



Florida

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Report on Enforcement Efforts

By the
**Florida Department of Environmental
Protection**

Calendar Year 2015

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PRELIMINARY STATEMENT

This report addresses the enforcement results of the State of Florida, Department of Environmental Protection (FDEP or the Department) in calendar year 2015. The information provided herein was obtained from raw data provided to Florida PEER by the FDEP in response to a public records request made to the FDEP by Florida PEER under Chapter 119, Florida Statutes.

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EXECUTIVE SUMMARY

A. Statewide Results

2015 was in some ways an improvement over the previous year. There were more enforcement cases opened and there were more assessments. However, penalty dollars assessed dropped in 2015 and, more telling, so did the medians for those assessments. Moreover, the agency continues to assess civil penalties in a lower percentage of cases that it opens than it has in the past. All in all the data continues to reveal an agency that has been severely crippled with little evidence of improvements on the horizon. As we have in the past, we have included a [Quick Look](#) section to provide the reader with bottom line results for a host of categories at the state level.

It is important for the reader to understand that under Governor Scott the Department initiated a new approach to environmental enforcement. Unlike prior administrations, the Department revised its *Enforcement Manual* to include the use of what is known as *compliance assistance offers* as a means of settling enforcement cases. These offers enable the violator to avoid formal enforcement if the violator does one of three things: (1) tells the Department what the violator has done to resolve the violation, (2) provides information to show the FDEP that the violation either didn't exist or wasn't that serious (a largely subjective determination), or (3) arranges for a Department inspector to visit the facility and show the violator how to return to compliance. If a compliance assistance offer is used the ultimate result is that there is no formal enforcement. The matter is resolved and the file closed.

The use of a compliance assistance offer does more than just resolve the immediate case, however. By using this mechanism and thereby avoiding the execution of a consent order to resolve the case the violator is also protected in the event of future violations. The protection is furnished for future administrative actions involving the violator because under Section 403.141 (7), Fla. Stat., the Department is only allowed to increase civil penalties in cases involving subsequent violations if the prior violations resulted in the entry of a consent order. The limitation upon the Department's enforcement options arises in these cases since no consent order is issued when a compliance assistance offer is issued—it is as if the violator has no past history of violations. In such cases the only arguable approach that the Department can take is thus foregoing administrative actions and resorting to the more severe route of circuit court action.

In two press releases¹ that we released earlier this year we described how the FDEP is handling enforcement in the all-important hazardous waste program. Our review of multiple enforcement files revealed how the agency has gone so far as to re-categorize issues that were found upon inspections so that they would not appear as violations needing enforcement. On at least one occasion the Department notified the facility well in advance of what should have been

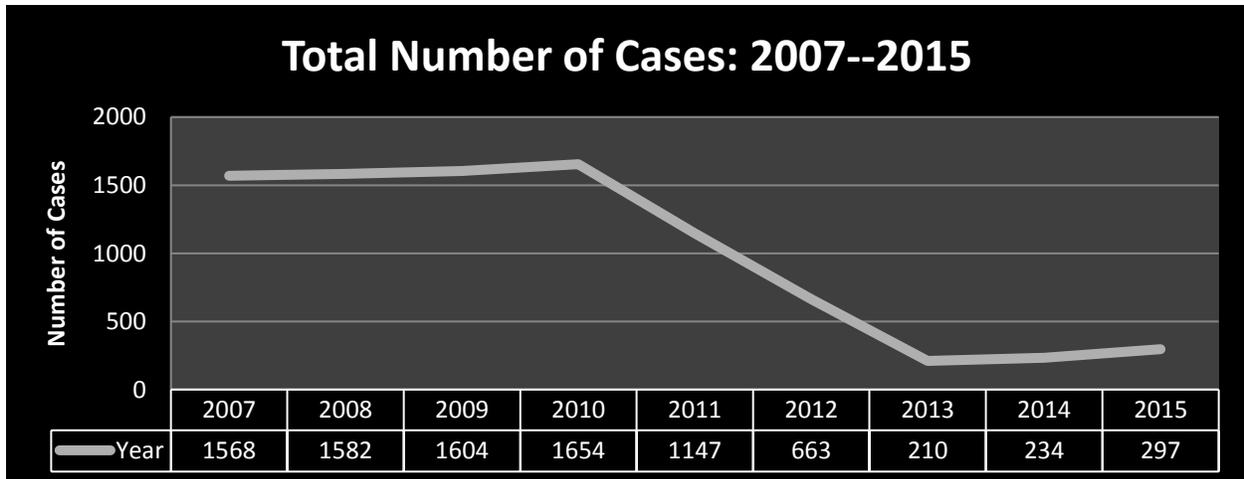
¹ <http://www.peer.org/news/news-releases/illegal-profits-from-polluting-florida-go-untouched.html> and <http://www.peer.org/news/news-releases/portrait-of-florida-coddling-corporate-pollution-offenses.html>

an unannounced inspection. In some cases inspection reports were revised in order to show a facility as being in compliance. And in the case of a major pharmacy chain the Department’s employees routinely negotiated case resolutions directly with attorneys for the violator without involving the FDEP’s Office of General Counsel. Compliance assistance offers were repeatedly used to avoid enforcement. Subsequent inspections not infrequently found that earlier violations were repeated. Yet, in spite of this the Department continues with its unsubstantiated claims that compliance is at an all-time high.

It is with this background that we look at the Department’s performance in 2015. The results discussed in this report pertain only to cases that did *not* involve compliance assistance offers. How many of those situations existed is not known, but logically one would expect that they far outnumber the formal enforcement actions described below.

The Department opened 297 cases in 2015, a 27% increase from the results in 2014. But the results are still 81% lower than those posted for calendar year 2010. The total number of cases rose in every district, falling only in the multi-district category. Statewide, most subcategories pretty much held their own, but notices of violation and long-form consent orders both fell while short-form consent orders saw a dramatic increase (almost double from 2014).

Despite the increase in the number of cases opened, the overall assessment of the FDEP’s enforcement program remains poor. In terms of the total number of cases opened per year the Department’s performance has fallen precipitously when looking at the past 9 years. In fact, the total number of cases has fallen 75% just since Governor Scott’s first full year in office:



216 consent orders were issued in 2015, compared to 163 in 2014 and 153 in 2013. This two year increase in consent orders looks impressive until we consider that in 2011, Scott’s first year in office, the FDEP issued 844 consent orders and in 2010, Governor Crist’s last year in office the same agency issued 1249 consent orders. There were a combined 118 long-form consent orders, amended consent orders and model consent orders issued in 2015, 6 more than last year, 2014 being the second lowest in the Department’s history. Short-form consent orders are the equivalent of traffic tickets, i.e. the polluter is simply required to pay a fine in order to resolve the case. 98 short-form consent orders were issued in 2015, a 192% increase from the 51 in 2014. The Department issued 43 short-form consent orders in 2013, 276 in 2012, 531 in 2011,

725 in 2010. As a percentage of all consent orders, short-form consent orders rose 14% from 2014.

The individual program areas generally improved upon the number of cases opened in the previous year. The air program, which has seen severe declines over the past 5 years did manage to improve somewhat. But what remains disturbing, particularly in light of the situation in Flint, Michigan, is that the potable water program continued to see drastic declines. It declined 88% in 2014 and in 2015 it fell yet another 46%--there were only 6 cases opened statewide in 2015. There were also declines in the beaches and coastal system program and in waste cleanup.

The number of actual assessments rose from 144 in 2014 to 192 in 2015. The increase in the number of assessments builds upon 2014's improvement that ended multiple years of declining numbers, but it is still markedly lower than previous years. For example, the Department levied assessments in 528 cases in 2012, 949 in 2011 and 1318 in 2010. The number of assessments dropped in the South District and rose in the other districts—but, with the exception of the Central and Southwest Districts the increases were modest when compared with 2014.

On a percentage basis the FDEP assessed penalties in 65% of those cases in which it took formal enforcement. This is 3% higher than in 2014 and in 2013. But overall, the clear trend continues to be that of fewer penalty assessments, even when enforcement is taken, with the largest declines coming in the Northwest and South Districts. The following chart demonstrates the point as to the agency as a whole:



The Department assessed \$1,016,674.79 in civil penalties in 2015, a 33% decline from 2014's performance. *This amount, which includes in-kind assessments, is the lowest dollar value of assessments for FDEP since 1988, the first year in which the agency was engaged in a*

comprehensive environmental enforcement program. In that year the agency assessed \$1,013,302.16 in civil penalties.

In terms of actual dollars, total penalties assessed dropped in many programs, most notably in the domestic waste and potable water programs. In addition, we found that if the highest assessment in 2014 of \$466,300.00 (against Miami-Dade Water & Sewer Dept.) is subtracted from the \$1,515,020.45 in civil penalties assessed in 2014 the resulting total of \$1,048,720.45 is still greater than the total assessments for calendar 2015.

For the first time since 1987 (when the Department was barely getting started) there were **no** cases in which the Department assessed a civil penalty of \$100,000. Indeed, there were only two assessments that exceeded \$50,000.00.

What is even more troubling is that median assessments fell \$460.00 to \$2,540.00 in 2015, a 15% decline. They fell in every district but the Northwest District. Median penalty assessments, when tracked over time enable us to gauge whether or not the Department is being more or less lenient with penalty assessments issued to violators. In 2015 it is evident that the agency is being more lenient with violators than in the past, even though it claims to be taking enforcement in only the worst cases.

Medians fell significantly in the domestic waste, hazardous waste, industrial waste and solid waste programs. *While the median penalty in the potable water program improved significantly it is due largely to the fact that there were only two potable water assessments in the entire state in 2015.* Medians did improve in the air, dredge and fill mangrove alteration, stormwater discharge and tanks programs.

Collections for the Department as a whole fell to \$792,914.23 in 2015, down from \$932,998.94 in penalties that the Department collected in the previous year. When in-kind and pollution prevention projects that were completed are included the total for 2015 becomes \$1,355,504.02, still less than the \$2,027,301.94 that was collected by the Department in 2014. However, as a percentage of assessments, the Department collected 92% of the penalties that it assessed in 2015, and when in-kind completions are factored into the equation the collection rate jumped to 133%. Civil penalty collections (excluding in-kind and pollution prevention projects) were up in every district but the Southeast District, which fell 77% compared to 2014. As for program areas, collections were down across the board with the exception of the beaches & coastal program, hazardous waste, industrial waste, potable water and stormwater discharge programs. The bottom line is that the continual decline in assessments is having a significant effect upon the dollars collected by the Department which, in turn, means fewer resources for environmental projects and employee salaries.

B. District Results

We have provided a [“Quick Look”](#) section in this report to give the reader an overview of the performance of each district. The performance of each individual district is as follows:

1. Northwest District

The Northwest District initiated enforcement in 35 cases in 2015, 2 less than in each of the 2 the previous years. The number of NOV's and case reports fell, while the number of final orders was unchanged from 2014. The number of consent orders increased, but among those, the usage of short-form consent orders rose 22% from the previous year. Penalty assessments rose by one case in 2015. The district only assessed penalties in 66% of its cases, but this is an improvement over the previous year. The number of assessments rose in the air and in the stormwater discharge programs. *But it has now been 3 years since the district had a potable water assessment.* While the total dollar value of assessed penalties increased in 2015, the dollar value of those assessments is still far below the levels seen in 2012 and earlier years. Median assessments rose significantly. Just as with assessments, collection dollars rose in 2015, stemming what had been a 4-year decline.

2. Northeast District

For the first time in 6 years the number of enforcement cases rose. Every enforcement mechanism saw increased numbers, the only caveat being that the number (and percent) of short-form consent orders also increased in 2015. The number of cases that resulted in penalty assessments rose significantly in 2015; however, as a percentage of the total number of enforcement cases opened the number fell from 82% in 2014 to 76% in 2015. The dollar value of assessments in 2015 was \$236,926.61, an improvement over the year before. However, the median civil penalty assessment for 2015 for all programs fell from \$4,250.00 in 2014 to \$3,000.00 in 2015, a level that is also lower than the \$3,875.00 median in 2013. Collections rose in 2015, ending a 5-year slide.

3. Central District

The Central District took enforcement in 44 cases in 2015, 18 more than in the previous year and the first increase in enforcement in 5 years. Most of the enforcement mechanisms remained steady in 2015, whereas there was a sharp increase in the number of consent orders that were issued (they more than doubled). The number of penalty assessments also increased for the first time in 5 years. Of the 44 enforcement cases opened in 2015, 33 (75%) resulted in civil penalty assessments. Last year the district assessed civil penalties in all of their cases. Improvements were seen in the domestic waste, hazardous waste and stormwater runoff programs while the remaining programs remained stable—except for the tanks program which had no cases in 2015 (it had 4 in the previous year). The Central District levied \$219,397.00 in civil penalties in 2015. This is a significant decline from the \$271,249.00 assessed in 2014 and the \$359,295.00 assessed in 2013. The district has now had four straight years of declining assessments. Medians fell from \$5,500.00 in 2014 to \$4,260.00 in 2015. They fell in all but the stormwater discharge and dredge and fill programs. Collections rose 92% compared with 2014.

4. Southeast District

The Southeast District initiated enforcement in 38 cases in 2015, which is 10 more than it had in the previous year and 20 more than in 2013. Yet, this densely populated region of the state still had the second fewest cases of all of the districts. NOVs, final orders and case reports all declined in 2015. The number of consent orders rose significantly, but most of them were of the short-form variety and the district used this mechanism 61% of the time in order to settle cases. None of the 38 cases that were opened in 2015 were potable water cases. The district assessed civil penalties in 79% of the cases that it opened, a 33% increase over 2014's results. The number of assessments rose from 13 in 2014 to 30 in 2015, but the total dollar value of civil penalties dropped from \$506,216.63 in 2014 (a total based largely upon one case) to \$92,033.00 in 2015, which is also lower than the total value of assessments in 2013. The median for all assessments also fell in 2015. Collections fell 77% in 2015.

5. South District

The South District took enforcement in 46 cases in 2015, a 21% increase from 2014's performance. The number of case reports and NOVs fell in 2015, but final orders and consent orders rose. This district continues to use very few short-form consent orders, they accounted for just 7% of all enforcement cases. At the same time, they tied with the Southwest District for the most case reports sent to OGC. Nevertheless, the district assessed penalties in only 32% of the cases in which it took enforcement in 2015, a reduction from 2014. The dollar value of civil penalty assessments also dropped—this time to \$92,033.00, making this the second straight year of declining numbers. The median assessment for all programs combined fell by \$1,080.00 in 2015. Collections more than doubled in 2015.

6. Southwest District

The Southwest District took enforcement in 52 cases in 2015, 14 more than in 2014 and 18 more than in 2013. In 2012, the same district opened 164 enforcement cases. While the district issued more case reports and consent orders, the number of NOVs and final orders dropped. The district issued significantly more short-form consent orders in 2015 and fully 33% of all its cases were settled via this route. In those cases that were opened, 54%, or 28, resulted in the assessment of civil penalties, an improvement over the previous year. But the dollar value of those assessments fell yet again, this time for the 5th straight year. They totaled just \$135,533.18 in 2015. Median assessments also fell, this time by \$3,000.00. What is striking is that median assessments fell in all but the dredge and fill and solid waste programs, the latter of which only had 1 assessment for the entire year. The potable water program had only one enforcement case for the entire year and it did not result in the assessment of civil penalties. Collections did increase by 12% in 2015, however.

7. All Other Enforcement

This category typically involves the beaches and coastal systems program and the stormwater discharge program. In addition, most of the mining cases come out of this category. The remaining categories initiated 28 enforcement actions in 2015, the same number as in 2014 and 15 more than in 2013, but still significantly less than the 88 enforcement actions in 2012. Penalties were levied in 71% of the formal enforcement actions in 2015 and the number of penalty assessments rose in 2015 as well. The dollar value of those assessments fell from \$40,242.00 in 2014 to \$37,222.00 in 2015. However, medians rose from \$392.00 in 2014 to \$518.00 in 2015. The remaining categories collected \$39,056.00 in civil penalty assessments in 2015, up marginally from the \$38,576.10 that was collected in 2014.

STATEWIDE ENFORCEMENT RESULTS²

A. Case Reports, NOVs, Consent Orders, Final Orders—Statewide Results

The Department initiated enforcement in 297 cases in 2015. This is a 27% improvement from 2014 and constitutes the second straight year in which the Department has increased the number of enforcement cases. But it is still well below the 1587 cases opened in 2010, before this administration took office.

The Department requested serious enforcement through the Office of General Counsel in civil circuit courts and/or administrative hearings in 30 cases in 2015, unchanged from 2014's results. But once again, the comparison to 2010 is eye opening. In that year there were 157 case reports.

22 NOVs were issued in 2015, a 21% decline from the 28 NOVs that were issued in 2014. By comparison, there were 11 NOVs filed in 2013, 54 NOVs filed in 2012, 96 in 2011 and 114 in 2010.

The Department issued 225 consent orders in 2015, a 38% increase over the 163 issued in 2014. There were 153 consent orders issued in 2013, 482 in 2012, 844 in 2011 and 1249 consent

² Florida PEER has previously provided enforcement results for the FDEP based upon data obtained from the agency dating back to 1988. In the past at this juncture we have included a description of the various types of enforcement that the Department is capable of initiating. This description is now at the end of this report in the Appendix wherein the reader will find the descriptions of various enforcement tools, as well as the historical averages for the various program areas. A complete report on the past 20 years of environmental enforcement in Florida can also be found at http://www.peer.org/assets/docs/fl/08_25_11_fl_rpt_on_historical_enforcement.pdf.

orders in 2010. Of the 225 consent orders issued in 2015, 54 were long-form consent orders (1 more than in 2014).

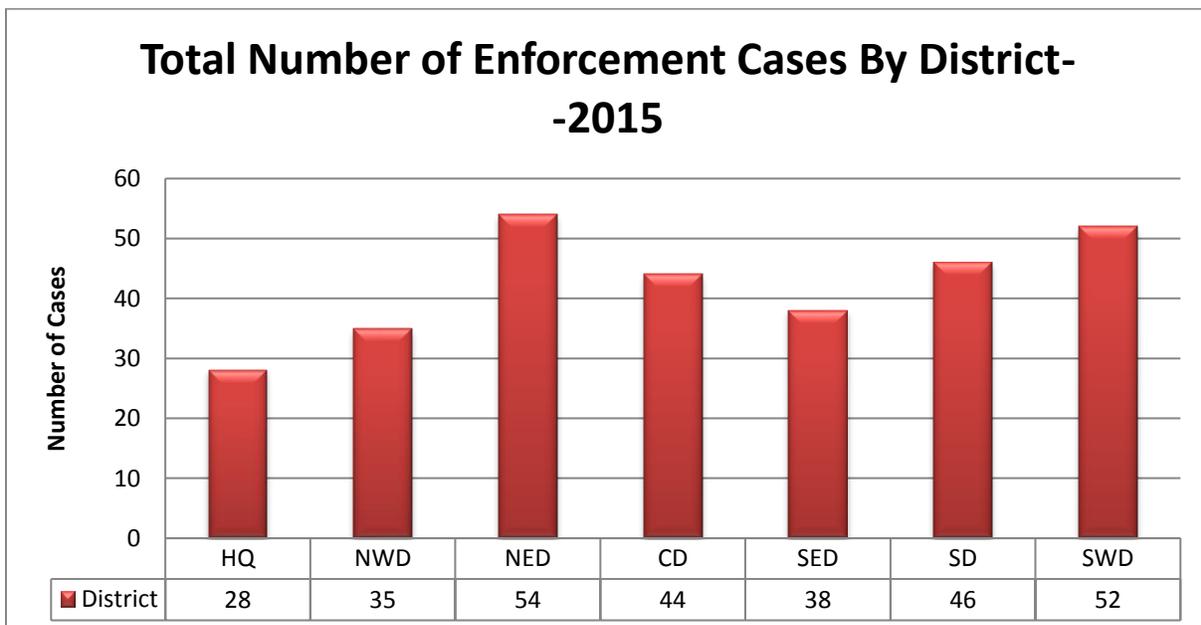
Model consent orders are essentially long-form consent orders that are tailor-made to fit more routine violations in each program area. They increased from 43 in 2014 to 53 in 2015. Despite the increase, the results are still the lowest since 1990 when the agency was still in its infancy and issued 24 such orders.

There were a combined 107 long-form and model consent orders in 2015, compared with 96 long-form consent orders and model consent orders issued in 2014 and 86 in 2013. All of these results are the lowest in the Department’s history, dating back to 1987 (when there were 13).

In 2015 the use of short-form consent orders almost doubled—from 51 in 2014 to 101. 43 were issued in 2013. Additionally, their usage as a percentage of all consent orders increased from 31% in 2014 to 45% in 2015, and their usage as a percentage of all enforcement cases rose from 22% to 34% respectively. We suggested in last year’s report that it appeared as though the trend of using fewer short-form consent orders may be coming to an end, and the data from 2015 confirms it. Given that the Department claims to be using enforcement only in the worst cases we would expect that the usage of short-form consent orders would decline, inasmuch as the more extreme violations traditionally require more, not less, agency oversight into the future. These results suggest, however, that the Department is now content to allow even those violators to pay a fine and walk away with no additional oversight.

Final orders that were enforcement related increased from 13 in 2014 to 20 in 2015.

Overall, enforcement was divided between the Department’s district offices as follows:

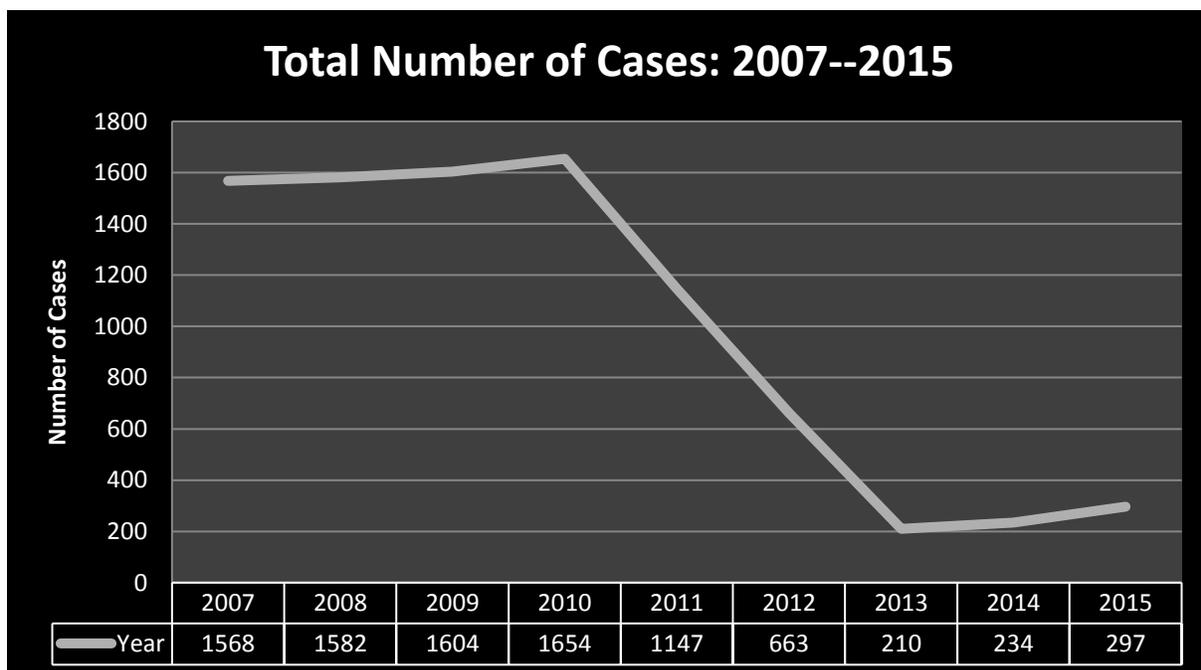


In 2015 the number of cases increased in each district except for the Northwest. But none of the districts are performing at anywhere near 2010 levels:

<i>District</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
<i>Headquarters</i>	134	67	88	15	28	28
<i>Northwest</i>	167	156	60	37	37	35
<i>Northeast</i>	230	133	116	41	39	54
<i>Central</i>	208	161	109	32	26	44
<i>Southeast</i>	206	128	56	18	28	38
<i>South</i>	187	145	70	33	38	46
<i>Southwest</i>	455	357	164	34	38	52

B. Statewide Trends In 2014

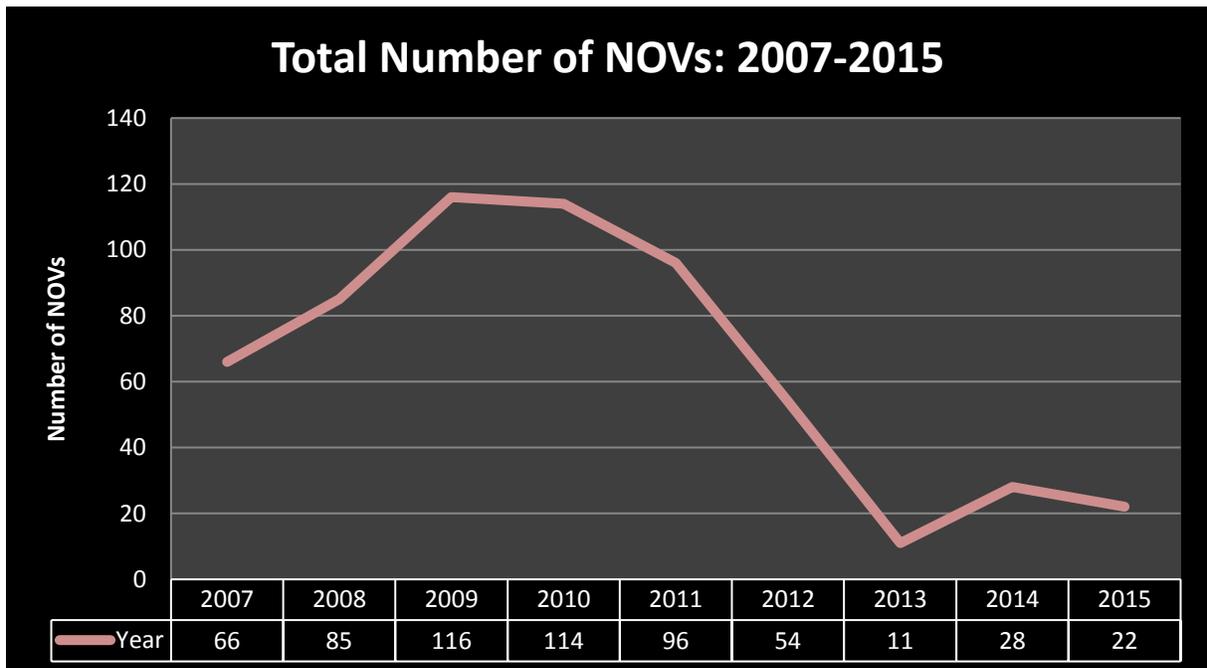
The following chart shows the overall number of enforcement cases brought by the Department over the past eight years. Even with the slight uptick in 2015 the overall results continue to be dismal:



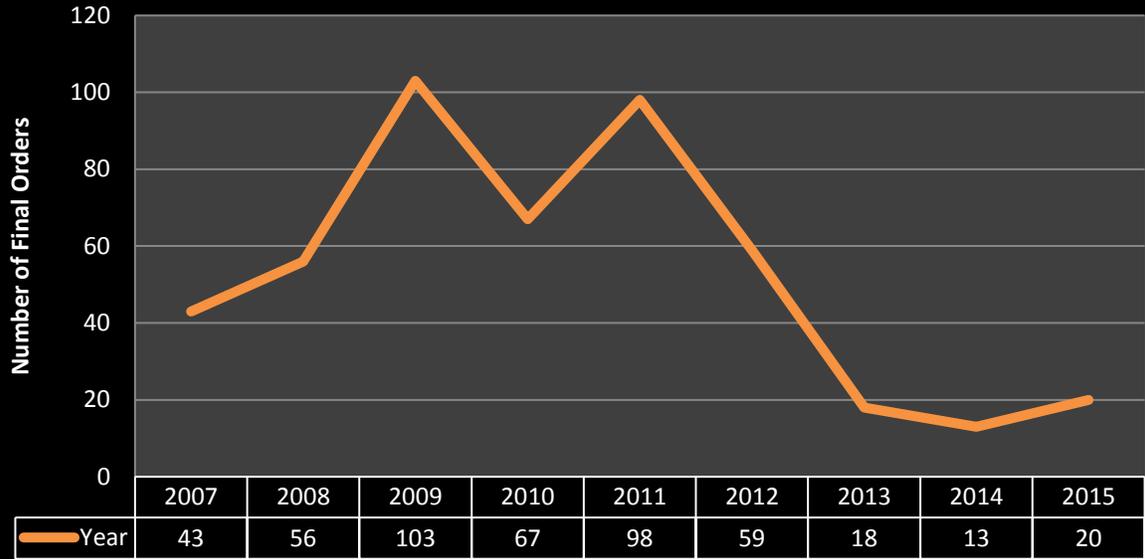
Consent orders continue to be the Department's enforcement mechanism of choice, but their usage has drastically declined.



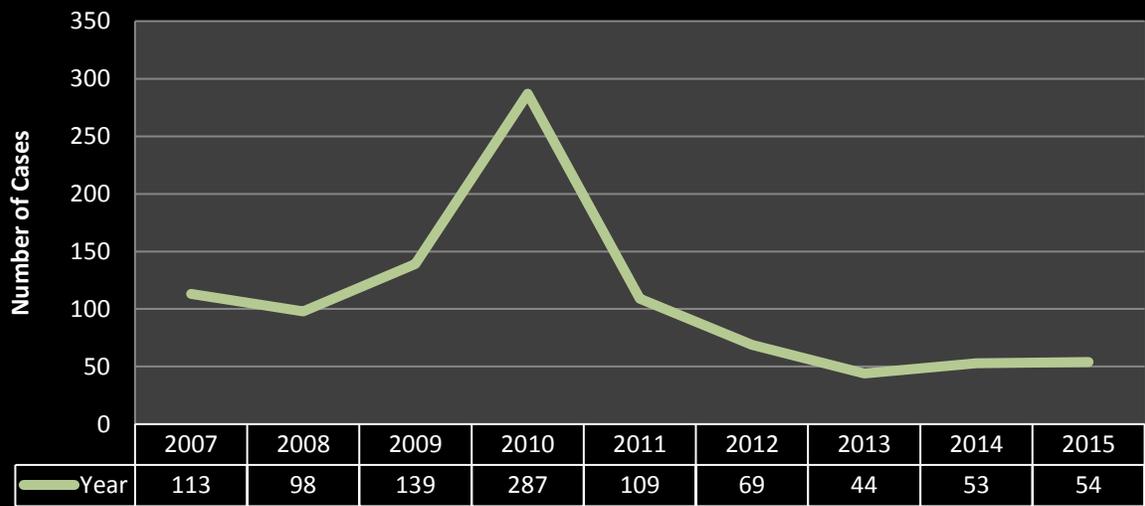
With the exception of NOV's, which showed marginal improvement, the above trend is seen throughout the various enforcement mechanisms. All of them have severe problems, a fact that is easily seen when viewed historically:



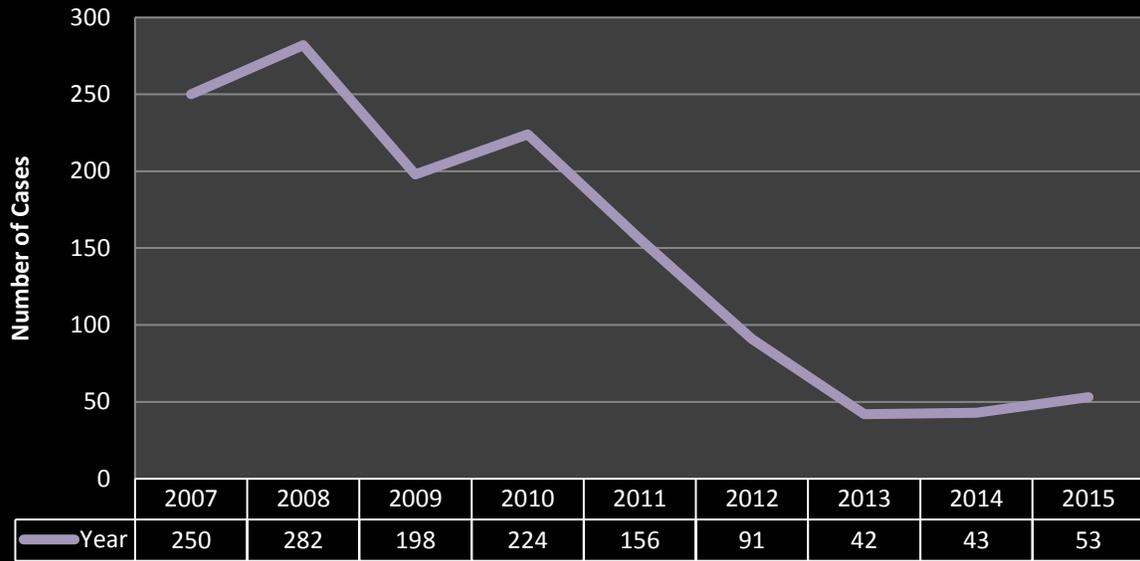
Number of Final Orders: 2007-2015



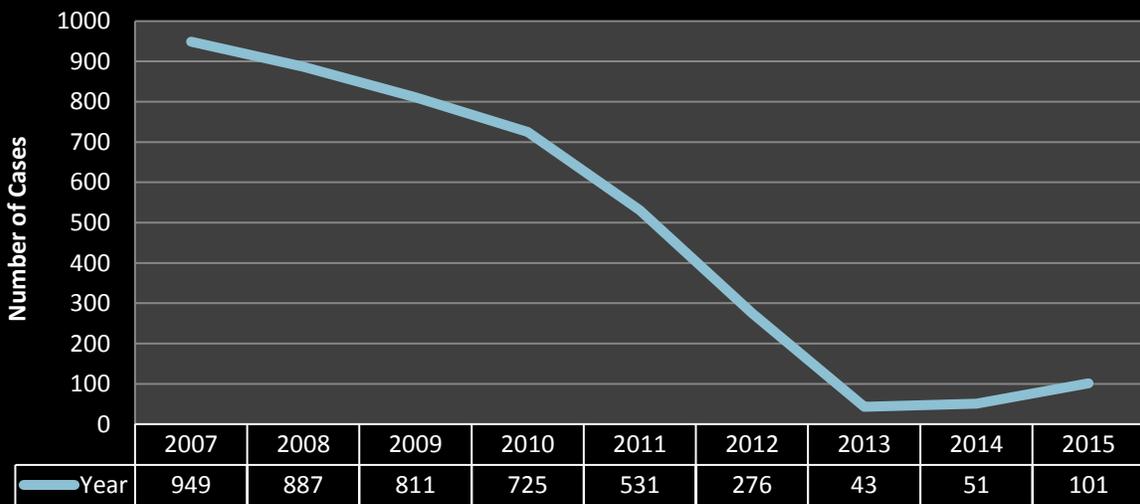
Number of Long-form Consent Orders: 2007-2015



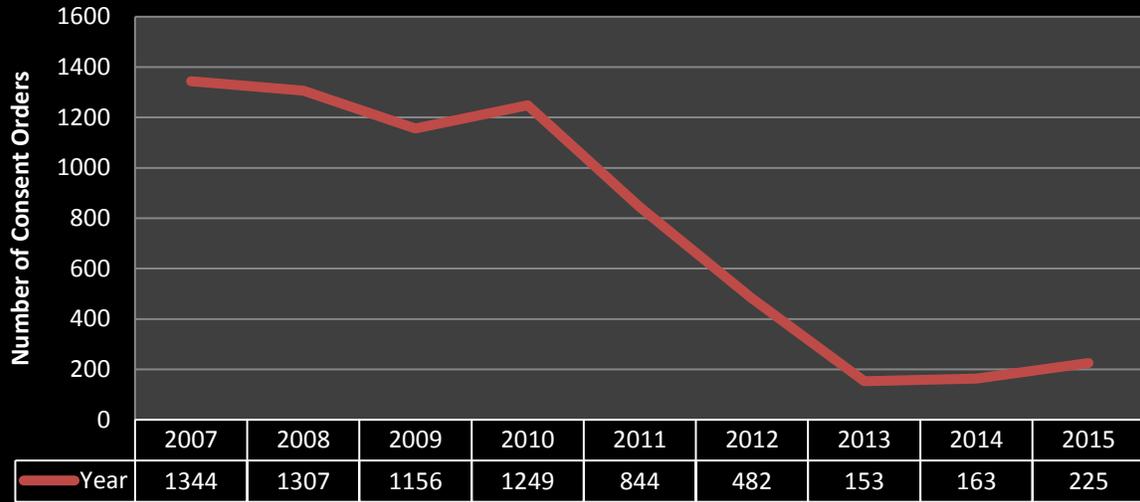
Number of Model Consent Orders: 2007-2015



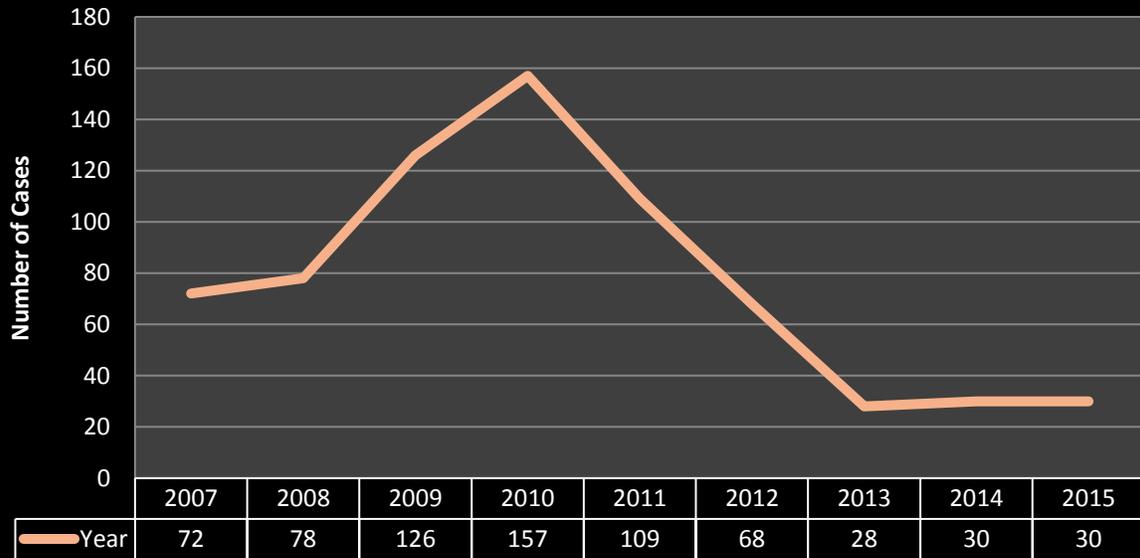
Number of Short-Form Consent Orders: 2007-2015



Number of Consent Orders Combined: 2007-2015



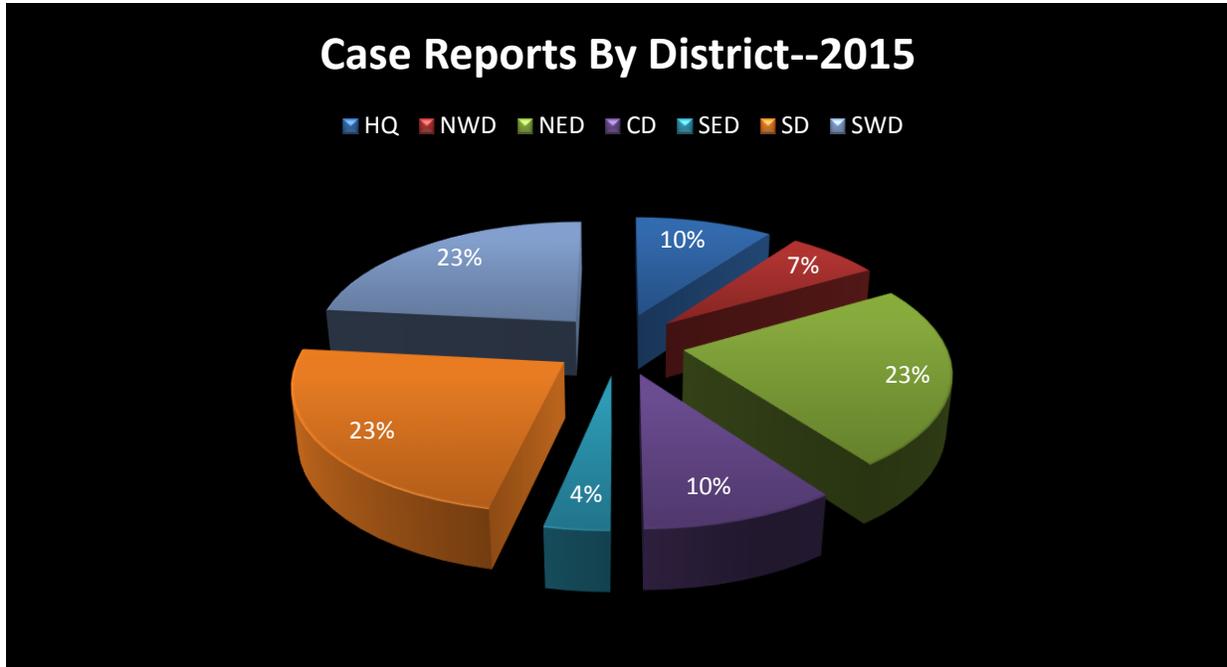
Number of Case Reports: 2007-2015



C. Case Reports, NOVs, Consent Orders, Final Orders – District Comparisons

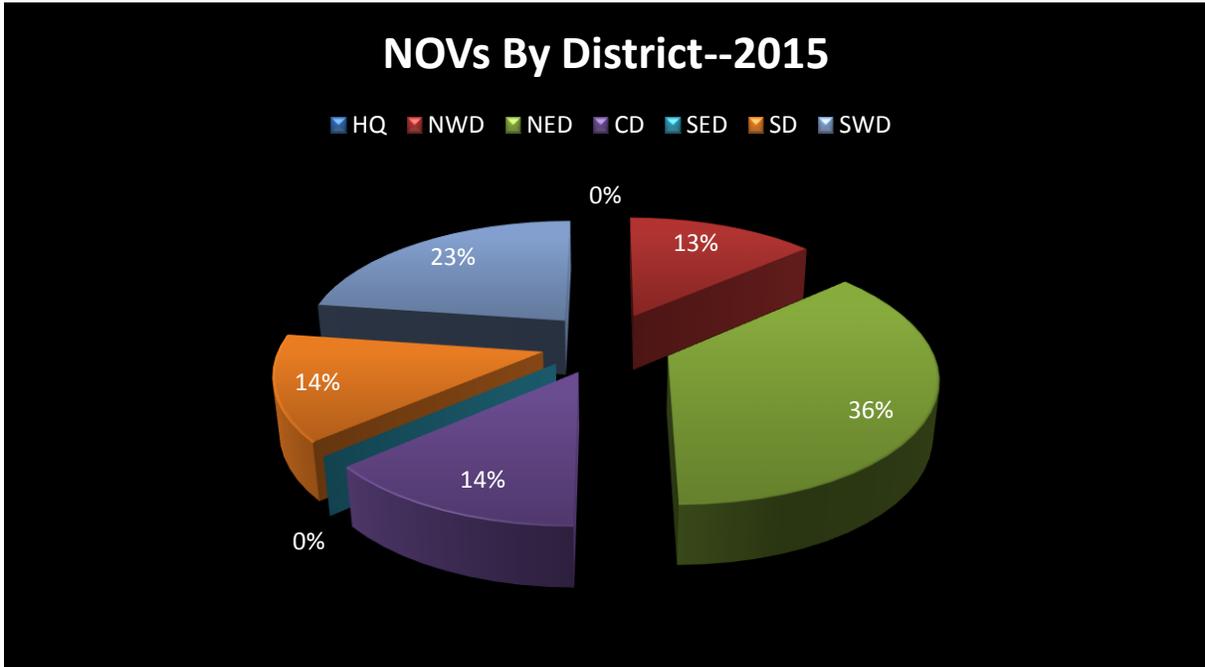
The Department’s various enforcement tools were distributed amongst the Districts as follows:

1. Case Reports



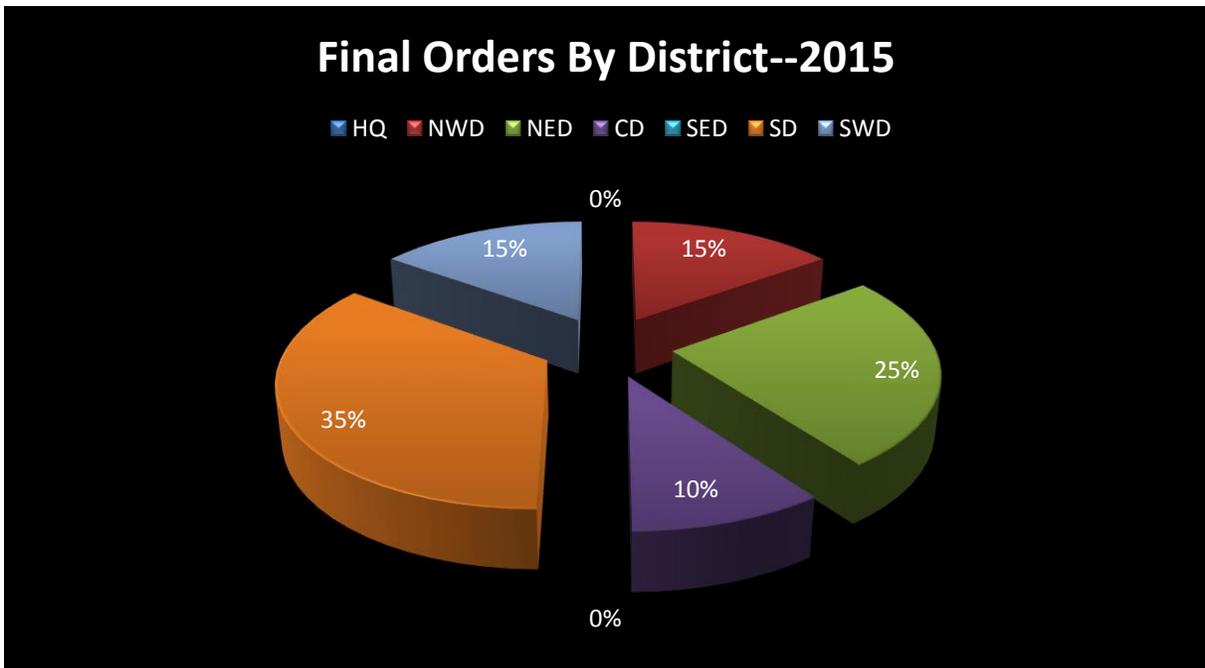
The Department’s use of more aggressive enforcement, signaled by the use of case reports, dropped from 12.82% of the enforcement cases handled by the Department in 2014 to 10.10% in 2015. The total number of case reports continued to be quite low, less than 20% of the level that they were at in 2010. The Northwest, Central, Southeast and South districts used fewer case reports in 2015 when compared with the results in 2014.

2. NOVs



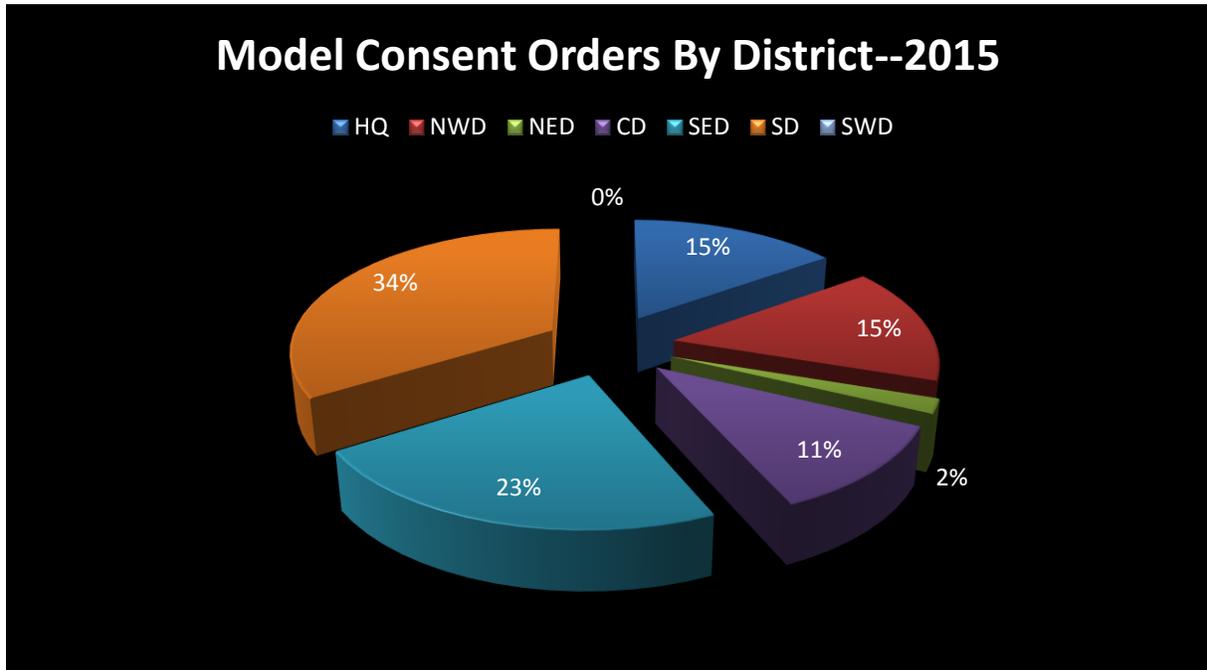
The overall number of NOVs dropped from 28 in 2014 to 22 in 2015. Only the Northeast District increased the number of NOVs issued. The Central District held steady with a total of 3 NOVs. The remaining districts all turned in lower performance. The Northeast and Southwest Districts accounted for 59% of the NOVs issued statewide.

3. Final Orders



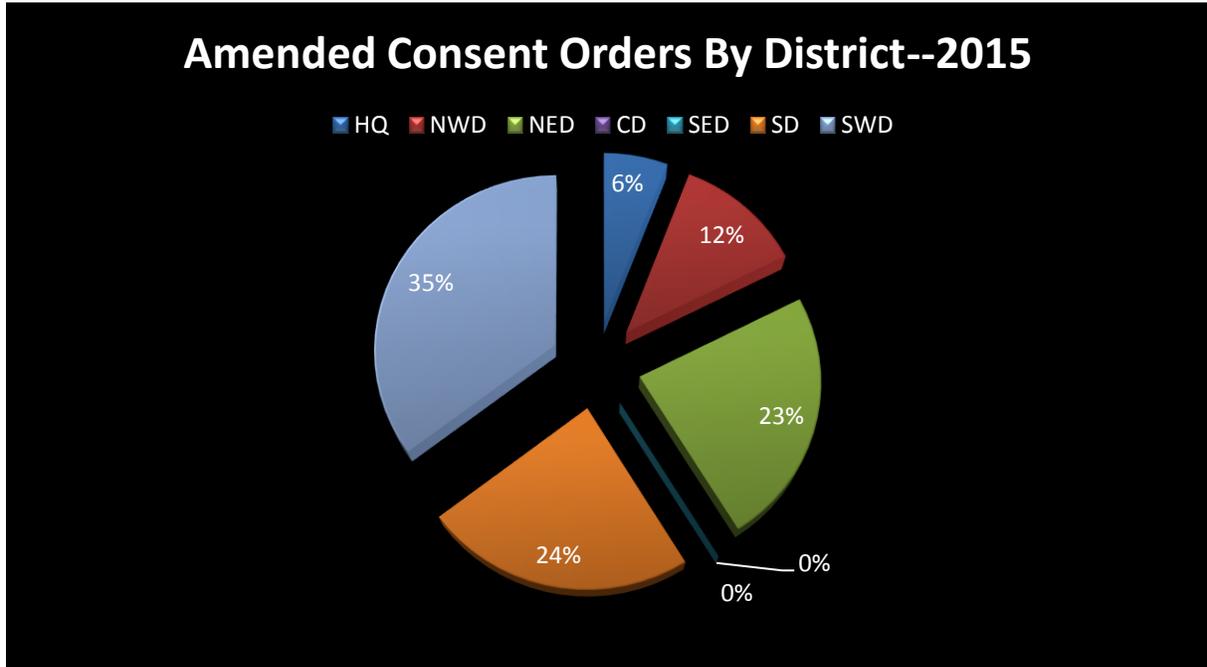
7 more final orders were issued in 2015 than in 2014. The reason for the increase is due to higher numbers in the South and Northeast Districts. These two districts combined for 60% of the 20 final orders issued statewide.

4. Model Consent Orders



There was a 23% increase in the number of model consent orders issued in 2015, up from 43 in 2014 to 53 in 2015. The reason for the increase is mostly attributable to significant increases in the Central and South Districts. Otherwise, the districts turned in essentially the same performance, except for the Southwest District, which issued no model consent orders in 2015.

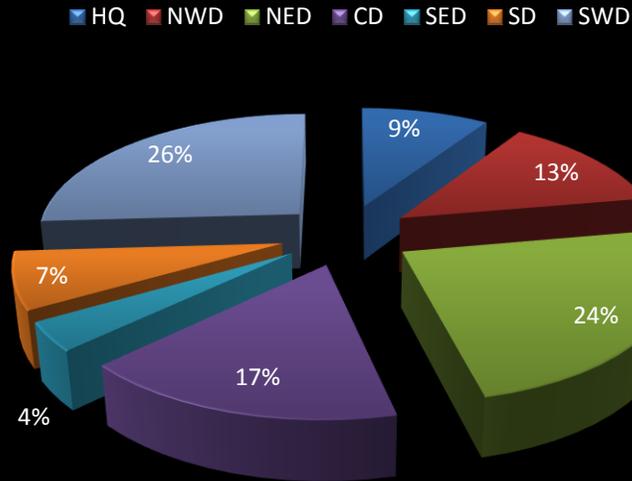
5. Amended Consent Orders



The issuance of amended consent orders rose minimally, from 16 in 2014 to 17 in 2015. This was due largely to an increase of 3 in the South District and a decrease of the same amount in the Southwest District, while the Northwest District issued 1 more order in 2015 than it did in the previous year. Overall, the South and Southwest Districts accounted for 69% of all amended consent orders issued by the Department.

6. Long-Form Consent Orders

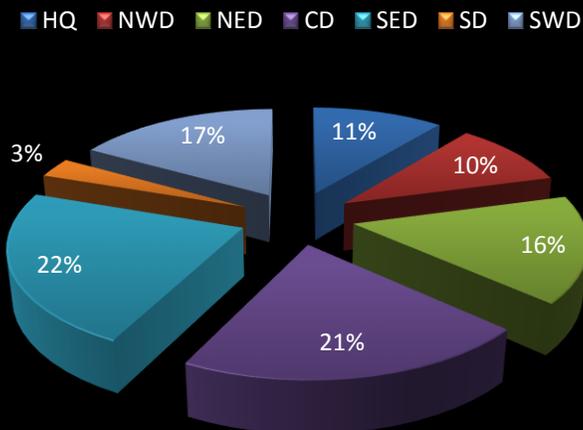
Long-Form Consent Orders By District--2015



Long-form consent orders, like amended consent orders, remained essentially unchanged in 2015. There were 54 such orders issued in 2015 and 53 in 2014. Increases were seen in the Northwest, Central and Southwest District.

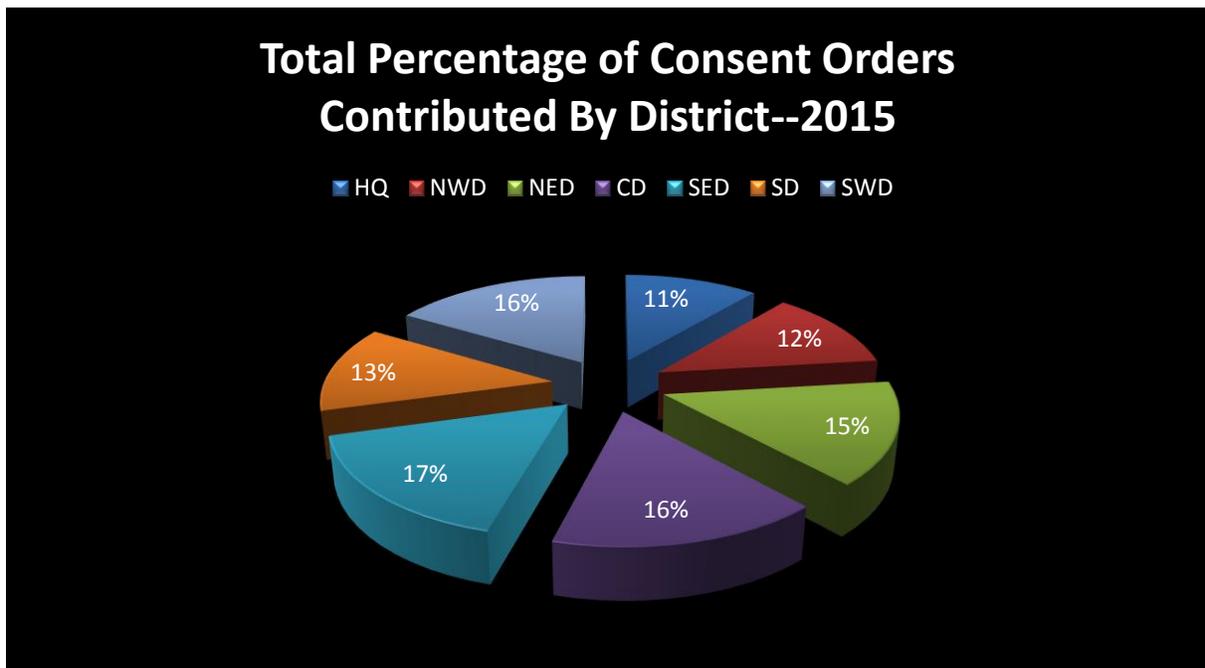
7. Short-Form Consent Orders

Short-Form Consent Orders By District--2015



As previously indicated, the issuance of short-form consent orders almost doubled in 2015 to 101 from 51 in 2014. The Northwest and South Districts saw minimal increases, whereas the South District issued 1 less order in 2015. But significant increases were seen in the Northeast (8), the Central (12), the Southeast (17) and the Southwest (14) Districts.

8. All Consent Orders Combined



The 38% increase in the number of consent orders issued by the Department in 2015 is not due to any single district. Every district saw increases with the smallest increase coming in the Northwest District (an increase of 3) and the largest being in the Central District (an increase of 19). Otherwise, the issuance of these orders remains fairly uniform from district to district.

D. Short-Form Consent Orders

On a percentage basis the use of short-form consent orders increased in 2015 putting an end to two straight years of historically low numbers of these orders by the Department. Indeed, the reduced reliance upon these orders had been one bright spot in what had been exceedingly dismal overall results. With that said, while the number climbed in 2015 the current rate of

34.01% is hardly the highest in the Department’s history and is still the third lowest under this administration.

The following table demonstrates the history of the use of these enforcement mechanisms from 1988 to the present by showing the percentage of all enforcement cases each year that were resolved via short-form consent orders.

Year	% Short-Form Consent Orders
1988	0.00%
1989	0.00%
1990	24.13%
1991	38.74%
1992	36.32%
1993	46.84%
1994	47.73%
1995	52.60%
1996	49.39%
1997	48.29%
1998	50.05%
1999	48.90%
2000	54.77%
2001	56.38%
2002	55.67%
2003	58.46%
2004	55.23%
2005	60.20%
2006	60.41%
2007	62.23%
2008	58.13%
2009	54.03%
2010	45.68%
2011	46.29%
2012	41.63%
2013	20.48%
2014	21.79%
2015	34.01%

Normally we would expect that the continued relatively low use of short-form consent orders would be due to the agency’s stated determination not to take enforcement except in the worst cases. But as will be discussed later in this report, we are also seeing that, in general, the dollar amount of assessed penalties actually fell in 2015. Thus, the only logical interpretation of the data is that in 2015 the Department settled its cases with lower penalties and statistically less formal oversight than in the past, particularly since short-form consent orders require no additional oversight beyond collection of the assessed penalty. On the bright side, this year only

the Southeast District settled a majority of its cases through the short-form route, while the South District and the Headquarters actually issued a lower percentage of short-form consent orders compared with their 2014 results. The following table, which compares the use of short-form consent orders to all other enforcement tools, gives the actual percentages.

<i>District</i>	<i>% Cases Settled Through SF COs</i>
<i>Central</i>	47.73%
<i>Northeast</i>	29.63%
<i>Multi-District</i>	39.29%
<i>Northwest</i>	28.57%
<i>Southeast</i>	60.53%
<i>South</i>	6.52%
<i>Southwest</i>	32.69%

We also looked at the use of short-form consent orders solely as a part of the consent order enforcement tool. In other words, once the decision had been made to settle a case through a consent order, how likely was the resolution to be via a short-form consent order, as opposed to a long-form or model consent order. Overall, the Department chose short-form consent orders in 44.89% of the cases in which a consent order was deemed the appropriate enforcement mechanism, a 13.60% increase from 2014. The following results give further insight into how enforcement cases are handled in each district.

<i>District</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders--2013</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders--2014</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders--2015</i>
<i>Central</i>	50.00%	52.94%	58.33%
<i>Northeast</i>	35.29%	26.67%	47.06%
<i>Multi-District</i>	45.45%	54.17%	44.00%
<i>Northwest</i>	16.13%	33.33%	37.04%
<i>Southeast</i>	55.56%	30.00%	62.16%
<i>South</i>	0.00%	18.18%	10.34%
<i>Southwest</i>	19.23%	11.54%	45.95%

The Central, Northeast, Northwest, Southeast and Southwest Districts all increased their reliance upon short-form consent orders. The Southeast District more than doubled its use of the mechanism. The South District continues to be the district that least relies upon these orders.

E. Program Area Performance

The number of enforcement cases³ brought in each key program area is as follows:

Program Area	Total No. of Enforcement Cases--2012	Total No. of Enforcement Cases--2013	Total No. of Enforcement Cases--2014	Total No. of Enforcement Cases--2015
Asbestos	10	0	1	0
Air (Excluding Asbestos)	10	7	11	18
Beaches/Coastal	17	10	8	7
Waste Cleanup	14	12	12	8
Dredge & Fill⁴	93	42	41	54
Domestic Waste	75	26	29	34
Hazardous Waste	52	20	21	43
Industrial Waste	39	10	7	7
Mining & Phosphogypsum	2	2	2	2
Potable Water	76	12	13	6
Stormwater Discharge	71	5	20	22
State Lands	17	24	23	29
Solid Waste	22	14	9	19
Tanks	129	14	20	25
Underground Injection Control	1	1	1	0

Generally speaking, the agency appears to be rebounding somewhat from the disastrous results in 2012 & 2013. Except for one, the major programs all showed increases in enforcement cases, while beaches and coastal programs and waste cleanup both declined. The very troubling result is in the potable water program, which had only **6** cases statewide. This result is largely the equivalent of having no program at all and is particularly astonishing in light of the potable water issues facing Floridians, not to mention the attention that drinking water programs are now receiving in light of the Flint, Michigan situation.

The following table sets out the average number of cases initiated by the Department on an annual basis (the historical average) and then compares those averages to the performance in 2011 through 2015 with respect to the same key program areas listed above. The results are as follows:

³ Defined as the sum of case reports, all consent orders, NOV's and final orders.

⁴ This includes Environmental Resource Permitting.

Program Area	Historic Avg ⁵	2011 Results	2012 Results	2013 Results	2014 Results	2015 Results	2015 Difference from Average
Asbestos	13	20	10	0	1	0	(13)
Air (Excluding Asbestos)	93	80	10	7	11	18	(75)
Beaches & Coastal	14	21	17	10	8	7	(7)
Waste Cleanup	4	19	14	12	12	8	4
Dredge & Fill	216	148	93	42	41	54	(162)
Domestic Waste	119	108	75	26	29	34	(85)
Hazardous Waste	132	119	52	20	21	43	(89)
Industrial Waste	47	62	39	10	7	7	(40)
Mining/Phos	4	1	2	2	2	2	1
Potable Water	112	110	76	12	13	6	(106)
State Lands	25	41	17	24	23	29	4
Stormwater Discharge	35	55	71	5	20	22	(13)
Solid Waste	39	63	22	14	9	19	(20)
Tanks	72	251	129	14	20	25	(47)
Underground Injection Control	5	0	1	1	1	0	(4)

While individual program performance looks better when the results are compared to the past few years, the above chart shows that a lot of work needs to be done when compared with their historical performance. The results for 2015 are better than 2014 (and certainly much better than 2012 & 2013), but with the exception of waste cleanup every program performed worse than the historical average—as was the case in 2013 & 2014. And just as in 2014, every program performed markedly worse than it did just 5 years ago, i.e. in 2011. Of the programs that underperformed all but the beaches & coastal control and underground injection control programs had results that were in the double digits in poor performance. The potable water program, which regulates drinking water in the state, has fallen 95% in the same period, the air program has fallen 81%, the dredge and fill program has fallen 75%, domestic waste enforcement has fallen 71%, hazardous waste has fallen 67%, industrial waste has fallen 85%, solid waste has fallen 51% and the tanks program has fallen 65%.

⁵ The Historical Averages shown are for the twenty-year period of 1987 through 2007.

F. Civil Penalty Assessments

The Department assessed civil penalties in 192 cases in 2015, a 33% increase compared to the 144 cases in 2014 and 48% better than the 130 cases in 2013, a slight improvement, but still far behind the 946 assessments in 2011 just 4 years earlier. Yet, in spite of the increased number of assessments, the Department assessed fewer dollars in civil penalties in 2015. \$857,639.79 in such fines were levied in 2015, compared to the \$1,515,020.45 in civil penalties that was assessed in 2014. (\$1,432,715.61 in civil penalties were assessed in 2013.) There is one major difference between the results in 2015 and 2014. In 2014 the highest assessment was \$466,300.00 (against the Miami-Dade Water & Sewer Dept.) But even if that assessment is subtracted from the \$1,515,020.45 in civil penalties in 2014 the resulting total of \$1,048,720.45 is still greater than the total for 2015! Overall, the 2015 result represents a 43% drop from the dollar value of penalties assessed in 2014 and it is the lowest value (2013 was formally the lowest) the Department has amassed since 1988, the first full year for which data is available from the then Department of Environmental Regulation.

The reason for the significant decline in the penalty dollar assessments is a decline in some median dollars assessed on a per case basis in certain key program areas:⁶

Program Area	Historical Medians	2012 Medians	2013 Medians	2014 Medians	2015 Medians
Asbestos	\$2,000.00	\$3,640.00	\$0.00	\$0.00	\$0.00
Air (Excluding Asbestos)	\$1,699.50	\$4,387.50	\$4,000.00	\$3,750.00	\$4,000.00
Beaches/Coastal	\$500.00	\$1,000.00	\$875.00	\$875.00	\$1,000.00
Waste Cleanup	\$4,500.00	\$36,925.00 ⁷	\$0.00	\$0.00	\$0.00
Dredge & Fill	\$700.00	\$1,000.00	\$1,000.00	\$1,000.00	\$2,000.00
Domestic Waste	\$2,250.00	\$3,600.00	\$5,250.00	\$7,500.00	\$3,000.00
Hazardous Waste	\$4,100.00	\$4,104.00	\$10,700.00	\$4,250.00	\$3,275.00
Industrial Waste	\$4,500.00	\$1,500.00	\$2,750.00	\$9,500.00 ⁸	\$2,000.00⁹
Mining/Phosphogypsum	\$5,000.00	\$2,000.00	\$5,000.00	\$10,000.00	\$4,250.00¹⁰
Potable Water	\$500.00	\$500.00	\$7,100.00	\$1,650.00	\$6,000.00 ¹¹
State Lands	\$1,250.00	\$1,500.00	\$1,710.00	\$1,420.00	\$1,100.00
Stormwater Discharge	\$600.00	\$1,199.00	\$1,250.00	\$370.00	\$518.00
Solid Waste	\$2,843.00	\$3,375.00	\$6,250.00	\$4,500.00	\$3,000.00

⁶ Data in **red** represent declines from the performance in 2014. Data in **orange** represents performance in 2014 and previous years that represents declines from the immediately preceding year.

⁷ This result is based on 2 cases statewide.

⁸ This result is based upon 1 case statewide. That case was in the Central District.

⁹ This result is based on 3 cases statewide.

¹⁰ This result is based upon 2 cases statewide. The previous years 2012-2014 each had only 1 case/year statewide.

¹¹ This result is based on 2 cases statewide.

Tanks	\$2,712.00	\$10,000.00	\$10,000.00	\$10,000.00	\$19,000.00
Underground Injection Control	\$6,850.00	\$0.00	\$0.00	\$0.00	\$0.00

Although the above chart lists 13 different program areas only 4 showed lower medians in 2015. Yet, 3 of the 4 programs that underperformed (domestic waste, hazardous waste and solid waste) had the largest number of penalty assessments in 2015. Thus, they had a disproportionate impact upon the Department’s overall numbers. The overall median penalty assessments for the Department as a whole fell from \$3,000.00 in 2014 to \$2,540.00 in 2015. This further helps to explain the substantial decrease in the overall drop in penalty assessments in 2015.

With the exception of the stormwater discharge and tanks programs, in 2015 the program areas whose medians did not decline mostly maintained their 2014 levels. *While the potable water program had the largest increase the program had only 2 assessments for the entire state in 2015, thus rendering the results rather meaningless.* The stormwater discharge and tanks programs had 24 and 8 assessments respectively. Finally, the increase in the air median is the first such increase since 2011.

Every district but the South District saw an increase in the number of assessments when compared with 2015. The increases in the number of assessments in the Central and Southwest Districts were the first increases in the last 5 years.

The gains made in 2014 in the Southeast and Southwest Districts vis-à-vis the total penalty dollars that they assessed were lost in 2015. The Southeast District alone saw a decline of \$414,183.63 in 2015, while the Southwest District declined \$125,280.64.

Overall, the Districts’ performance in the area of penalty assessments was as follows:

DISTRICT	NO. OF ASSESSMENTS IN 2012	NO. OF ASSESSMENTS IN 2013	NO. OF ASSESSMENTS IN 2014	NO. OF ASSESSMENTS IN 2015	TOTAL \$ ASSESSED IN 2015	% OF STATE TOTAL
Multi-District	77	14	20	22	\$37,222.00	3.66%
NWD	55	21	22	23	\$109,240.00	10.74%
NED	80	25	32	41	\$317,676.61	31.25%
CEN District	89	30	26	33	\$258,082.00	25.38%
SED	45	8	13	30	\$92,033.00	9.05%
SD	50	13	17	15	\$66,888.00	6.58%
SWD	132	19	14	28	\$135,533.18	13.33%

This is the second year out of the last **seven** that the Northwest District has seen an increase in the number of overall assessments. Equally good news is that the Central District stopped its five-year slide in the number of penalty assessments and the Southwest District also stopped its four-year slide in the same category.

Compared with 2014 the dollar value of the assessments fell in four of the six districts as well as in the multi-district category of cases. Nevertheless, the Northwest District saw a minimal (\$2,230.00) gain, while penalty assessments in the Northeast District rose 110,301.61.

For the Department as a whole the median assessment fell significantly from \$3,000.00 in 2014 to \$2,540.00 in 2015. The comparison of median assessments from 2014 to 2015 amongst the districts is as follows:

DISTRICT	2014 MEDIAN ASSESSMENTS	2015 MEDIAN ASSESSMENTS
Multi-District	\$392.00	\$518.00
NWD	\$1,420.00	\$3,420.00
NED	\$4,250.00	\$3,000.00
CEN District	\$3,500.00	\$4,260.00
SED	\$3,000.00	\$2,440.00
SD	\$4,500.00	\$3,420.00
SWD	\$5,000.00	\$2,000.00

Only two districts, the Northwest and Central, saw an increase in their median assessments in 2015 when compared to 2014. This is the second year in a row that medians have fallen in the Southeast and South Districts.

1. The Highest Assessments

For the first time since 1987 (when the Department was barely getting off the ground) the FDEP failed to have any assessments that exceeded \$100,000.00. Indeed, the only two assessments that exceeded \$50,000.00 are listed below:¹²

¹² The abbreviations are as follows: AB = Asbestos; AC = Air Construction; AF = Air Federal Enforcement Permit; AG = Air General Permit; AO = Air Operation Permit; AM = Air Resource Management; AS = Air Permitted Source; AV = Air Title 5; AW = Aquatic Weed; BS = Beaches and Shores; CC = Collections Case; CM—Coastal & Aquatic Managed Area; CR = Coral Reef ; CU = Waste Cleanup; CZ==Coastal Zone Management; DA = Disciplinary Action; DF = Dredge and Fill; DR= Dry Cleaners; DW = Domestic Waste; EP = Environmental Resource Permitting (Dredge & Fill); ES = ERP Stormwater; EW = ERP Wetlands / Surface Waters; HW = Hazardous Waste; IW = Industrial Waste; MA = Mangrove Alteration; MN = Mining Operations; MR= Marine Resources; OC = Operator Certification; OG = Oil & Gas; PG = Phosphogypsum; PW = Potable Water; RO = Stormwater Discharge; S1 = Untreated Domestic Waste Spills; S3 =Other Domestic Waste Spills; SL = State Lands; SW = Solid Waste; TK = Tanks; UIC = Underground Injection.

District ¹³	Program	Polluter	Amount
2	DW	JEA (City of Jacksonville)	\$52,500.00 ¹⁴
3	HW	Thatcher Chemical of Florida	\$87,332.00

G. Civil Penalty Assessments By Program Area—District Comparison

As in past reports, we now turn to the performance of the major program areas. What follows is a side-by-side comparison regarding the total dollars assessed in each program area, as well as a comparison of each district’s median assessments. Given the serious downward trend in many program areas over the past 5 years we are also including the results from previous years so that the reader can better understand the state of enforcement in each program.

1. Air Program

While markedly better than the previous two years, the Department-wide results continue to show a clear decrease in the number of air assessments:

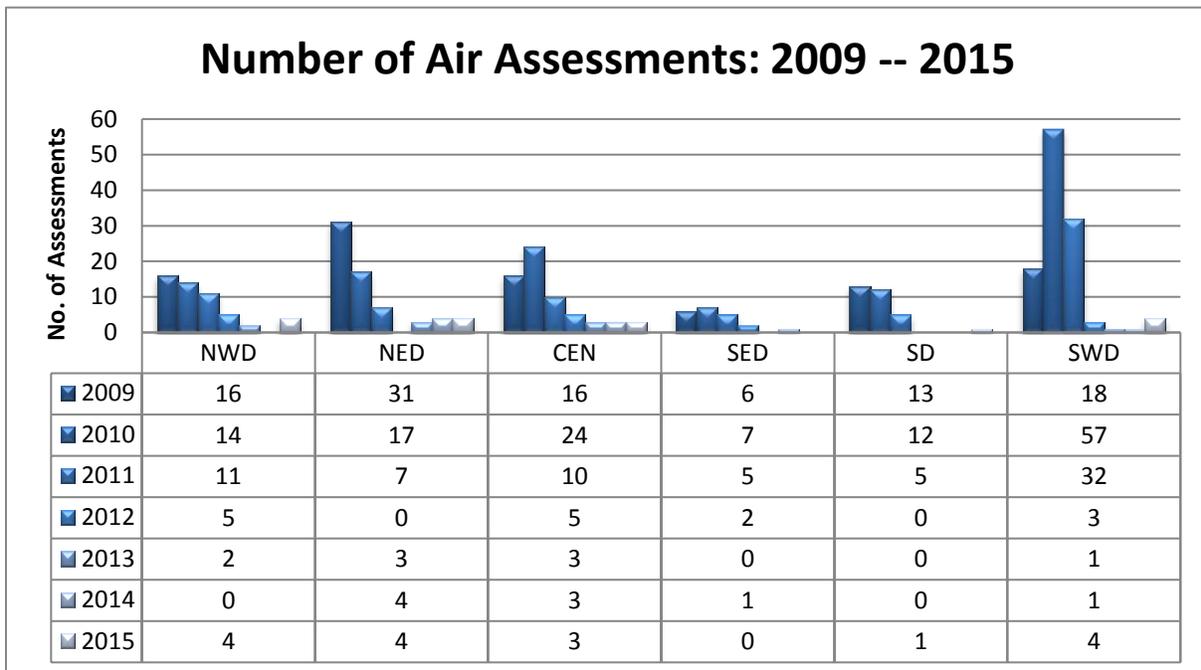
Year	Total Number of Air Assessments
2009	100
2010	131
2011	70
2012	15
2013	9
2014	9
2015	16

¹³ District numbers correspond to the following districts: 0=Multi-District; 1=Northwest District, 2=Northeast District, 3=Central District, 4=Southeast District, 5=South District, 6=Southwest District.

¹⁴ This amount is actually the value of an in-kind project. The civil penalty assessment would have been less than \$50,000.00, likely in the amount of \$35,000.00.

2015 saw a 78% improvement in the number of cases in this program. Yet, even with those results the fact remains that the last two years have seen a total of just 25 cases in the entire state. These numbers continue to show that senior management has decided to do what they can to effectively eliminate enforcement of the air program in Florida. They are limited, however, by the fact that the Department receives federal funding for administering the federal Clean Air Act, a prerequisite of which is to have enforcement mechanisms to ensure compliance. Thus, the agency cannot fully eradicate enforcement without risking the loss of federal funds. Consequently, we expect to see the results fluctuate around the bottom so long as this administration is in control.

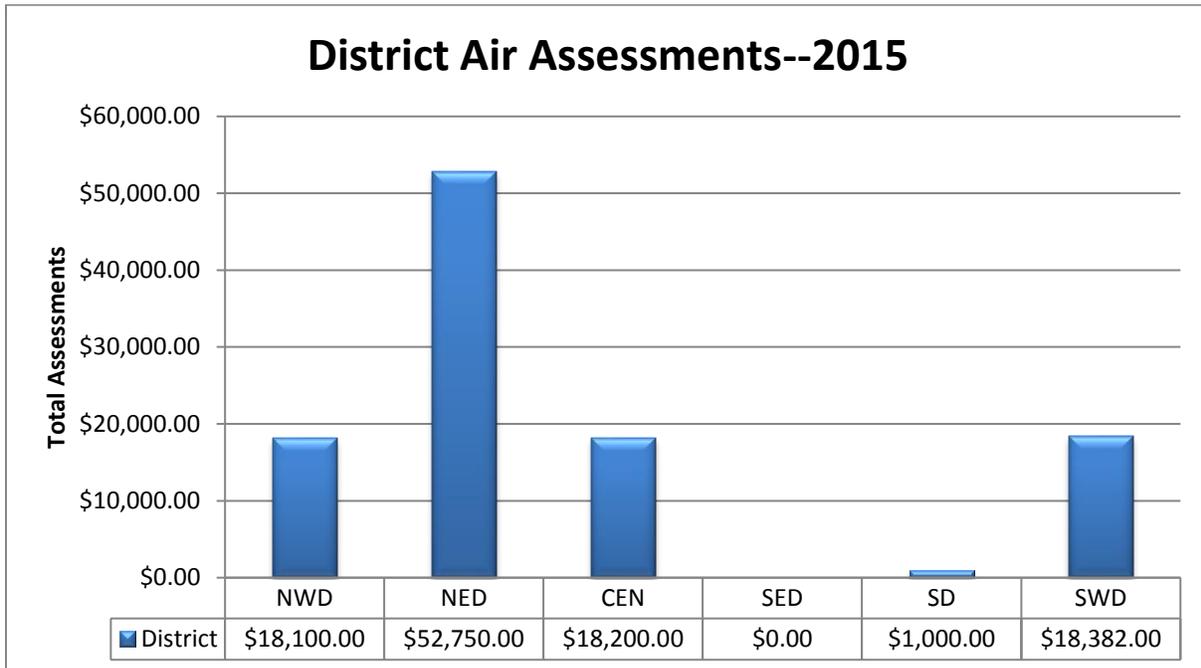
The following chart demonstrates that over the last five years there is a clear pattern of bringing fewer enforcement cases in the air program in every district. The gains in 2015 were the result of the performance of the Northwest and Southwest Districts. The South District also improved, but only by having 1 case, compared with no cases for the previous 3 years:



The following table illustrates the point that even with the improvements in 2015 there is still a marked decline in the dollar value of assessments for the Department as a whole:

Year	Total \$ Assessed
2009	\$325,918.66
2010	\$1,611,066.50
2011	\$332,506.00
2012	\$62,470.50
2013	\$64,250.00
2014	\$32,650.00
2015	\$108,432.00

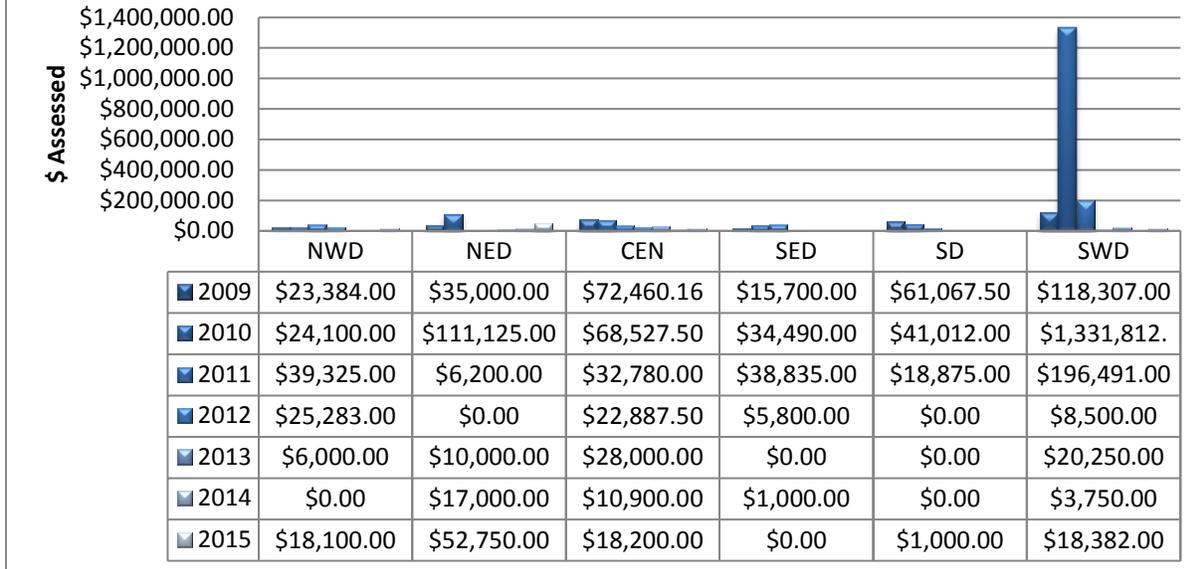
Statewide there was a 232% increase in the dollar value of assessments in this program in 2015. This increase was attributable to increases in every district, except for the Southeast District, which had no cases for the entire year.¹⁵ Nevertheless, when compared to the results in 2010 the program, as a whole, is still 93% lower. The only district that managed to top 50% when compared with 2010 is the Northwest District, which, in 2015, turned in results that were 25% lower than those of 2010:



Except for the Southeast District, every district had significant increases in penalty assessments in 2015:

¹⁵ In those programs in which the multi-district group had no assessments we have not included the group in the tables.

Air Assessments: 2009 -- 2015

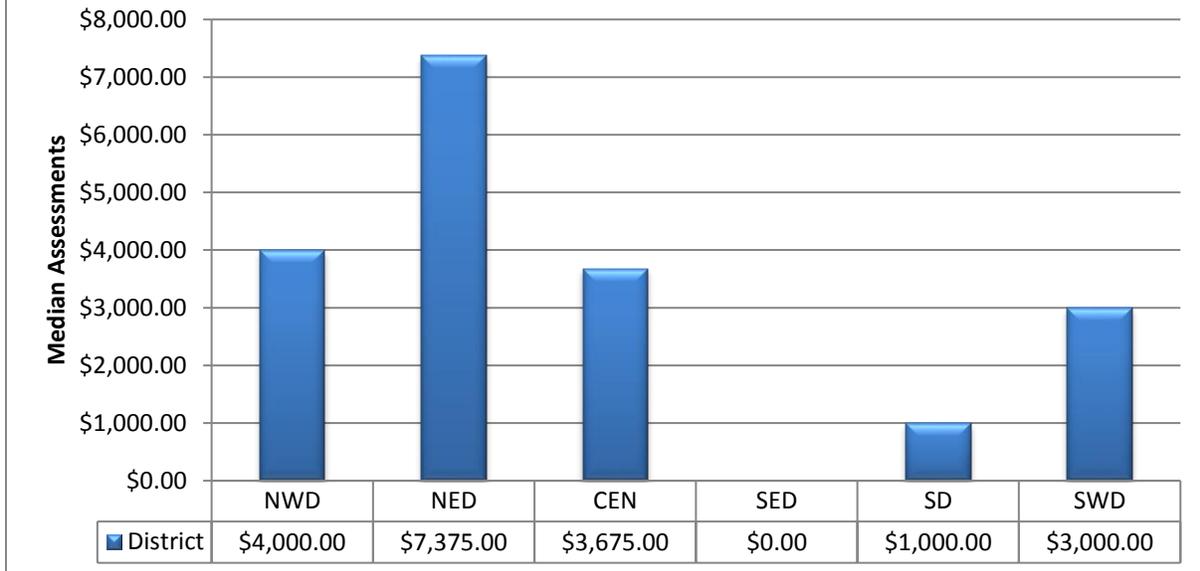


While median assessments for the Department as a whole dropped by \$250 in 2014, it looks as though the decline was temporary. Median assessments improved in 2015 and have generally hovered around the \$4,000 figure since 2012.

Year	Median Air Assessments
2009	\$1,200.00
2010	\$2,000.00
2011	\$1,900.00
2012	\$4,387.50
2013	\$4,000.00
2014	\$3,750.00
2015	\$4,000.00

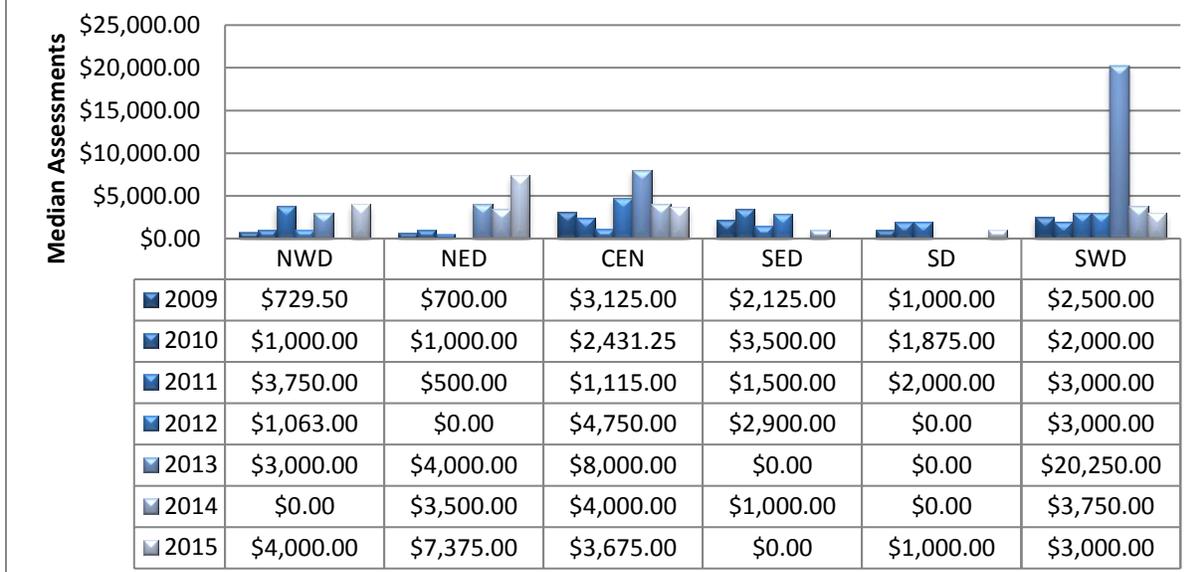
Median air assessments amongst the districts broke down as follows:

Median Air Assessments By District--2015



Generally, in 2015 the air cases were somewhat uniformly dispersed amongst the districts. But when there were only 16 cases statewide it makes evaluation of each individual district's performance problematic. The most cases in any one district was 4, hardly enough to provide a statistical pattern. Nonetheless, half of the districts saw improvements in the medians in 2015. The only district that seems to be showing a pattern is the Central District, which has seen its medians steadily decline over the past 3 years.

Air Median Assessments: 2009 -- 2015

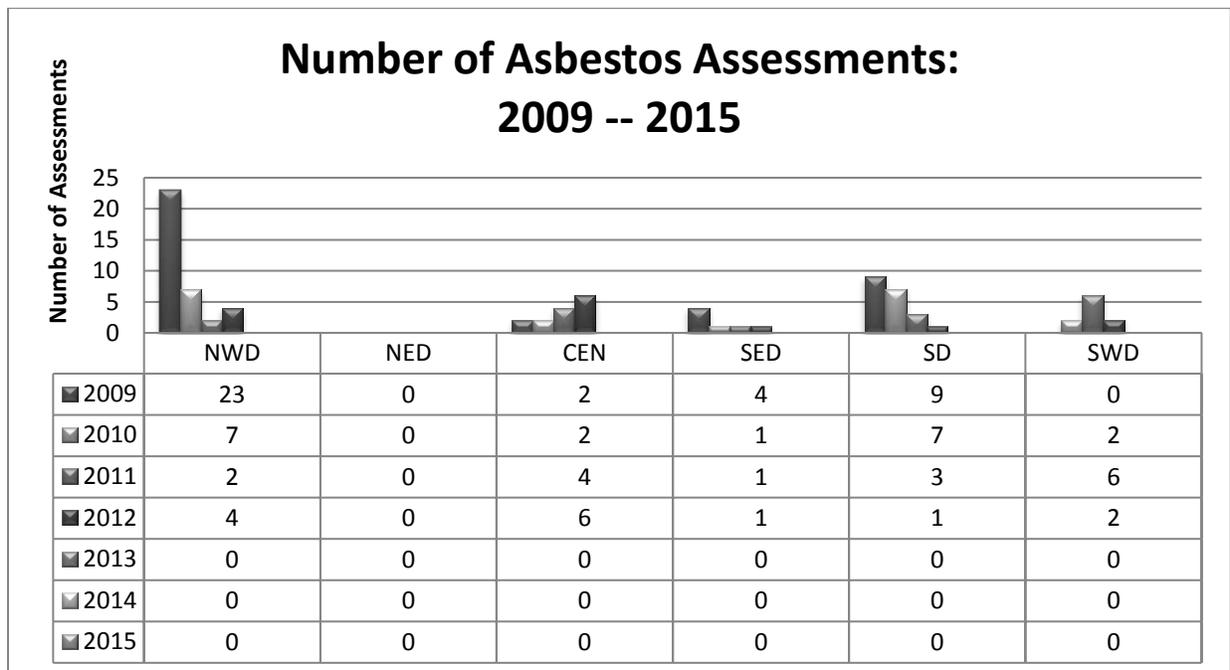


2. Asbestos Program

The FDEP’s website states that “[a]sbestos is well recognized as a health hazard and is highly regulated. The United States Environmental Protection Agency (EPA) and the United States Occupational Safety Health Administration (OSHA) asbestos regulations are intertwined in this area.”¹⁶ Yet, despite the assurances on this site, the number of asbestos assessments has declined **100%** Department-wide since 2010 and there have been **no** assessments for the last **three** years. In other words, there is no enforcement of this program at the state level:

Year	Total Number of Asbestos Assessments
2009	38
2010	19
2011	16
2012	14
2013	0
2014	0
2015	0

The breakdown at the district level looks like this:

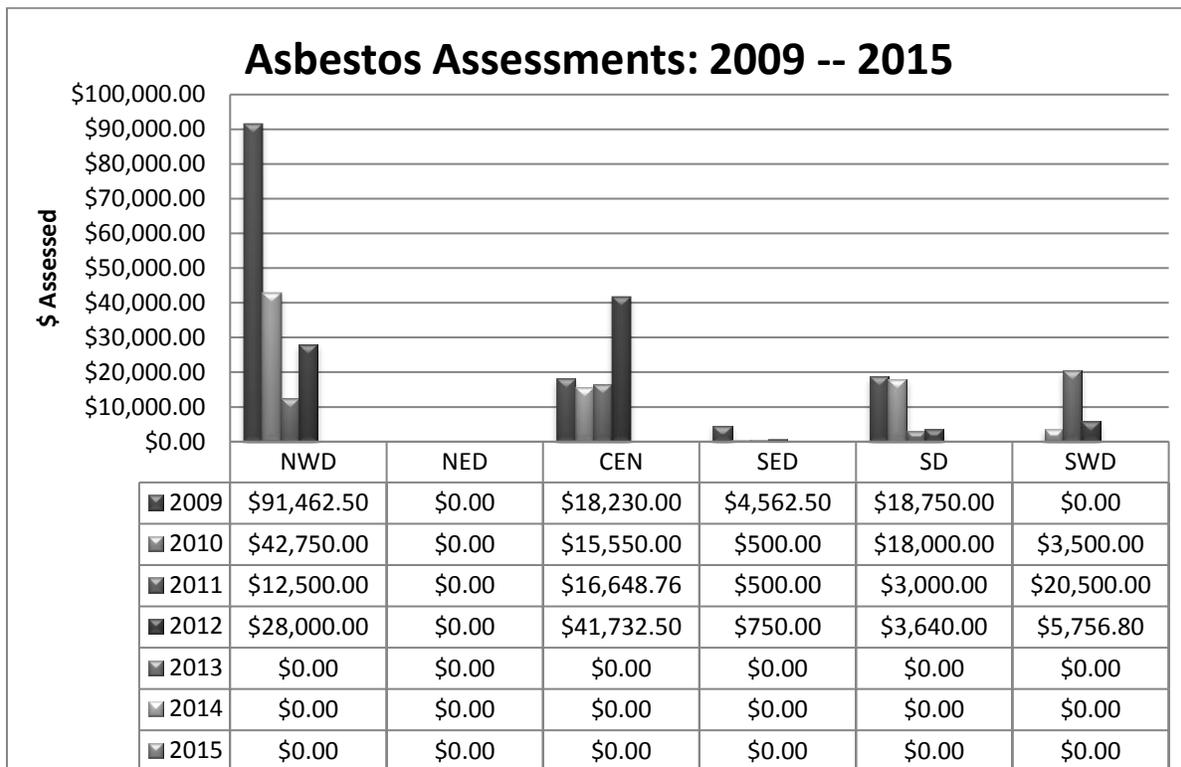


The downfall, in dollar terms, looks like this for the statewide results:

¹⁶ <http://www.dep.state.fl.us/air/emission/asbestos.htm>

Year	Total \$ Assessed—Asbestos
2009	\$133,005.00
2010	\$80,300.00
2011	\$53,148.76
2012	\$79,879.30
2013	\$0.00
2014	\$0.00
2015	\$0.00

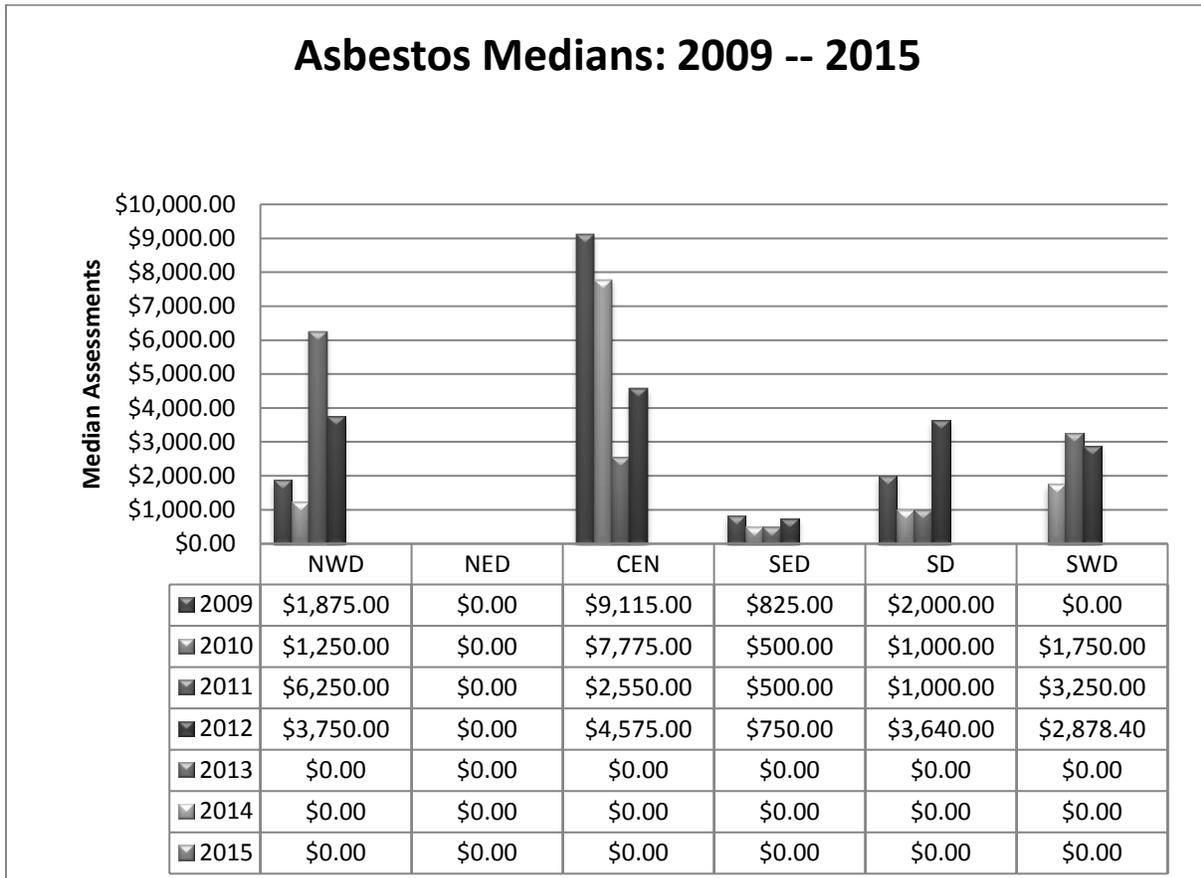
A breakdown by district shows the extent to which each individual district has fallen:



Median asbestos assessments for the Department as a whole have fallen from \$3,640.00 in 2012 to \$0.00 in 2013, 2014 and 2015:

Year	Median Asbestos Assessments
2009	\$1,937.50
2010	\$1,250.00
2011	\$2,000.00
2012	\$3,640.00
2013	\$0.00
2014	\$0.00
2015	\$0.00

So far as median assessments is concerned the historical overview for each district looks like this:



3. Beaches & Coastal Program

The Department’s website states that, “[n]o other state and very few countries can boast such an abundance of high quality beaches. The 825 miles of sandy coastline fronting the Atlantic Ocean, the Gulf of Mexico or the Straits of Florida are one of Florida’s most valuable natural resources. Florida’s beaches are deserving of this status because they serve several important functions, each being vital to maintaining the health of Florida’s economy and environment.”¹⁷ Under Florida’s Beach and Shore Preservation Act¹⁸ the Department is charged with adopting and enforcing programs designed to protect this highly important aspect of Florida’s environment.

¹⁷ <http://www.dep.state.fl.us/beaches/>

¹⁸ Chapter 161, Florida Statutes

The number of assessments levied by the Department has declined steadily since 2009. The result for 2015 is the 2nd lowest in the Department’s history:

Year	Total Number of Beaches & Coastal Assessments
2009	25
2010	14
2011	20
2012	13
2013	8
2014	7
2015	4

All of the assessments in this program arose out of the Multi-District category. This has been the case since at least 2009.

The following table illustrates the decline in the dollar value of assessments for the Department as a whole:

Year	Total \$ Assessed
2009	\$27,750.00
2010	\$11,750.00
2011	\$20,400.00
2012	\$18,000.00
2013	\$13,500.00
2014	\$6,250.00
2015	\$5,250.00

Assessments fell 16% compared with 2014 and they are currently 55% below the results for 2010.

Median assessments for the Department (and the Multi-District category) doubled in 2015 and they are 14% above the levels in 2010, although it must be remembered that the results from 2015 are based upon only 4 assessments:

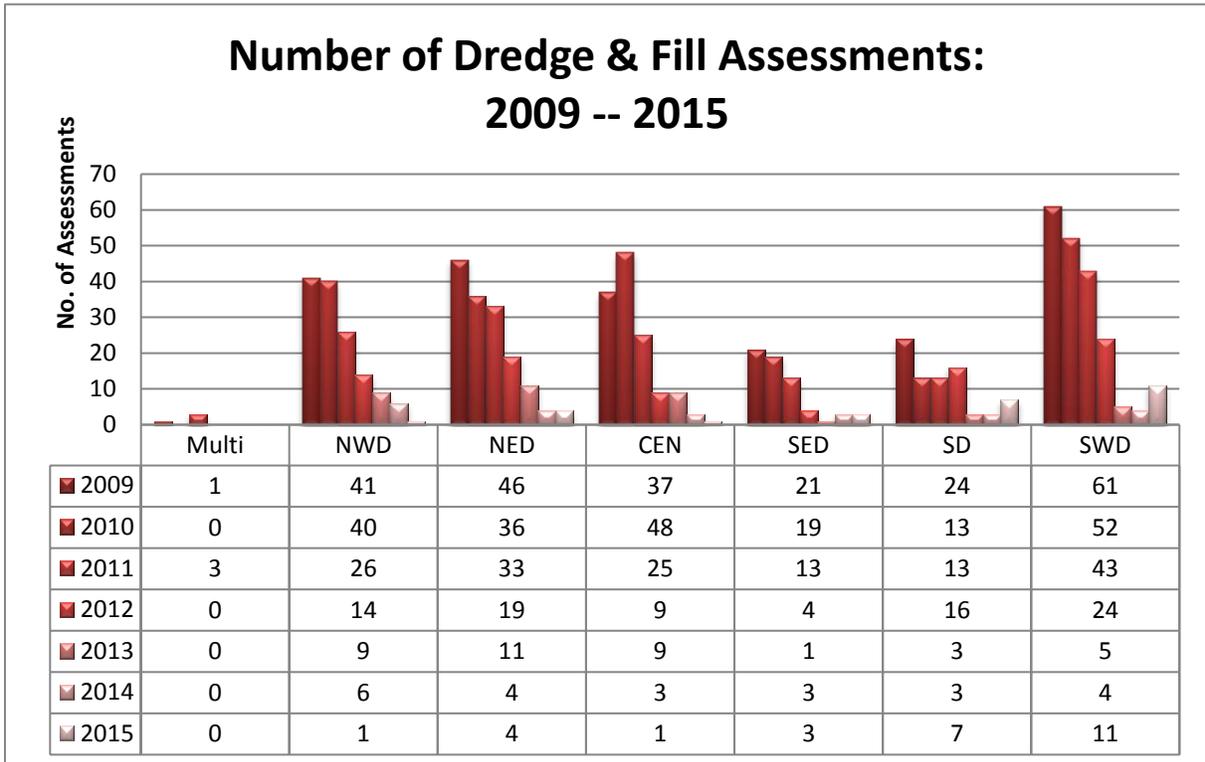
Year	Median Beaches & Coastal Assessments
2009	\$750.00
2010	\$875.00
2011	\$750.00
2012	\$1,000.00
2013	\$875.00
2014	\$500.00
2015	\$1,000.00

4. Dredge and Fill Program

The downward trend in the number of dredge and fill assessments was reversed a bit in 2015. There were 4 more cases than in the previous year. But this performance is still dismal compared with pre-2011 years:

Year	Total Number of Assessments
2009	231
2010	208
2011	156
2012	86
2013	38
2014	23
2015	27

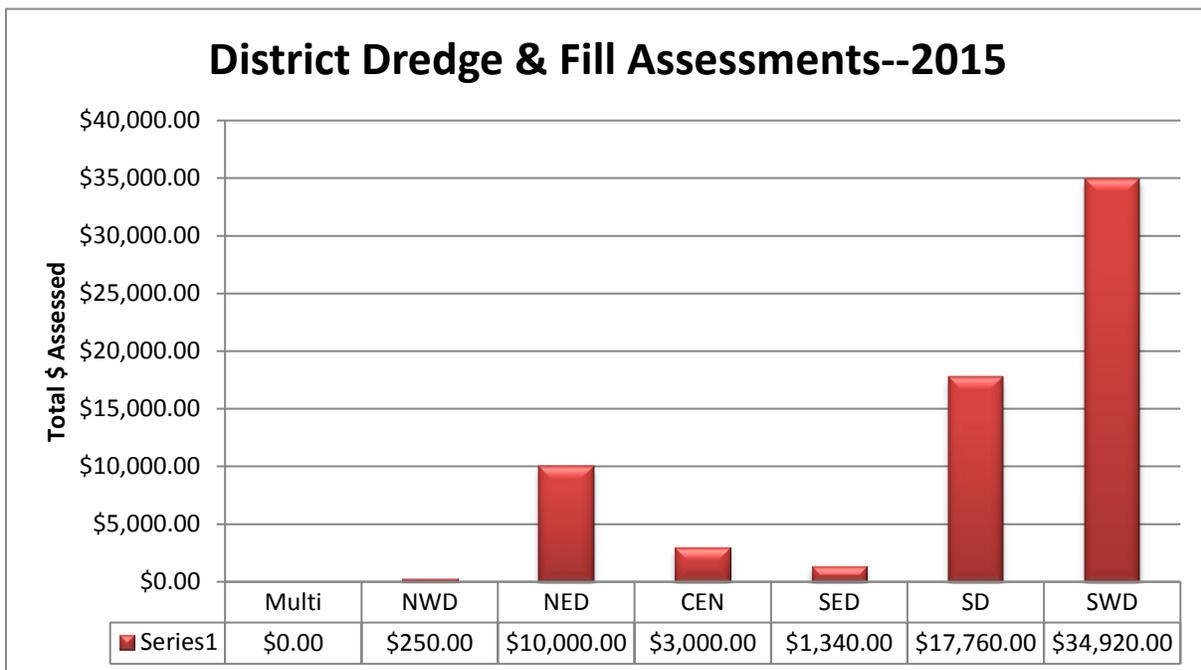
The South and Southwest Districts were the only two districts to see an increase in the number of cases compared to 2014's performance. The Northwest District had only one case during the entire year:



Statewide, the dollar value of dredge & fill assessments rose just over \$9,000 in 2015, an expected result given the modest increase in the number of cases. But this is still the second worst performance in the program's history, second only to 2014:

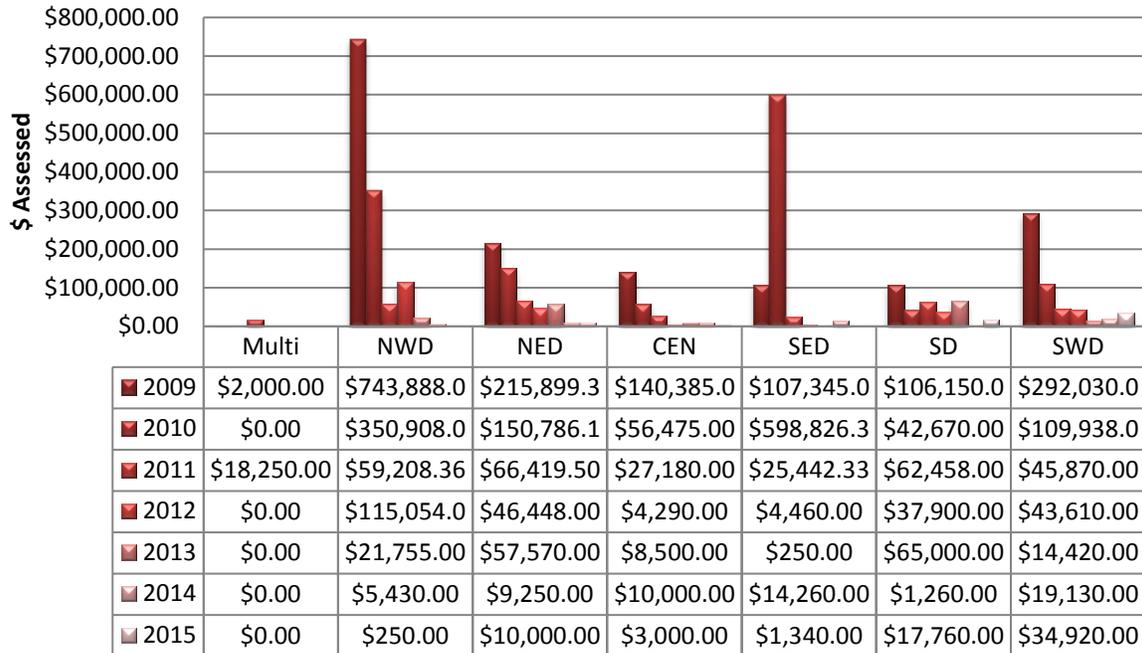
Year	Total \$ Assessed
2009	\$1,607,697.31
2010	\$1,309,603.40
2011	\$304,828.19
2012	\$251,762.00
2013	\$167,495.00
2014	\$59,330.00
2015	\$67,270.00

Three of the districts, the Northeast, South and Southwest saw an overall increase in assessments in 2015, the latter two being sizeable. Two of these districts, the South and Southwest also had more assessments in 2015 than in 2014. The combined total of the penalty dollars assessed in the Northeast, South and Southwest districts equalled \$62,680.00, or 97% of all assessments statewide. The Northwest District assessed just \$250 in penalties in 2015:



When looking at the 7-year history of the districts the overall downward trend is easy to see:

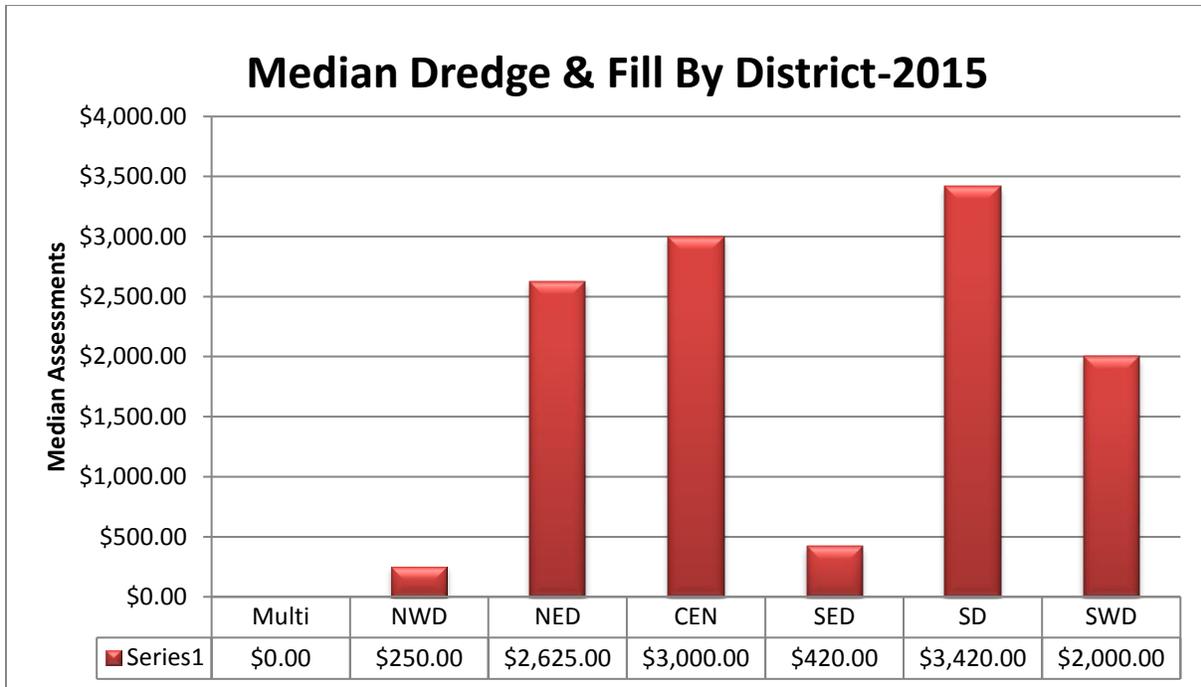
Dredge & Fill Assessments: 2009 -- 2015



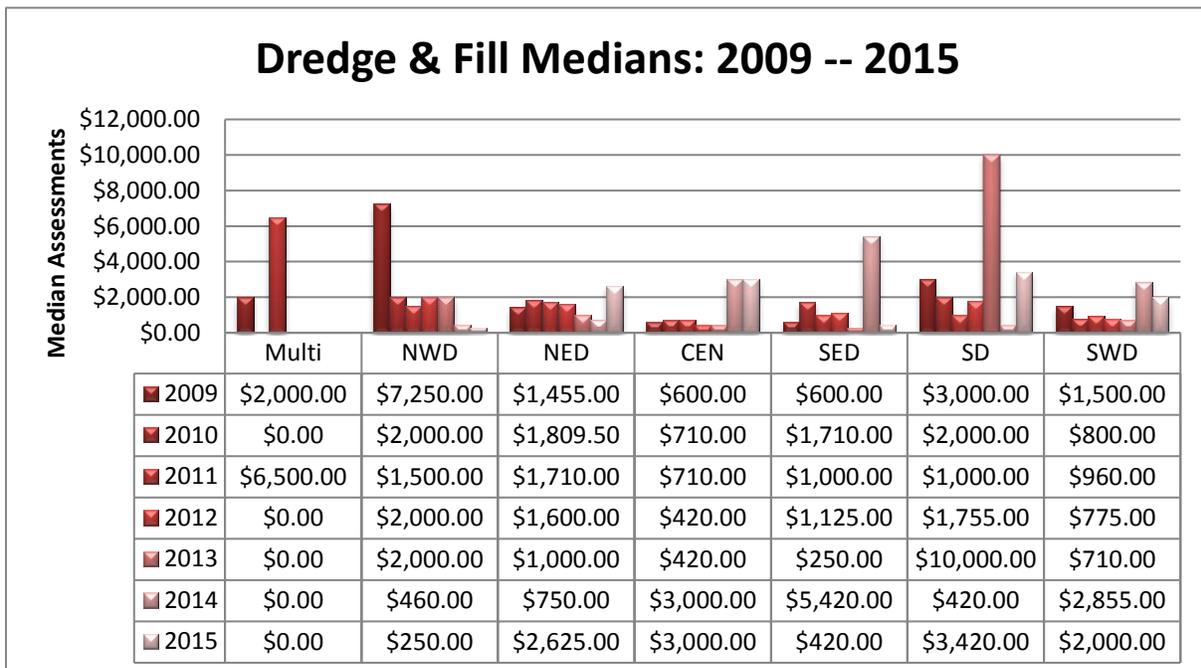
In 2015 the median assessments doubled for the Department as a whole:

Year	Median DF Assessments
2009	\$1,500.00
2010	\$1,205.00
2011	\$1,000.00
2012	\$1,000.00
2013	\$1,000.00
2014	\$1,000.00
2015	\$2,000.00

The median assessments amongst the districts for 2015 were:



Median assessments improved significantly in the Northeast and South Districts, but fell just as significantly in the Southeast and Southwest District. Once again, however, it must be remembered that the overall number of cases was 7 or less per district with the sole exception being the Southwest District, which only had a total of 11 cases for the year. Thus, it is hardly possible to say much improvement was made in any of the districts over the course of the year.

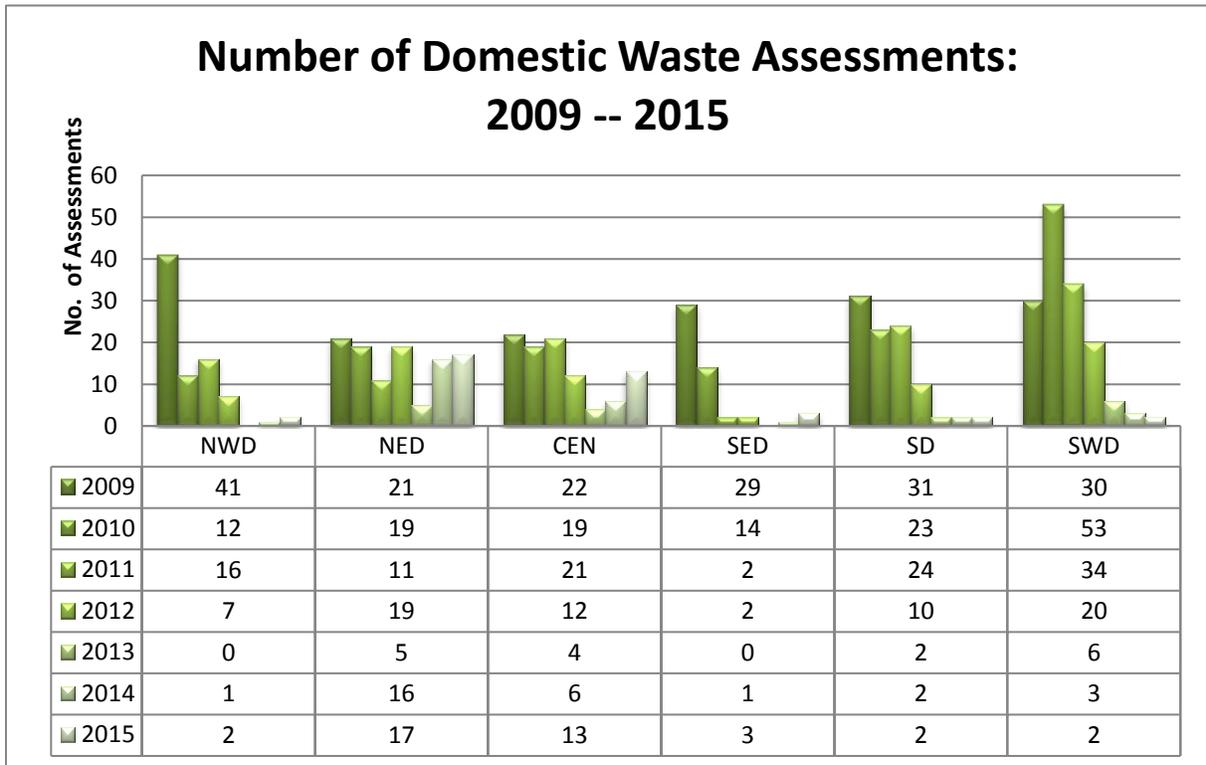


5. Domestic Waste Program

The Department assessed penalties in 39 cases in 2015, 10 more than in 2014, 12 more than in 2013. Despite the improvement, it was still the 4th lowest in Department history. The lowest output was a total of 4 cases in the Department's first year:

Year	Number of Civil Penalty Assessments
2009	174
2010	140
2011	108
2012	70
2013	17
2014	29
2015	39

This is the second year in which the number of domestic waste cases has risen. While good, it is obvious that the program is still far below where it was 5 years ago. Nevertheless, except for the Southwest District, which had only 2 cases all year, every district either met or exceeded the results in 2014. But the Southwest District was not alone. Two other districts, the Northwest and South, each had only 2 cases all year. The overall trends are shown below:

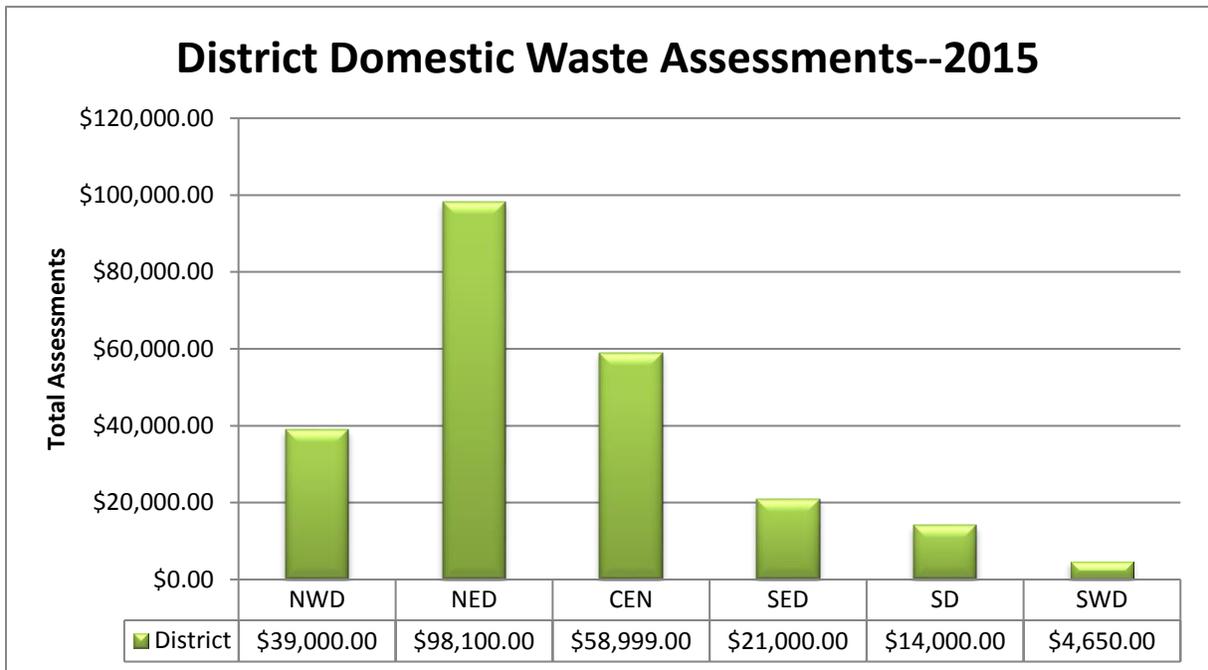


The Department assessed \$235,749.00 in civil penalties in 2015, a 27% decline from the \$871,625.00 in civil penalties that were assessed in 2014. The results for 2015 are the worst

overall results since 1989 and the 4th worst in the Department’s history—the previous low returns being in 1987, 1988 and 1989. The results for the past 7 years are as follows:

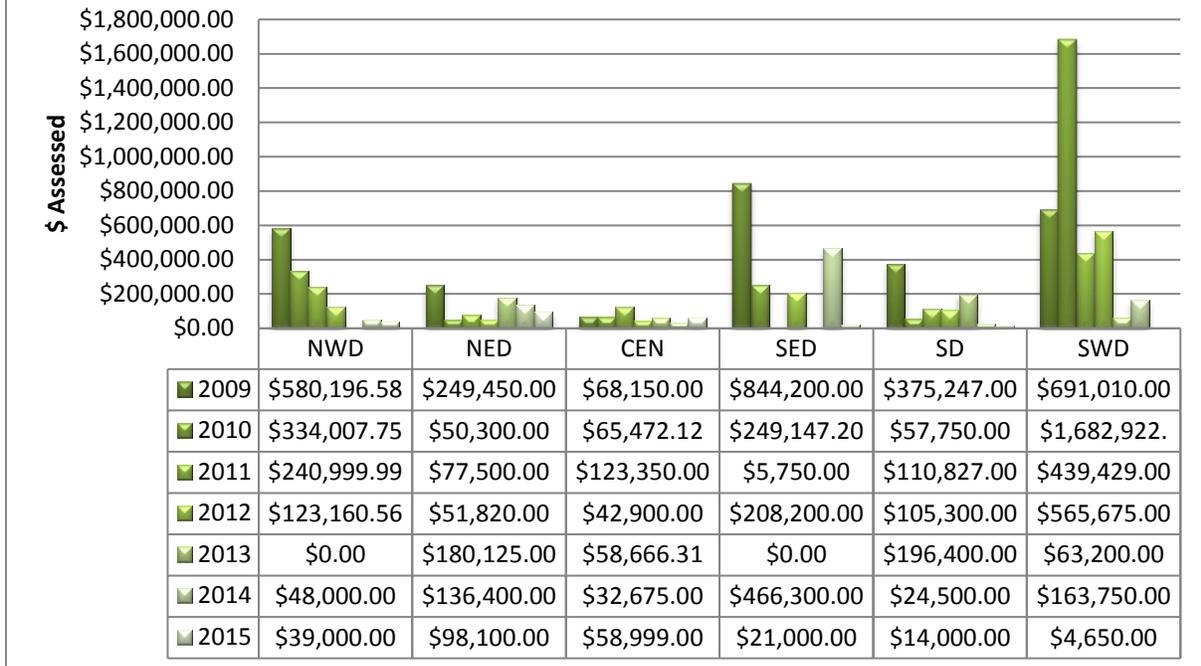
Year	Domestic Waste Assessments
2009	\$2,808,253.58
2010	\$2,439,599.07
2011	\$997,855.99
2012	\$1,097,055.56
2013	\$498,391.31
2014	\$871,625.00
2015	\$235,749.00

The dollars assessed were distributed amongst the districts as follows:



The Central District was the only district to perform better in 2015 than in the previous year. Steep declines were seen in the Southeast District (which in 2014 had only 1 case, but it was a major assessment) and the Southwest District. The general historical trend continues to be towards lower performance:

Domestic Waste Assessments: 2009 -- 2015

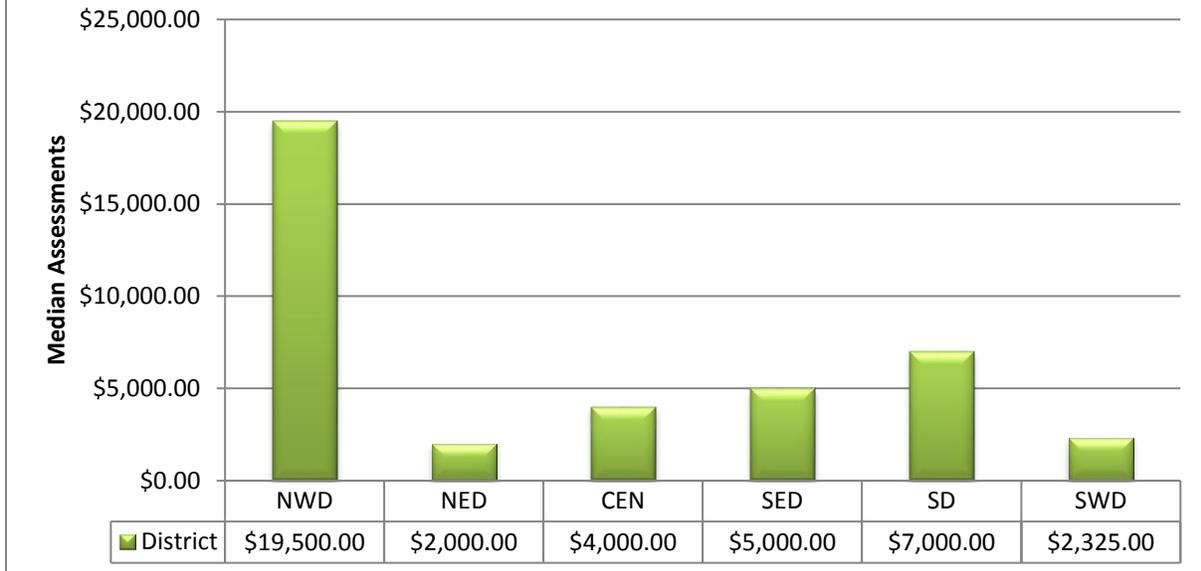


Medians for the Department as a whole fell back to the level seen in 2011, thus marking a 4 year decline:

Year	Median Assessments—Domestic Waste
2009	\$2,275.00
2010	\$2,000.00
2011	\$3,000.00
2012	\$3,600.00
2013	\$5,250.00
2014	\$7,500.00
2015	\$3,000.00

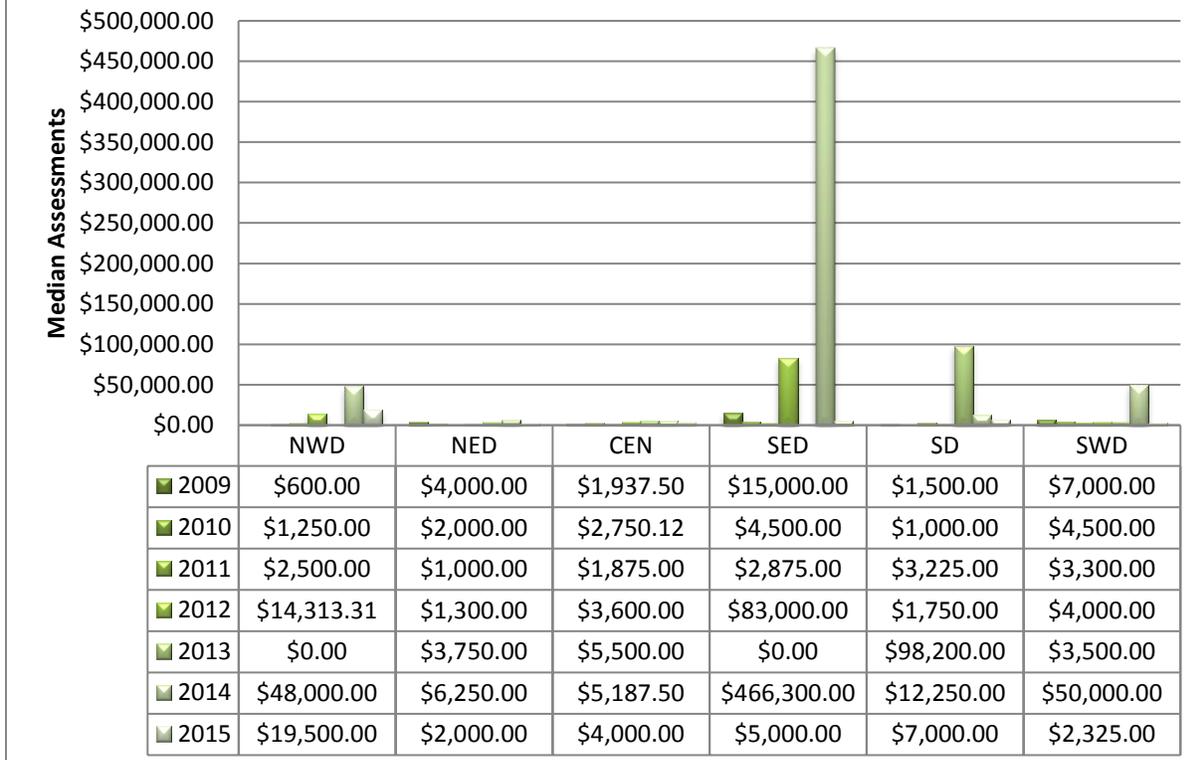
The medians in the Northwest, South and Southwest Districts are based upon a total of 2 cases each and the median for the Southeast District is based upon only 3 cases. That leaves only the Northeast and Central Districts (with 17 and 13 cases respectively) with numbers that even remotely gauge the strictness of enforcement in this program area. The medians in both of those areas are lower than in 2014. The medians for each district are shown below:

Median Domestic Waste By District--2015



The historical trend for each district is shown below:

Domestic Waste Medians: 2009 -- 2015

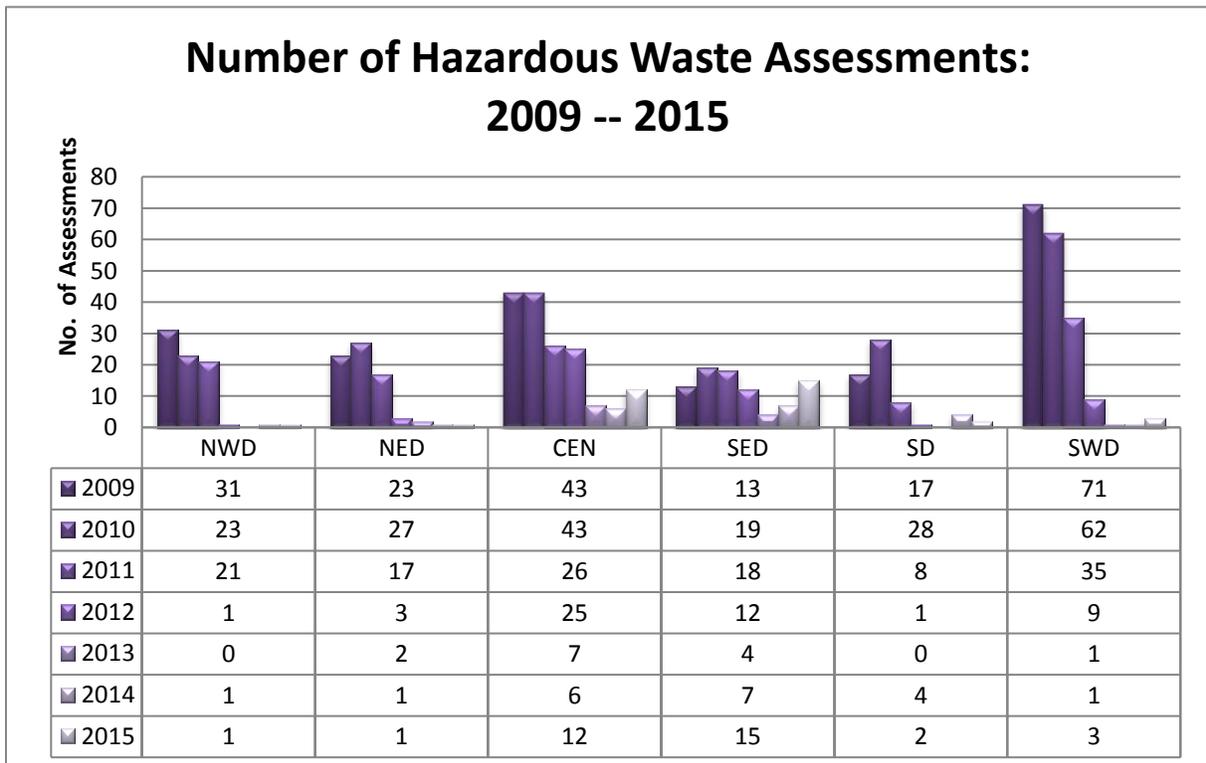


6. Hazardous Waste Program

The number of hazardous waste assessments increased 42% in 2015, the second straight year of improvement. But the number of assessments still lags far behind pre-2011 performance:

Year	Number of Hazardous Waste Assessments
2009	198
2010	202
2011	125
2012	51
2013	14
2014	20
2015	34

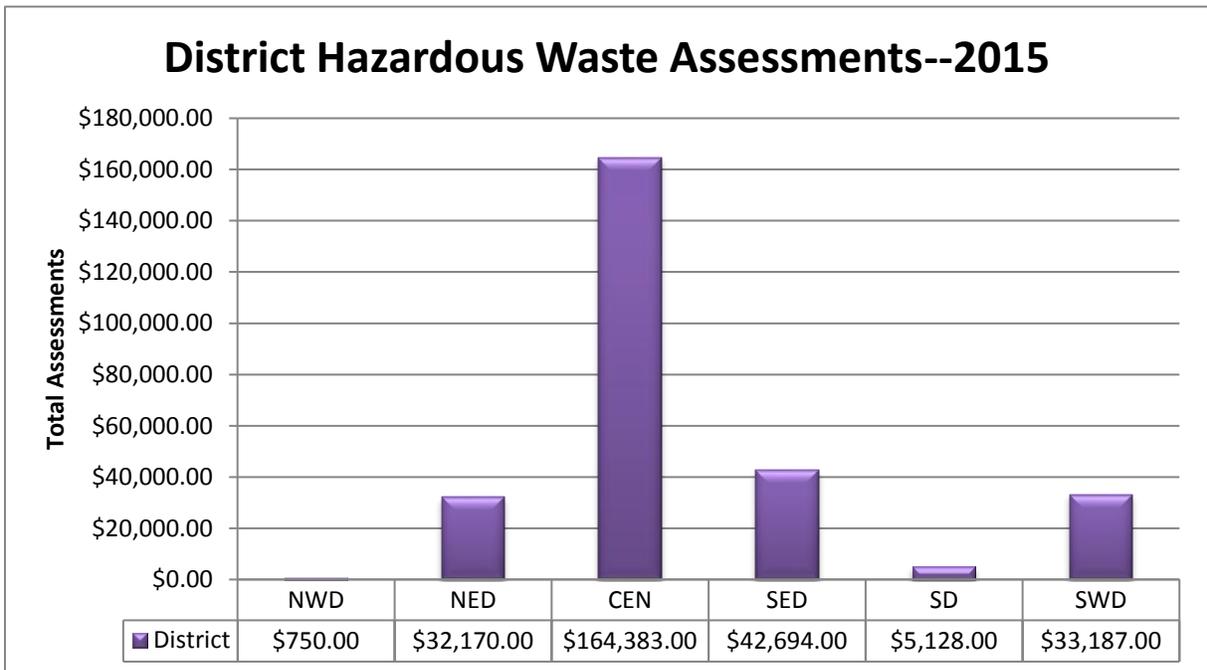
Like the agency's performance in 2014, even though there were more cases overall in 2015 the improvement is not uniform. **For the second straight year the Northwest and Northeast Districts each had only one assessment for the entire year. In fact, the Northwest District has had a total of 3 assessments since January 1, 2012. The Northeast and South Districts have each had just 7 assessments during the same period.** The historical trends are:



Predictably, the dollar assessments also increased in 2015 as a result of the increase in the overall number of assessments for the year. This 13% increase from 2014 is still 90% below 2010's results. The results for the past 7 years are:

Year	Total Hazardous Waste Assessments
2009	\$2,055,805.69
2010	\$2,731,922.74
2011	\$1,690,153.06
2012	\$540,107.59
2013	\$137,599.00
2014	\$245,909.63
2015	\$278,312.00

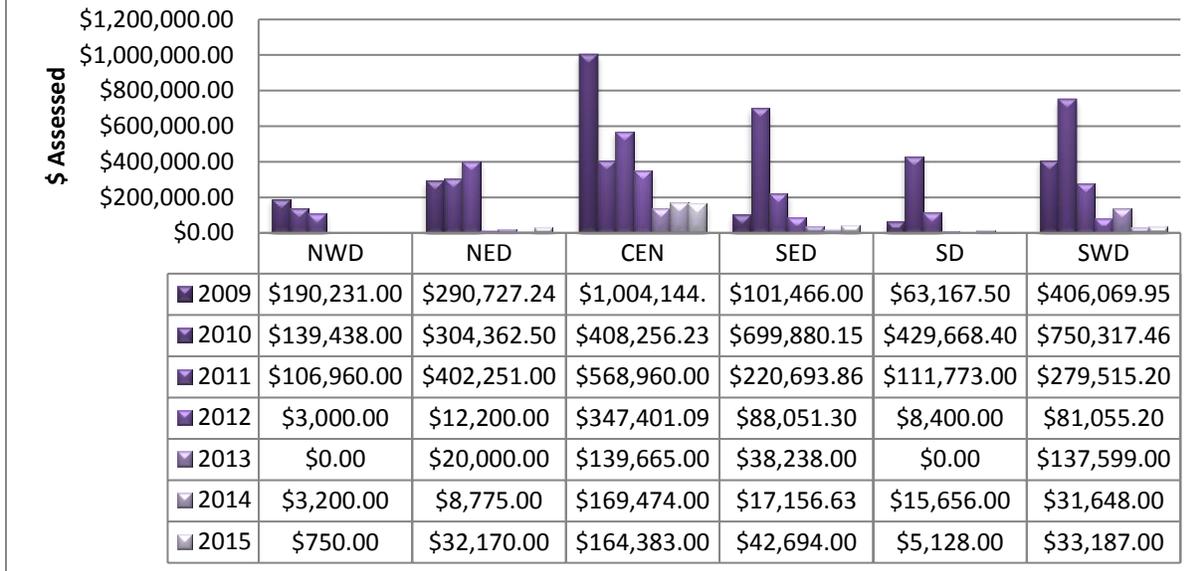
The Department's assessments in 2015 were divided amongst the districts as follows:



For the second year in a row, the Central District was responsible for the largest amount of penalties assessed in 2015.

Three of the districts, the Northwest, Central and South all saw a decrease in dollar assessments in 2015, compared with 2014. The decline was steepest in the Northwest District, which assessed only \$750.00 in penalties (77% lower than the previous year. By comparison, the Southeast District's results are 150% better than in 2014.

Hazardous Waste Assessments: 2009 -- 2015

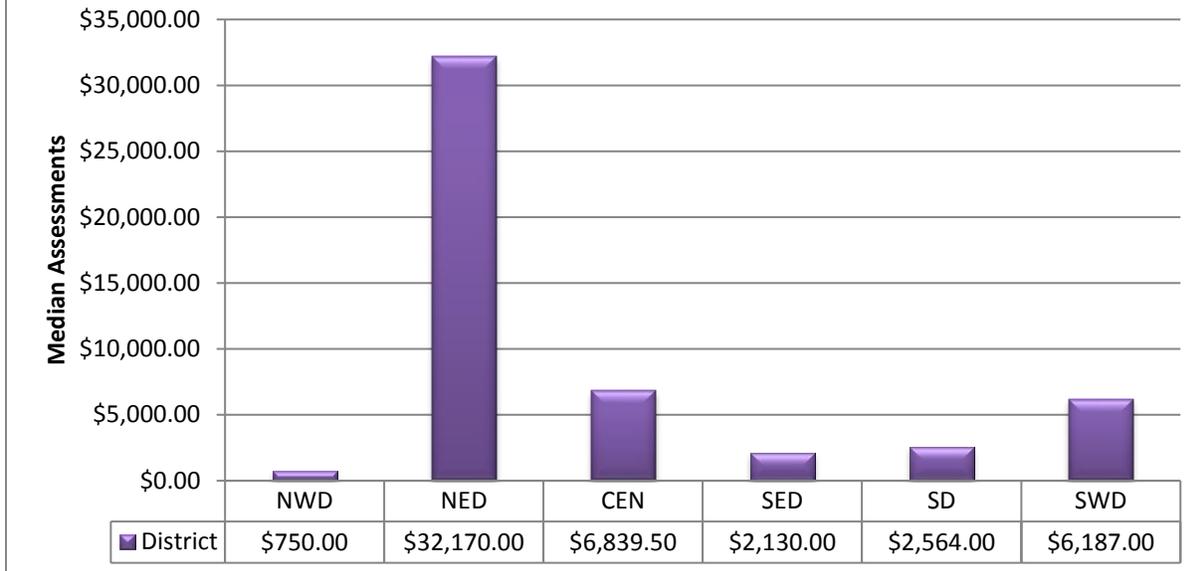


Median assessments for the Department as a whole are falling. They declined 15% compared with the results of 2014 and are 15% lower than the performance in 2010:

Year	Median Hazardous Waste Assessments
2009	\$4178.25
2010	\$3868.50
2011	\$7,090.00
2012	\$4,104.00
2013	\$10,700.00
2014	\$4,250.00
2015	\$3,275.00

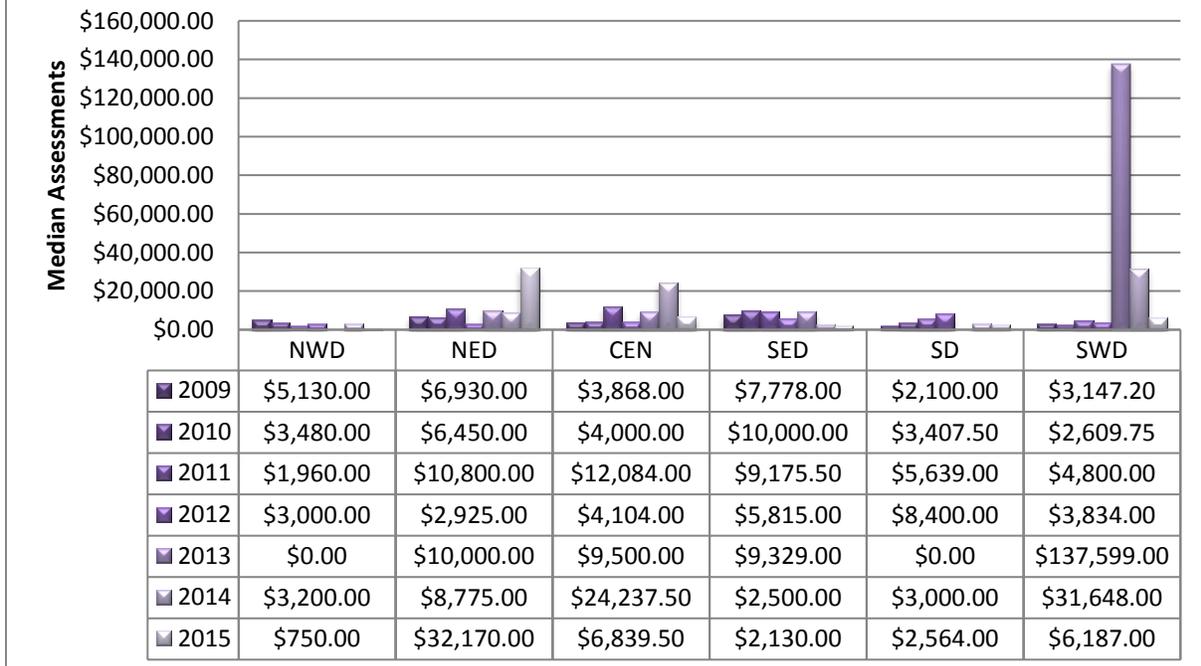
Median assessments for each district in 2015 were :

Median Hazardous Waste By District--2015



The median assessment in the Northeast District looks impressive, but (like the Northwest District) is based upon only 1 assessment. The results in the South District are based upon only 2 cases and the Southwest District is based upon 3. While the Central and Southeast Districts had more assessments (12 and 15 respectively) both saw declining medians of 72% and 15% respectively compared with 2014. The overall trends are shown below:

Hazardous Waste Medians: 2009 -- 2015

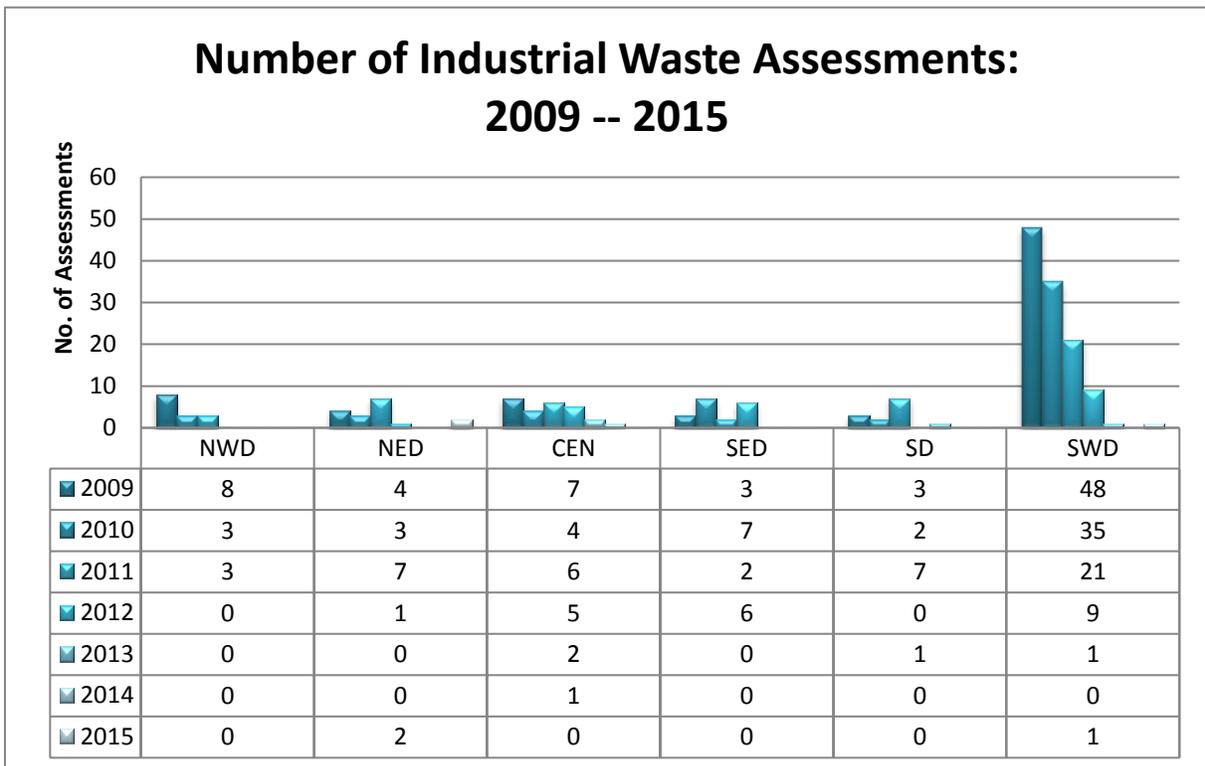


7. Industrial Waste Program

This program had 3 assessments in 2015, a dismal result, but still better than the 1 assessment that it had in the previous year. As we stated last year, “[f]or all intents and purposes this is a program that has now ceased to function.” The number of assessments has fallen 94% from 2010:

Year	Number of Industrial Waste Assessments
2009	73
2010	54
2011	46
2012	21
2013	4
2014	1
2015	3

The Northeast and Southwest Districts were the only two districts to improve upon 2014’s results. There were no cases in any of the remaining four districts:



Overall the Department levied just \$10,500.00 in civil penalties in 2015, an 11% increase over 2014’s performance:

Year	Total Industrial Waste Assessments
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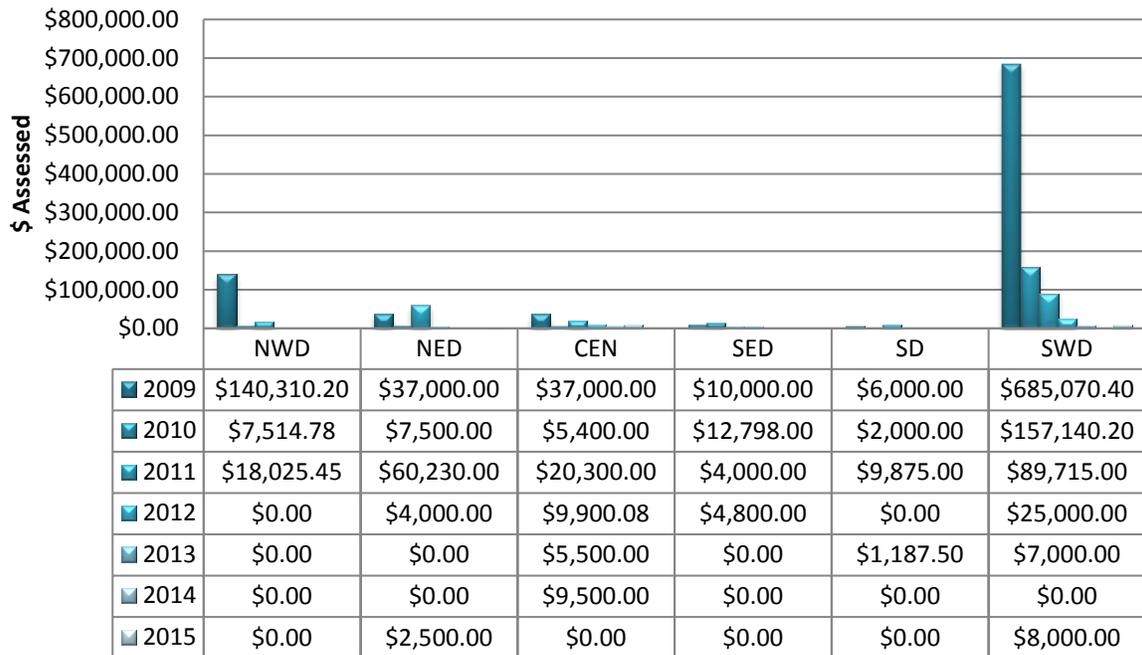
2009	\$915,380.60
2010	\$192,352.98
2011	\$202,145.45
2012	\$43,700.08
2013	\$13,687.50
2014	\$9,500.00
2015	\$10,500.00

In 2015 the districts assessed penalties in this program as follows:



The annual decline continues to be seen in every district:

Industrial Waste Assessments: 2009 -- 2015

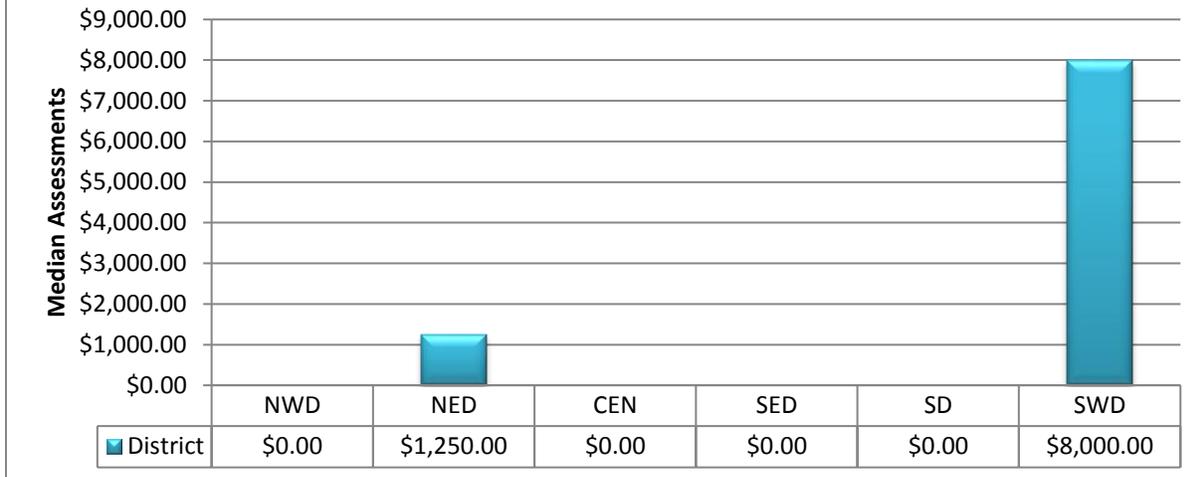


Median penalties fell \$7,500.00 from 2014's level (which was based upon only one case). Given the scarcity of cases (8 cases in the last 3 years) the results are hardly indicative of a trend, but the current median is still 23% lower than the performance in 2010:

Year	Median Industrial Waste Assessments
2009	\$2,400.00
2010	\$2,590.10
2011	\$2,500.00
2012	\$1,500.00
2013	\$2,750.00
2014	\$9,500.00
2015	\$2,000.00

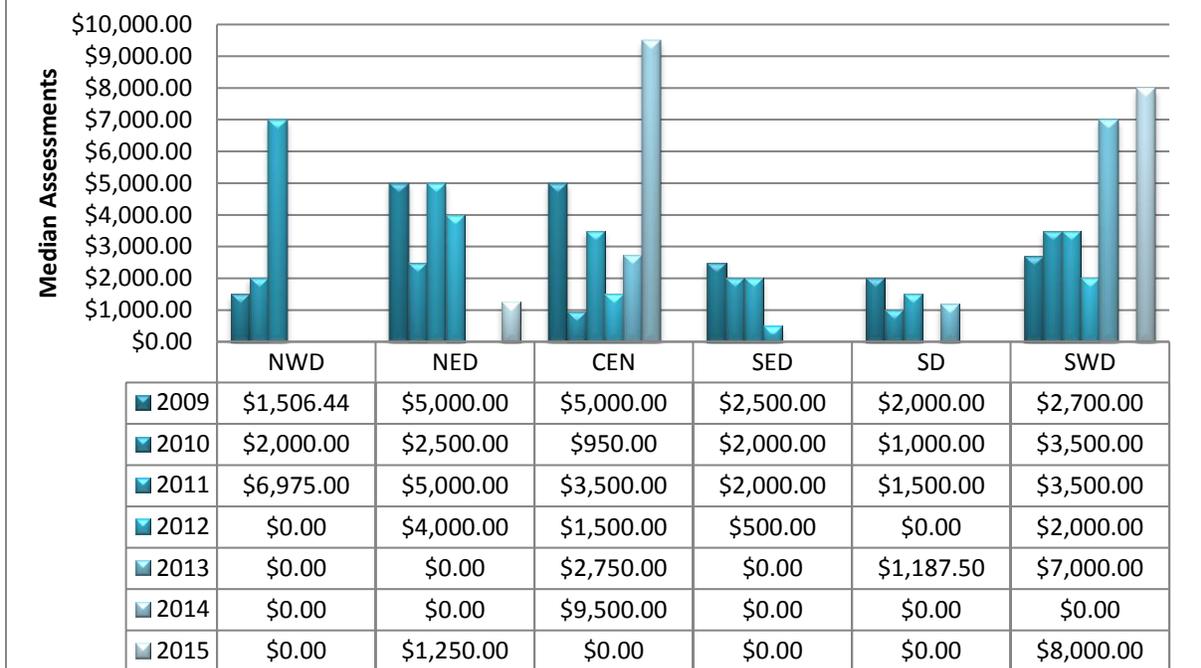
The Northeast and Southwest Districts were the only districts to assess penalties:

Median Industrial Waste By District--2015



It has been now been **four** years since the Northwest District assessed a civil penalty and **three** years since a penalty was assessed in the Southeast District:

Industrial Waste Medians: 2009 -- 2015



8. Mining & Phosphogypsum Program

This is a program that administers the reclamation and wetland resource permitting programs, including mines, oil & gas, dams and phosphogypsum stack systems. It is a program that has historically never seen tremendous levels of enforcement. In fact, the most assessments in any given year is 18 and that was in 2005. Generally speaking, the numbers have fallen since then.

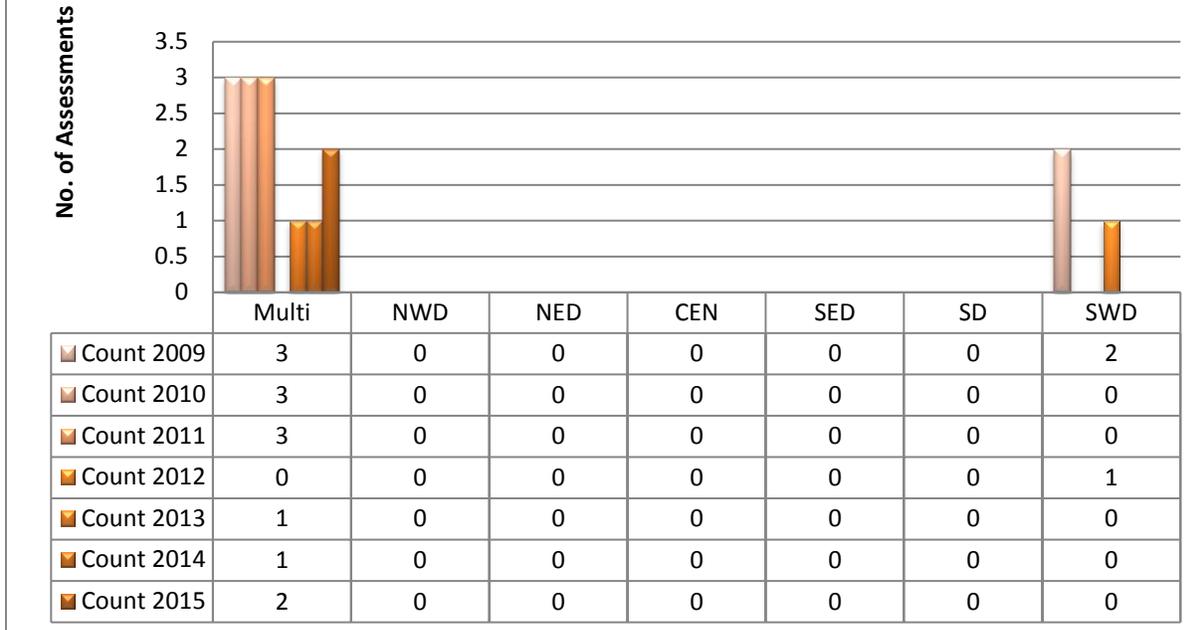
The recent history is shown below:

Year	Total Number of Mining & PG Assessments
2009	5
2010	3
2011	3
2012	1
2013	1
2014	1
2015	2

In general, the level of assessments has fallen 33% since 2010, but it doubled from 2014 to 2015.

All of the assessments since 2009 have come out of the Multi-District Category and the Southwest District. But the Southwest District has had no assessments since 2012:

Number of Mining & Phosphogypsum Assessments: 2009 -- 2015

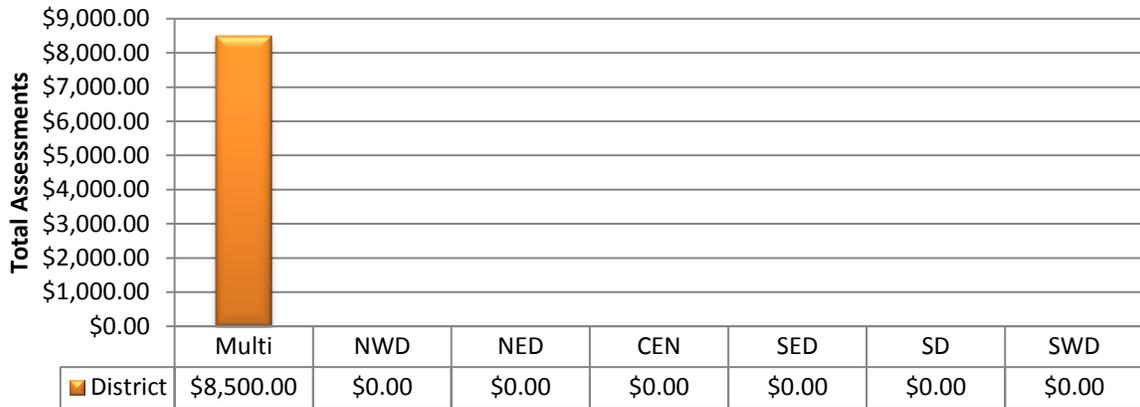


The following table illustrates the decline in the dollar value of assessments for the Department as a whole:

Year	Total \$ Assessed
2009	\$73,669.00
2010	\$17,200.00
2011	\$14,000.00
2012	\$2,000.00
2013	\$5,000.00
2014	\$10,000.00
2015	\$8,500.00

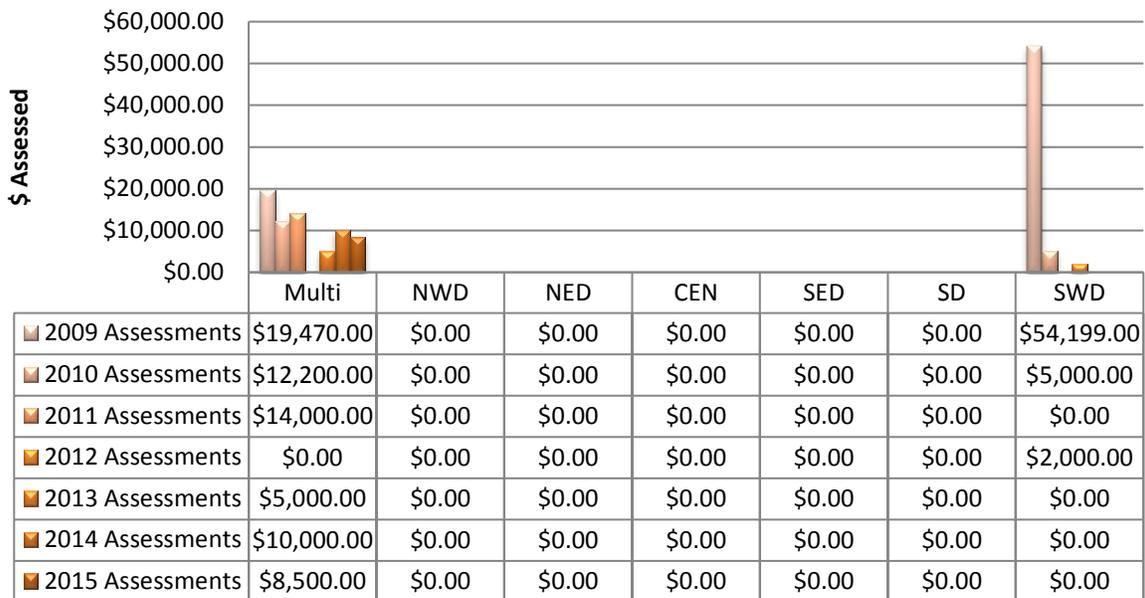
Statewide there was a 15% decline from 2014. The 2015 results are 51% below the results for 2010. The Multi-District Category was responsible for all of the assessments for 2013 through 2015.

District Mining & Phosphogypsum Assessments--2015



The historical trends are:

Mining & Phosphogypsum Assessments: 2009 -- 2015

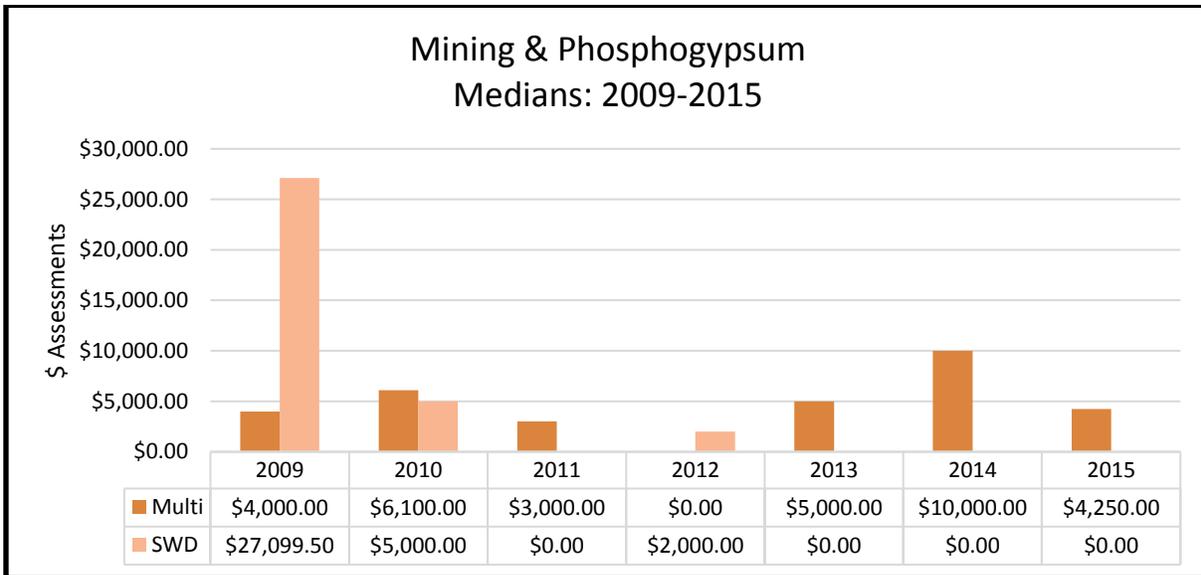


Aside from 2014, which looks to be an outlier, median assessments have stayed relatively stable over the past 7 years. The history is shown below:

Year	Median Mining & PG Assessments
2009	\$5,000.00
2010	\$5,000.00

2011	\$3,000.00
2012	\$2,000.00
2013	\$5,000.00
2014	\$10,000.00
2015	\$4,250.00

The \$4,250.00 median assessments in 2015 are all attributable to the Multi-District Category. The same is true for 2011, 2013 & 2014:



9. Potable Water Program

The importance of the potable water program became clearer in the aftermath of the Flint, Michigan disaster. The potable water program administers the federal Safe Drinking Water Act and, in turn, oversees the provision of drinking water to Florida’s families, businesses, schools, daycare centers etc. The FDEP describes its responsibility on its website:

“The Department of Environmental Protection has the primary role of regulating public water systems in Florida. Authority derives from Chapter 403, Part IV, Florida Statutes and by delegation of the federal program from the U.S. Environmental Protection Agency. The Department has promulgated a number of rules in the Florida Administrative Code.

A public water system is one that provides water to 25 or more people for at least 60 days each year or serves 15 or more

service connections. These public water systems may be publicly or privately owned and operated.”¹⁹

While the Department has not yet posted its results for 2015 the results for 2014 have been posted on its website and are available to the public.²⁰ In 2014 the report posted by the Department concluded that there were 5,310 active potable water systems in Florida. (See, report, page 11) Of those, 689 were in violation and those 689 had 1842 violations. Of the 1842 violations, 295 (16%) were what are known as Maximum Contaminate Level violations. These are violations for things such as total coliform, organic and inorganic compounds, radionuclides and disinfection byproducts. The remaining violations were monitoring and reporting (MNR) violations. During this same period, according to the FDEP’s own enforcement records, the Department had a total of 5 cases in the entire state of Florida.

In spite of these dismal results, the U.S. Environmental Protection Agency has just proposed delegating even more of its responsibilities under the Safe Drinking Water Act to the State of Florida’s FDEP. See, <https://www.federalregister.gov/articles/2016/07/28/2016-17898/public-water-system-supervision-program-revision-for-the-state-of-florida> A review of the notice filed by EPA in the Federal Register shows that the FDEP applied for this action in 2013. The notice states, in pertinent part that:

On March 20, 2013, the State of Florida submitted requests that EPA Region 4 approve a revision to the State's Safe Drinking Water Act Public Water System Supervision Program to include the authority to implement and enforce the Stage 2 Disinfectants and Disinfection Byproducts Rule, the Long Term 2 Enhanced Surface Water Treatment Rule, and the Ground Water Rule.

In other words, the EPA is just now acting upon it at a time when enforcement of the program has fallen through the floor.

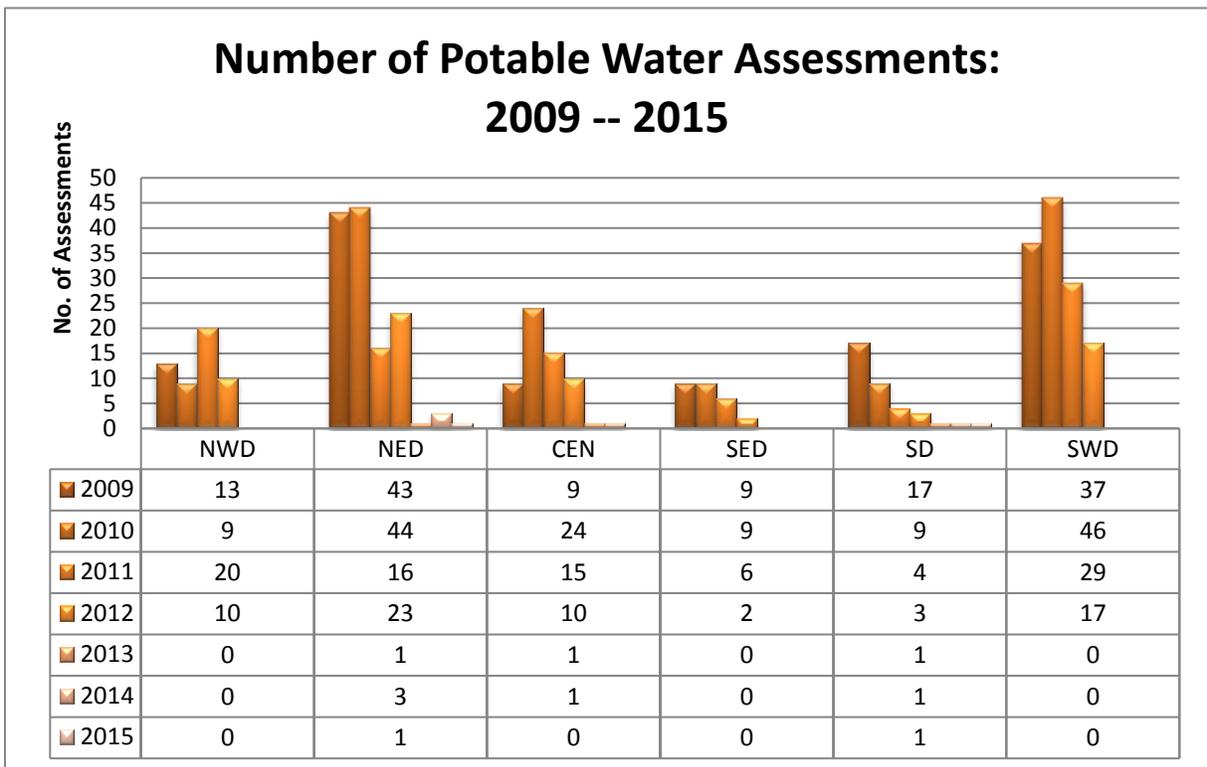
Notwithstanding the critical role that this program plays, there were only 2 assessments statewide in 2015. The number of potable water assessments has declined steadily since 2010 to a point that it is all but nonexistent in Florida:

¹⁹ <http://www.dep.state.fl.us/water/drinkingwater/index.htm>

²⁰ The results are found in a report entitled *The 2014 Annual Report on Violations of the U.S. Safe Drinking Water Act in the State of Florida* located online at <http://www.dep.state.fl.us/water/drinkingwater/docs/2014-ACR-Florida.pdf> . This report was issued on July 1, 2015.

Year	Number of Assessments
2009	128
2010	141
2011	90
2012	65
2013	3
2014	5
2015	2

This is the worst performance in the Department’s history dating back to 1988. None of the districts improved their performance in 2015. Only one, the South District, managed to equal the number of assessments that it had in 2014. **Three districts, the Northwest, Southeast and Southwest have had no assessments for the past 3 years.** The historical performance looks like this:

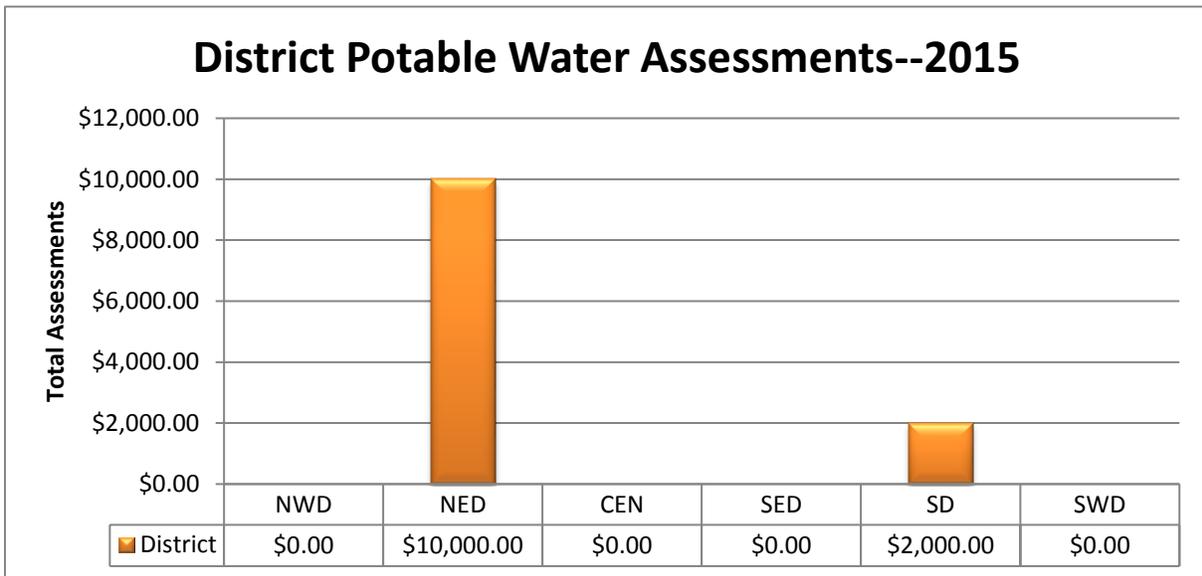


Since 2011 there has been an unmistakable decline in the number of assessments in every district.

The Department as a whole assessed penalties of \$12,000.00 in this program, a \$20,000.00 decrease from 2014. This represents a 97% decline when compared with the results in 2010:

Year	Total Potable Water Assessments
2009	\$233,762.16
2010	\$249,554.51
2011	\$149,936.75
2012	\$94,397.50
2013	\$32,100.00
2014	\$32,000.00
2015	\$12,000.00

The fines were distributed amongst the districts in 2015 as follows:



None of the districts assessed more potable water penalties in 2015 than in 2014. Every district assessed fewer penalties than in 2010. The distinct downward trend over the past six years that was seen in the number of assessments is also seen in the penalty dollars assessed:

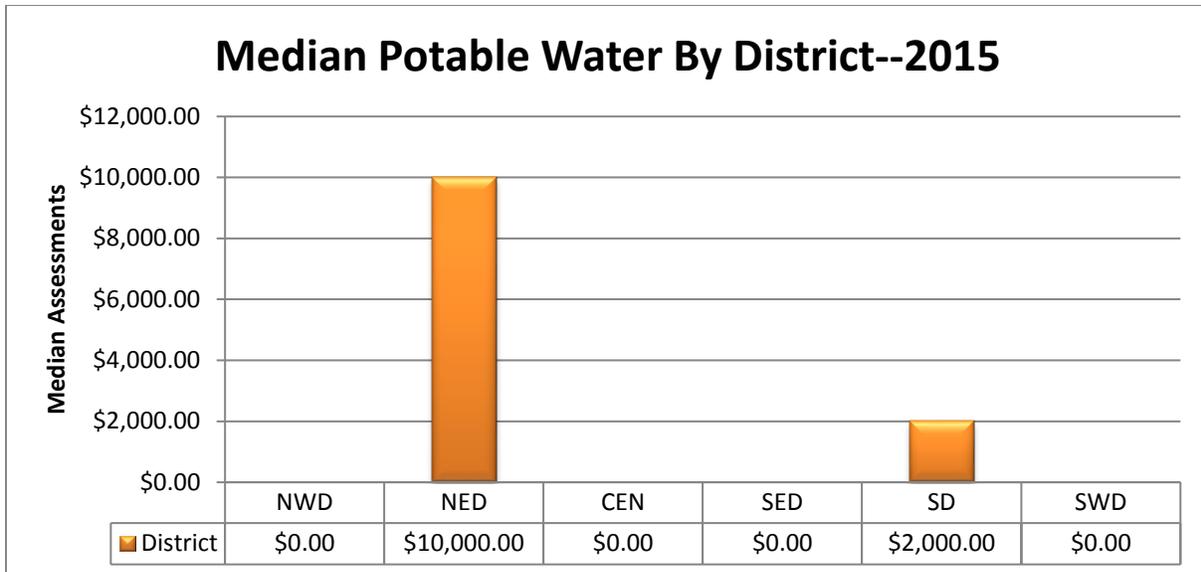
Potable Water Assessments: 2009 -- 2015



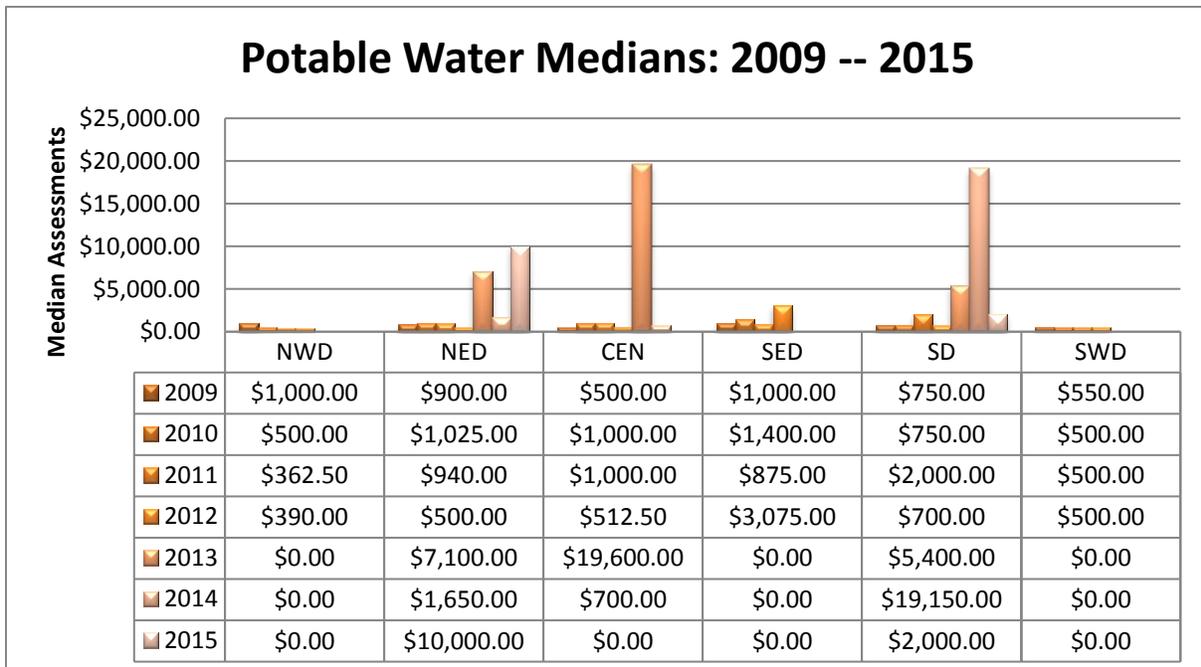
Median assessments rose markedly in 2015, but given that there were only 2 cases statewide the result is hardly impressive or statistically significant:

Year	Median Potable Water Assessments
2009	\$750.00
2010	\$875.00
2011	\$537.50
2012	\$500.00
2013	\$7,100.00
2014	\$1,650.00
2015	\$6,000.00

A comparison of the medians for the districts in 2015 yields these results:



Over the past six years there is no discernable pattern that applies to every district. This is due in large part to the lack of assessments over the past 3 years:



10. Stormwater Discharge Program

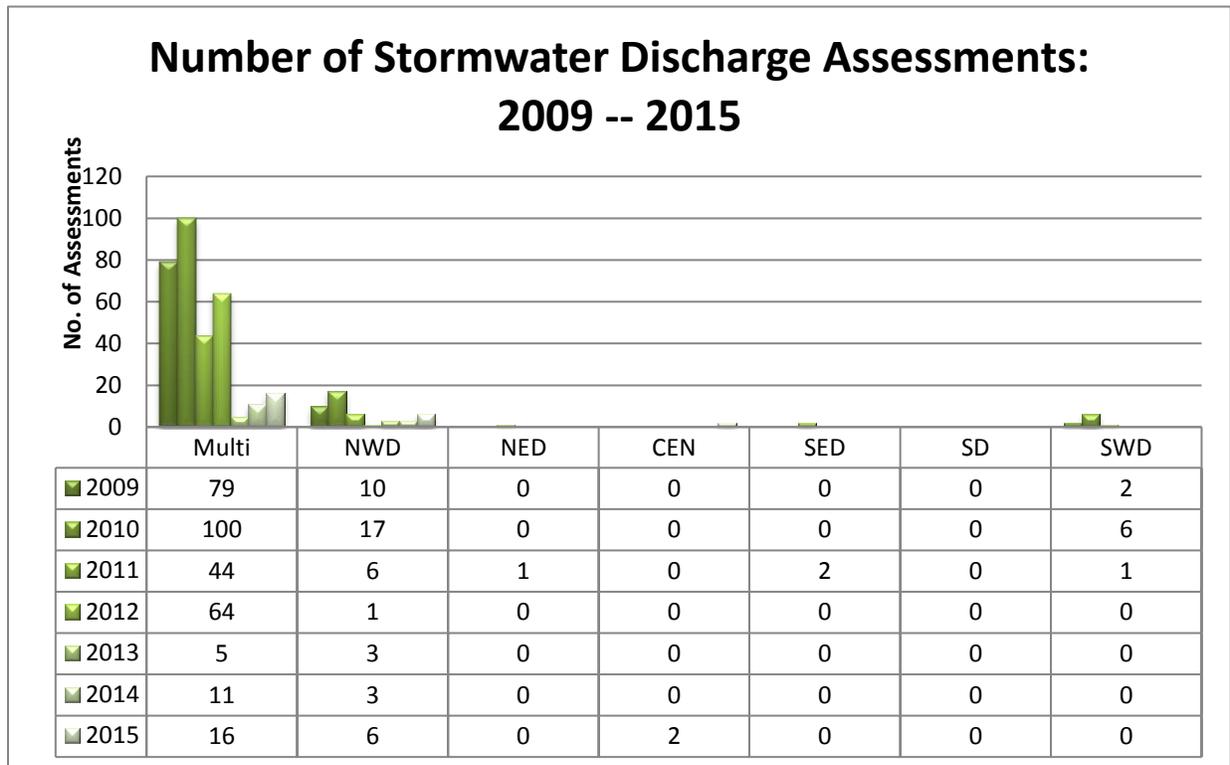
This is a program that is largely administered out of Tallahassee and to a lesser extent out of the Northwest District with the other districts occasionally opening a case. The program oversees the design and operation of stormwater discharge ponds/systems throughout Florida.

These systems collect and treat stormwater that is generated by large residential and commercial complexes throughout the state. The state’s rapid growth means that this program (and its enforcement) will continue to be vital to Florida’s environmental health.

The number of assessments rose in 2015 compared to the previous two years, but the overall number is still significantly below previous levels. This continues to be a troubling sign in light of the rapid development in the state, a situation that one would expect to result in an increase in violations:

Year	Number of Assessments
2009	91
2010	123
2011	54
2012	65
2013	8
2014	14
2015	24

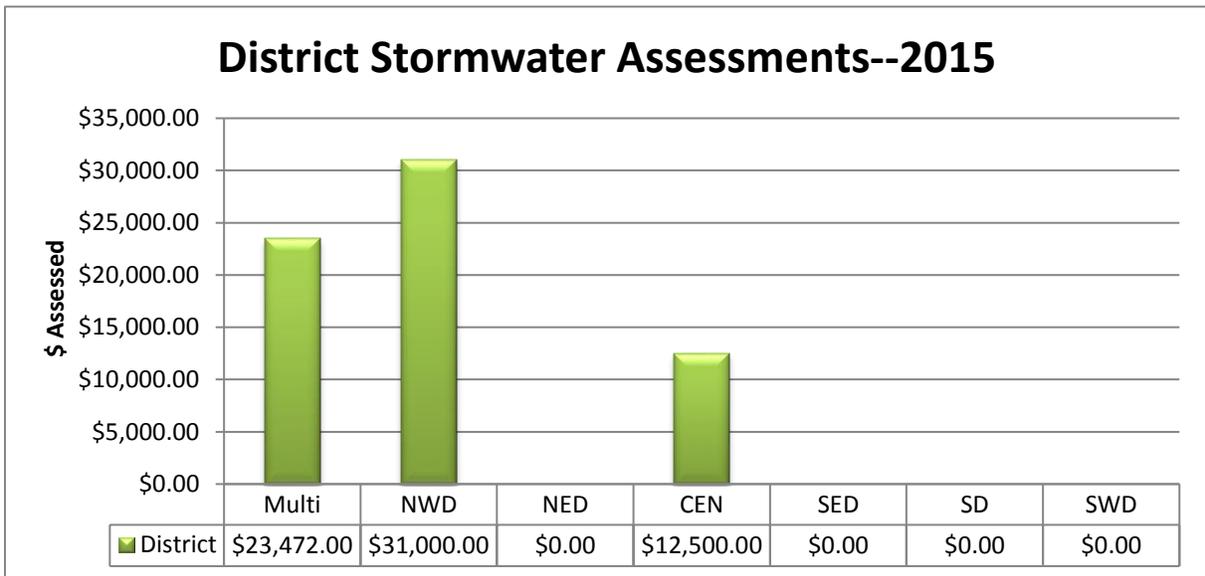
The statewide pattern seen above held true for both the Multi-District category and the Northwest District. The Northwest District and Central Districts were the only other districts to have any assessments in 2015:



The dollar value of assessments in this program rose 109% compared with the year before. But this result is still 97% less than the level in 2010:

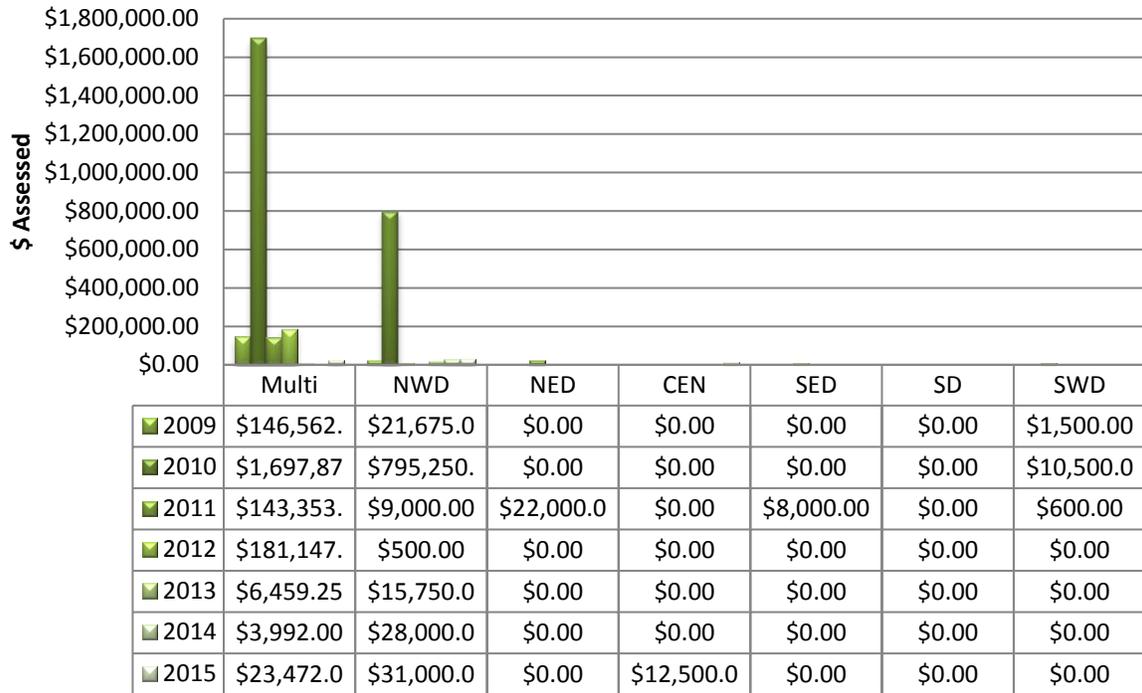
Year	Total Stormwater Discharge Assessments
2009	\$169,737.75
2010	\$2,503,620.00
2011	\$182,953.02
2012	\$181,647.25
2013	\$22,209.25
2014	\$31,992.00
2015	\$66,972.00

These penalties were assessed across the state in the following fashion:



There is no discernable pattern over the past seven years:

Stormwater Discharge Assessments: 2009 -- 2015



Median assessments rose 40% in 2015:

Year	Median Stormwater Discharge Assessments
2009	\$500.00
2010	\$3,500.00
2011	\$1,199.00
2012	\$1,199.00
2013	\$1,250.00
2014	\$370.00
2015	\$518.00

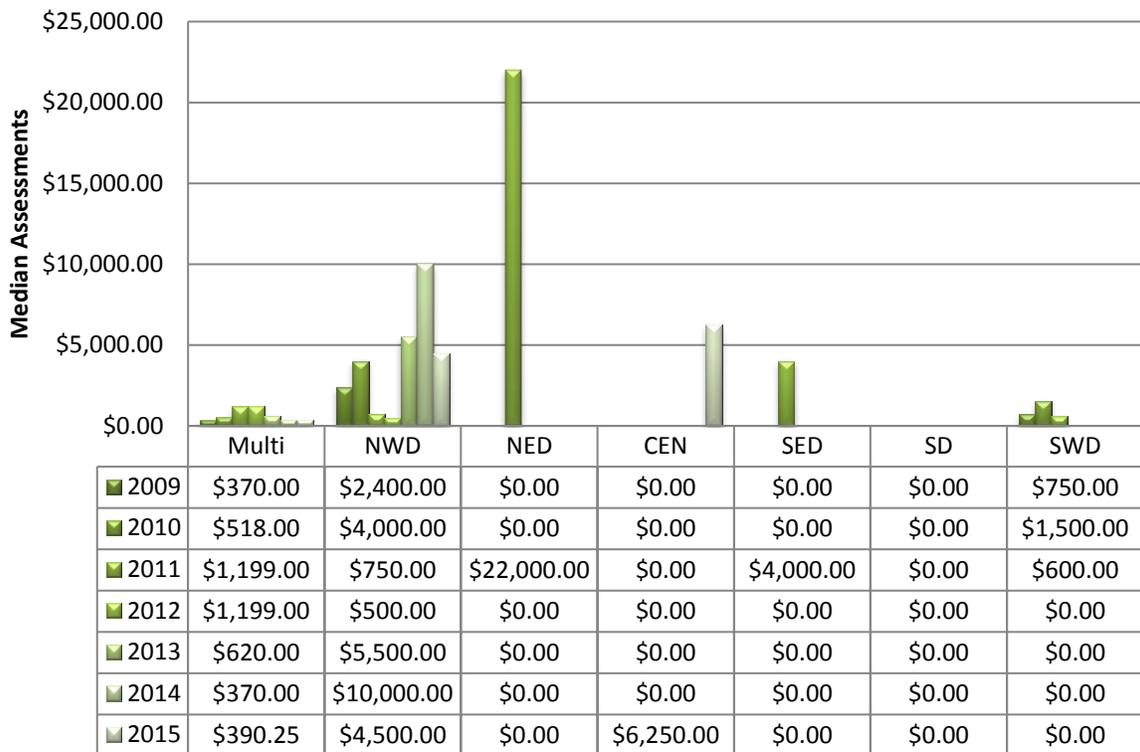
Medians were highest in the Central District, however, this result is based upon only two cases for the entire year:

Median Stormwater By District--2015



The only discernible trend is the trend towards lower median assessments in the Multi-District category. Medians in the Northwest District fell 55% in 2015:

Stormwater Discharge Medians: 2009 -- 2015



11. State Lands Program

On its website, the FDEP describes the State Lands Program in these terms:

“The Florida Department of Environmental Protection's (DEP) Division of State Lands is Florida’s lead agency for environmental management and stewardship, serving as staff to the Board of Trustees of the Internal Improvement Trust Fund (Governor and Cabinet). As such, the Division’s role goes far beyond just acquiring lands for protection. It provides oversight for the management of activities on more than 12 million acres of public lands including lakes, rivers and islands. These public lands help assure all Florida’s residents and visitors have the opportunity to truly appreciate Florida’s unique landscapes.”²¹

This is a program that has lately received a lot of attention because of the current Secretary’s stated goals of making Florida’s state parks more self-sufficient. In response to various negative articles written about the Department’s proposals the agency issued a press release on December 8, 2015, that was entitled *Setting the Record Straight – DEP Committed to Protecting and Ensuring the Future of State Parks*.²² In the release, the agency stated: “We are beginning a dialogue among the park management team to evaluate options that are available, feasible and logical — all in an effort to restore state lands to a more natural condition faster. In addition, some of these activities may generate revenues that would go right back into the restoration and maintenance activities of Florida State Parks.” The same press release quoted Secretary Stevenson’s statement to a senate committee wherein he stated that: “Florida’s state parks are not for sale. I am not looking to surplus parks, commercialize parks or ruin any park visitor’s experience. I am looking to improve our management practices and move more properties from a restoration condition to a maintenance condition (a lower-cost, less labor intensive and most importantly – a more natural condition).” *Id.* With that in mind, we felt it would be appropriate to include a section in this report that looks at the State Lands Program and how it is performing.

There were 11 assessments in 2015, 31% fewer than 2014’s performance. And overall the program is performing at a level that is just 28% of what it was in 2010, when the Crist administration ended its term. However, this is also a program that really did not get off the ground until after the merger between DER and DNR. For the first 6 years the program had, at most, 4 assessments statewide. It then spiked briefly before settling in at roughly 11 cases per year until Governor Crist became governor. Under Secretary Sole the FDEP then saw much more aggressive enforcement that peaked in 2010. From that point on, however, the results have

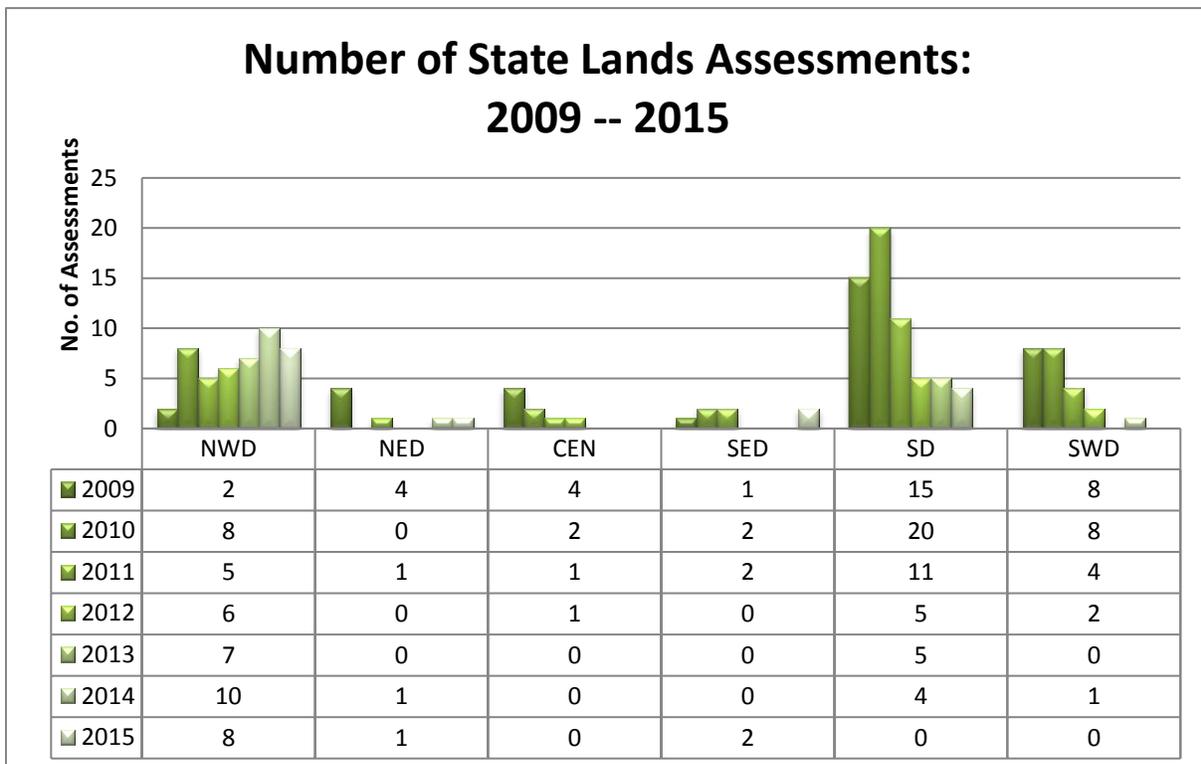
²¹ <http://www.dep.state.fl.us/lands/>

²² <http://content.govdelivery.com/accounts/FLDEP/bulletins/129c50b>

fallen back to previous levels. The median number of assessments for the program is currently 12 per year. The following are the results from 2009 through 2015:

Year	Number of State Lands Assessments
2009	34
2010	40
2011	24
2012	14
2013	12
2014	16
2015	11

The Southeast District was the only district to see an improvement in 2015. The following chart shows a general declining trend among the districts, with the exception of the Northwest District. The South and Southwest Districts were historically the most active districts in the state, but they have fallen significantly. The Central District has had no assessments since 2012:

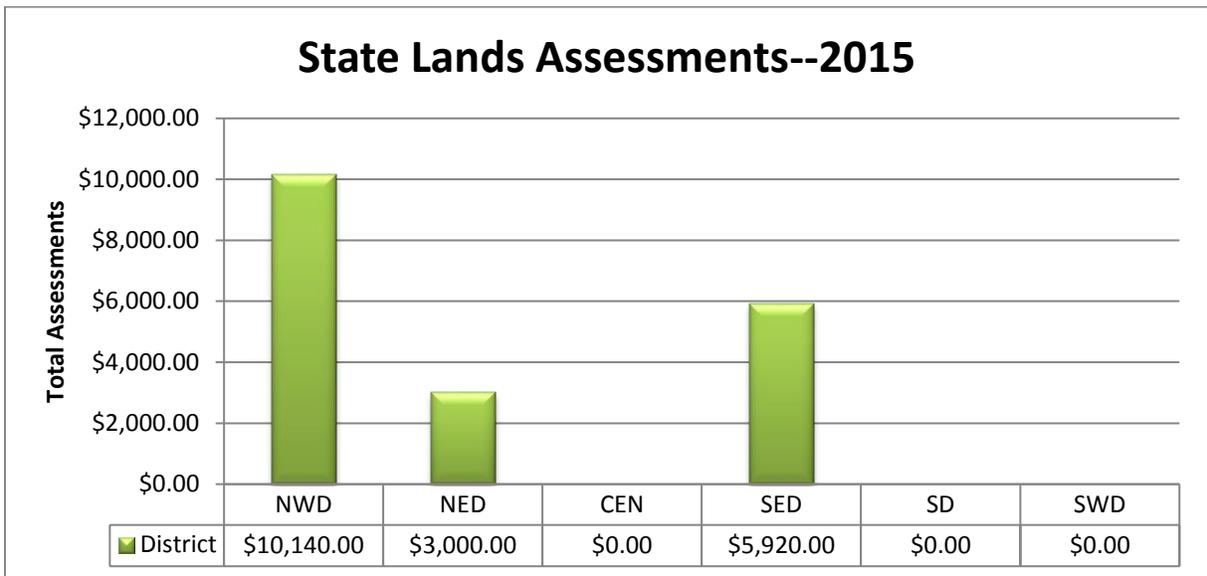


Penalty assessments fell significantly in 2015. The 62% decline marked the end of what had been 3 straight years of improvement. This is also the worst result since 2001:

Year	Total State Lands Assessments
2009	\$63,830.00
2010	\$95,010.00

2011	\$44,929.00
2012	\$25,319.00
2013	\$44,900.00
2014	\$49,628.00
2015	\$19,060.00

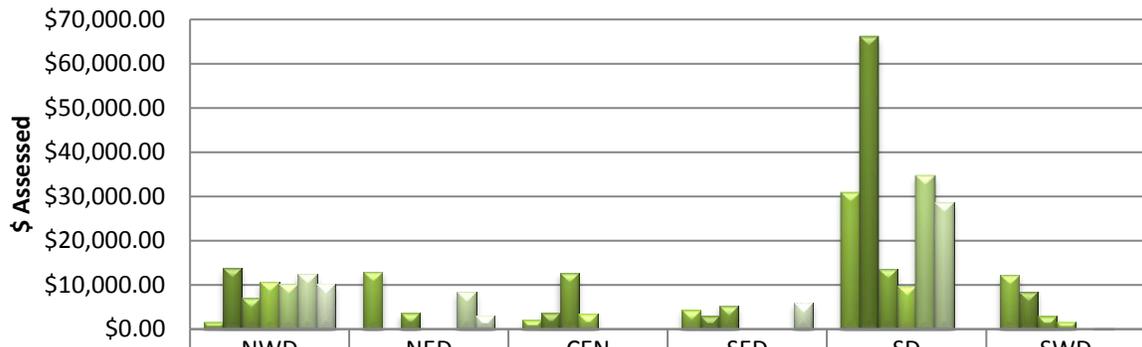
Assessments were distributed among the districts as follows:



In terms of the dollar value of assessments the Northwest District has been relatively uniform over the past 7 years. But there have been steep declines in the South and Southwest District, neither of which had any assessments in 2015. The Southeast District was the only district to see higher numbers.

The historical performance of each of the districts is shown below:

State Lands Assessments: 2009 -- 2015



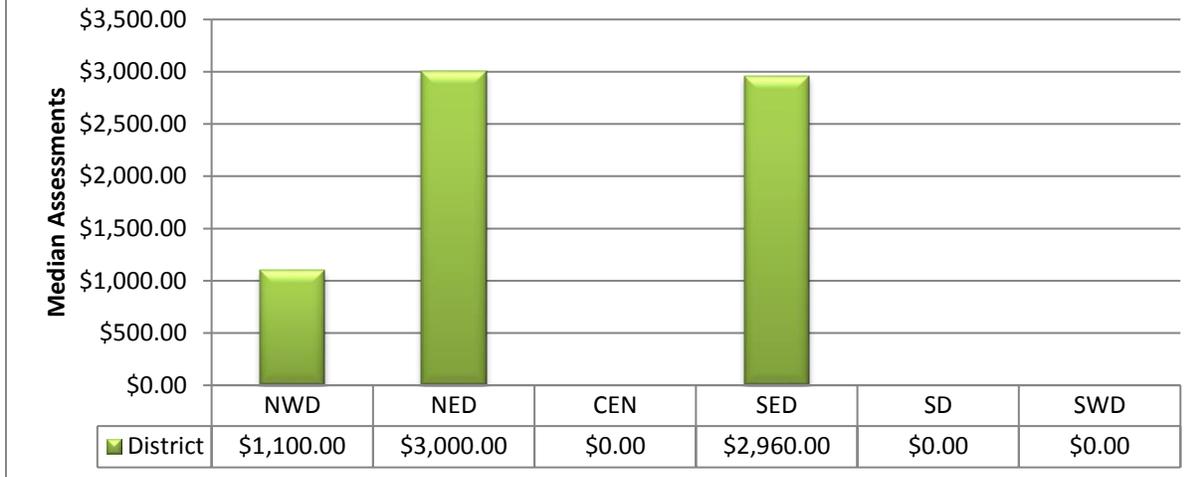
	NWD	NED	CEN	SED	SD	SWD
2009	\$1,500.00	\$13,000.00	\$2,130.00	\$4,250.00	\$30,850.00	\$12,100.00
2010	\$13,820.00	\$0.00	\$3,710.00	\$3,000.00	\$66,050.00	\$8,430.00
2011	\$7,000.00	\$3,629.00	\$12,610.00	\$5,250.00	\$13,560.00	\$2,880.00
2012	\$10,630.00	\$0.00	\$3,420.00	\$0.00	\$9,669.00	\$1,600.00
2013	\$10,260.00	\$0.00	\$0.00	\$0.00	\$34,640.00	\$0.00
2014	\$12,380.00	\$8,300.00	\$0.00	\$0.00	\$28,698.00	\$250.00
2015	\$10,140.00	\$3,000.00	\$0.00	\$5,920.00	\$0.00	\$0.00

Medians also fell in 2015, this time by 23% for the Department as a whole, falling back to the lowest level since 2011:

Year	Median Assessments
2009	\$1,125.00
2010	\$1,250.00
2011	\$1,000.00
2012	\$1,500.00
2013	\$1,710.00
2014	\$1,420.00
2015	\$1,100.00

The medians for each district are shown below:

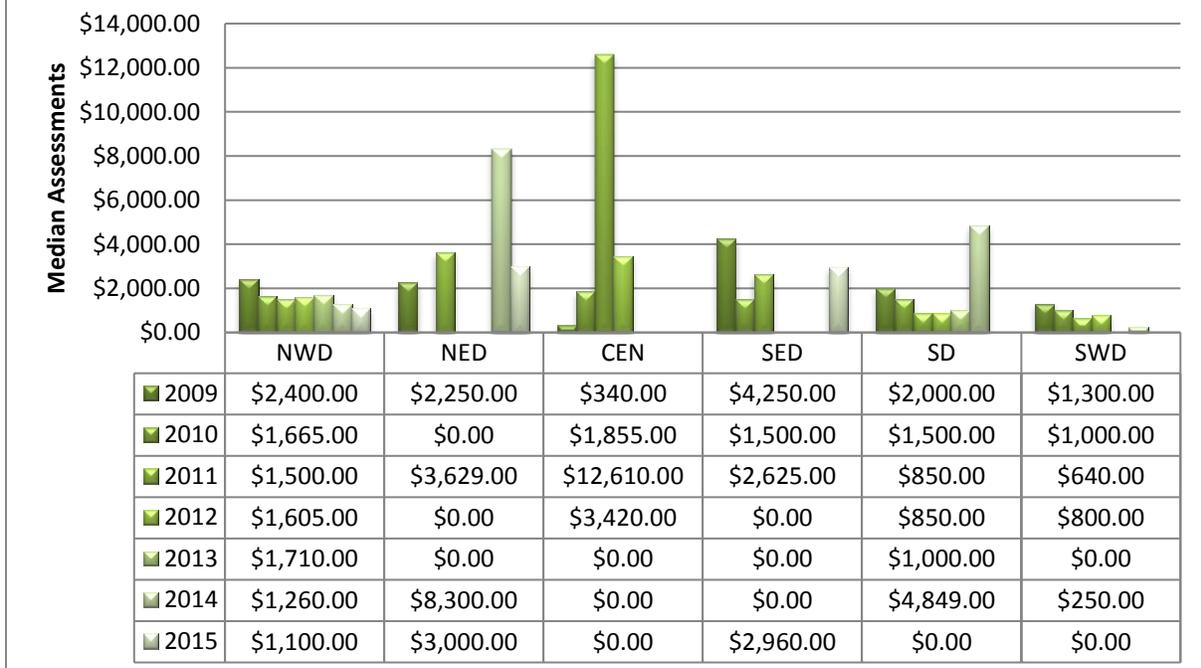
Median State Lands By District--2015



The only discernable pattern among the districts is one of a steady decline in the medians in the Northwest and Southwest Districts. The South District was also declining until 2014 when it had a sizeable jump in its medians, only to be followed by no assessments at all in 2015.

The historical results for all 6 districts are shown below:

State Lands Medians: 2009 -- 2015



12. Solid Waste Program

This program (along with the hazardous waste program) is in the FDEP's Division of Waste Management. It oversees the handling of Florida's solid waste, most of which is deposited into landfills across the state. Since 2011 enforcement in this program has fallen steadily to the point that it is practically non-existent.

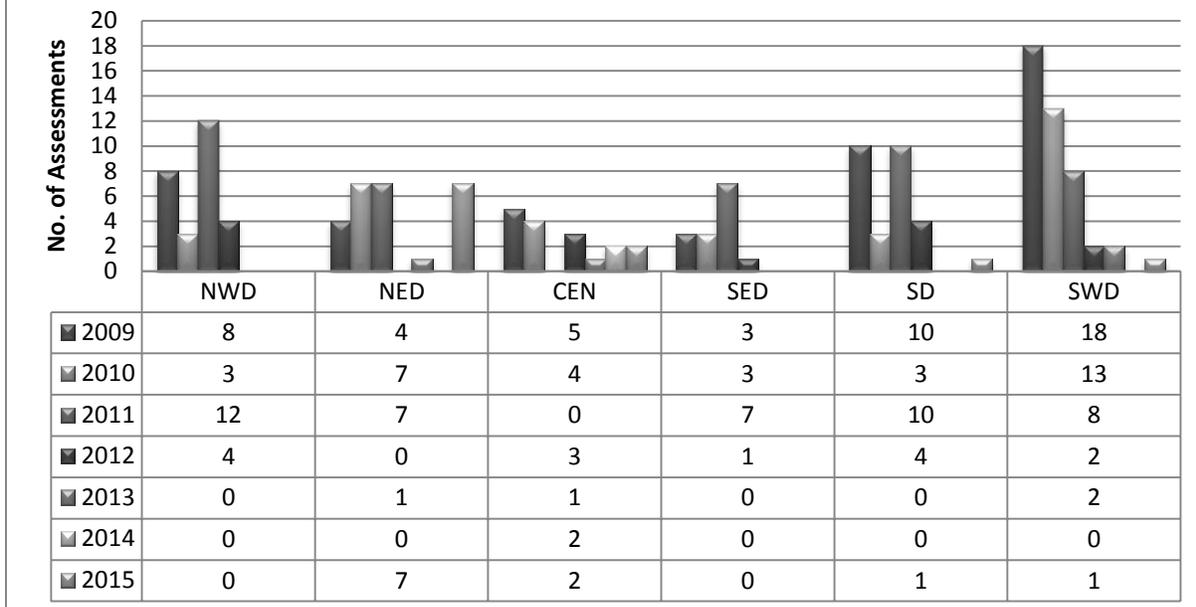
There were 11 assessments in 2015, a 450% improvement over 2014's disastrous results. Nevertheless, the current enforcement level remains 67% below the level in 2010 and the fourth worst since 1988 when the program was in its infancy:

Year	Number of Solid Waste Assessments
2009	48
2010	33
2011	44
2012	14
2013	4
2014	2
2015	11

The overall increase in assessments was in large part due to the performance in the Northeast District. The Central District maintained its 2014 levels, while The South and Southwest Districts each had 1 case, an improvement for each district. Meanwhile, since 2013 there have been no assessments in the Northwest District.

The general trends for each district are shown below:

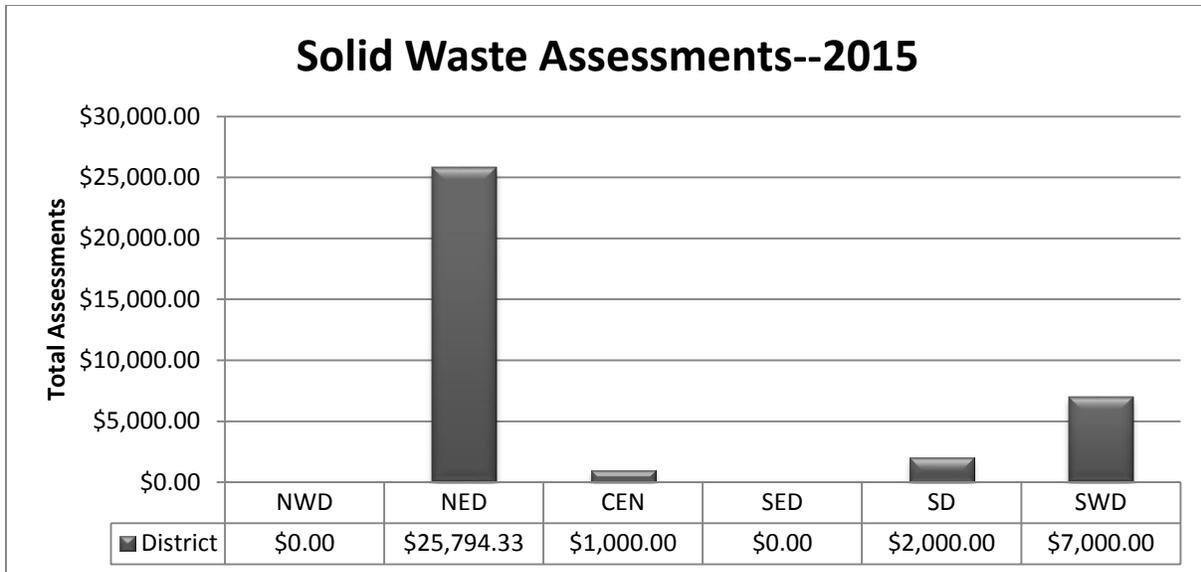
Number of Solid Waste Assessments: 2009 -- 2015



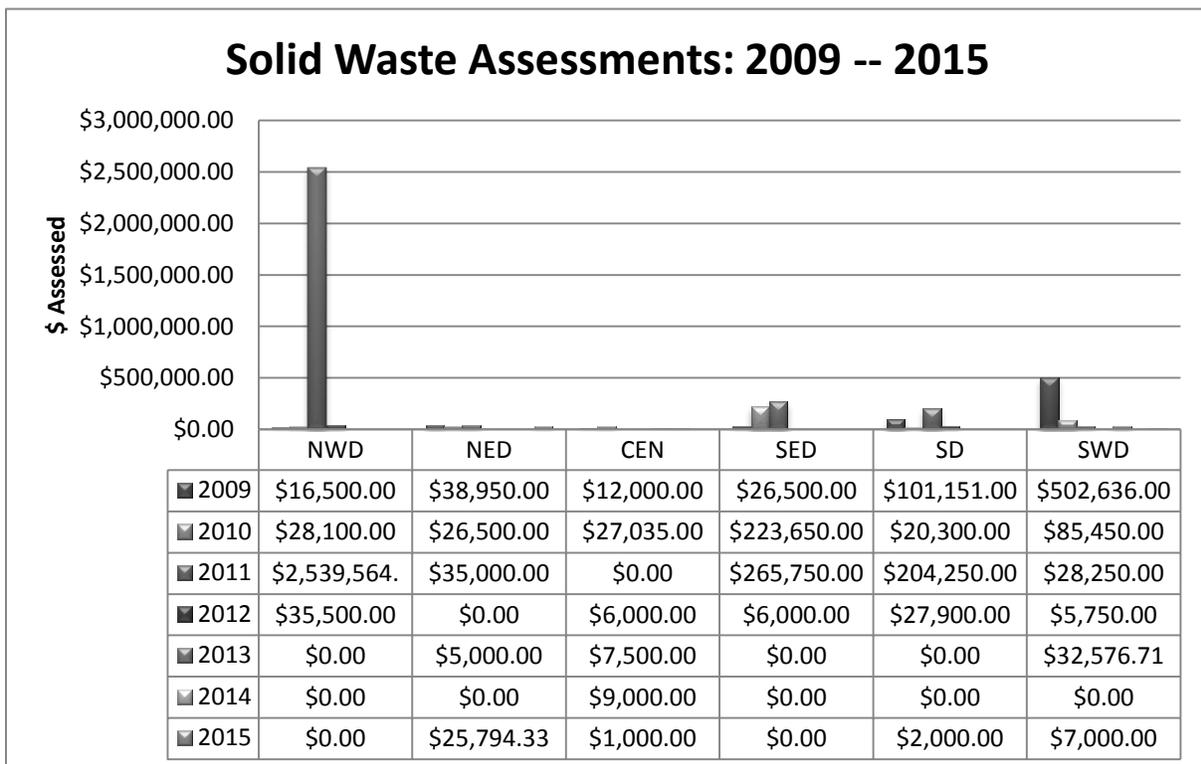
Penalty assessments rose substantially (298%) in 2015 as a result of the increase in cases. Yet, it is also the second worst result since 1988:

Year	Total Solid Waste Assessments
2009	\$697,737.00
2010	\$411,035.00
2011	\$3,072,814.00
2012	\$81,150.00
2013	\$45,076.71
2014	\$9,000.00
2015	\$35,794.33

Unlike in 2014, 4 of the 6 districts assessed civil penalties in this program:



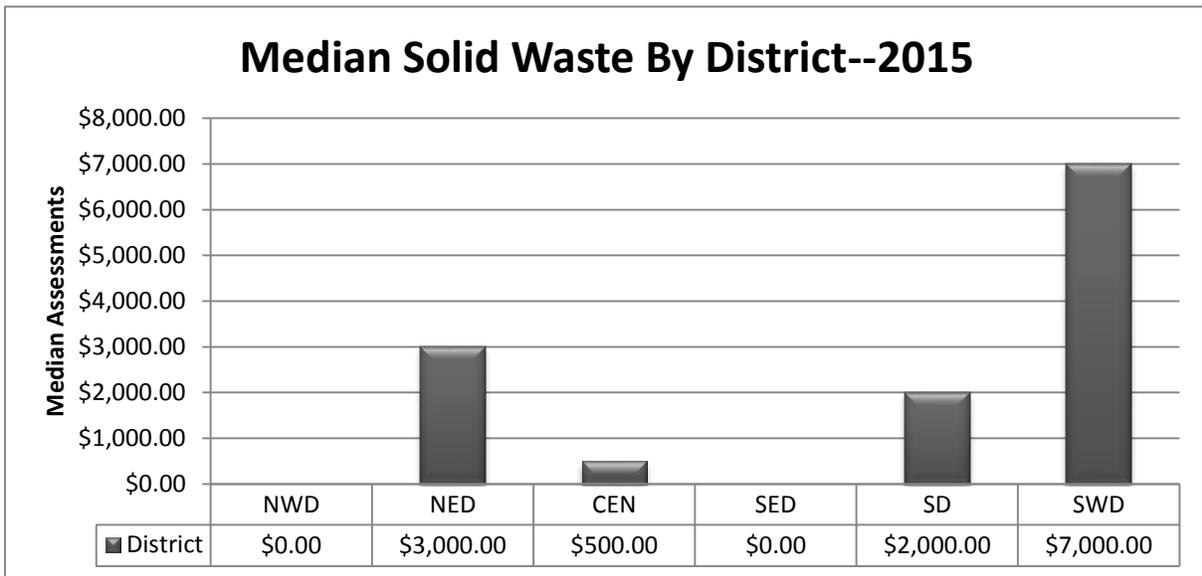
It has now been over three years since there was any enforcement in the Northwest and Southeast Districts. But the Northeast, South and Southwest Districts assessed penalties in 2015, unlike their performance in the previous year. The historical performance of each of the districts is shown below:



Medians fell 33% in 2015 for the Department as a whole, but they are the same as they were in 2010:

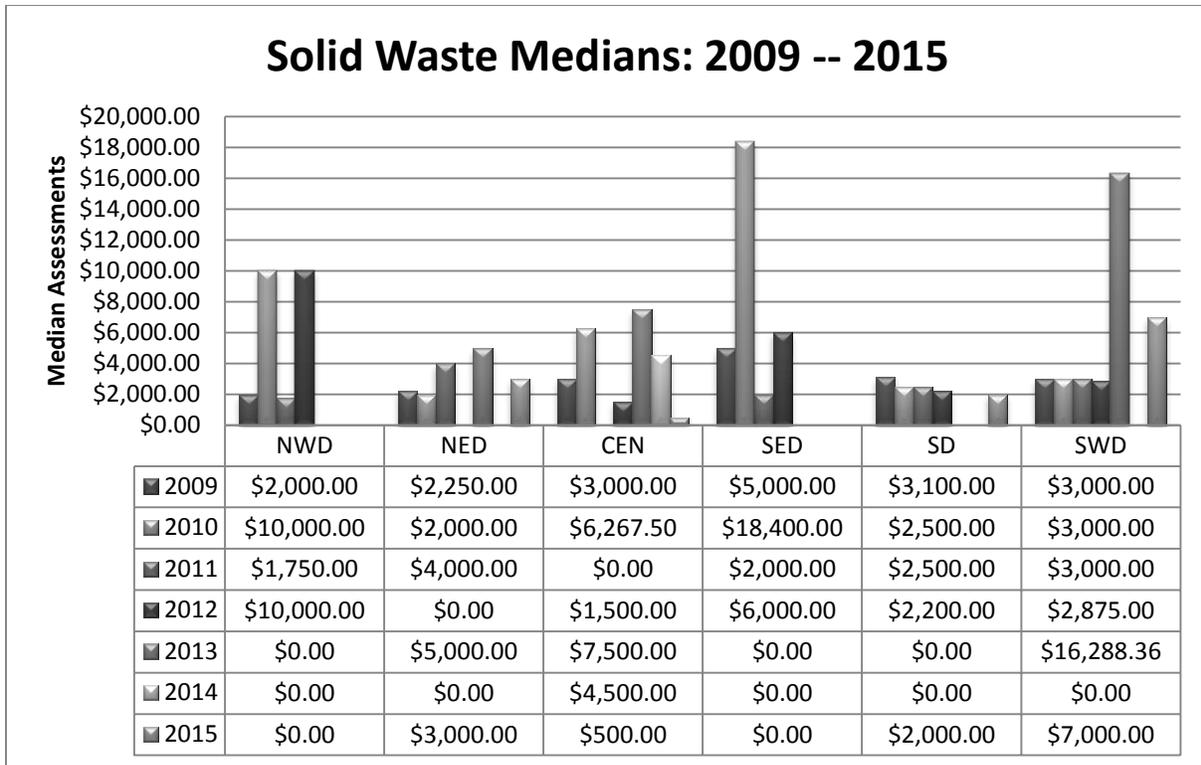
Year	Median Assessments
2009	\$3,000.00
2010	\$3,000.00
2011	\$3,000.00
2012	\$3,375.00
2013	\$6,250.00
2014	\$4,500.00
2015	\$3,000.00

The medians for each district are shown below:



The Central District, which was the only district to have assessments in each of the past two years, turned in a performance with medians that were 89% lower than those in 2014.

The historical results for all 6 districts are shown below:



13. Tanks Program

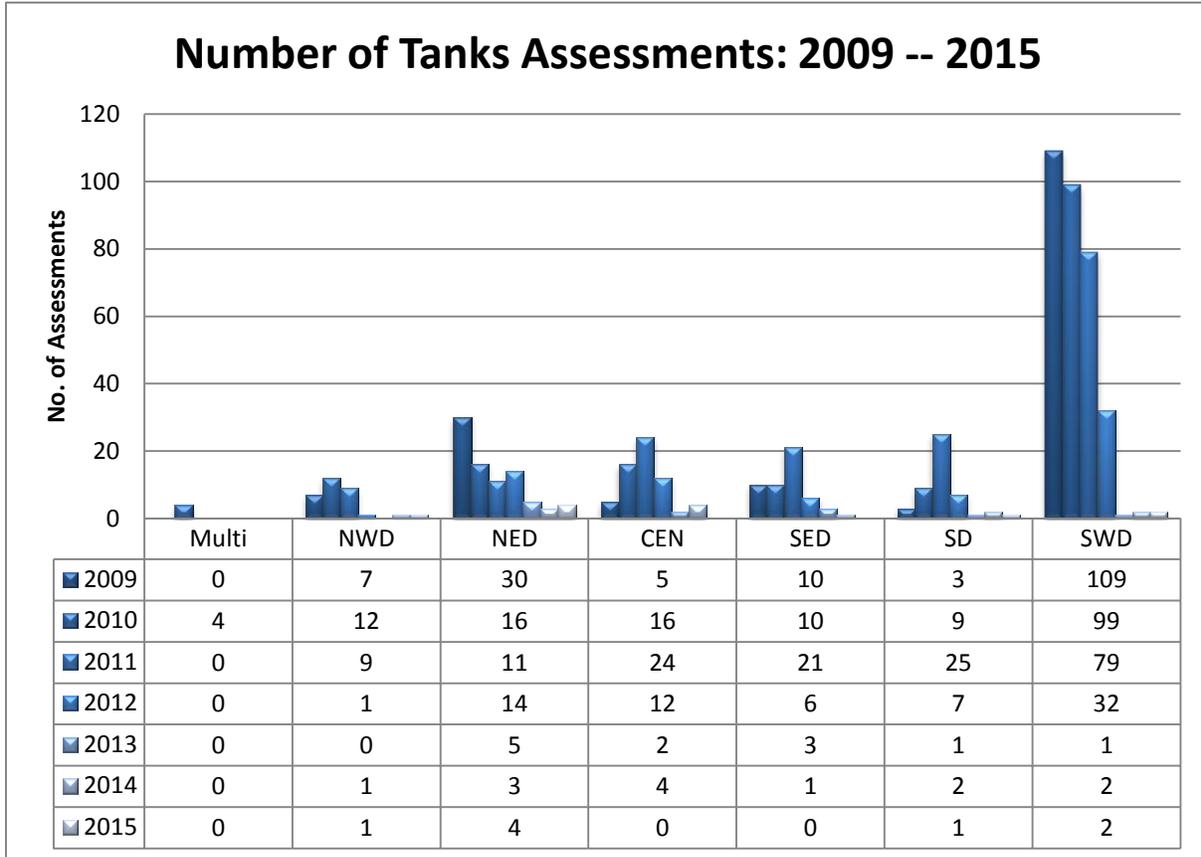
The tanks program regulates the use and cleanup of underground storage tanks throughout Florida. These tanks are used for multiple purposes, including the storage of gasoline at service stations. Many of those tanks are old and subject to leaking dangerous petroleum products into the soil and groundwater. This is a program that in the past had been relatively robust, but that began to change in 2012. It has declined markedly since that time.

Statewide the tanks program assessments assessed 5 fewer assessments than in 2014 and the overall result is the lowest since 1988:

Year	Number of Tanks Assessments
2009	164
2010	166
2011	169
2012	72
2013	12
2014	13
2015	8

The Northeast District was the only district to increase the number of assessments in 2015. The Southwest and Northwest Districts stayed the same, while the Central, Southeast and South Districts all reported fewer assessments.

The recent history for each district is shown below:

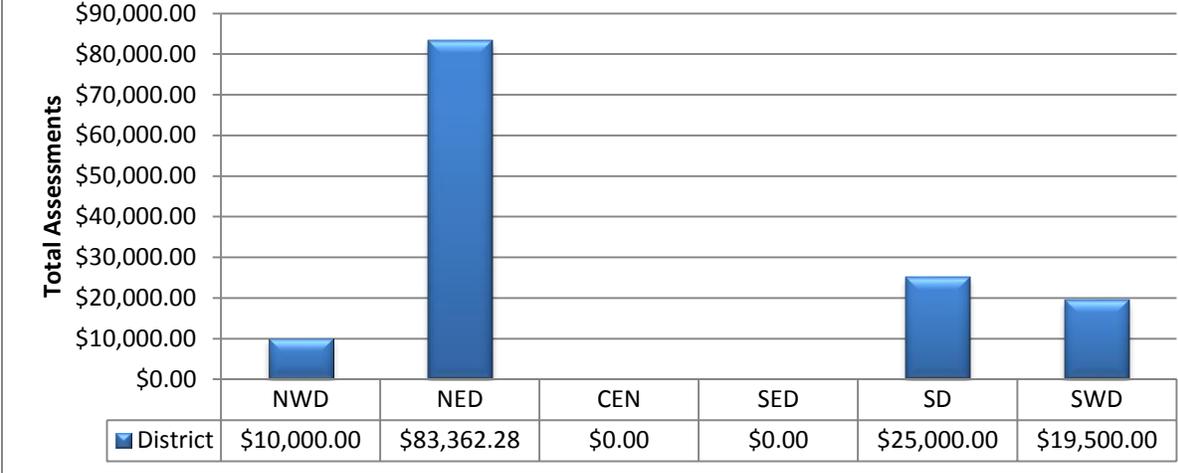


Despite the decline in the number of assessments, the total penalty dollars assessed rose 11% in 2015. While this is an improvement, the overall result is still the lowest total since 1996:

Year	Total Tanks Assessments
2009	\$1,505,376.25
2010	\$1,207,823.56
2011	\$1,537,209.03
2012	\$728,232.83
2013	\$187,273.84
2014	\$124,285.82
2015	\$137,862.28

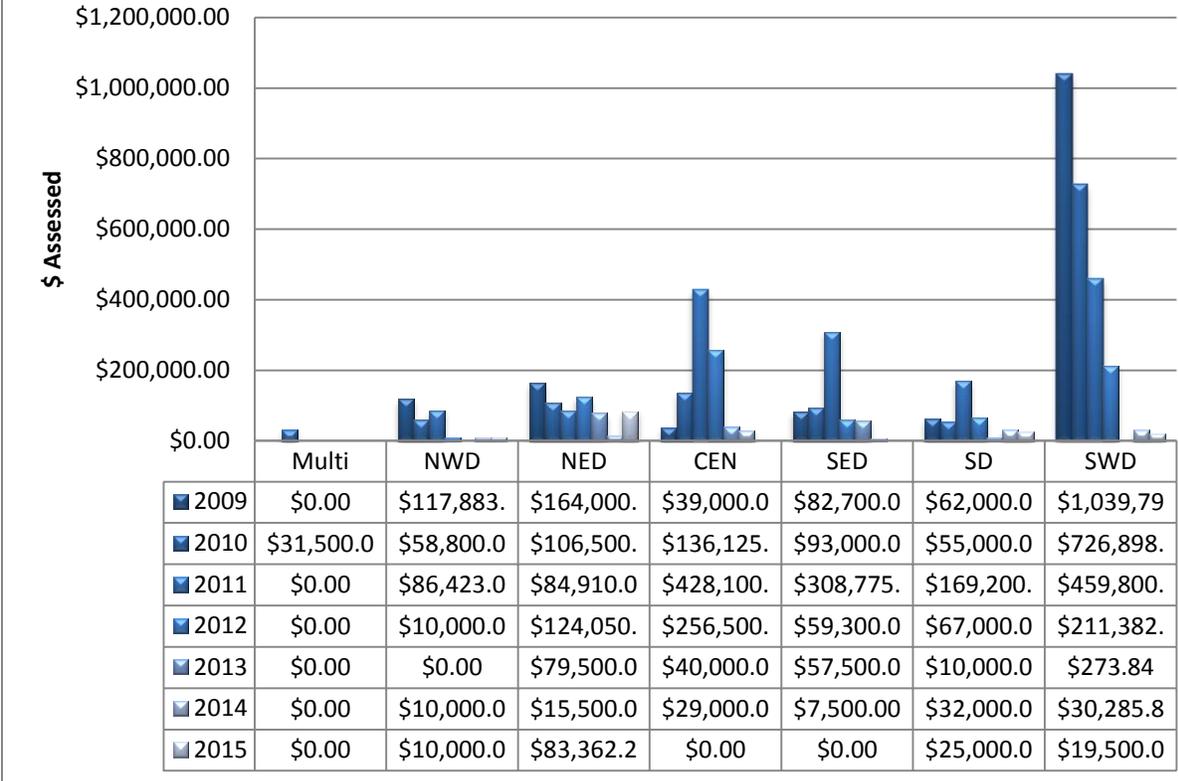
Each district contributed to the overall results as shown in the following chart:

Tanks Assessments--2015



The Northeast District was the only district to record an increase in penalty dollars assessed in this program and the four assessments that it made were relatively close in dollar amount. The remaining districts that had assessments each saw a decline in the total dollar amounts:

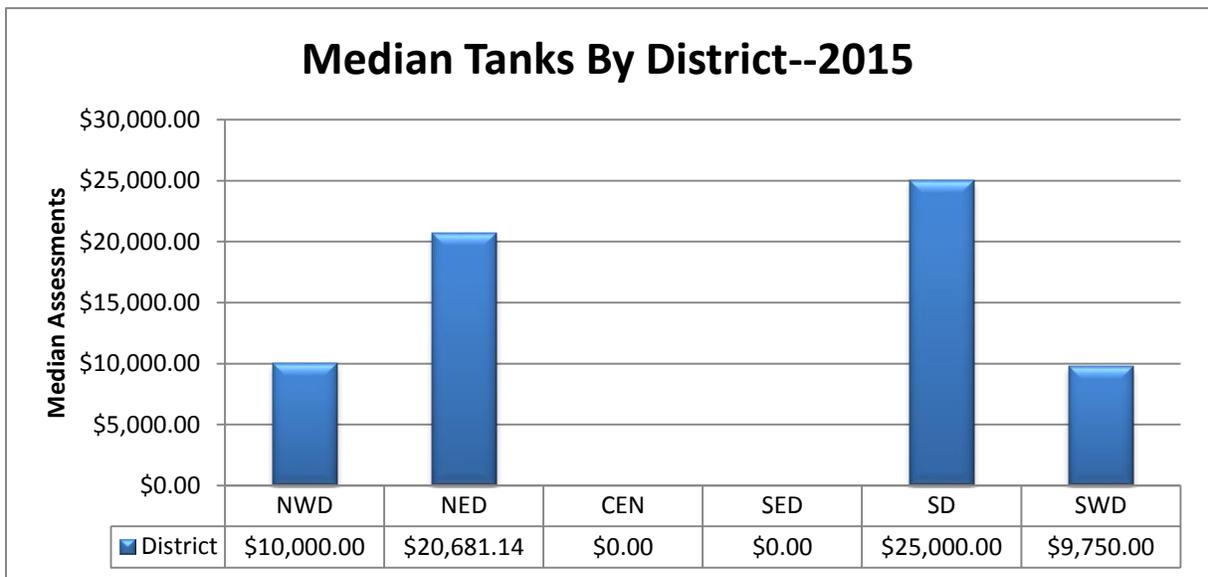
Tanks Assessments: 2009 -- 2015



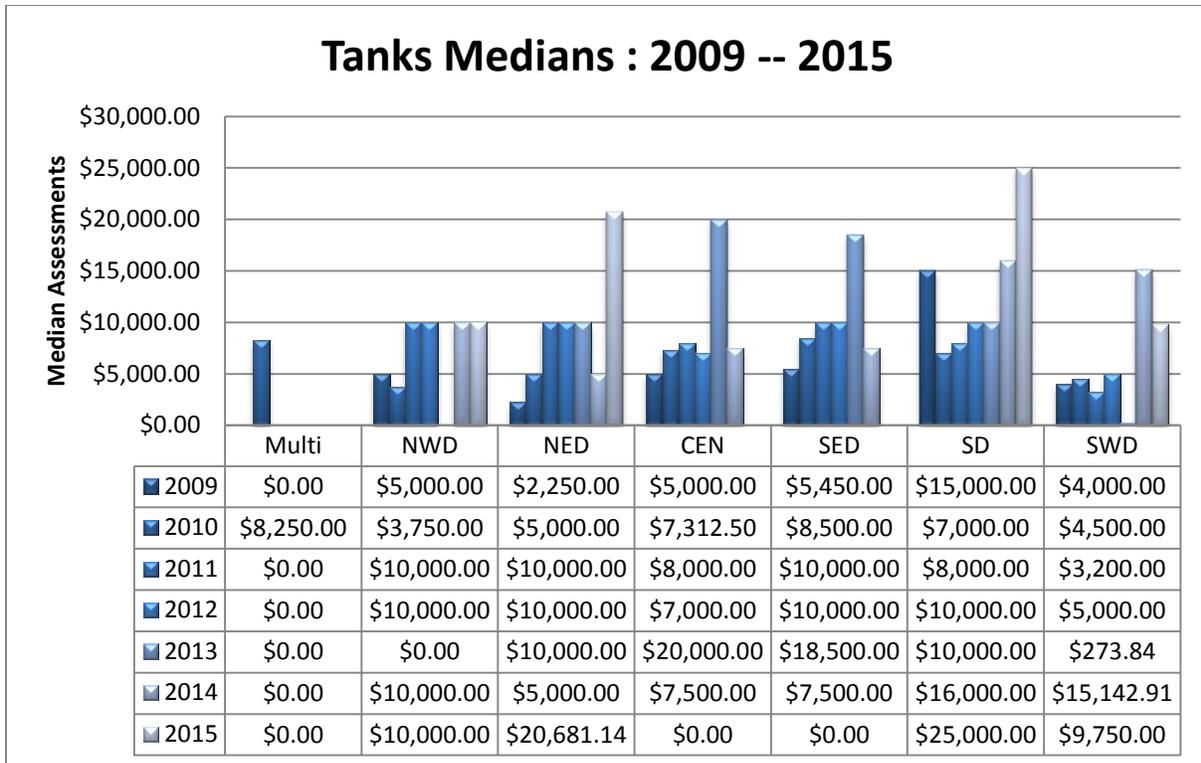
Medians rose for the Department as a whole:

Year	Median Assessments
2009	\$4,100.00
2010	\$5,149.50
2011	\$5,100.00
2012	\$10,000.00
2013	\$10,000.00
2014	\$10,000.00
2015	\$19,000.00

In 2015 the median assessments in the districts were:



The Northeast and South Districts had the highest medians of the group. Both districts increased their medians, while the Southwest District declined and the Northwest District stayed the same:



14. Underground Injection Control

The FDEP's website states that "The Department of Environmental Protection's Aquifer Protection program consists of a team of geologists and engineers dedicated to protecting Florida's underground sources of drinking water (USDW) while maintaining the lawful option of disposal of appropriately treated fluids via underground injection wells. A USDW is defined as an aquifer that contains a total dissolved solids concentration of less than 10,000 milligrams per liter. The program implements the Underground Injection Control (UIC) regulations (FDEP rule 62-528) and is dedicated to preventing degradation of the quality of other aquifers adjacent to the injection zone. Subsurface injection, the practice of emplacing fluids in a permeable underground aquifer by gravity flow or under pressure through an injection well, is one of a variety of wastewater disposal or reuse methods used in Florida."²³

Despite the assurances given by the Department, there have been no assessments since 2010.

Year	Total Number of UIC Assessments
2009	6
2010	2
2011	0

²³ <http://www.dep.state.fl.us/water/uic/index.htm>

2012	0
2013	0
2014	0
2015	0

The assessments listed above occurred solely in the Southeast and South Districts.

The results for the two districts that assessed penalties look like this in terms of the total dollars assessed:

Year	Total \$ Assessed—UIC
2009	\$94,150.00
2010	\$43,541.47
2011	\$0.00
2012	\$0.00
2013	\$0.00
2014	\$0.00
2015	\$0.00

Median asbestos assessments are as follows:

Year	Median UIC Assessments
2009	\$14,250.00
2010	\$21,770.74
2011	\$0.00
2012	\$0.00
2013	\$0.00
2014	\$0.00
2015	\$0.00

H. Civil Penalty Collections By Program Area—District Comparison

Collections for the Department as a whole fell to \$792,914.23 in 2015, down from \$932,998.94 in penalties that the Department collected in the previous year. When in-kind and pollution prevention projects that were completed are included the total for 2015 becomes \$1,355,504.02, still less than the \$2,027,301.94 that was collected by the Department in 2014.

Another way of evaluating the Department’s performance in this area is to consider the percentage of civil penalties that is collected each year. The following table shows how that has developed over the same time period, considering just penalty assessments (absent in-kind and penalty prevention projects) and collections:

Year	Assessments	Collections	% Assessments Collected
-------------	--------------------	--------------------	--------------------------------

2007	\$9,079,363.10	\$6,083,693.04	67%
2008	\$7,597,011.98	\$5,484,480.00	72%
2009	\$8,370,981.04	\$4,842,642.95	58%
2010	\$10,310,833.83	\$7,077,687.19	69%
2011	\$8,333,933.39	\$3,037,727.79	36%
2012	\$2,796,447.01	\$1,589,724.69	57%
2013	\$1,017,405.30	\$687,777.69	68%
2014	\$1,515,020.45	\$932,998.94	62%
2015	\$1,016,674.79	\$792,914.23	78%

The above results show that while the actual dollar amount collected in 2015 fell significantly from 2014, as a percentage of penalty assessments collected the Department actually performed 16% better in 2015 than it did in the previous year. In fact, the percentage of penalty assessments collected is the highest since at least 2007.

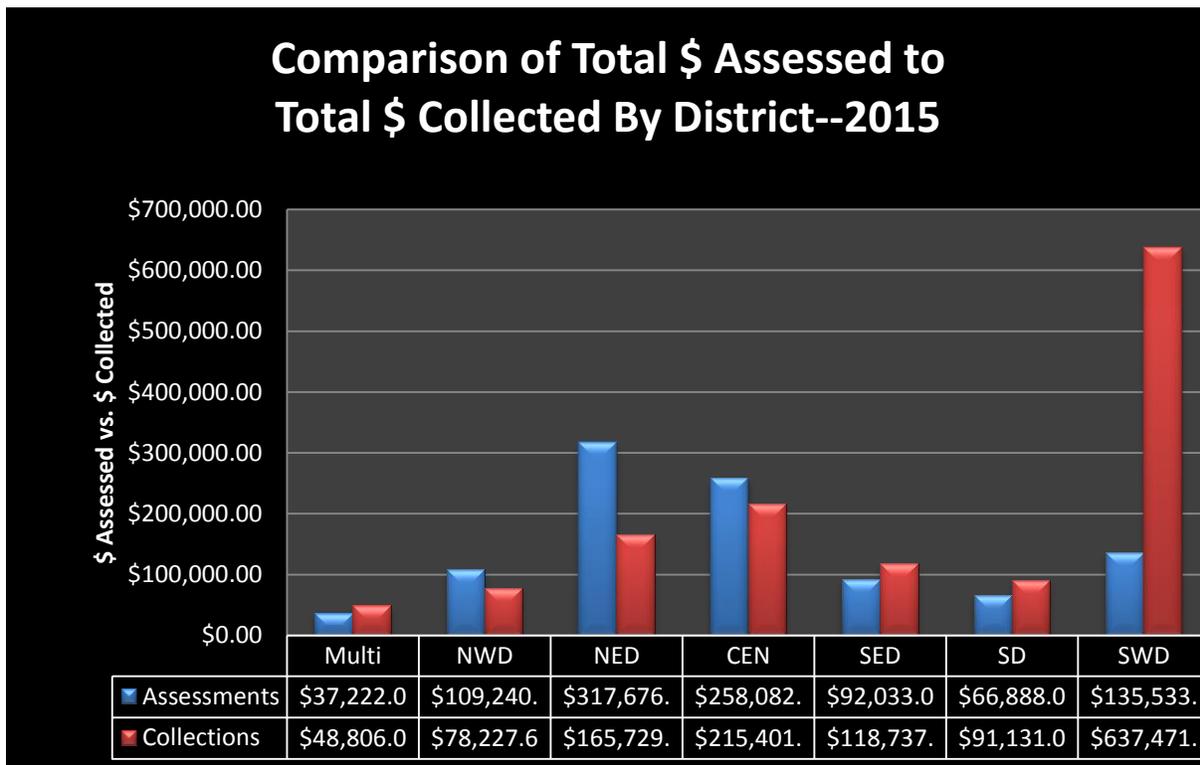
The Department also recorded in-kind and penalty prevention project fulfillments valued at \$562,589.79 in 2015, down substantially from the \$1,094,303.00 in projects that were completed during the previous year. For 2015 the cumulative total of penalties collected and in-kind and penalty prevention project fulfillments was \$1,355,504.02, again, much lower than the \$2,027,301.94 that was collected in 2014. For the sake of comparison, the cumulative total in 2013 was \$3,232,525.69.

The following chart shows the highest individual collections for every program area that collected civil penalties in 2015, sorted by program area:

Program	Dist.	OGC #	Highest Collection	Amount of Highest Collection
AP	2	150081	<i>VERDE PLAZA, LLC</i>	\$36,000.00
BS	0	150124	<i>CHATEAU OCEAN, LLC</i>	\$2,500.00
CU	1	093329	<i>COYOTE LAND CO., INC.</i>	\$12,987.62
DF	6	140565	<i>TAMPA ELECTRIC COMPANY</i>	\$13,000.00
DW	3	150358	<i>SHELLEY'S SEPTIC TANKS, INC.</i>	\$9,270.00
EP	3	093154	<i>FITZGIBBON, HENRY J.;</i>	\$2,000.00
EW	2	150144	<i>P & G CONSTRUCTION, INC.</i>	\$3,750.00
HW	6	140489	<i>THE ENSER CORPORATION OF ALABAMA</i>	\$31,648.00
IW	5	052699	<i>VIGIRON GENERAL PARTNERSHIP/BAY BREEZE FARMS, INC. & AGROIIRON, INC.</i>	\$28,500.00

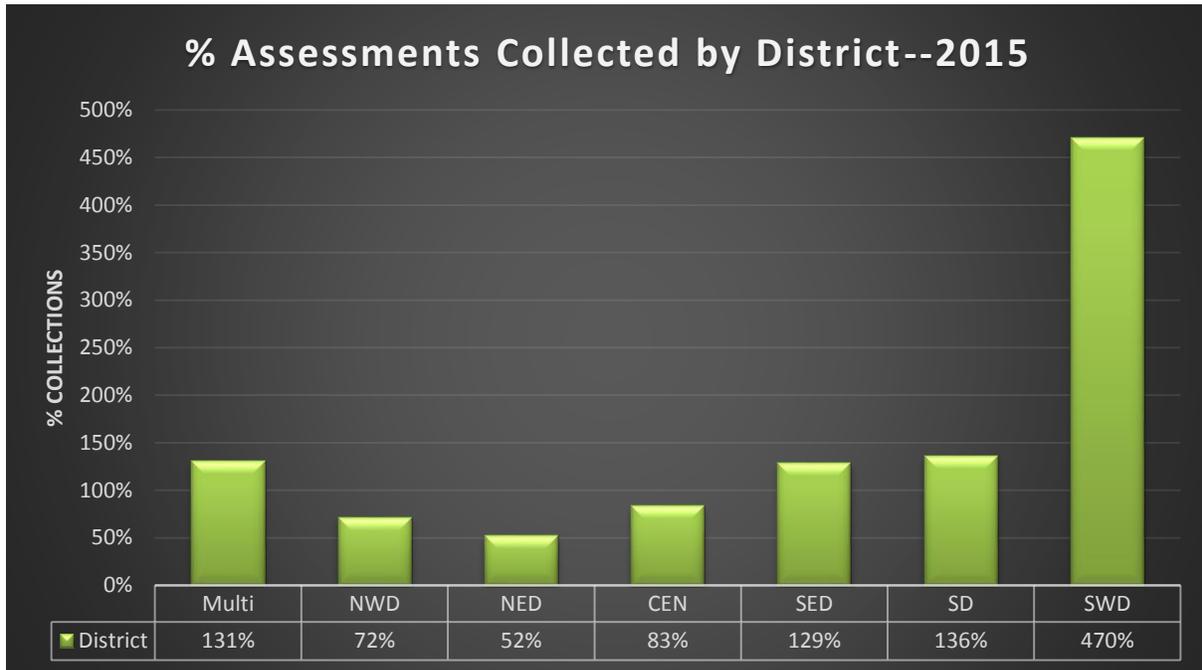
MA	4	140724	<i>B & M MARINE CONSTRUCTION, INC.</i>	\$5,000.00
MN	0	121154	<i>COUNTS CONSTRUCTION COMPANY, INC.</i>	\$8,500.00
PW	5	150667	<i>J BROTHERS INVESTMENT LLC</i>	\$2,000.00
RO	1	140514	<i>ANDERSON COLUMBIA CO., INC.</i>	\$15,000.00
SL	3	080152	<i>SEMBLER MARINA PARTNERS, LTD.</i>	\$12,610.00
SW	2	140300	<i>SUWANNEE LANDFILL, LLC.</i>	\$6,500.00
TK	2	930576	<i>ALLEN, JAMES E. & BETTY</i>	\$33,057.00

The following chart shows each district and compares the dollars assessed by each district in 2015 with the dollars actually collected, including dollar equivalents for in-kind and penalty prevention projects. What becomes clear is that the Southwest District significantly outperformed the other districts in collections. However, the reason for its high performance is due largely to the completion of one in-kind penalty project (against Pinellas County, OGC # 093566) in the amount of \$352,152.00. This was, by far, the largest amount collected in any case (whether penalty or otherwise) in 2015. In a year that saw noticeably lower dollar assessments, three of the districts, the Northwest, Northeast and Central were unable to collect more than they assessed:



When looking at the results on a percentage basis, i.e. the pure percentage of dollars collected that were assessed, both in penalties and projects, we see the same trends with clear

problems in the Northwest and Northeast Districts. The Central District fared only marginally better. The Southwest District benefitted from the single large in-kind project closure.²⁴



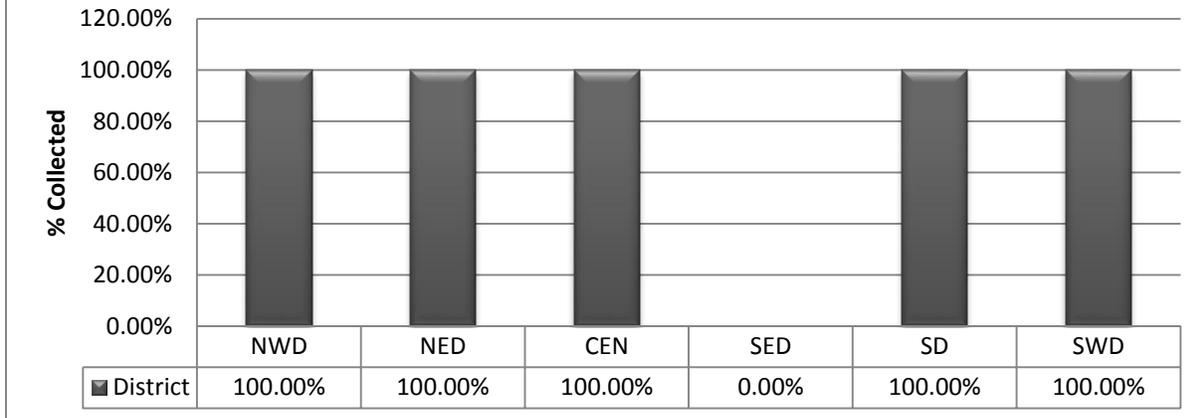
The results for the percentage of assessments actually collected by each district in the major program areas are discussed below.

1. Air Program

In sharp contrast to 2014, in 2015 the Department as a whole collected 101% of assessed penalties. In 2014 it collected only 41.56% of its penalties. In 2015 5 of the 6 districts collected 100% of the penalties assessed. The Southeast District had no air assessments in 2015:

²⁴ The data shows that more than 100% of the assessed fines were collected in some districts. This is because the districts are also collecting assessments that were made in previous years. Since 100% of the assessments in any given year are seldom, if ever collected, it follows that in some instances the collection rate may exceed the dollars assessed in any given year.

% Air Penalty Assessments Collected By District in 2015



2. Asbestos Program

It has now been 3 years since the Department assessed any penalties in this program. Therefore, there were no penalty dollars collected in 2015 by the Department in Florida.

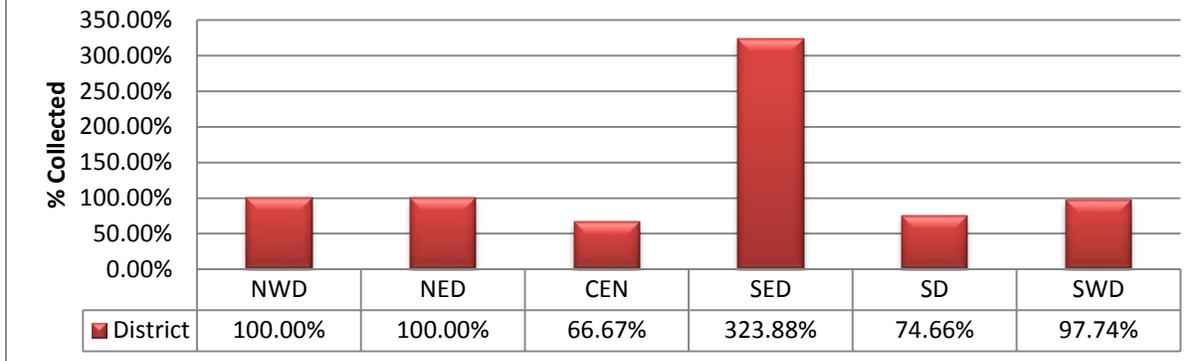
3. Beaches & Coastal Program

There were 3 collections statewide in this program in 2015. All were handled by the Multi-District Category and the total dollars collected was \$5,250.00, which was 100% of the penalty dollars assessed by the category in that year.

4. Dredge and Fill Program

The Department collected 94.94% of its penalty assessments in 2015, down significantly from the 139.33% of its penalty assessments in the previous year. Three of the districts, the Northwest, Northeast and Southeast collected at least 100% of the penalties assessed, while the remaining three were lower:

% Dredge & Fill Assessments Collected By District in 2015

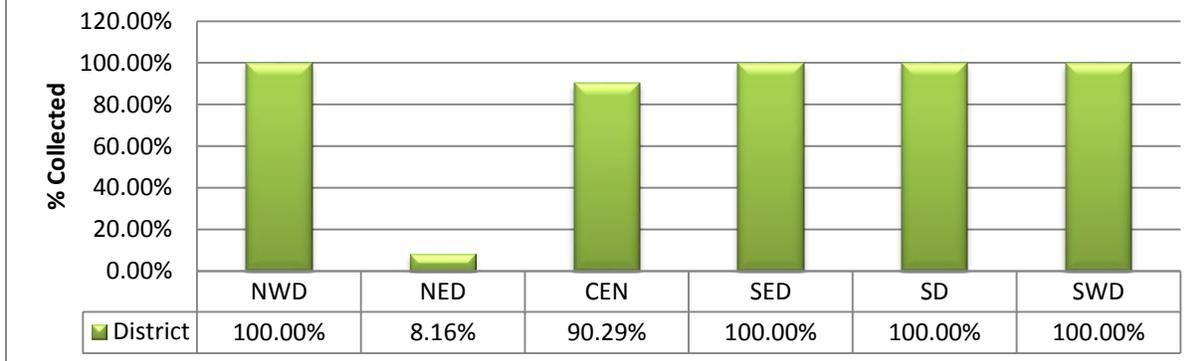


5. Domestic Waste Program

Overall the Department collected 80.14% of its penalty assessments in 2015, down 6.52% from the results in 2014, but still much better than in 2013. The best turnarounds were seen in the Northwest and Northeast Districts.

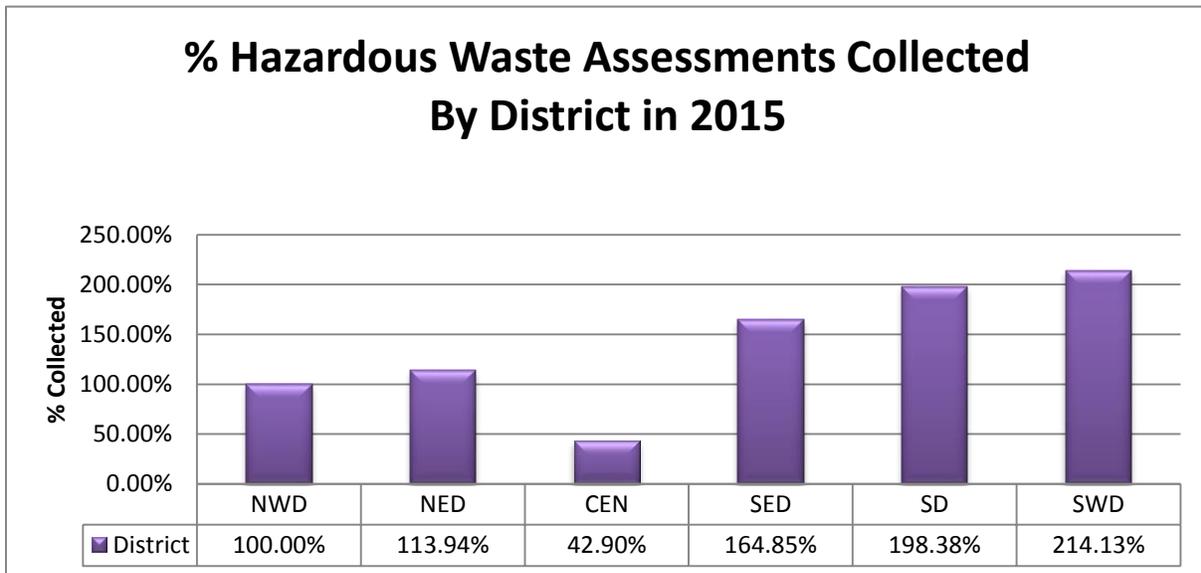
The results for 2015 are:

% Domestic Waste Assessments Collected By District in 2015



6. Hazardous Waste Program

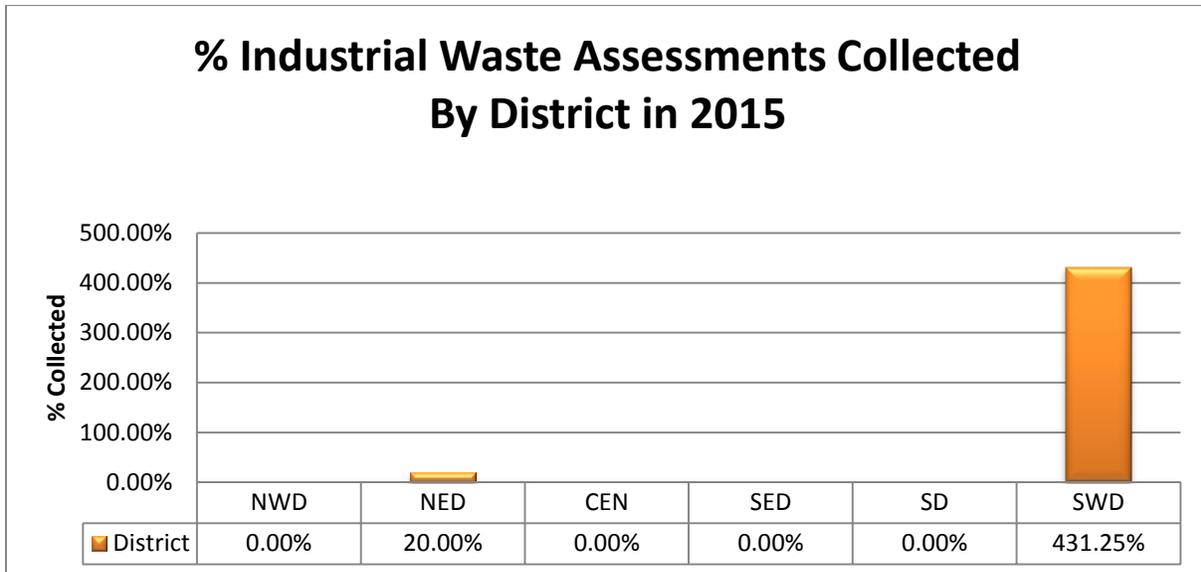
Hazardous waste collections rebounded to 94.40% in 2015, up significantly from the 27.18% rate seen in 2014. The Northwest District turned in the same performance as in 2014 when it was only one of two districts to meet or exceed 100%. The remaining districts all improved significantly in 2015:



7. Industrial Waste Program

Collections rose 230% in 2015, but there were only 5 collections for the entire state, with 4 of them being in the Southwest District. There were only 2 collections for the entire year in Florida in 2014.

The districts' performed as follows:



8. Mining & Phosphogypsum Program

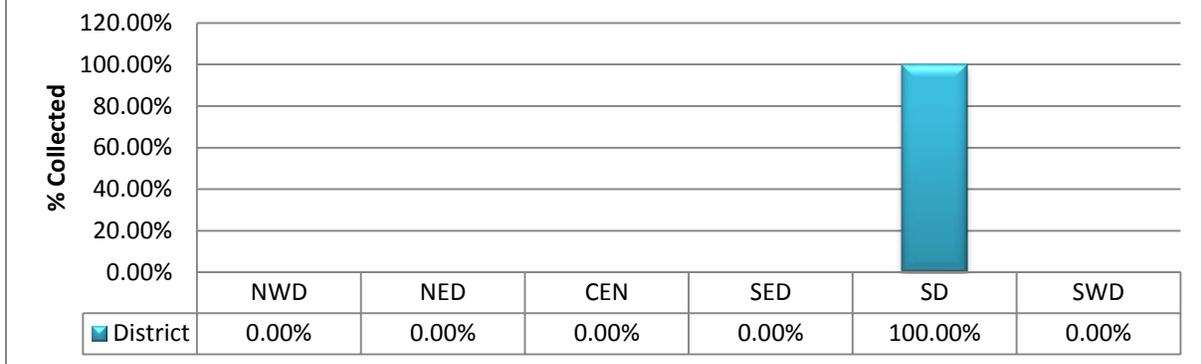
The only collections in this program were handled by the Multi-District Category. There were only 2 collections and they totaled \$8,500.00.

9. Potable Water Program

Collections rose from 3.75% in 2014 to 16.67% in 2015. The only district to collect any potable water penalties was the South District—and that result was based entirely on one case.

The results are thus:

% Potable Water Assessments Collected By District in 2015

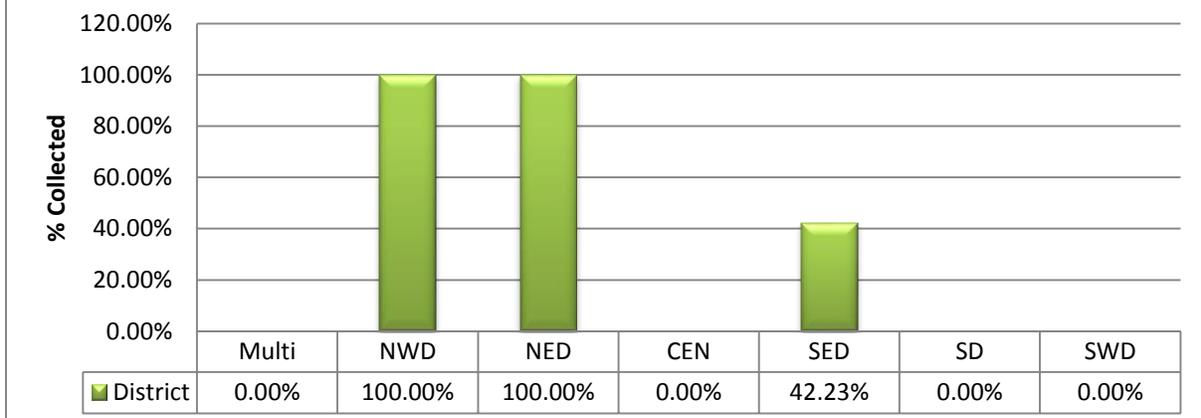


10. State Lands Program

In 2015 there was a total of \$37,948.00 that was collected by the FDEP in this program area. The only district that collected no penalties was the Southwest District, which also assessed no penalties in that year. While the Central and South Districts assessed no penalties in 2015 they did collect penalties from previous years. Those penalty collections totaled \$22,308.00.

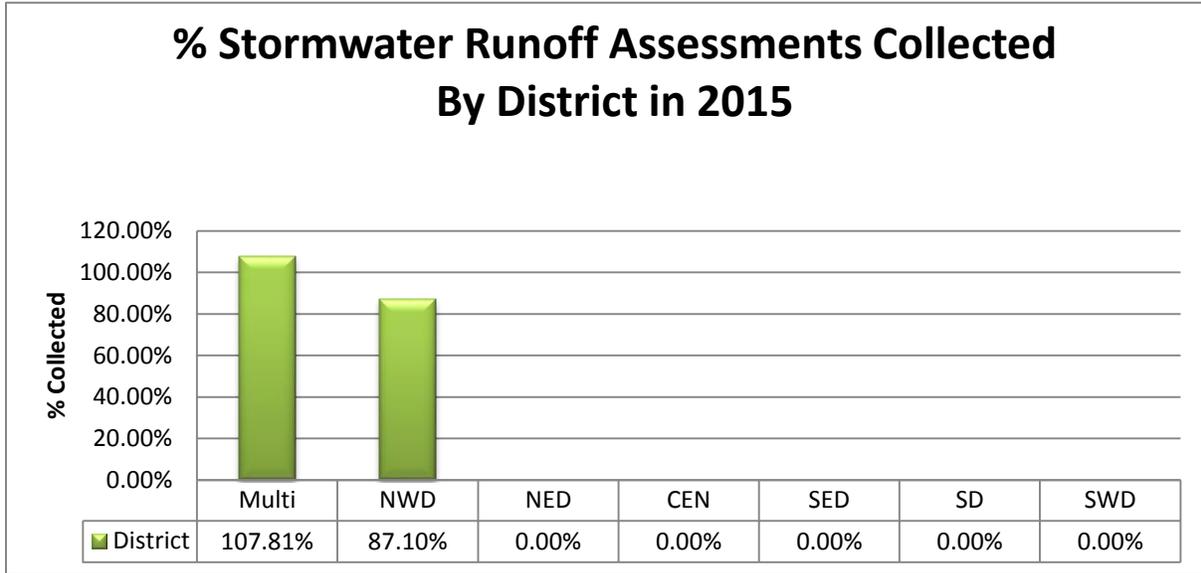
The following chart shows the percentage of assessments in 2015 that were collected:

% State Lands Assessments Collected By District in 2015



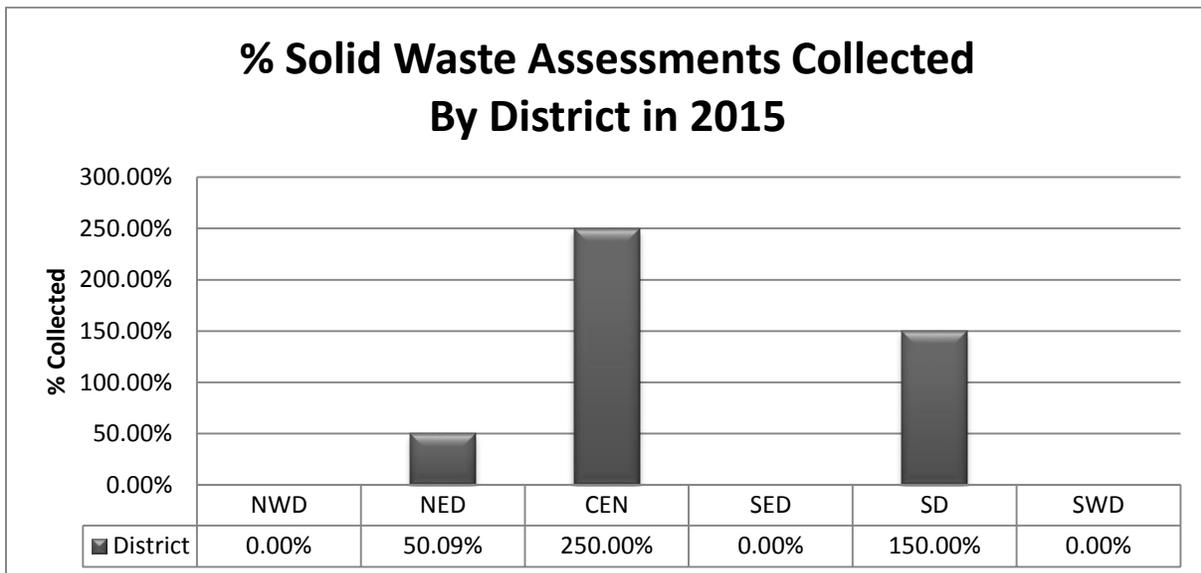
11. Stormwater Discharge Program

In 2015 collections rose in this program as well. The current rate is 86.14%, compared to 22.90% for the previous year. All of the collections were in the Northwest District and the Multi-District Category, both of which performed better in 2015:



12. Solid Waste Program

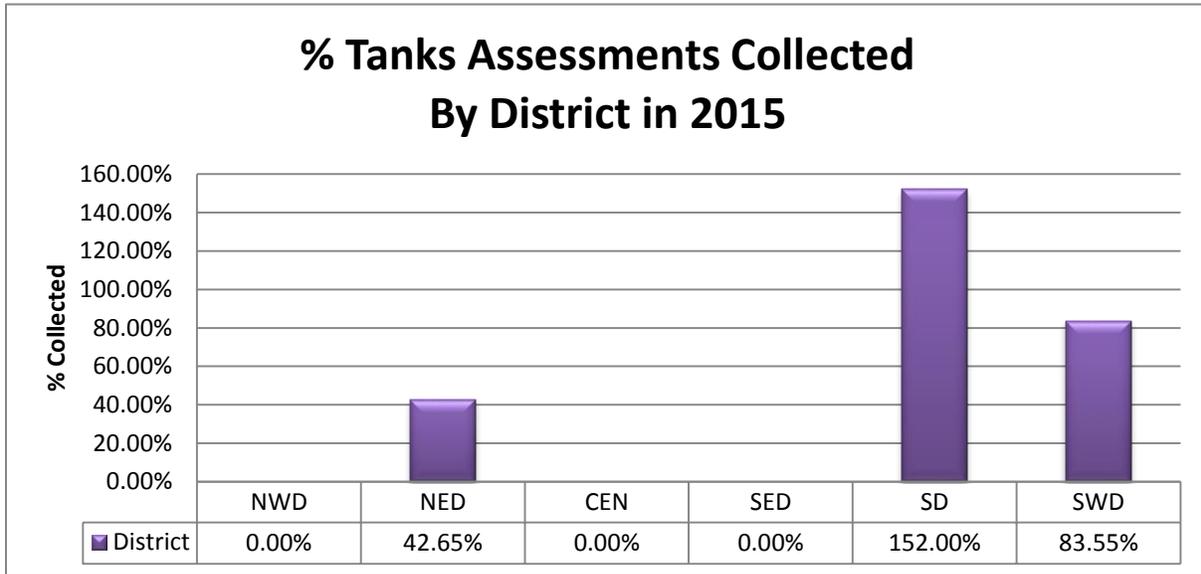
The Department collected 54.46% of its civil penalties in 2015, up significantly from 2014. Three of the districts, the Northeast, Central and South, collected penalties whereas the other three collected nothing. The results are seen below:



13. Tanks Program

Performance also improved in this program in 2015. The Department collected 68.80% of the civil penalties it assessed, up substantially from the 29.99% that it collected in 2014. This result is largely due to significant increases in the South and Southwest Districts. The Northwest District has assessed penalties in 12 cases from 2011 through 2015, yet it has collected no tanks penalties since 2011.

The performance by each district was as follows:



14. Underground Injection Control Program

There have been no collections in this program since 2010.

I. A Quick Look At Statewide Results

The following is a summary of the overall enforcement picture for 2015:

Enforcement Area	Performance Compared with 2013	Performance Compared with 2014
Total Number of Cases	Up 41%	Up 27%
Case Reports	Up 7%	Unchanged
NOVs	Up 100%	Down 21%
Final Orders	Up 11%	Up 54%

Consent Orders—Total	Up 47%	Up 38%
Consent Orders—Long-Form	Up 23%	Up 02%
Consent Orders—Model	Up 26%	Up 23%
Consent Orders—Short-Form	Up 135%	Up 98%

Assessments for 2015 can be summarized as follows:

Assessment/Program Area	Performance Compared with 2013	Performance Compared with 2014
Total Number of Assessments	Up 51%	Up 39%
Total Dollars Assessed in Penalties	Down 29%	Down 32%
Total Medians	Down 14%	Down 14%
Air Program—Number of Assessments	Up 78%	Up 78%
Air Program—Dollars Assessed	Up 69%	Up 232%
Air Program—Median	Unchanged	Up 7%
Asbestos Program—Number of Assessments	Unchanged	Unchanged
Asbestos Program—Dollars Assessed	Unchanged	Unchanged
Asbestos—Median	Unchanged	Unchanged
Beaches & Coastal—Number of Assessments	Down 50%	Down 43%
Beaches & Coastal—Dollars Assessed	Down 61%	Down 16%
Beaches & Coastal—Median	Up 14%	Up 100%
Dredge & Fill—Number of Assessments	Down 29%	Up 17%
Dredge & Fill—Dollars Assessed	Down 60%	Up 13%
Dredge & Fill—Median	Up 100%	Up 100%
Domestic Waste—Number of Assessments	Up 129%	Up 134%
Domestic Waste—Dollars Assessed	Down 53%	Down 73%
Domestic Waste—Median	Down 43%	Down 60%
Hazardous Waste—Number of Assessments	Up 143%	Up 70%
Hazardous Waste—Dollars Assessed	Down 17%	Up 13%
Hazardous Waste—Median	Down 69%	Down 23%
Industrial Waste—Number of Assessments	Down 25%	Up 200%

Industrial Waste—Dollars Assessed	Down 23%	Up 11%
Industrial Waste—Median MN & PG—Number of Assessments	Down 27%	Down 79%
MN & PG—Dollars Assessed	Up 100%	Up 100%
MN & PG--Median Potable Water—Number of Assessments	Up 70%	Down 15%
Potable Water—Dollars Assessed	Down 15%	Down 57%
Potable Water—Median State Lands—Number of Assessments	Down 97%	Down 60%
State Lands—Dollars Assessed	Down 63%	Down 62%
State Lands--Median Stormwater Discharge—Number of Assessments	Down 15%	Up 264%
Stormwater Discharge—Dollars Assessed	Down 8%	Down 31%
Stormwater Discharge—Median Solid Waste—Number of Assessments	Down 58%	Down 62%
Solid Waste—Dollars Assessed	Down 36%	Down 23%
Solid Waste—Median Tanks—Number of Assessments	Up 200%	Up 71%
Tanks—Dollars Assessed	Up 202%	Up 109%
Tanks—Median UIC—Number of Assessments	Down 59%	Up 40%
UIC—Dollars Assessed	Up 175%	Up 450%
UIC--Medians	Down 21%	Up 298%
	Down 52%	Down 33%
	Down 33%	Down 38%
	Down 26%	Up 11%
	Up 90%	Up 90%
	Unchanged	Unchanged
	Unchanged	Unchanged
	Unchanged	Unchanged

A comparison of collections of penalty assessments (excluding in-kind and pollution prevention project closures) for 2015 and the two previous years are:

Collections/Program Area	Performance Compared with 2013	Performance Compared with 2014
Total \$ Collected in Penalties & Closures	Up 15%	Down 15%
Air—Penalties Only Collected	Up 76%	Up 276%
Asbestos—Penalties Collected	Unchanged	Unchanged
Beaches & Coastal—Penalties Collected	Down 61%	Up 24%
Dredge& Fill—Penalties Collected	Down 35%	Down 15%

Domestic Waste—Penalties Collected	Down 17%	Down 84%
Hazardous Waste—Penalties Collected	Up 57%	Up 384%
Industrial Waste—Penalties Collected	Up 85%	Up 257%
MN & PG—Penalties Collected	Up 70%	Down 15%
Potable Water—Penalties Collected	Down 81%	Up 67%
State Lands—Penalties Collected	Up 201%	Down 5%
Stormwater Discharge—Penalties Collected	Up 91%	Up 614%
Solid Waste—Penalties Collected	Down 60%	Down 74%
Tanks—Penalties Collected	Down 86%	Down 90%
UIC—Penalties Collected	Unchanged	Unchanged

DISTRICT ENFORCEMENT RESULTS

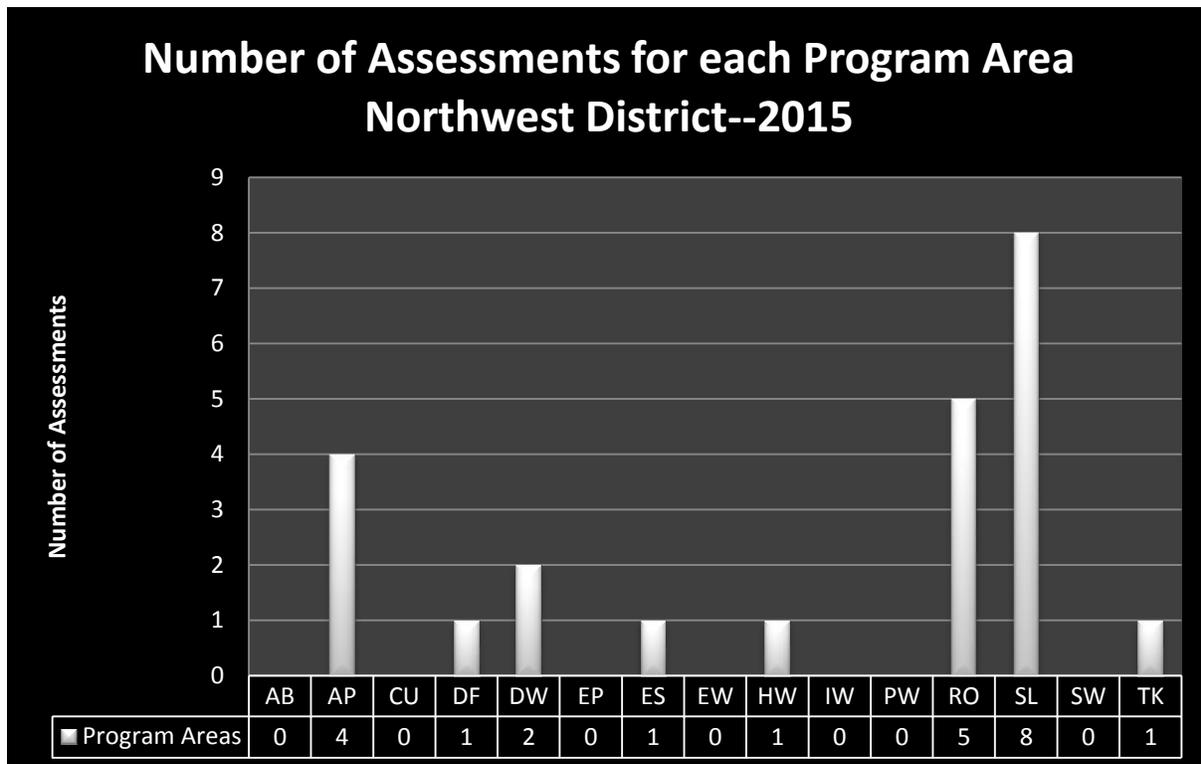
A. Northwest District

1. Case Reports, NOVs, Consent Orders, Final Orders

The Northwest District initiated enforcement in 35 cases in 2015, 2 less than in each of the 2 the previous years. 11.78% of all of the enforcement cases opened by the Department came out of this district. It issued 2 case reports, compared with 5 case reports in 2014, 3 NOVs (compared with 5 in 2014) and 3 final orders (the same number as in 2014). The district issued 27 consent orders in 2015, 3 more than in the previous year. Long-form consent orders increased from 6 in 2014 to 7 in 2015. Short-form consent orders also increased from 8 in 2014 to 10 in 2015. The district issued 10% of all short-form consent orders issued by the Department. 44% of all cases initiated by the Northwest District in 2015 were resolved with short-form consent orders, a 22% increase from 2014.

2. Program Area Enforcement

While the Northwest District opened 35 enforcement actions in 2015 it assessed civil penalties in just 23 of them, which is one more than in 2014. The following chart provides a breakdown²⁵ of how those assessments were distributed among the program areas:



While the number of assessments fell in most programs, there were slight improvements in the air and stormwater discharge programs. *It has now been 3 years since this district had any potable water cases.*

3. Civil Penalty Assessments

The Northwest District assessed \$109,240.00 in civil penalties in 2015, a slight improvement over the \$107,010.00 that it assessed in the previous year. By comparison, civil penalty assessments were \$53,765 in 2013, \$366,937.56 in 2012 and \$3,633,190.89 in 2011. The district's total assessments made up 11% of all assessments levied by the Department in 2015. The median civil penalty assessment for 2015 for all programs combined in this district rose significantly to \$3,420.00 (it was \$1,420.00 in 2014 and \$2,025.00 in 2013).

²⁵ Only program areas with actual assessments in the past are shown. The same is true for the remaining districts that will be discussed.

Program area assessments for the Northwest District broke down as follows:²⁶²⁷

Program Area	Total \$ Assessed in 2015	2015 Medians	2014 Medians	2013 Medians
AP	\$18,100.00	\$4,000.00	\$0.00	\$0.00
DF	\$250.00	\$250.00	\$420.00	\$1,750.00
DW	\$39,000.00	\$19,500.00	\$48,000.00	\$0.00
EW	\$0.00	\$0.00	\$2,420.00	\$0.00
HW	\$750.00	\$750.00	\$3,200.00	\$0.00
RO	\$26,500.00	\$4,500.00	\$10,000.00	\$5,500.00
SL	\$10,140.00	\$1,100.00	\$1,260.00	\$1,710.00
TK	\$10,000.00	\$10,000.00	\$10,000.00	\$0.00

The dollar value of assessments declined in every program but the air and tanks programs. The dredge & fill, hazardous waste and tanks programs each assessed penalties in only 1 case in 2015. The domestic waste program had only 2 cases. The median assessment for the dredge & fill program has now declined for 3 straight years in a row and the state lands program has declined for 2 straight years. The air program turned in better results in 2015 (4 cases overall), but it had no cases in the previous 2 years.

4. Civil Penalty Collections

The Northwest District collected \$68,627.62 in civil penalties in 2015, compared to \$56,107.30 that was collected in the previous year.²⁸ \$92,240 was collected in 2013, \$257,522.56 was collected in 2012 and \$307,752.21 was collected in 2011 (itself a declining year). The Northwest District collected 9% of all collections by the Department in calendar year 2015.

B. Northeast District

1. Case Reports, NOV's, Consent Orders, Final Orders

²⁶ Numbers in red represent results that were declines from the previous year's performance. The same format is used for the remaining districts. Only program areas with current assessments or assessments in the immediate past are listed.

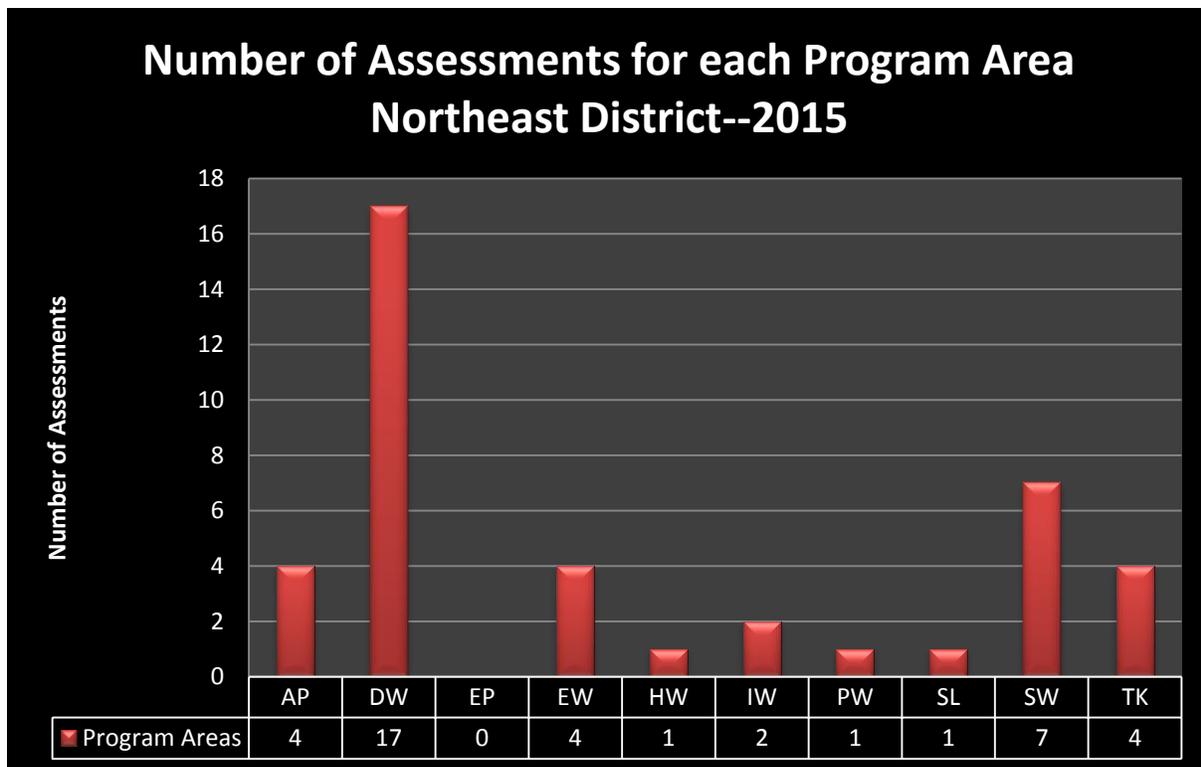
²⁷ Assessments provided in this table include penalty assessments, in-kind assessments and pollution prevention project assessments. The same is the case in subsequent tables provided for each district.

²⁸ The civil penalty collections reported for each district do not include in-kind projects. Unless stated otherwise, the same is true for all subsequent district results.

The Northeast District initiated enforcement in 54 cases in 2015, 15 more cases than in 2014 and 13 more than in 2013. 116 cases were opened in 2012 and 133 cases in 2011. These cases accounted for 18.18% of all cases opened by the Department in 2015. It issued 7 case reports (an increase of 4), 8 NOVs (an increase of 4) and 5 final orders (an increase of 3). 34 consent orders were issued in 2015, 4 more than in the previous year and the same number as in 2013. 75 were issued in 2012, 90 in 2011 and 162 in 2010. 15 of the 34 consent orders in 2015 were long-form, 3 less than in 2014. 10 short-form consent orders were issued—2 more than in 2014. 30% of all cases initiated by the Northeast District in 2015 were resolved with short-form consent orders, an increase over 2014. 16% of all short-form consent orders issued by the Department came out of this district.

2. Program Area Enforcement

The Northeast District assessed civil penalties in 41 cases in 2015, a 28% increase over its performance in 2014 and 2013, but still much less than the 80 cases in 2012. The breakdown of assessments by program area follows:



Essentially, the program areas performed about the same as in 2014 with the most notable increase coming in the solid waste program, which had no cases in 2014.

3. Civil Penalty Assessments

The Northeast District assessed civil penalties totaling \$236,926.61 in 2015. This represents a 14% improvement over its performance in 2014. Just two years ago the district assessed \$359,295.00 in civil penalties. When in-kind and pollution prevention projects are included this district's performance represented 31.25% of all assessments by the Department in 2015. However, the median civil penalty assessment for 2015 for all programs fell from \$4,250.00 in 2014 to \$3,000.00 in 2015, a level that is also lower than the \$3,875.00 median in 2013.

Program area assessments for the Northeast District broke down as follows:

Program	Total \$ Assessed in 2015	2015 Median	2014 Median
AP	\$52,750.00	\$7,375.00	\$3,500.00
DW	\$98,100.00	\$2,000.00	\$6,250.00
EW	\$10,000.00	\$2,625.00	\$750.00
HW	\$32,170.00	\$32,170.00	\$8,775.00
IW	\$2,500.00	\$1,250.00	\$0.00
PW	\$10,000.00	\$10,000.00	\$1,650.00
SL	\$3,000.00	\$3,000.00	\$8,300.00
SW	\$25,794.33	\$3,000.00	\$0.00
TK	\$83,362.28	\$20,681.14	\$5,000.00

Total assessments and medians fell in both the domestic waste and potable water programs. The results in the hazardous waste, potable water and state lands programs are based upon only 1 assessment in each program. There were only 2 industrial waste assessments in 2015.

4. Civil Penalty Collections

The Northeast District collected \$150,729.65 in 2015, almost 3 times the \$48,515.00 that was collected in 2014, yet a bit less than the \$165,612.51 that was collected in 2013. This ends the slide that had been going on for 5 straight years. The district collected 19% of all collections by the Department in calendar year 2015, a 12% improvement over 2014.

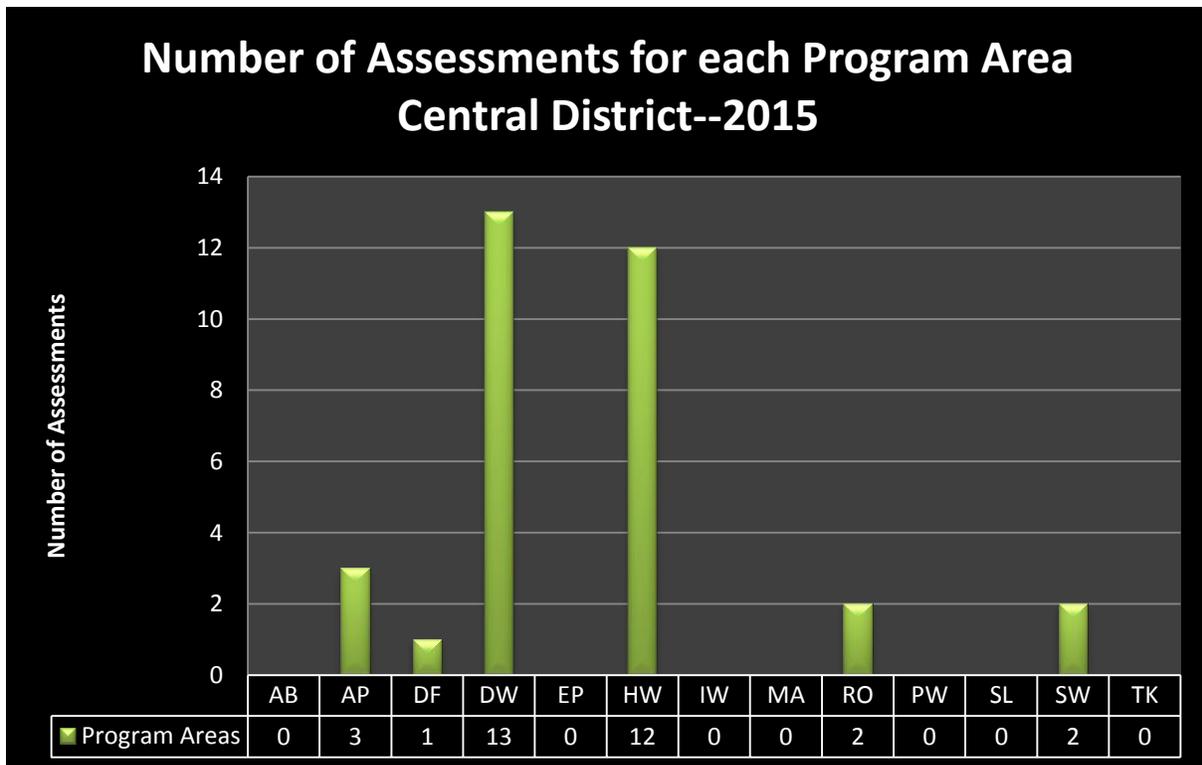
C. Central District

1. Case Reports, NOVs, Consent Orders, Final Orders

The Central District took enforcement in 44 cases in 2015, 18 more than in the previous year. It submitted 3 case reports to OGC in 2015, 1 less than in the previous year. It issued 3 NOVs and 2 final orders, both mechanisms holding steady compared with 2014’s results. 36 consent orders were issued, more than double the 17 consent orders that were issued in 2014. Of the 36 consent orders, 9 (25%) were long-form consent orders and 21 (58%) were the short-form variety. Of all of its cases 48% were resolved via short-form consent orders (a 13% increase) and 20% were resolved with long-form consent orders (a 3% decrease).

2. Program Area Enforcement

The following chart provides the number of cases in which civil penalties were assessed by the Central District by program area in 2015:



The Central District assessed penalties in 33 cases in 2015, up from 26 cases in 2014. Improvements were seen in the domestic waste and hazardous waste and stormwater runoff programs while the remaining programs remained stable—except for the tanks program which had no cases in 2015 (it had 4 in the previous year).

3. Civil Penalty Assessments

The Central District levied \$219,397.00 in civil penalties in 2015. This is a significant decline from the \$271,249.00 assessed in 2014 and the \$359,295.00 assessed in 2013. **The district now has four straight years of declining assessments.** Nevertheless, on a percentage basis the district continued to assess the second-most penalties of all of the districts. **Medians also fell from \$5,500.00 in 2014 to \$4,260.00 in 2015.**

Program area assessments for the Central District broke down as follows:

Program	Total Assessments in 2015	2015 Medians	2014 Medians
AP	\$18,200.00	\$3,675.00	\$4,000.00
DF	\$3,000.00	\$3,000.00	\$3,000.00
DW	\$58,999.00	\$4,000.00	\$5,187.50
EP	\$0.00	\$0.00	\$0.00
EW	\$0.00	\$0.00	\$0.00
HW	\$164,383.00	\$6,839.50	\$24,237.50
IW	\$0.00	\$0.00	\$9,500.00
RO	\$12,500.00	\$6,250.00	
PW	\$0.00	\$0.00	\$700.00
SW	\$1,000.00	\$500.00	\$4,500.00
TK	\$0.00	\$0.00	\$7,500.00

As the above table shows, this district is essentially declining in most of the programs. The one bright spot is the domestic waste program. There was only 1 dredge and fill assessment and 2 assessments in each of the stormwater discharge and solid waste programs. There were no state lands assessments. Over the course of the past 3 years the potable water program has had a total of only 2 assessments.

4. Civil Penalty Collections

The district did manage to collect more in civil penalties in 2015 than it did in the previous year. It collected \$136,671.00, compared to \$103,558.96 in 2014 and \$74,070.36 in 2013. 2015's performance represented 17% of all of the penalties collected department-wide.

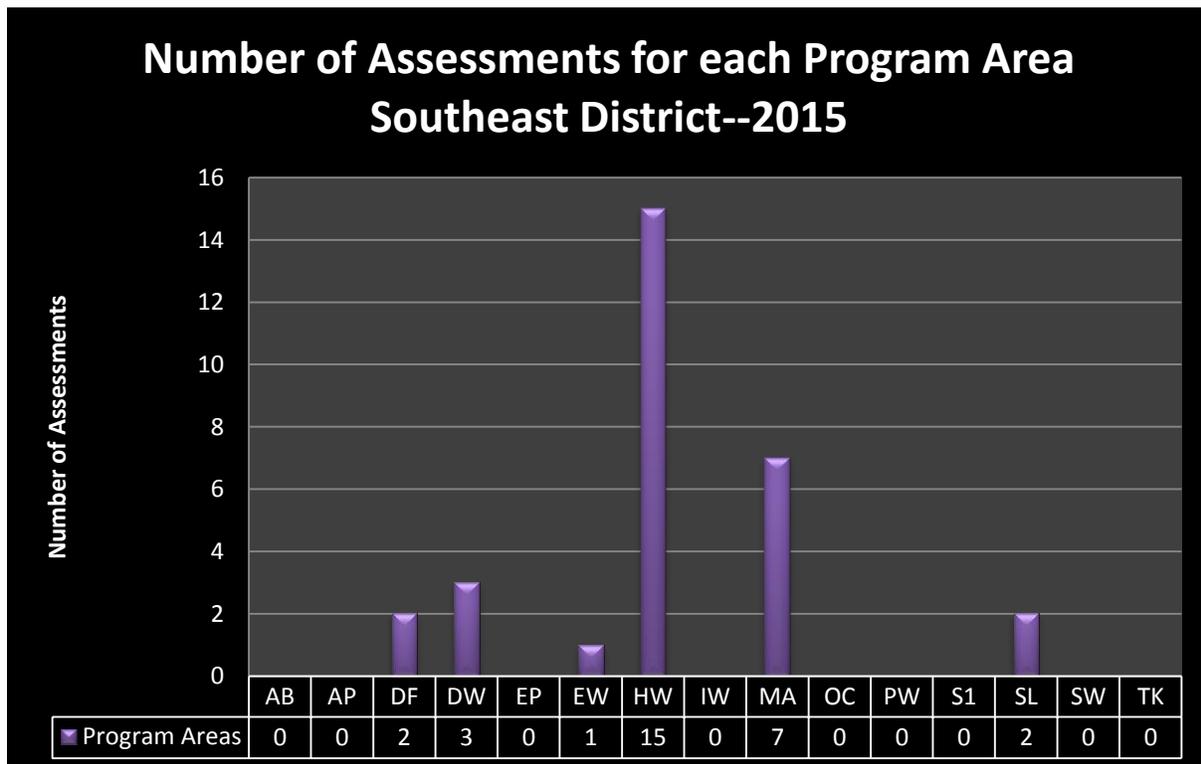
D. Southeast District

1. Case Reports, NOVs, Consent Orders, Final Orders

The Southeast District initiated enforcement in 38 cases in 2015, which is 10 more than it had in the previous year and 20 more than in 2013. Yet, it still had the second fewest cases of all of the districts. It issued no NOVs and no final orders in 2015, both decreases from 2014. It issued only 1 case report, 3 fewer than in 2014. Most of its cases (23) were resolved via short-form consent orders, whereas 2 were long-form consent orders and 12 were model consent-orders. Thus, in 61% of its cases the district chose to settle the matter with the payment of a fine and no other oversight.

2. Program Area Enforcement

The Southeast District assessed penalties in 30 of the 38 cases, or 79% of the cases that it opened in 2015. This is substantially higher than the previous year's result of 46%. The following chart provides the number of civil penalty assessments made by the Southeast District by program area in 2015:



Significant increases were seen in the hazardous waste and mangrove alteration programs in 2015. The domestic waste and state lands programs also saw minor increases. *There were no*

potable water or solid waste cases again in 2015. Otherwise, the performance was essentially the same as in the year before.

3. Civil Penalty Assessments

The increase in the number of assessments did not translate to an increase in the dollar value of those assessments. The district levied penalties totaling \$506,216.63 in 2014. In 2015 that number dropped to \$92,033.00, which is also lower than the total value of assessments in 2013. It should be noted, however, that the high result in 2014 was almost entirely due to one case and if that value is disregarded the total penalties in 2014 would drop to \$39,916.63, significantly lower than the result for 2015. Even so, the Southeast District still accounted for the second lowest percentage of assessments of all of the 6 districts. In addition, the district's median assessments across all programs fell from \$3,000.00 in 2014 to \$2,440.00 in 2015. In 2013 the median was \$10,450.00. There were no assessments in which in-kind or pollution prevention projects were used as mechanisms for resolving the enforcement case.

Program area assessments for the Southeast District broke down as follows:

Program	Total \$ Assessed in 2015	2015 Medians	2014 Medians
AP	\$0.00	\$0.00	\$1,000.00
DF	\$920.00	\$460.00	\$5,420.00
DW	\$21,000.00	\$5,000.00	\$466,300.00
EW	\$420.00	\$420.00	\$0.00
HW	\$42,694.00	\$2,130.00	\$2,500.00
MA	\$21,079.00	\$2,500.00	\$0.00
SL	\$5,920.00	\$2,960.00	\$0.00
TK	\$0.00	\$0.00	\$7,500.00

The Southeast District finally stemmed the tide of declining assessments in the hazardous waste program. But note that there were no air or tanks program assessments for the entire year. There were only 2 dredge and fill assessments and the same is true for the state lands program. The large decline in the median for the domestic waste program is due to the fact that in 2014 the total dollars assessed and the median in this program was based upon only one assessment (which was the largest in the state that year).

4. Civil Penalty Collections

The Southeast District collected \$118,737.01 in civil penalties in 2015, down substantially from the \$513,498.98 that it collected in 2014 (again mostly due to 1 case). But the result in 2015 was

much better than the \$70,217.54 collected in 2013. Overall this district accounted for 15% of all dollars collected by the Department in civil penalties in 2015.

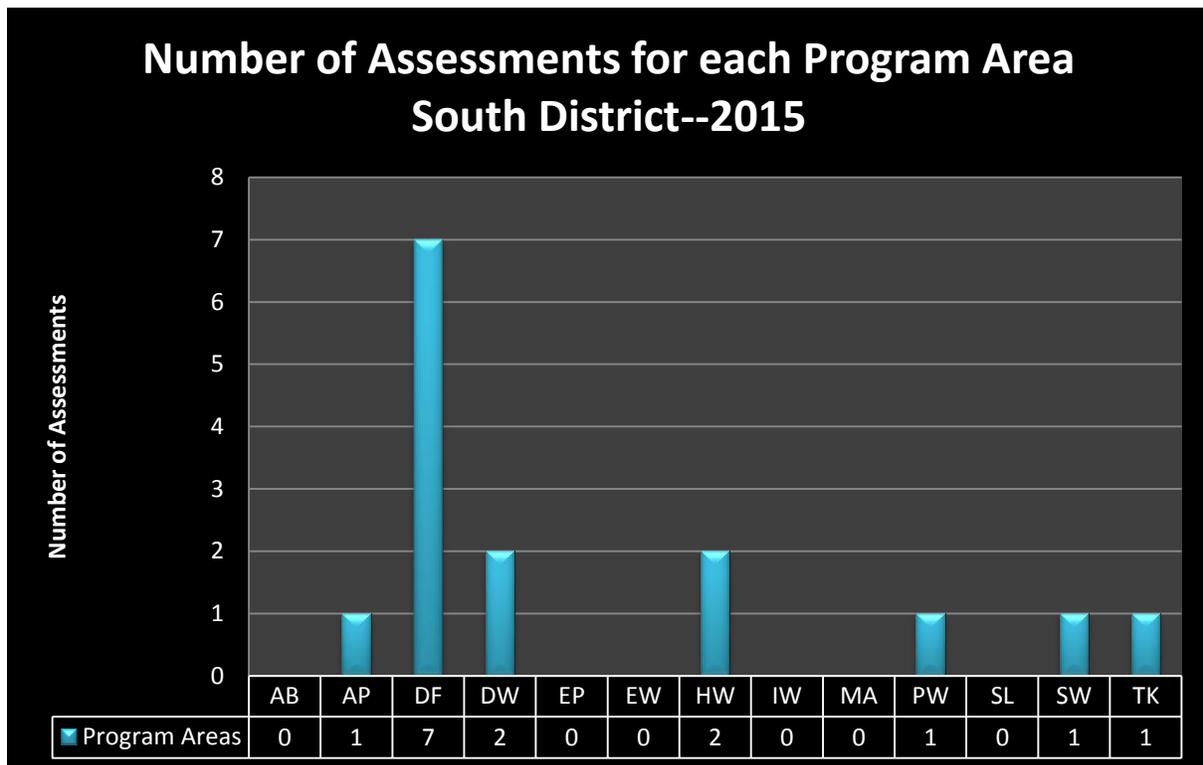
E. South District

1. Case Reports, NOVs, Consent Orders, Final Orders

The South District took enforcement in 46 cases in 2015, a 21% increase from 2014’s performance. The district sent 7 Case Reports to the OGC, 1 fewer than in 2014. There were 3 NOVs, 4 less than in the previous year, but 7 final orders, 6 more than in 2014. The district issued 29 consent orders, 7 more than in 2014. 3 of the consent orders were short-form consent orders, whereas 4 were long-form and 18 were model consent orders (4 were amended consent orders). *Only 7% of all enforcement cases were resolved through the use of short-form consent orders, by far the lowest percentage of all of the districts.* The South District accounted for 23% of all Case Reports (tied with the Southwest District for the most in the state), 35% of the final orders (the most in the state) and 13% of all consent orders issued in Florida.

2. Program Area Enforcement

The following chart provides the number of civil penalty assessments issued by the South District by program area in 2015:



The South District assessed penalties in only 15 cases in 2015, 2 fewer than in the previous year and 10 fewer than in 2013, this despite the fact that the number of actual enforcement cases rose in 2015. In other words, the district assessed penalties in only **32% of the cases in which it took enforcement in 2015**. The air, dredge and fill and the state lands programs were the only programs to increase the number of assessments in 2015.

3. Civil Penalty Assessments

For the second year in a row civil penalty assessments dropped—this time to \$92,033.00. In 2014 the district assessed \$122,114.00 in civil penalties and in 2013 the amount was \$312,627.50. The district provided 7% of all assessments levied by the FDEP in 2015, down 1 % from 2014 and 15% from 2013. The median assessment for all programs combined also fell, this time from \$4,500.00 in 2014 to \$3,420.00 in 2015. (The median was \$7,000.00 in 2013.) There were no assessments in which in-kind or pollution prevention projects were used as mechanisms for resolving the enforcement case.

Program area assessments for the South District broke down as follows:

Program	Total \$ Assessed in 2015	2015 Medians	2014 Medians
AP	\$1,000.00	\$1,000.00	\$0.00
DF	\$17,760.00	\$3,420.00	\$420.00
DW	\$14,000.00	\$7,000.00	\$12,250.00
HW	\$5,128.00	\$2,564.00	\$3,000.00
MA	\$0.00	\$0.00	\$850.00
PW	\$2,000.00	\$2,000.00	\$19,150.00
SL	\$0.00	\$0.00	\$4,849.00
SW	\$2,000.00	\$2,000.00	
TK	\$25,000.00	\$25,000.00	\$16,000.00

The results in the air, potable water, solid waste and tanks programs are each based upon 1 assessment for the year. There were only 2 assessments in the domestic and hazardous waste programs.

4. Civil Penalty Collections

Collections improved in 2015. They totaled \$91,131.00, compared to \$38,016.25 in 2014, and they were better than the \$37,717.42 collected in 2013. The amount collected represents 11% of all dollars collected by the Department in civil penalties in 2014.

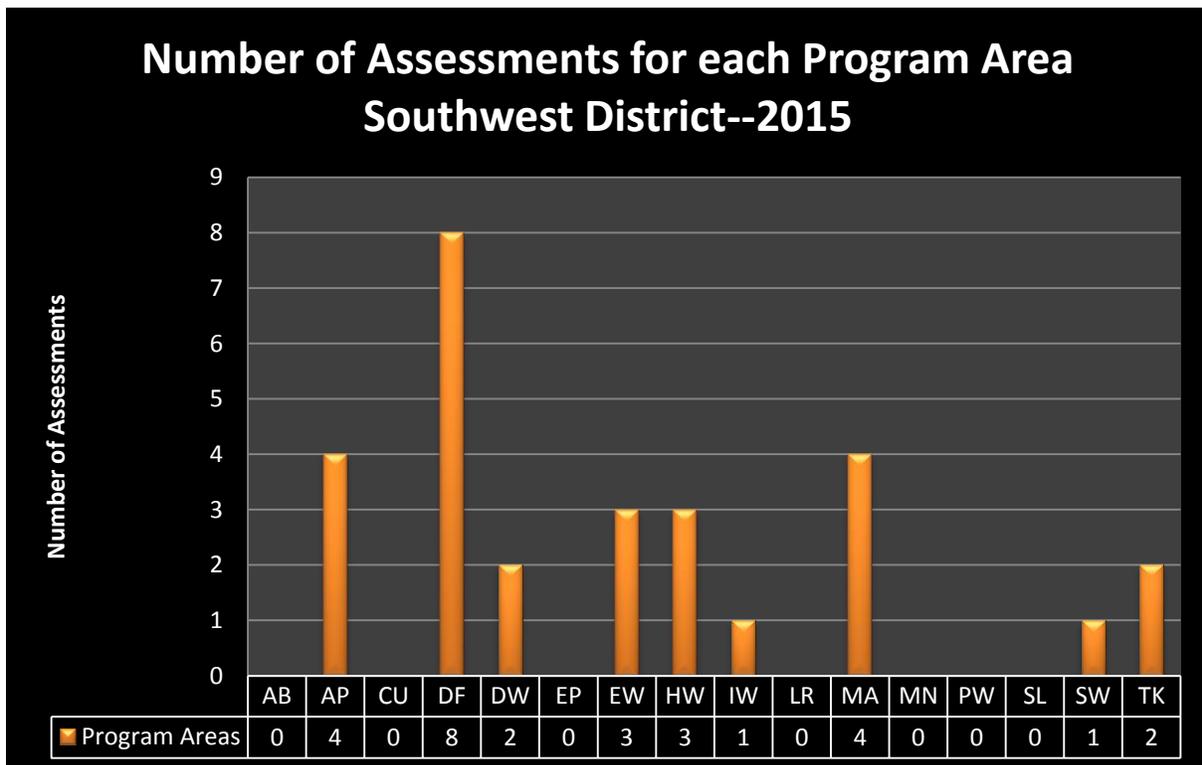
F. Southwest District

1. Case Reports, NOVs, Consent Orders, Final Orders

The Southwest District took enforcement in 52 cases in 2015, 14 more than in 2014 and 18 more than in 2013. In 2012, the same district opened 164 enforcement cases. This district accounted for 18% of all enforcement taken by the Department in 2015, 1% more than in 2014 and 2013. 7 case reports were sent to the OGC, 4 more than in 2014 and 2013. There were 5 NOVs issued (6 were issued in 2014) and 3 final orders were issued (unchanged from the previous year). In 2015 the district issued 37 consent orders, 11 more than in 2014 and 2013. The district issued 117 consent orders in 2012. In 2015, 16% of all consent orders were issued out of the Southwest District. *46% of the consent orders issued by the district were short-form consent orders, 34% higher than just one year ago and 25% higher than in 2013.* 33% of all of the cases settled by the Southwest District were settled via short-form consent orders. 14 long-form consent orders were issued out of this district in 2015, 5 more than in the previous year.

2. Program Area Enforcement

The following chart provides the number of enforcement cases in which civil penalties were assessed by the Southwest District by program area in 2015:



Of the 52 cases in which the Southwest District initiated enforcement in 2015 it assessed penalties in 28, or 54%, which is far better than the 37% rate in 2014. In 2010 the same district assessed civil penalties in 445 cases. In 2015 there were significant increases in the air (3), dredge and fill (8), while most other programs stayed relatively stable compared with 2014. *There were no potable water cases for the second year in a row.*

3. Civil Penalty Assessments

Civil penalty assessments have now fallen for 5 years in a row. They totaled \$135,533.18 in 2015, compared to \$260,813.82 in 2014, \$277,819.55 in 2013, \$1,063,447.33 in 2012 and \$1,592,075.89 in 2011. And in 2010 the district assessed fines of \$4,941,029.22. Median assessments also fell. They were \$2,000.00 in 2015 compared to \$5,000.00 in 2014 and \$2,500.00 in 2013. Overall, the district contributed 13% of all penalty assessments levied by the Department in 2015. There were no assessments in which in-kind or pollution prevention projects were used as mechanisms for resolving the enforcement case.

Program area assessments for the Southwest District broke down as follows:

Program	Total \$ Assessed in 2015	2015 Medians	2014 Medians
AP	\$18,382.00	\$3,000.00	\$3,750.00
DF	\$28,920.00	\$2,000.00	\$565.00
DW	\$4,650.00	\$2,325.00	\$50,000.00
EP	\$0.00	\$0.00	\$13,000.00
EW	\$6,000.00	\$2,000.00	\$5,000.00
HW	\$33,187.00	\$6,187.00	\$31,648.00
IW	\$8,000.00	\$8,000.00	\$0.00
MA	\$9,894.18	\$2,000.00	\$6,000.00
SL	\$0.00	\$0.00	\$250.00
SW	\$7,000.00	\$7,000.00	\$0.00
TK	\$19,500.00	\$9,750.00	\$15,142.91

What is striking is that median assessments have fallen in all but the dredge and fill and solid waste programs, the latter of which only had 1 assessment for the entire year (but still an improvement from 2014 and 2013). There was only 1 industrial waste assessment and only 2 domestic waste assessments for the entire year, making those results hardly meaningful. The same can be said for the hazardous waste program, which had only 3 assessments.

4. Civil Penalty Collections

In 2015 the Southwest District collected \$187,961.95 in civil penalties, an increase of \$20,815.60 from the \$167,146.35 in penalty collections in 2014. The district collected \$350,218.44 in 2012 and in 2011 it collected \$1,167,323.08. Overall, in 2015 this district accounted for 24% of all the monies collected by the Department across the state.

G. All Other Enforcement

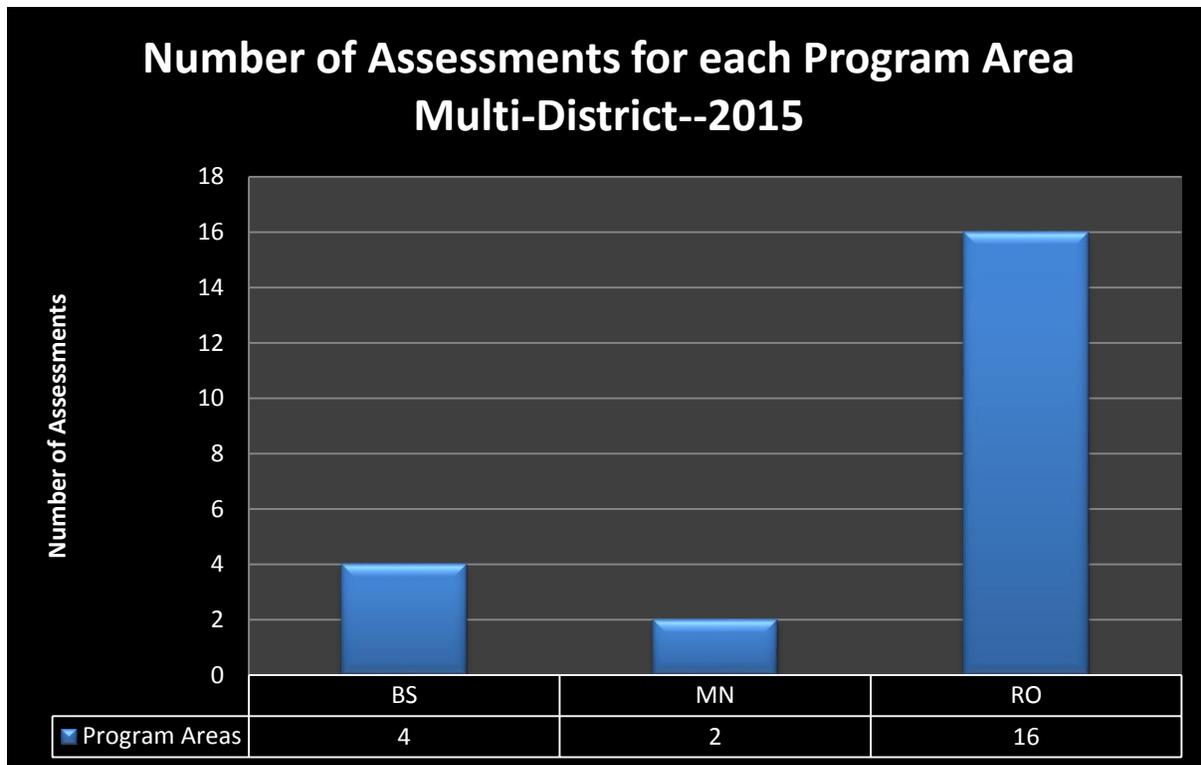
The Department's headquarters in Tallahassee handles some cases, most of them being stormwater discharge cases associated with the National Pollutant Discharge Elimination Program (NPDES), a federally delegated program. Other types of cases, such as the beaches and coastal systems program and mining cases are also handled out of Tallahassee. The cases that are not handled directly by the districts are cumulatively referred to as the "Multi-District" or "remaining categories."

1. Case Reports, NOVs, Consent Orders, Final Orders

The remaining categories initiated 28 enforcement actions in 2015, the same number as in 2014 and 15 more than in 2013, but still significantly less than the 88 enforcement actions in 2012. The performance in 2015 equaled 9% of all cases opened by the Department. They sent 3 case reports to the OGC in 2015, 0 NOVs, 0 final orders, and 25 consent orders. Their performance essentially remained static in 2015. The remaining categories accounted for 10% of all case reports, and 11% of all consent orders.

2. Program Area Enforcement

The following chart provides the number assessments issued by program area in 2015:



22 of the 28 enforcement actions resulted in civil penalties being assessed in 2015, an increase of 2 assessments over the previous year and 8 more than in 2013. While the beaches and coastal systems program had 3 fewer assessment than in 2014 the stormwater discharge program had 5 more.

3. Civil Penalty Assessments

Civil penalty assessments fell from \$40,242.00 in 2014 to \$37,222.00 in 2015. \$24,959.25 in penalties were assessed in 2013, \$199,147.25 in 2012 and \$196,003.02 in 2011. Medians rose from \$392.00 in 2014 to \$518.00 in 2015. Medians were \$1,000.00 in 2013. Overall, in 2015 the \$37,222.00 that was assessed accounted for 4% of all assessments levied by the Department. There were no assessments in which in-kind or pollution prevention projects were used as mechanisms for resolving the enforcement case.

Assessments broke down as follows:

Program	Total \$ Assessed--2015	2015 Medians	2014 Medians
BS	\$5,250.00	\$1,000.00	\$500.00
MN	\$8,500.00	\$4,250.00	\$10,000.00
OG	\$0.00	\$0.00	\$20,000.00
RO	\$23,472.00	\$390.25	\$370.00

Stormwater discharge assessments rose in 2015, as did the medians, though the medians were still lower than in 2013. The results for the mining program are based upon only 2 cases statewide and the beaches and coastal system program had only 4.

4. Civil Penalty Collections

The remaining categories collected \$39,056.00 in civil penalty assessments in 2015, up from \$38,576.10 in 2014 and the \$30,101.15 that was collected in 2013. The results for all 3 years pale in comparison to the \$190,356.25 collected in 2012, and \$171,850.61 collected in 2011. The 2015 performance represents 5% of all dollars collected by the Department in civil penalties that year.

H. **A Quick Look At District Results**

Overall Number of Enforcement Cases:

District	Performance Compared with 2013	Performance Compared with 2014
Northwest	Down 5%	Down 5%
Northeast	Up 32%	Up 38%
Central	Up 111%	Up 69%
Southeast	Up 111%	Up 36%
South	Up 39%	Up 21%
Southwest	Up 53%	Up 37%
Multi-District	Up 87%	Unchanged

Number of Assessments:

District	Performance Compared with 2013	Performance Compared with 2014
Northwest	Up 10%	Up 5%
Northeast	Up 64%	Up 28%
Central	Up 10%	Up 27%
Southeast	Up 275%	Up 131%
South	Up 15%	Down 12%
Southwest	Up 47%	Up 100%
Multi-District	Up 57%	Up 10%

Dollars Assessed:

District	Performance Compared with 2013	Performance Compared with 2014
Northwest	Up 103%	Up 2%
Northeast	Down 12%	Up 53%
Central	Down 16%	Down 5%
Southeast	Down 4%	Down 82%
South	Down 79%	Down 45%
Southwest	Down 51%	Down 48%
Multi-District	Up 49%	Down 8%

Medians By District:

District	Performance Compared with 2013	Performance Compared with 2014
Northwest	Up 69%	Up 141%
Northeast	Down 23%	Down 29%
Central	Down 6%	Down 23%
Southeast	Down 77%	Down 19%
South	Down 51%	Down 24%
Southwest	Down 20%	Down 60%
Multi-District	Down 48%	Up 32%

Overall civil penalty collections by district:

District	Performance Compared with 2013	Performance Compared with 2014
Northwest	Down 26%	Up 22%
Northeast	Down 9%	Up 211%
Central	Up 85%	Up 92%
Southeast	Up 69%	Down 77%
South	Up 142%	Up 140%
Southwest	Down 14%	Up 12%
Multi-District	Up 30%	Up 1%

CONCLUSION

It would be tempting to say that the FDEP's data from 2015 shows that the Department improved its enforcement efforts compared with the recent past. After all, the number of cases opened by the Department as a whole increased. But in reality the number of cases brought by the Department remains at historically low levels, even with the modest increases in 2015. Moreover, the data shows a Department that remains incredibly reluctant to require polluters to pay a financial penalty for violating Florida's environmental statutes and regulations even when it opens a case. This is clearly seen in the statistics that show that in 2015 it required payment of a penalty in only 65% of the enforcement cases that it filed. Moreover, what we saw in 2015 was that the total penalty dollars assessed by the Department actually fell and that the median dollars assessed also fell. What this means is that the polluters who were the subject of enforcement actions by the Department were less likely to even have to pay a fine and even when they did pay a fine they typically had to pay less than their predecessors.

The Department's current policies call for issuing a "compliance assistance offer letter" when violations are discovered that are "minor" in nature.²⁹ This naturally means that formal enforcement is supposed to be taken in the serious cases. And when formal enforcement is initiated the Florida statutes dictate that civil and/or criminal fines should be imposed. Specifically, Section 403.161 (6), Florida Statutes, states that "[i]t is the legislative intent that the civil penalties and criminal fines imposed by the court be of such amount as to ensure immediate and continued compliance with this section." Thus, if the FDEP were to decide to take these cases to court, a trial judge, in looking at the statutes, would be obligated to impose penalties significant enough to ensure that the polluter (and others of like mind) would be deterred from engaging in such misconduct in the future. Yet, what we see happening is the exact opposite. Not only is the FDEP seeking court intervention in fewer cases, but in those cases that it handles without going to court (which has always been the vast majority) it is violating the clear legislative intent that it impose fines sufficient to deter future violations.

Take, for example, the potable water program. This program regulates drinking water systems in the state. It is at least one of the programs that should be protecting Floridians and tourists from the types of devastating situations that currently plague the residents of Flint, Michigan. So, what are the results of the FDEP's work in this area? As we stated above,

"While the Department has not yet posted its results for 2015 the results for 2014 have been posted on its website and are available to the public.³⁰ In 2014 the report posted by the Department concluded (See, report, page 11) that there were 5,310 active potable water systems in Florida. Of those, 689 were in violation and those 689 had 1842 violations. Of the 1842 violations, 295 (16%) were what are known as Maximum

²⁹ See, <http://www.dep.state.fl.us/legal/Enforcement/chapters/chapter3.pdf>, page 15.

³⁰ The results are found in a report entitled *The 2014 Annual Report on Violations of the U.S. Safe Drinking Water Act in the State of Florida* located online at <http://www.dep.state.fl.us/water/drinkingwater/docs/2014-ACR-Florida.pdf>. This report was issued on July 1, 2015.

Contaminate Level violations. These are violations for things such as total coliform, organic and inorganic compounds, radionuclides and disinfection byproducts. The remaining violations were monitoring and reporting (MNR) violations.”

(See, supra, page 55) So, how seriously does the Department carry out its mission in this program? Well, from 2012 through 2015 it opened a total of 107 cases statewide. And more recently, in 2014 It opened a total of 13 potable water cases and assessed penalties in only 5 of them. And in 2015, according to the FDEP’s own enforcement records, the Department opened a total of 6 cases in the entire state of Florida and assessed penalties in only 2 of them. And now, the federal agency that is tasked with overseeing the administration of the Safe Drinking Water Act is proposing to give the FDEP even greater authority to “administer” this critical federal program.

It is not as if the Department’s laissez faire approach to the potable water program is anything new or, for that matter, unusual. For decades the agency has known that livestock operations and agricultural concerns, together with Big Sugar, have caused the continual discharge of excessive nutrients into Lake Okeechobee and the tributaries that feed it. Yet, the Department has done precious little to realistically curb those discharges. Instead, with a willing Legislature and Governor, it has been quite content to cater to industry by refraining from the adoption of aggressive rules that would work towards cleaning up the area. Consequently, while we have seen some impacts from this contamination in the past, we are now witnessing even worse algae outbreaks as a result of the release of water from Lake Okeechobee. This is a situation that should surprise no one, least of all the Governor and FDEP.

As if it is intent upon doing as much damage as possible, the FDEP has now proposed increasing the amount of carcinogens and other contaminants that make their way into our groundwater and wastewater streams across the state. Despite statewide public outcry the agency moved forward with the final adoption of these rules, leaving the EPA as the only public agency standing in the way of the FDEP being able to unleash these toxins upon Floridians.

The hazardous waste program is but another example of the Department’s willingness to look the other way so that polluters go unpunished. Earlier this year we published two articles³¹ detailing the extent to which the agency has looked the other way when it finds that polluters have violated hazardous waste laws. Examples abound of non-lawyer agency employees working directly with lawyers representing polluters in order to secure a better deal for the polluters, employees rewriting inspection reports in order to show fewer violations and employees telling permittees when they can expect inspectors to visit their facilities. Such is the manner in which the agency protects the public against pollution arising from the unlawful handling and discharge of the most toxic pollutants used by industry.

The extent to which the Department has sold out to commercial interests is seen in the above examples. But its malfeasance is not limited to these four areas. One need only look at

³¹ <http://www.peer.org/news/news-releases/illegal-profits-from-polluting-florida-go-untouched.html> and <http://www.peer.org/news/news-releases/portrait-of-florida-coddling-corporate-pollution-offenses.html>

each of the programs covered in this report to see that every program has been targeted. Consequently, it is evident that the overall poor performance is not the result of a small minority of managers. Rather, this is a systemic problem that can only be corrected by wholesale changes—particularly in leadership. Unfortunately, it would be naïve to suggest that these changes will be forthcoming in the near future. Rather, it will require the collective effort by the Governor’s Office, the Legislature and the public if the agency is to be salvaged. The health of Floridians and the environment depend upon that occurring sooner rather than later.

APPENDIX

ENFORCEMENT HISTORICAL OVERVIEW

FDEP has long used an approach to enforcement that included a strong emphasis on the use of civil litigation in the state's circuit courts. This approach provided the FDEP with the ability to seek hefty civil penalty assessments against violators, while simultaneously sending a message to the community that environmental violations would not be taken lightly. The filing of such lawsuits was initiated by the filing of case reports that originated in the district offices and went to the FDEP's Office of General Counsel (OGC). However, the filing of lawsuits lost favor politically in the late 1990s. The result was a consistent decrease in the number of civil circuit court filings each year.

In January 2011 the Scott Administration took over the Department through its new Secretary, Herschel Vinyard. Vinyard revised the agency's *Enforcement Manual* to include the use of what is known as *compliance assistance offers* as a means of settling enforcement cases. These offers enable the violator to avoid formal enforcement if the violator does one of three things: (1) tells the Department what the violator has done to resolve the violation, (2) provides information to show the FDEP that the violation either didn't exist or wasn't that serious (a largely subjective determination), or (3) arranges for a Department inspector to visit the facility and show the violator how to return to compliance. If a compliance assistance offer is used the ultimate result is that there is no formal enforcement. The matter is resolved and the file closed.

The use of a compliance assistance offer does more than just resolve the immediate case, however. By using this mechanism and thereby avoiding the execution of a consent order to resolve the case the violator is also protected in the event of future violations. The protection is furnished for future administrative actions involving the violator because under Florida law the Department is only allowed to increase civil penalties in cases involving subsequent violations if the prior violations resulted in the entry of a consent order. The limitation upon the Department's enforcement options arises in these cases since no consent order is issued when a compliance assistance offer is issued—it is as if the violator has no past history of violations. In such cases the only arguable approach that the Department can take is thus foregoing administrative actions and resorting to the more severe route of circuit court action.

The FDEP's next strongest enforcement tool was the issuance of Notices of Violation (NOVs). NOVs are also initiated in the district offices and are filed by the OGC. Once filed they are similar to circuit court lawsuits, though they are brought before an administrative law judge (ALJ) at the Division of Administrative Hearings. Until 2001, ALJs were unable to levy civil penalties in these cases. Thus, the NOVs were used by the Department to bring about direct environmental improvements—both long and short term. After implementation of legislation in 2001, the FDEP was authorized to seek civil penalty assessments via the issuance of NOVs and the ALJs were given statutory authority to impose assessments where warranted. This change in law stopped what had been a general decline in the issuance of NOVs. 2002 saw the first dramatic increase in their usage.

Historically, the most frequently used enforcement tool has, without question, been the use of consent orders, both long-form and short-form. Consent orders (COs) are negotiated agreements between the FDEP and the violator wherein the violator agrees to undertake certain actions to reverse environmental damage caused by the violator's actions. In addition, COs most often require the payment of civil penalties. Consent orders typically take the following form:

- Long-form COs are used in order to require corrective actions on the part of the violator, as well as to require increased monitoring of the violator's future activities. They also typically require the payment of civil penalties.
- Model COs are essentially long-form COs that have been pre-approved by the OGC, thus allowing the individual districts to issue the Model CO without prior consultation with the OGC. They also provide for the assessment of civil penalties.
- Short-form COs are, according to the FDEP "Enforcement Manual" to be used only in those cases in which the violations have ceased and no further follow-up is required by the Department. Thus, these COs only require the payment of civil penalties.

Historically, the FDEP relied heavily upon long-form COs and Model COs in its enforcement cases. Thus, there was a demonstrable and measurable showing of its efforts to not only require environmental remediation, but to also require increased monitoring of known violators. However, as was pointed out in Florida PEER's 2007 report on the FDEP's history over the past 20 years, the use of long-form COs began waning in the 1990s.

http://www.peer.org/assets/docs/fl/08_25_11_fl_rpt_on_historical_enforcement.pdf There was also a sharp increase in the number of Short-form COs.

The Department also tracks the number of final orders that it issues each year. These are administrative orders akin to the final orders issued by judges in state circuit courts. These final orders are binding upon the Department and the violators. They are enforceable in circuit court.