Inspector visits property

Inspection types include:
- routine inspection
- aerial
- follow up (to permit action)
- complaint based

Division of Coastal Management Enforcement

Barsness / Carter | NOV 10 2003 rev. DEC 29 2003 | Process Flowchart

In compliance? — YES → Internal record generated

NO

Within one week, Inspector schedules on-site meeting with permittee, property owner, or agent

Within two weeks of date of violation, Inspector sends Notice of Violation (NOV) with Cease and Desist Letter and restoration plan (if required) to the respondent

Is restoration required? — YES → Respondent signs and returns restoration plan (within ten days) → Respondent completes restoration within 30 days

NO

Inspector completes enforcement report to district manager and recommends penalty assessment

Is restoration complete? — YES

Inspector reinspects site

NO

Has respondent requested an extension? — YES → Is this the fourth extension request? — NO → Extension granted? — YES

NO

YES

NO

Inspector issues Continuing NOV (CNOV) with concurrence from division director, assistant director or compliance coordninator, resulting in daily penalties instead of a one-time amount

If respondent fails to respond...

If respondent hires an attorney or consultant...

If respondent provides restoration...

If attorney or consultant advises to contest...

If attorney or consultant advises cooperation...

District Manager reviews and issues penalty assessment to respondent, property owner, or agent giving ten days to pay

DCM requests Attorney General's Office (AGO) to file injunctive action

Decision obtained - restoration complete

If respondent pays...

If respondent does not pay...

District Manager issues letter to respondent acknowleging receipt and closing the case

a

a

revisions?

Inspector prepares referral for collection of civil penalty and sends to District Manager for review

District Manager reviews referral

District Manager sends referral to the Compliance Coordinator

revisions?

Compliance Coordinator reviews referral

Compliance Coordinator sends referral to Asst. Director for Permits and Enforcement

revisions?

Asst. Director for Permits and Enforcement reviews referral

AGO prepares formal penalty assessment based on referral and sends to Division Director

revisions?

Division Director reviews

Division Director signs and sends penalty to violator

If respondent pays the penalty...

Case closed

If respondent does not respond...

If respondent requests penalty reduction within 20-day appeal period...

Reduction request is filed with Division Director within 20 days of receipt of formal CPA

Does Division Director reduce penalty?

NO

YES

Does respondent ask CRC to review Director's decision?

YES

Case is referred to CRC for decision

NO

Does respondent pay?

YES

Case closed

NO

If respondent appeals the penalty within 20-day appeal period...

respondent files contested case with OAH within 20 days of receipt of formal CPA

b

Sheriff's Office serves the complaint on the respondent

AGO files the complaint with the Clerk of Court

DENR contact returns signed complaint to AGO

AGO drafts a complaint and sends it to DENR program contact for signature

AGO sends demand letter to respondent

Case is referred to AGO for collection

NO

Does respondent respond?

YES

AGO files default judgment documents

AGO sends letter to respondent to collect judgement

Does respondent 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

YES

AGO files a Cancellation of Judgement with the Clerk of Court showing the judgment paid

AGO files a Motion for Summary Judgment and requests a hearing before the judge in the county where complaint is filed

AGO files Writ of Execution

Cost of collection based on filing and service fees total about $105.00

Sheriff collects bond to sell seized property

Sheriff serves Writ of Execution allowing seizure of property not identified on notice of Right of Exemptions

page 2

b

Respondent 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 Administrative 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...

ALJ requires prehearing statements

Parties file prehearing statements with ALJ and / or ALJ holds pre-hearing conference

Private mediator or another ALJ mediate a possible settlement

Dispositive motion filed?

ALJ conducts hearing on factual and legal issues.

NO

NO

Resolution?

YES

AGO drafts settlement agreement to be signed by facility and division director

YES

ALJ gives recommendation to final agency decision maker (CRC)

Final agency decision maker accepts or reverses the recommendation of the ALJ

final decision appealed?

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

YES

NO

Final decision upheld