions, and the *Appeals* ([APP 1](#)) policy applies.

Decisions with respect to Crown appeals to the Court of Appeal, or appeals or applications for leave to appeal to the Supreme Court of Canada, will be made following consultation between a Regional Crown Counsel and the Director of Criminal Appeals and Special Prosecutions. In determining whether a Crown appeal should be taken to the Court of Appeal or Supreme Court of Canada, the *Appeals* ([APP 1](#)) policy applies.

Any disagreement about whether a Crown appeal, or application for leave to appeal, should be undertaken will be resolved by the Assistant Deputy Attorney General.