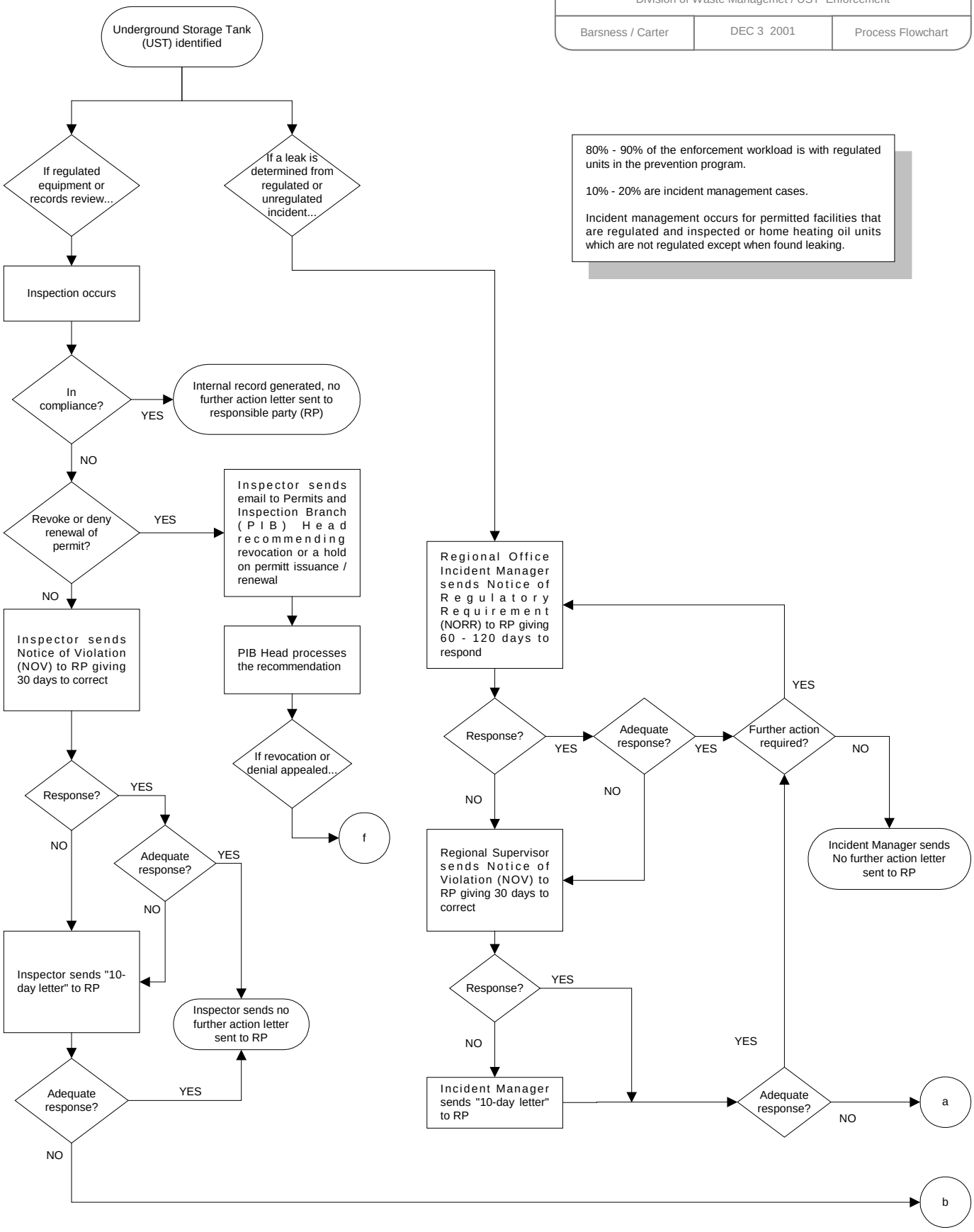
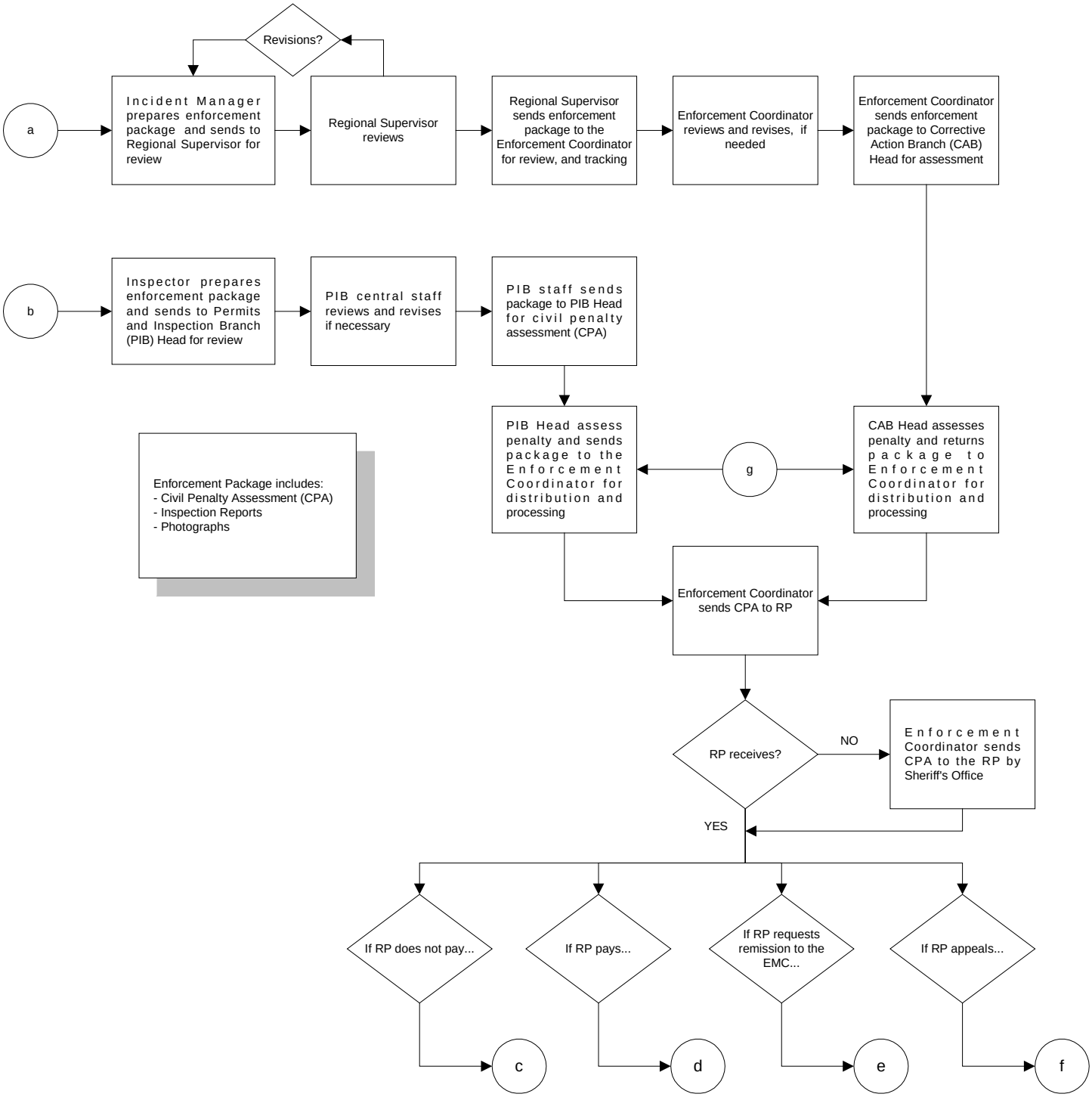
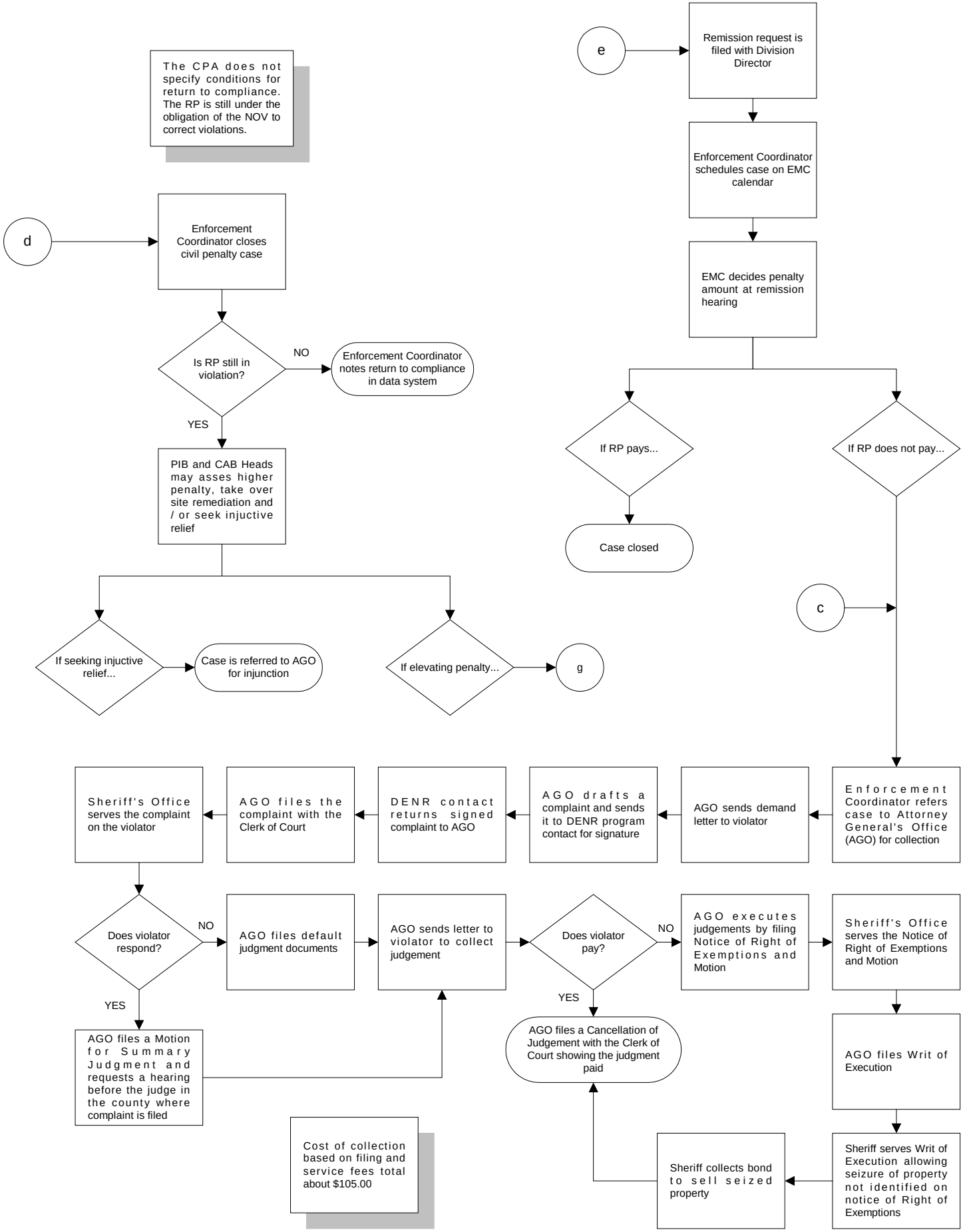
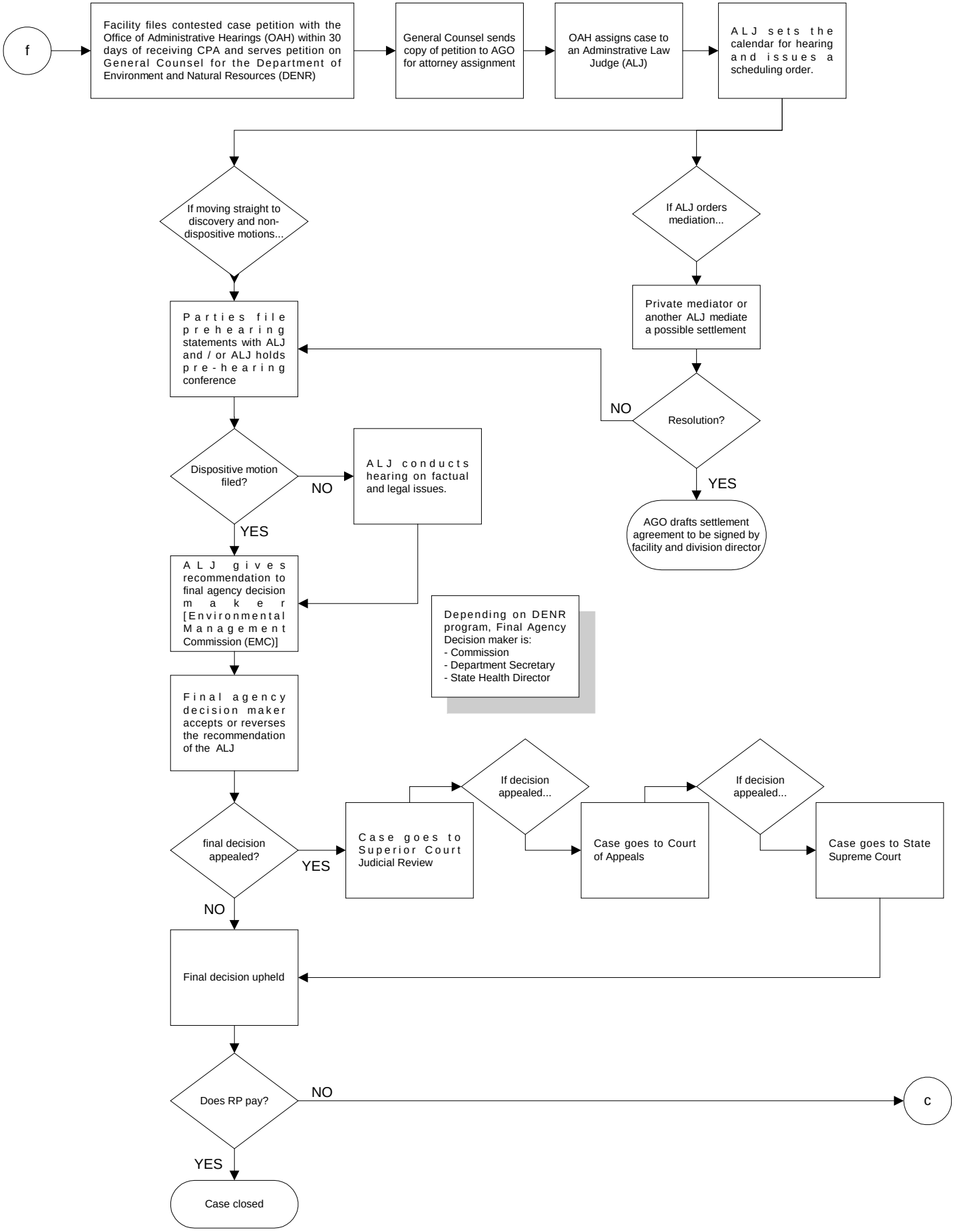
| Division of Waste Managemet / UST Enforcement | | |
|---|---|---|
| Barsness / Carter | DEC 3 2001 | Process Flowchart |




Revisions?
a
Incident Manager prepares enforcement package and sends to Regional Supervisor for review
Regional Supervisor reviews
Regional Supervisor sends enforcement package to the Enforcement Coordinator for review, and tracking
Enforcement Coordinator reviews and revises, if needed
Enforcement Coordinator sends enforcement package to Corrective Action Branch (CAB) Head for assessment
b
Inspector prepares enforcement package and sends to Permits and Inspection Branch (PIB) Head for review
PIB central staff reviews and revises if necessary
PIB staff sends package to PIB Head for civil penalty assessment (CPA)
Enforcement Package includes:
- Civil Penalty Assessment (CPA)
- Inspection Reports
- Photographs
PIB Head assess penalty and sends package to the Enforcement Coordinator for distribution and processing
g
CAB Head assesses penalty and returns package to Enforcement Coordinator for distribution and processing
Enforcement Coordinator sends CPA to RP
RP receives?
NO
Enforcement Coordinator sends CPA to the RP by Sheriff's Office
YES
If RP does not pay...
If RP pays...
If RP requests remission to the EMC...
If RP appeals...
c
d
e
f


e
Remission request is filed with Division Director
Enforcement Coordinator schedules case on EMC calendar
EMC decides penalty amount at remission hearing
If RP pays...
Case closed
If RP does not pay...
c
Enforcement Coordinator refers case to Attorney General's Office (AGO) for collection
AGO sends demand letter to violator
AGO drafts a complaint and sends it to DENR program contact for signature
DENR contact returns signed complaint to AGO
AGO files the complaint with the Clerk of Court
Sheriff's Office serves the complaint on the violator
Does violator respond?
NO
AGO files default judgment documents
AGO sends letter to violator to collect judgement
Does violator pay?
NO
AGO executes judgements by filing Notice of Right of Exemptions and Motion
Sheriff's Office serves the Notice of Right of Exemptions and Motion
AGO files Writ of Execution
Sheriff serves Writ of Execution allowing seizure of property not identified on notice of Right of Exemptions
Sheriff collects bond to sell seized property
YES
AGO files a Cancellation of Judgement with the Clerk of Court showing the judgment paid
YES
AGO files a Motion for Summary Judgment and requests a hearing before the judge in the county where complaint is filed
Cost of collection based on filing and service fees total about $105.00
The CPA does not specify conditions for return to compliance. The RP is still under the obligation of the NOV to correct violations.
d
Enforcement Coordinator closes civil penalty case
Is RP still in violation?
NO
Enforcement Coordinator notes return to compliance in data system
YES
PIB and CAB Heads may asses higher penalty, take over site remediation and / or seek injuctive relief
If seeking injuctive relief...
Case is referred to AGO for injunction
If elevating penalty...
g


f
Facility files contested case petition with the Office of Administrative Hearings (OAH) within 30 days of receiving CPA and serves petition on General Counsel for the Department of Environment and Natural Resources (DENR)
General Counsel sends copy of petition to AGO for attorney assignment
OAH assigns case to an Adminstrative Law Judge (ALJ)
ALJ sets the calendar for hearing and issues a scheduling order.
If moving straight to discovery and non-dispositive motions...
If ALJ orders mediation...
Private mediator or another ALJ mediate a possible settlement
Resolution?
NO
YES
AGO drafts settlement agreement to be signed by facility and division director
Parties file prehearing statements with ALJ and / or ALJ holds pre-hearing conference
Dispositive motion filed?
NO
ALJ conducts hearing on factual and legal issues.
YES
ALJ gives recommendation to final agency decision maker [Environmental Management Commission (EMC)]
Depending on DENR program, Final Agency Decision maker is:
- Commission
- Department Secretary
- State Health Director
Final agency decision maker accepts or reverses the recommendation of the ALJ
final decision appealed?
YES
Case goes to Superior Court Judicial Review
If decision appealed...
Case goes to Court of Appeals
If decision appealed...
Case goes to State Supreme Court
NO
Final decision upheld
Does RP pay?
NO
c
YES
Case closed