



Florida

PEER

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**REPORT ON
ENFORCEMENT EFFORTS
BY THE FLORIDA,
DEPARTMENT OF
ENVIRONMENTAL
PROTECTION**

CALENDAR YEAR 2016

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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 2016. 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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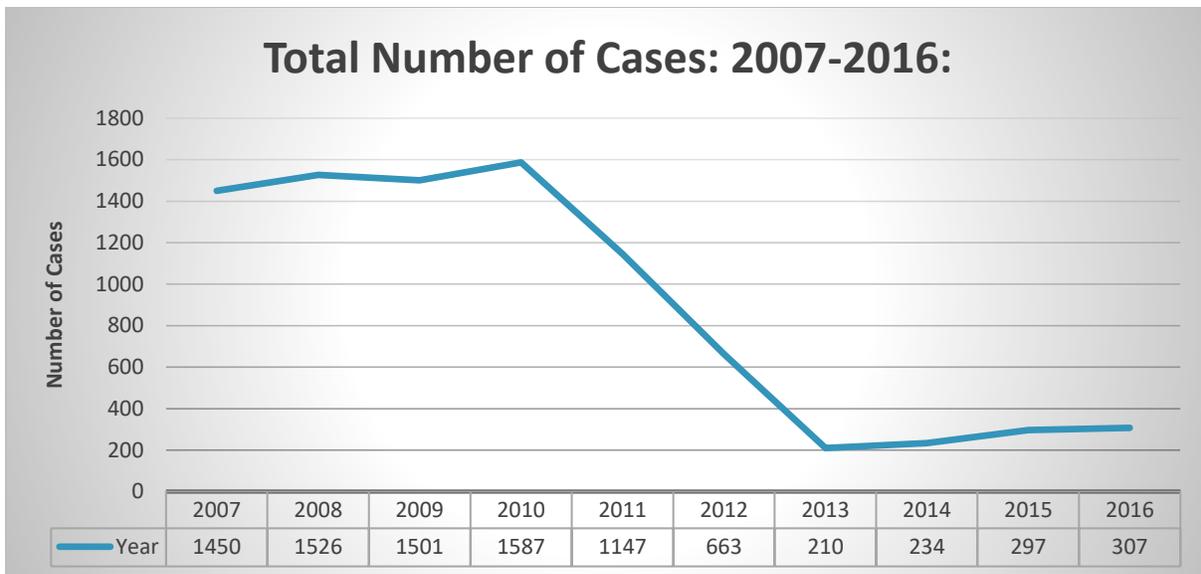
EXECUTIVE SUMMARY

A. Statewide Results

When compared with 2015, the data supplied by the FDEP to *Florida PEER* generally shows marginal improvement in the overall enforcement apparatus. This extends to most, but not all, programs. The improvements continue to be modest in nature and do not suggest any significant changes in the overall enforcement strategy employed by the Department. Rather, the situation appears to be one in which the enforcement approach initiated in 2011 had resulted in a bottoming out of the program to the point that further reductions could not be credibly achieved without causing backlash from the EPA. This is because the major programs administered by the Department are federal programs for which the agency has received federal grant money in exchange for its agreement to properly administer the programs in accordance with federal law. Consequently, we are now seeing what amounts to minor changes from year to year. And, as we've noted before, the current results continue to be significantly worse than they were immediately prior to the current administration taking office.

The Department opened 307 cases in 2016, a 4% increase from the results in 2015. Yet, when compared with 2010, the results are significantly lower, 81% to be exact. The total number of cases rose in every district, except for the Southeast District, which saw a 42% reduction. Statewide, most types of enforcement held their own, with the exception of case reports, i.e. those cases sent to the Office of General Counsel for more serious enforcement. Those referrals fell 57% in 2016. On the other hand, long-form consent orders, which require more Department oversight, rose 57%, while short-form consent orders that require the polluter to only pay a fine, fell 12%.

At this point we now have a solid amount of data that shows the Department's performance during both the Crist administration and that of Governor Scott. This data shows that despite the increase in the number of cases opened, the impact of Governor Scott's policies has been to essentially eliminate serious environmental enforcement in Florida. The slight improvements that we have seen over the past 2 years have done little to change this. Over the past years the total number of cases per year has fallen 81% from the level at which it was functioning when Scott took office in 2011:



In terms of the number of cases opened in each program, there were declines in the beaches and coastal, air, hazardous waste, state lands and tanks programs. Enforcement in the beaches and coastal program has now fallen every year since 2013. Every program but the waste cleanup and state lands programs is performing below its historical averages. And significant decreases in the number of cases were seen in the hazardous waste, state lands and tanks programs. Meanwhile, there has been only 1 asbestos case since 2013, and the potable water program only had 15 cases in 2016 and assessed penalties in only 3.

251 consent orders were issued in 2016, 35 more than we saw in 2015. This represents 4 straight years of increasing numbers for this parameter. Nevertheless, it must be remembered that in 2011, which was Scott's first full year in office, the Department issued 844 such orders, and this result was significantly worse than the Department's performance in 2010, which saw 1249 such orders issued. There were a combined 162 long-form consent orders, amended consent orders and model consent orders issued in 2016, which is 44 more than last year. 89 short-form consent orders were issued in 2016, a 12% decrease from 2015's results. (Interestingly, the Southeast District, which had the fewest number of cases in the state, also settled more of its cases using short-form consent orders than did any other district.) In spite of the Department's overall improvement, fully 29% of the Department's cases were resolved using short-form consent orders.

Along with an increase in the number of enforcement cases came a moderate increase in the number of cases in which civil penalties were assessed. Of the 307 cases in which formal enforcement was initiated, penalties were assessed in 211, or 69%. In 2015, the Department took formal enforcement in 297 cases and assessed penalties in 192 (65%). This is now the third year in a row in which the number of assessments has improved. The number of assessments increased in all but the Central and Southeast Districts in 2016. But the overall results for the entire Department are still lower than previous years. For example, the Department assessed penalties in 528 cases in 2012, 949 in 2011 and 1318 in 2010.

In 2016, the increase in the number of assessments also resulted in a net increase in the total dollar value of civil penalties levied. Assessments totaled \$2,494,446.00 in 2016, compared with \$857,639.79 in the previous year. However, this 191% increase of \$1,636,806.21 from 2015 to 2016 is largely attributable to one case, in which an assessment of \$1,450,000.00 was levied. If this case (which represents 58% of the total assessments) is subtracted out of the total we see that the remaining cases totaled \$1,044,446.00, which still represents an increase over 2015, but yet is still lower than the \$1,515,020.45 in civil penalties that was assessed in 2014 and the \$1,432,715.61 in assessments in 2013. (The results in 2013 were the agency's lowest since 1988, the first full year for which data is available from the then Department of Environmental Regulation.) Total penalties assessed rose in all but the Central and Southeast Districts in 2016.

Many programs also saw increases. Significant increases were seen in the domestic waste (49%), hazardous waste (1070%), industrial waste (167%) and solid waste (266%) programs. Nevertheless, there were decreases in the dollar value of penalty assessments in the beaches and coastal (71%), dredge and fill (10%), mangrove alteration (41%), mining (100%), potable water (59%), state lands (63%), stormwater discharge (17%) and tanks (63%) programs.



Statewide there was only one case in Florida in which civil penalties exceeding \$100,000 were assessed. That case was against *Mosaic Fertilizer* (OGC #121041). That case was brought jointly by the FDEP and EPA and levied penalties totaling \$2,650,000.00.¹ This occurred prior to the sinkhole opening in August on property owned by Mosaic. Otherwise, there were no other cases in which the Department assessed a civil penalty of \$100,000 or more.

Median assessments for the Department increased 18%, from \$2,540 in 2015 to \$3,000 in 2016. They rose in the Northwest (for the second year in a row), Northeast and Southwest Districts and fell in the others. They have fallen for two years in a row in the Southeast and South Districts. Given the overall numbers, it is fair to say that the Department was more stringent in 2016 in those cases in which it elected to assess civil penalties.

Medians rose or remained unchanged in 10 of the 16 programs that we have evaluated in this report. The 6 programs in which they fell were the beaches and coastal, dredge and fill, mangrove alteration, potable water, stormwater discharge and tanks.

A statewide total of \$2,211,826.55 was collected by the Department in 2016, an increase of \$1,418,912.32 from the \$792,914.23 that the Department collected in civil penalties in 2015. This is to be expected, inasmuch as the number and dollar value of assessments increased in 2016 and it should also be noted that the significant increase is largely the result of the

¹ This amount is a combination of a civil penalty assessment and in-kind project.

Department's collecting its penalty assessment that was levied against *Mosaic Fertilizer*. Overall, this marks the second year in a row in which the Department has improved upon its performance in this area. It is also the highest total dollar value of collected civil penalties since 2011. The Department collected 89% of the penalties (excluding in-kind and penalty prevention projects) that it assessed in 2016, making this the highest collection rate since at least 2007.

The Department also recorded in-kind and penalty prevention project fulfillments valued at \$1,029,139.25, down slightly (6%) from the \$1,094,303.00 that was recorded in 2015. Adding these to the penalty dollars that were collected gives us a total collection result in 2016 of \$3,240,965.80. This cumulative total is significantly higher than the \$1,355,504.02 that was collected in 2015.

Collections improved in the Central and Southwest Districts, while falling in the remaining four districts. As far as the programs were concerned what is striking is that collections declined in most of the programs that we monitor. They rose in only the domestic waste, hazardous waste, potable water, solid waste and underground injection programs.

As in years past, we continue to include a [listing](#) of the highest dollar assessments. We have included the names of the violators as well. In addition, we have included a listing of the highest collections made by the Department in each program area.

We have included a [Quick Look](#) section to provide the reader with bottom line results for a host of categories at the state level.

B. District Results

Enforcement in the districts varies widely. The Southwest District has been steadily showing modest improvements, while on the other side of the Peninsula the Southeast District appears to have done everything possible to shut down enforcement efforts in most programs. Overall, however, the results suggest that the Department has settled into a pattern of initiating enforcement in a statistically minimal number of cases, with no evidence of significant changes towards revitalizing enforcement of Florida's environmental laws. As in years past, 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 shows no signs of improving its enforcement posture. It opened 32 enforcement cases in 2016, 3 fewer than in 2015. While enforcement mechanisms such as NOV's, final orders, and long-form consent orders have essentially leveled off, short-form consent orders have increased and the number of referrals to OGC via case reports have continued to decline. The number of penalty assessments also declined in this district, and while the number of state lands cases increased, it has been 4 years since there were any potable water cases opened. The assessments that were levied resulted in an increase in the overall dollars assessed in 2016. The district assessed \$189,344.00 in civil penalties (including in-kind and P2

projects) in 2016, a substantial increase from the \$109,240.00 in civil penalties that were assessed in 2015. The overall median assessments likewise rose—they were \$5,000.00 in 2016, compared to \$3,420.00 in the previous year. Collections fell, however. They were \$66,549.36 in 2016, down from \$68,627.62 in civil penalties collected in 2015.

2. Northeast District

The number of enforcement cases rose again in 2016, a year in which 62 new cases were filed. In 2016, 20% of all enforcement cases for FDEP originated out of this district. While the number of case reports fell significantly, the number of consent orders rose. 49 consent orders were issued in 2016, and 24 of them were long-form consent orders. The percentage of cases resolved via short-form consent orders declined in 2016, although they still accounted for 19% of all short-form consent orders issued by the Department. While there was an increase in the number of enforcement cases, the number of cases in which penalties were assessed remained the same as in 2015, i.e. 41. Civil penalty assessments (including in-kind and P2 projects) totaled \$621,588.00, compared to \$236,926.61 assessed in 2015. Medians for the district as a whole remained unchanged at \$3,000.00. The Northeast District collected \$129,550.20 in civil penalties in 2016, compared to \$150,729.65 collected in 2015.

3. Central District

The Central District also improved upon its overall enforcement numbers in 2016. It opened 52 cases, compared to 46 in 2015. The increase came largely in the number of consent orders, while all other mechanisms remained steady. 47 of the 52 cases were consent orders (an increase of 11) and 28% of them were long-form and 45% were short-form. 40% of its cases were resolved by issuing short-form consent orders, but the percentage of cases resolved with long-form consent orders actually improved in 2016. The overall increase in the number of cases did not carry over to the number of penalty assessments, they dropped by 1 case. The Central District levied \$159,350.00 in civil penalties, in-kind assessments and P2 projects in 2016. This compares to \$219,397.00 in assessments in 2015. It also continues the significant decline from the \$271,249.00 assessed in 2014 and the \$359,295.00 assessed in 2013. The district now has five straight years of declining assessments. Medians also declined from \$4,260.00 in 2015 to \$3,750.00 in 2016. On the other hand, in 2016, collections rose to \$181,441.36, compared to \$136,671.00 that was collected in 2015.

4. Southeast District

Of all the enforcement cases opened by the Department in 2016, the fewest (7%) came out of the Southeast District. It opened just 22 cases, 15 fewer than the year before. It issued no case reports and only 1 long-form consent order. 63% of its consent orders were short-form

consent orders and they accounted for 55% of all its enforcement cases. Penalty assessments were cut in half in 2016 (15 cases were accompanied by penalty assessments). Although the percentage of cases ending with penalty assessments was high (68%), it is still substantially lower than the 81% rate in 2015. There were no air, potable water, solid waste or tanks cases. Total assessments were \$71,895.00, a decline from the \$92,033.00 levied the year before. The Southeast District accounted for just 1.76% of all assessments levied in the State of Florida in 2016. Median assessments dropped as well, down to \$1,631.00, a 33% decline from 2015. The Southeast District collected \$42,042.00 in civil penalties in 2016, down 65% from the \$118,737.01 collected the previous year.

5. South District

The number of enforcement cases in the South District increased by 1 case in 2016, to a total of 47. The number of final orders fell, but 35 consent orders were issued in 2016, a 21% increase from the year before. Most of the consent orders were model consent orders which, when coupled with the 6 long-form consent orders that were issued, continues to set this district apart from the other districts inasmuch as it issues far fewer short-form consent orders than the other districts. At the same time, 14% of its cases resulted in sending case reports to OGC, the most of any of the other districts. The number of cases in which penalties were assessed also increased in 2016 (27 cases resulted in penalty assessments), although this still means that they were assessed in only 57% of all enforcement cases. Despite increasing the number of assessments in 2016, the South District assessed fewer penalty dollars for the third straight year. In 2016, the district assessed \$76,496.00 in penalties, compared with 2015's \$92,033.00. Medians also fell for the third straight year. They were \$2,000.00 in 2016, compared to \$3,420.00 in 2015. As with assessments, collections fell in 2016. The district collected \$55,044.75 in civil penalties in 2016, compared with \$91,131.00 that was collected the year before.

6. Southwest District

In 2015, the Southwest District initiated 52 enforcement cases. This number rose to 63 in 2016, and accounts for 21% of all enforcement taken by the Department. Non-consent order cases essentially held steady, except for case reports, which fell from 7 in 2015 to only 1 in 2016. The number of consent orders rose from 37 in 2015, to 52 in 2016. 2016's numbers account for 21% of all consent orders issued by the Department. 29% of all consent orders issued by the Southwest District were of the short-form variety, while the usage of long-form consent orders doubled. 62% (63) of enforcement cases resulted in civil penalties being assessed, an improvement over 2015. Civil penalty assessments also rose in 2016, with total assessments equaling \$294,185.00. This is far better than the \$135,533.18 assessed in 2015. At the same time, however, this district accounted for just 7% of all assessments levied by the Department (down from 15% in 2015). Median assessments rose in 2016, to a new level of \$4,000.00, double the results for 2015 and the highest in the Department. This parameter is clearly fluctuating, since

the median was \$2,000.00 in 2015. Nevertheless, there continue to be no potable water cases out of this district, while domestic waste cases rose significantly. In 2016, the Southwest District collected \$263,167.38 in civil penalties, a significant increase over the \$187,961.95 that was collected the year before.

7. All Other Enforcement

This category typically involves the beaches and coastal systems program and the stormwater discharge program. The remaining categories initiated 29 enforcement actions in 2016 (1 more than in 2015), and accounted for 9% of all cases opened by the Department. While they sent 5 case reports to OGC (the highest percentage of all the districts), most of their cases were resolved with consent orders, 23 in total. 22 of the 29 cases (76%) resulted in penalty assessments, with most being in the stormwater discharge program. Civil penalty assessments rose significantly to \$2,674,311.50 in 2016, up from \$37,222.00 in 2015. Medians fell, however, from \$518.00 to \$370.00 in 2016. This category had the largest assessment in the state, a hazardous waste case against *Mosaic Fertilizer* in the amount of \$2,650,000.00 (including in-kind projects), a case that was jointly brought with the EPA. The remaining categories collected \$1,474,031.50 in civil penalty assessments, which is significantly higher than the \$39,056.00 that was collected in 2015.

STATEWIDE ENFORCEMENT RESULTS²

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

The Department began enforcement in 307 cases in 2016. By contrast, in 2015 the Department opened 297 cases. Therefore, the Department has seen an increase in the number of

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 20 years of environmental enforcement through 2007 in Florida can also be found at http://www.peer.org/assets/docs/fl/08_25_11_fl_rpt_on_historical_enforcement.pdf.

cases for the past 3 years. However, it should be remembered that in 2010 (the year before the current administration took office), there were 1587 cases opened.

Serious enforcement was initiated with the issuance of 17 case reports to the Office of General Counsel (OGC). After the OGC receives the case reports it decides whether to proceed in these cases by filing either a complaint in circuit court or an administrative petition in the Department of Administrative Hearings. The OGC could also choose to resolve the case by negotiating a consent order. Regardless, elevating a case to the OGC is an indication that more serious enforcement is being contemplated. **The results from 2016 represent a 44% drop compared to 2015.** In 2010 the districts sent 157 case reports to the OGC.

24 administrative Notices of Violation (NOVs) were issued in 2016, a slight increase over the 22 that were issued in 2015. The previous years have seen 28 issued in 2014, 11 in 2013, 54 in 2012, 96 in 2011 and 114 in 2010.

15 final orders were issued in 2016, a 25% reduction from the 20 issued in 2015.

1. Statewide Results for Consent Orders

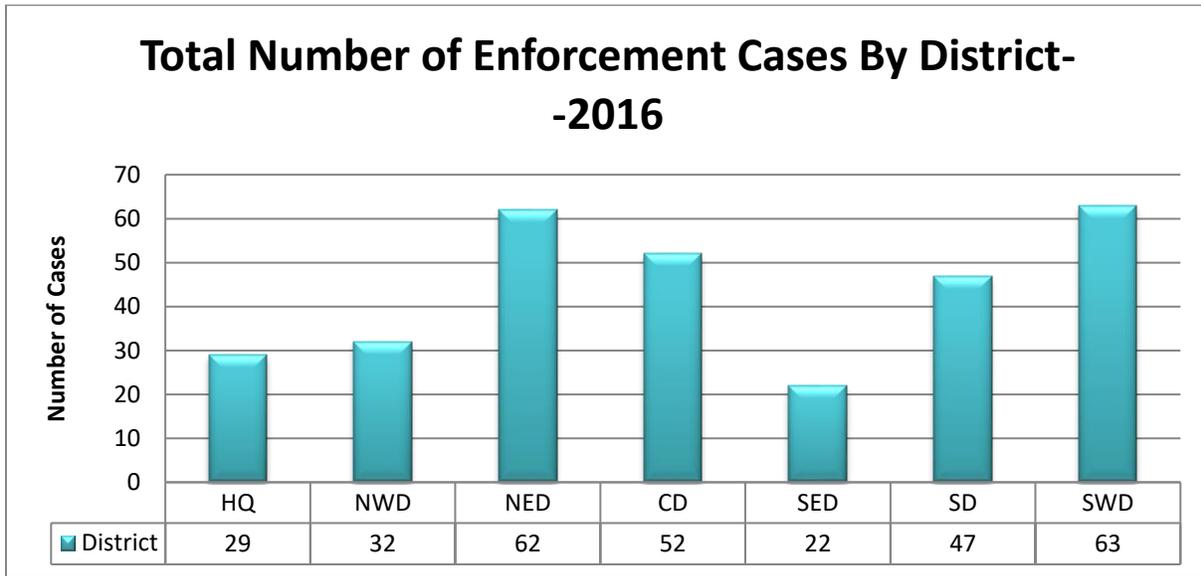
Issuance of consent orders is on the increase. There were 251 issued in 2016, compared with 225 in the previous year. Essentially, this represents a rather continual upward trajectory that we have seen since 2013. There is still a long way to go, however. In 2010, the same agency issued 1249 of these enforcement orders.

Model consent orders have increased for the past three years. 58 were issued in 2016, compared with 55 in 2015 and 43 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 are long-form in nature, i.e. they require more future oversight vs. short-form consent orders that only require payment of a civil penalty to complete the requirements contained in the order.

There were a combined 143 long-form and model consent orders in 2016, an increase of 36 compared to the previous year. This marks three straight years in which the combined issuance of these orders has increased. Nevertheless, other than the Rick Scott years, the Department has not recorded this few long-form and model consent order since 1987 when the agency was in its infancy and recorded a total of 13 such documents.

89 short-form consent orders were issued in 2016, 12 fewer than in 2015. 51 were issued in 2014 and 43 were issued in 2013. **Another positive note is that 29% of all enforcement cases were resolved via short-form consent orders, compared with 34% in 2015.** Additionally, 35% of all consent orders were of the short-form variety, a reduction of 10% compared with the previous year. In monitoring this data, we have previously observed that, in general, the Department is issuing fewer short-form consent orders than it did in times past. This would be expected, since the Department claims to be taking enforcement only in the most egregious cases.

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

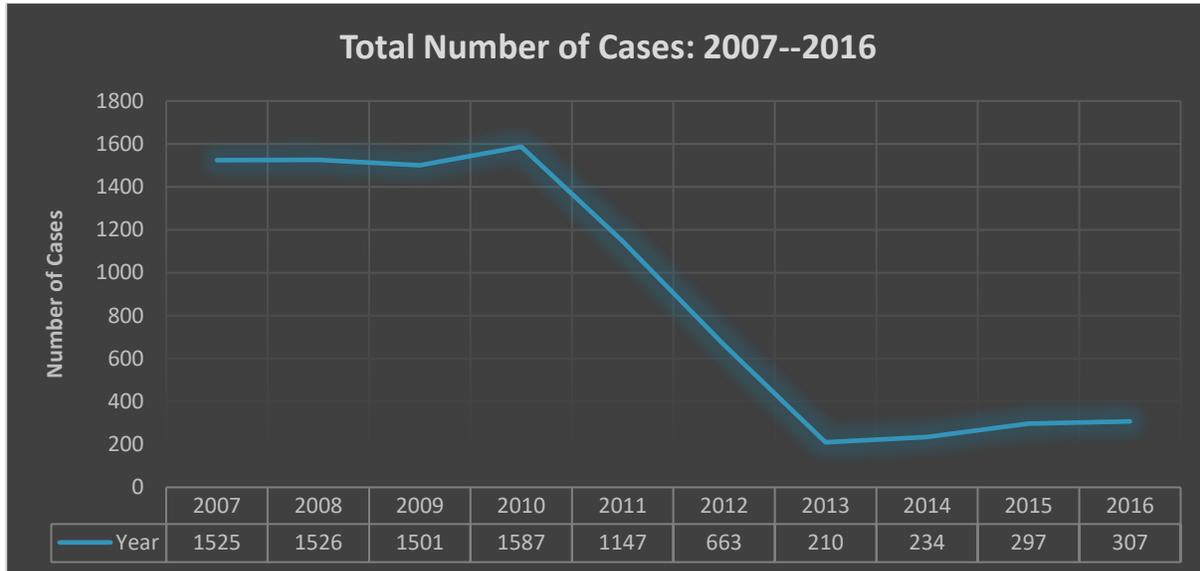


In 2016 the number of cases for each district remained steady for the most part. The exceptions were notable increases in the Northeast, Central and Southwest Districts, while the Northwest and Southeast Districts both saw fewer cases. The performance in the Northwest District is the worst under the current administration. None of the districts are performing at anywhere near 2010 levels:

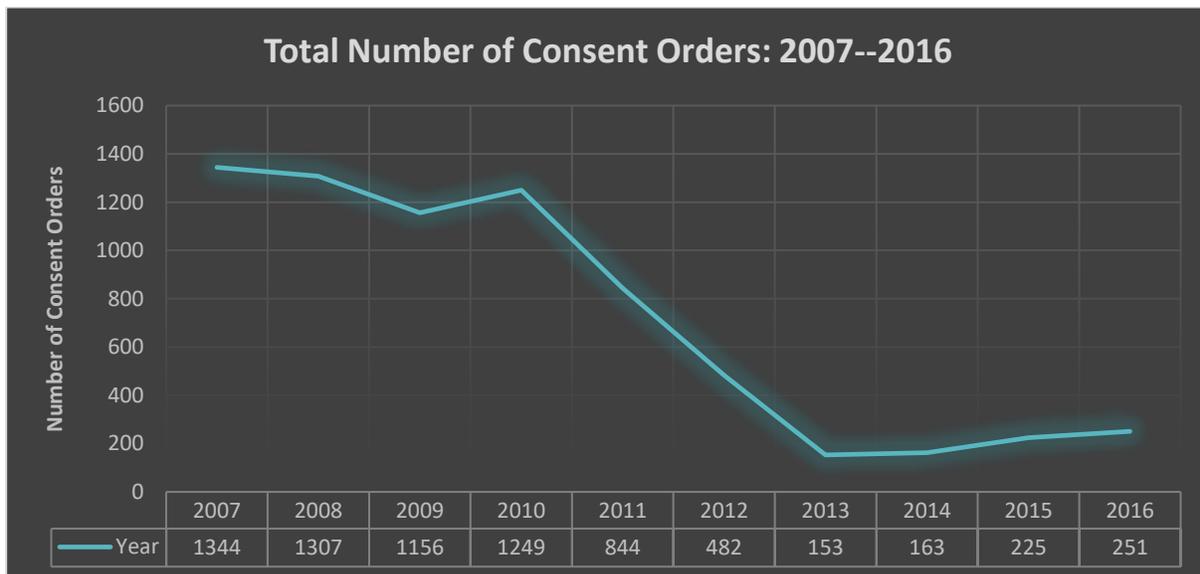
<i>District</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
<i>Headquarters</i>	134	67	88	15	28	28	29
<i>Northwest</i>	167	156	60	37	37	35	32
<i>Northeast</i>	230	133	116	41	39	54	62
<i>Central</i>	208	161	109	32	26	44	52
<i>Southeast</i>	206	128	56	18	28	38	22
<i>South</i>	187	145	70	33	38	46	47
<i>Southwest</i>	455	357	164	34	38	52	63

B. Statewide Trends In 2014

The following chart (with adjusted numbers from last year's report) shows the overall number of enforcement cases brought by the Department over the past nine years. There continues to be a moderate trend towards more enforcement; however, when seen in the context of past years, it is clear that there is much work to do if the Department is ever to regain its prior levels of performance in protecting Florida's environment:

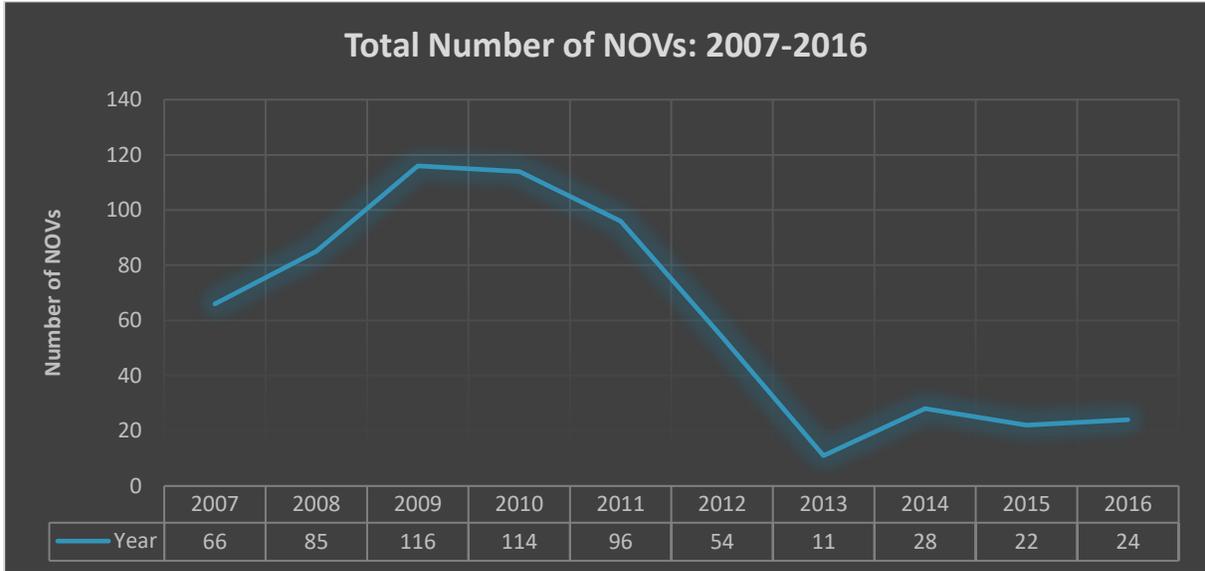


Consent orders continue to be the Department's enforcement mechanism of choice, but their usage has drastically fallen, in line with the overall drop of enforcement over the years:

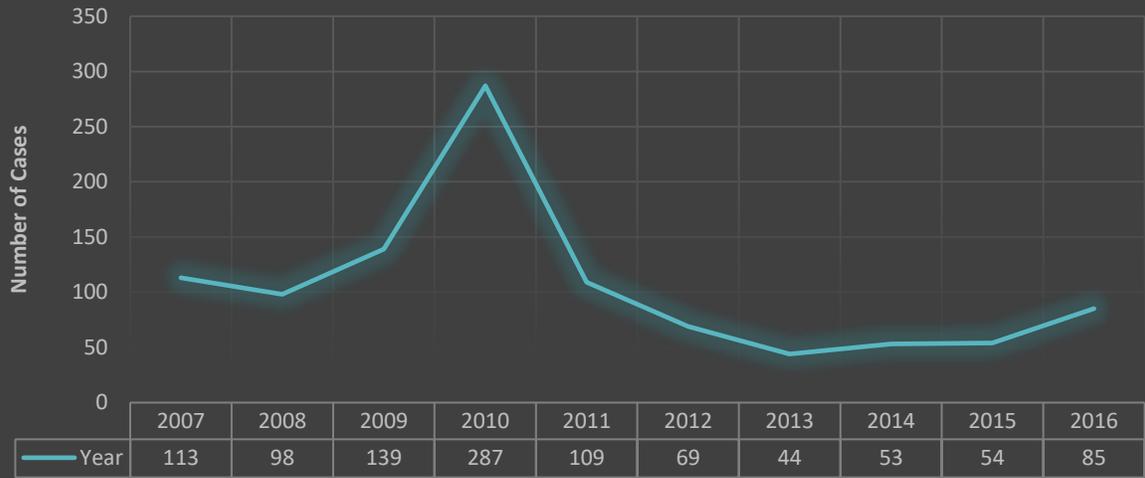


Of all of the various enforcement mechanisms at the Department's disposal, the only one showing improvement is the use of long-form consent orders. The other tools essentially remain stuck at minimal usage levels. That said, the increased use of long-form consent orders is definitely an improvement, because these orders reflect that, in some cases at least, the Department is taking a more hands-on role in addressing known violations. Still, there is a long

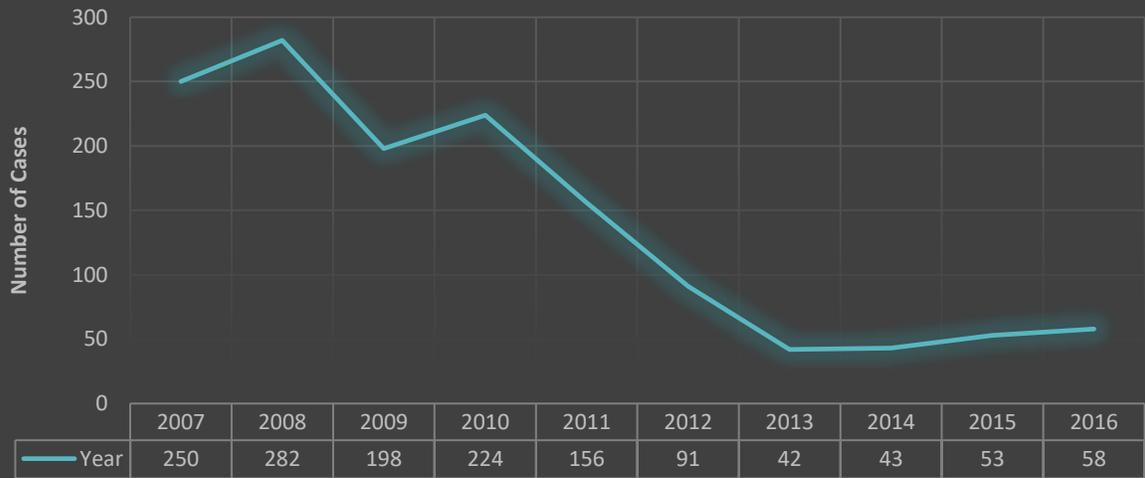
way to go if the agency is ever to regain its previous status as an agency that works to protect Florida's environment:

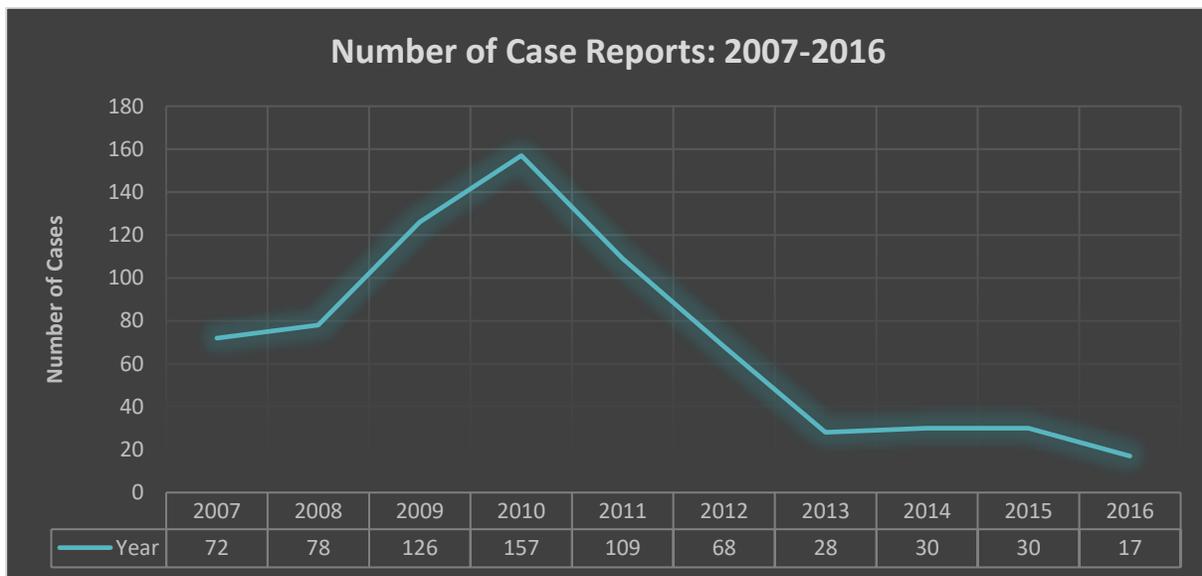


Number of Long-form Consent Orders: 2007-2016



Number of Model Consent Orders: 2007-2016

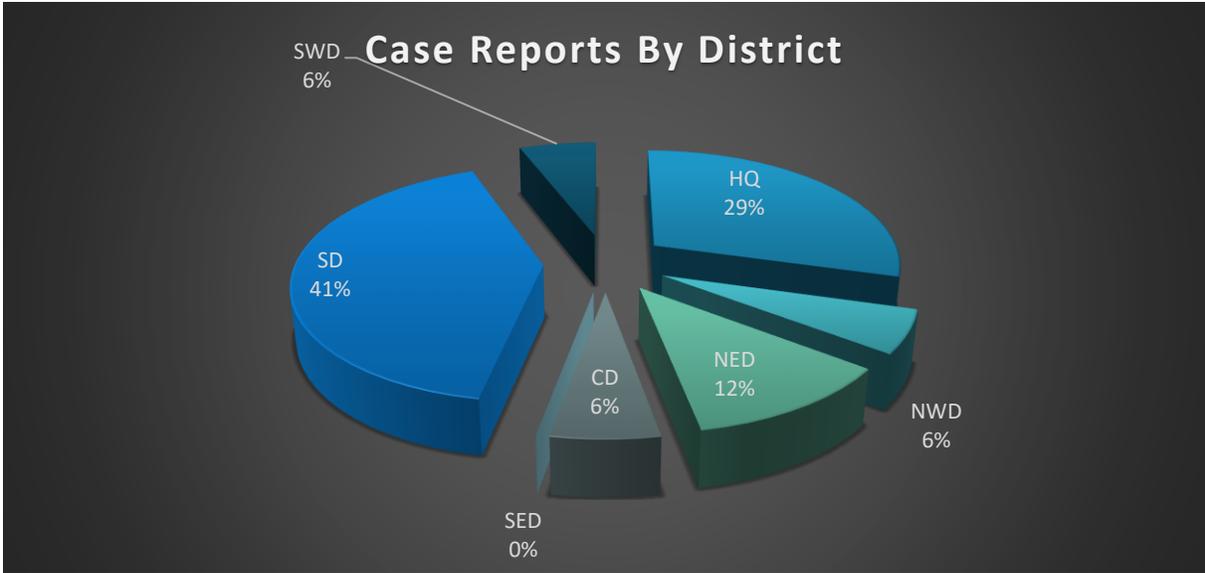




C. Case Reports, NOVs, Consent Orders, Final Orders – District Comparisons

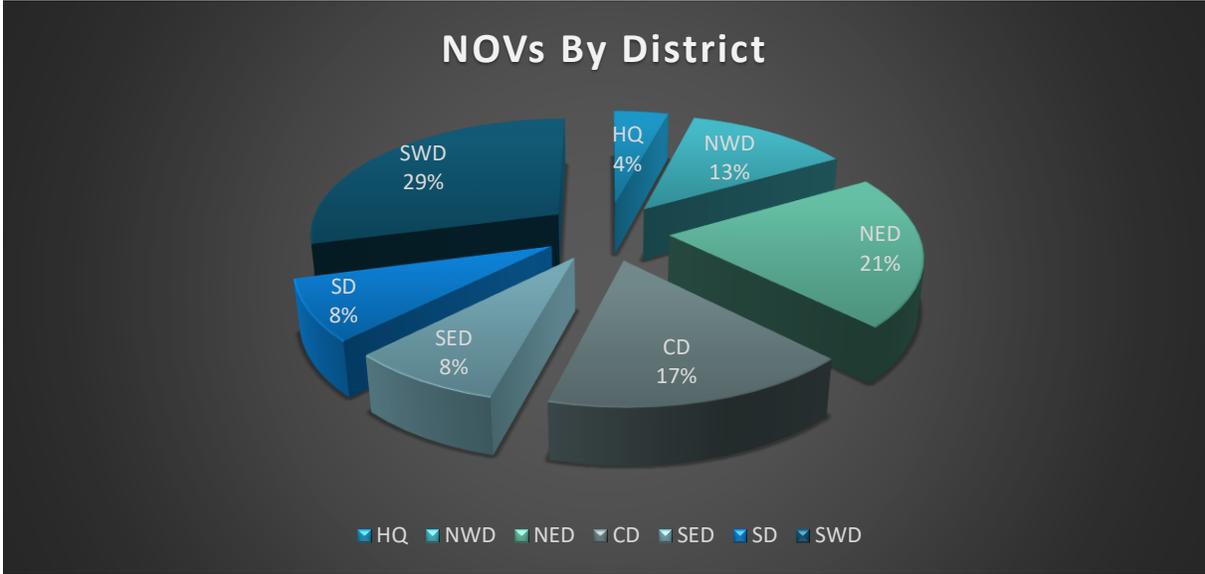
The Department’s various enforcement tools were distributed among the Districts as follows:

1. Case Reports



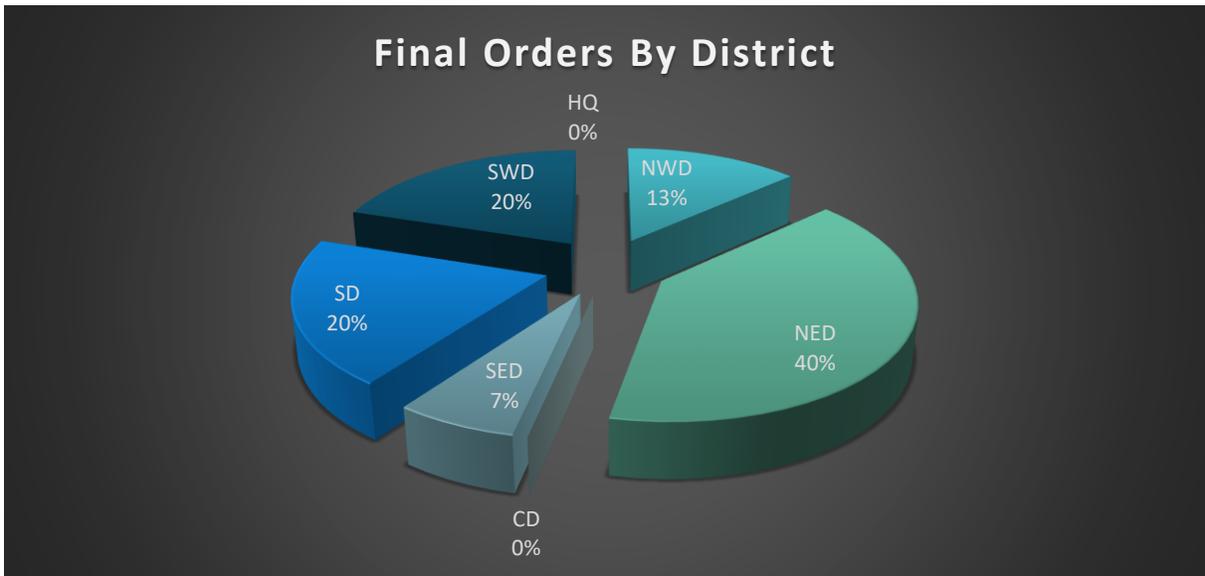
The Department’s use of more aggressive enforcement, signaled by the use of case reports, continues to be in decline. The number of these reports dropped from 10.10% in 2015 to 5.54% in 2016. The total number of case reports continued to be quite low, they are now just 11% of the level that they were at in 2010. Except for the South District, every district in the state saw declines.

2. NOVs



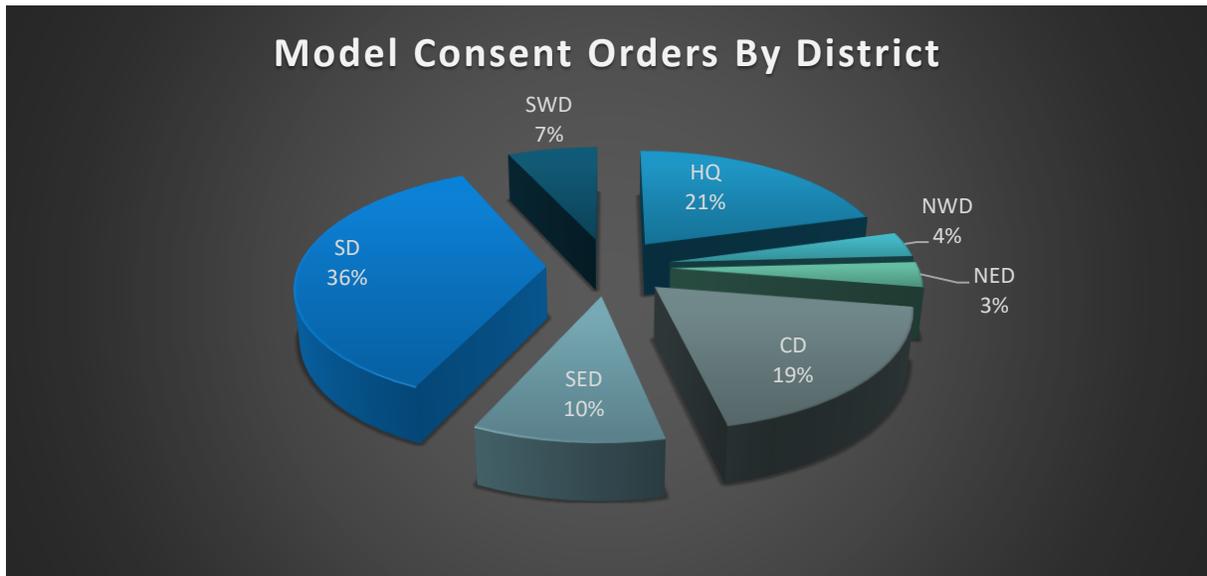
The overall number of NOV's rose in from 22 in 2015 to 24 in 2016. The Southwest District issued the largest number (7), while the Northeast and South Districts issued fewer NOV's.

3. Final Orders



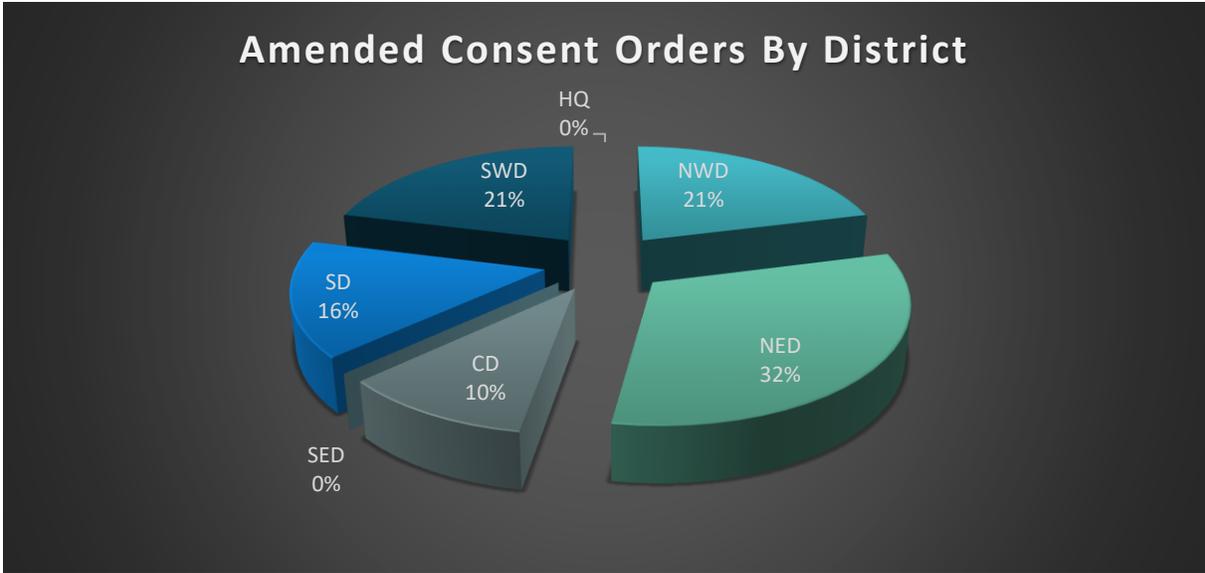
15 final orders were issued by the Department in 2016, which is 5 fewer than in the previous year. Three districts, the Northwest, Central and South, issued fewer orders in 2016.

4. Model Consent Orders



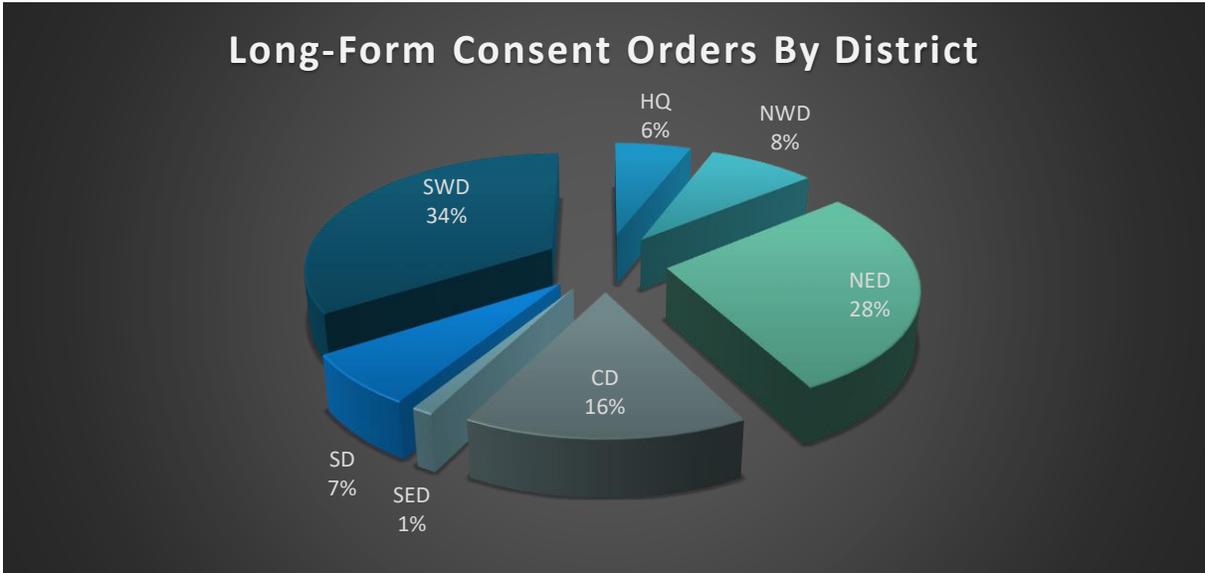
58 model consent orders were issued in 2016, an increase of 5 over the 2015 results. Every district saw improvement, except for the Northwest and Southeast Districts.

5. Amended Consent Orders



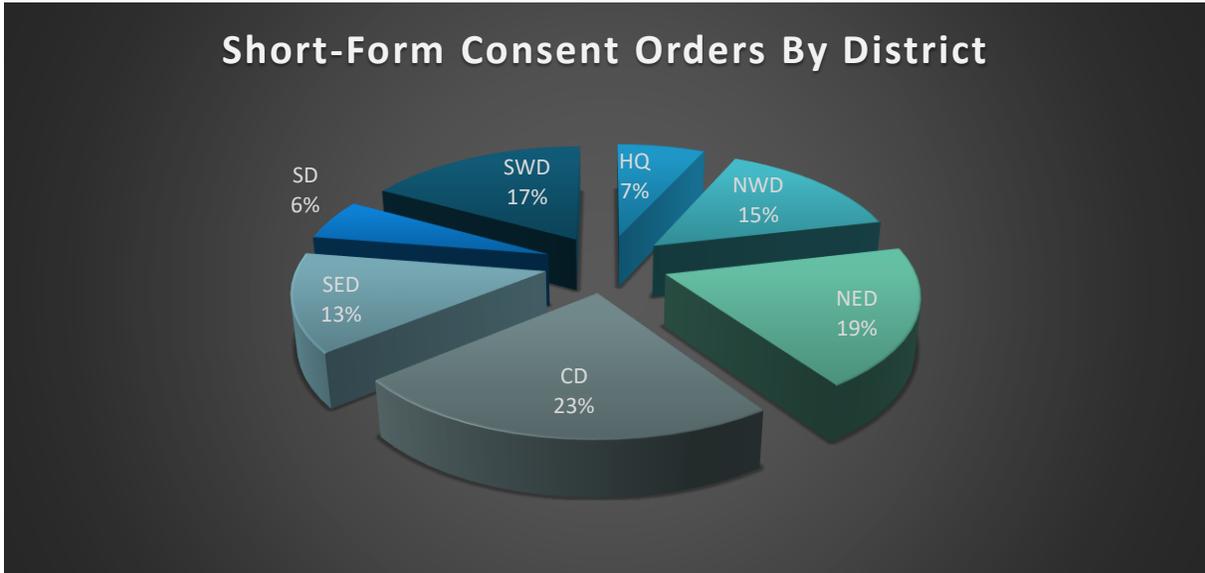
There was a modest increase of 2 amended consent orders in 2016, compared with the year before. This increase occurred in spite of declines in the South and Southwest Districts.

6. Long-Form Consent Orders



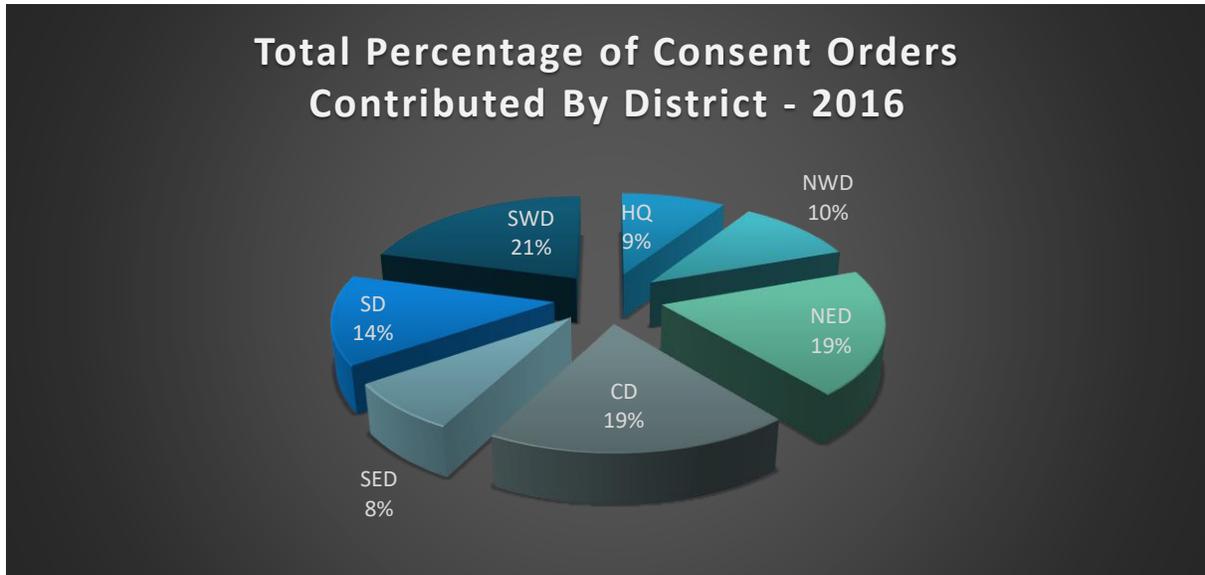
There was significant improvement in the number of long-form consent orders that were issued in 2016. 85 were issued in 2016, compared with 54 in 2015. Every district saw improvement, with the sole exception of the Southeast District, which issued only 1 such order. The Southwest District issued the highest percentage (34%) of long-form consent orders in the state.

7. Short-Form Consent Orders



After rising significantly in 2015, the use of short-form consent orders declined in 2016 (down from 101 in 2015 to 89 in 2016), but the current levels are still higher than the 51 orders that were issued in 2014 and 43 that were issued in 2013. Nevertheless, when viewed against the results in 2010, we see that the issuance of these orders have declined to the point that the 89 that were issued in 2016 is just 12% of the number that were issued in 2010. Decreases in reliance upon these orders were seen in the Southeast and Southwest Districts, as well as for those cases originating out of headquarters.

8. All Consent Orders Combined



The overall number of consent orders rose 12% in 2016, but the performance is still just 20% of that turned in by the Department in 2010. Performance fell in two districts, the Northwest and Southeast, while significant improvement was seen in the Southwest District, which issued 15 more consent orders in 2016 than it did in the previous year.

D. Short-Form Consent Orders

The use of short-form consent orders decreased, both in terms of actual numbers and in the percentage of these orders compared with other enforcement mechanisms. 89 short-form consent orders were issued in 2016, and the Department resolved 29% of its cases with them. The 29% rate of usage is the fourth lowest in the history of the Department.

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%
2016	28.99%

Every district but two, the Northwest and South, saw decreases in the percentage of cases resolved with the use of short-form consent orders. 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>	40.38%
<i>Northeast</i>	27.42%
<i>Multi-District</i>	20.69%
<i>Northwest</i>	40.63%
<i>Southeast</i>	54.55%
<i>South</i>	10.64%
<i>Southwest</i>	23.81%

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 35.46% of the cases in which a consent order was deemed the appropriate enforcement mechanism, a significant decrease from the previous year. 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--2014</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders--2015</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders--2016</i>
<i>Central</i>	52.94%	58.33%	44.68%
<i>Northeast</i>	26.67%	47.06%	34.69%
<i>Multi-District</i>	54.17%	44.00%	26.09%
<i>Northwest</i>	33.33%	37.04%	50.00%
<i>Southeast</i>	30.00%	62.16%	63.16%
<i>South</i>	18.18%	10.34%	14.29%
<i>Southwest</i>	11.54%	45.95%	28.85%

What is apparent from the above numbers is that the trend is for the usage of short-form consent orders to increase in the Northwest and Southeast Districts. Their use has more than doubled in the Southeast District over the past 3 years, signaling a continued weakening of enforcement.

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--2013	Total No. of Enforcement Cases--2014	Total No. of Enforcement Cases--2015	Total No. of Enforcement Cases--2016
Asbestos	0	1	0	0
Air (Excluding Asbestos)	7	11	18	17
Beaches/Coastal	10	8	7	4
Waste Cleanup	12	12	8	9
Dredge & Fill⁴	42	41	54	63
Domestic Waste	26	29	34	44
Hazardous Waste	20	21	43	35

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

⁴ This includes Environmental Resource Permitting.

Industrial Waste	10	7	7	11
Mining/Phospho-Gypsum	2	2	2	0
Potable Water	12	13	6	15
State Lands	24	23	29	16
Stormwater Discharge	5	20	22	23
Solid Waste	14	9	19	31
Tanks	14	20	25	11
Underground Injection Control	1	1	0	1

Aside from the beaches and coastal program, which has now seen four straight years with declining numbers, and the asbestos program, which has had only 1 case in the last four years, the individual programs continue to show sporadic periods of improvement, only to be followed by declines. The potable water program did see some improvement, but it is still barely recognizable compared with its previous performance. The state lands program saw a noticeable slowdown in enforcement, even with a Department Secretary who allegedly wanted to focus on the program.

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 2012 through 2016 with respect to the same key program areas listed above. The results are as follows:

Program Area	Historic Avg. ⁵	2012 Results	2013 Results	2014 Results	2015 Results	2016 Results	2016 Difference from Average
Asbestos	13	10	0	1	0	0	(13)
Air (Excluding Asbestos)	93	10	7	11	18	17	(76)
Beaches/Coastal	17	17	10	8	7	4	(13)
Waste Cleanup	4	14	12	12	8	9	5
Dredge & Fill	216	93	42	41	54	63	(153)
Domestic Waste	119	75	26	29	34	44	(75)
Hazardous Waste	132	52	20	21	43	35	(97)
Industrial Waste	47	39	10	7	7	11	(36)
Mangrove Alteration	13	16	3	3	11	8	(5)
Mining/Phospho-Gypsum	3	1	2	2	2	0	(3)
Potable Water	112	76	12	13	6	15	(97)
State Lands	11	17	24	23	29	16	5
Stormwater Discharge	35	71	5	20	22	23	(12)
Solid Waste	39	22	14	9	19	31	(8)
Tanks	72	129	14	20	25	11	(61)

⁵ The Historical Averages shown are for the period beginning in the year in which the individual programs had their first enforcement case, through 2007.

Underground Injection Control	5	1	1	1	0	1	(4)
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As the above table indicates, every program, other than waste cleanup and state lands, is performing below the historical averages of past years. Every major program, i.e. air, dredge and fill, domestic waste, industrial, hazardous waste, potable water, solid waste and tanks, is performing well-below its historical averages.

F. Civil Penalty Assessments

The Department is continuing a moderate increase in the number of cases in which it is assessing civil penalties. It assessed penalties, i.e. penalties, in-kind assessments and penalty prevention projects, in 211 cases in 2016. This compares to 192 assessments in 2015 and represents an 10% increase in performance over the period. The increase in the number of assessments also resulted in a net increase in the total dollar value of civil penalties levied in 2016. Considering only civil penalties (excluding in-kind and P2 projects), assessments totaled \$2,494,446.00 in 2016, compared with \$857,639.79 in the previous year. However, this 191% increase of \$1,636,806.21 from 2015 to 2016 is largely attributable to one case, in which an assessment of \$1,450,000.00 was levied. If this case (which represents 58% of the total assessments) is subtracted out of the total we see that the remaining cases totaled \$1,044,446.00, which represents an increase over 2015, but is still lower than the \$1,515,020.45 in civil penalties that was assessed in 2014 and the \$1,432,715.61 in assessments in 2013. The results in 2013 were the agency's lowest since 1988, the first full year for which data is available from the then Department of Environmental Regulation.

Median assessments for the Department as a whole increased 18%, from \$2,540 in 2015 to \$3,000 in 2016. The following table shows the results for each program, according to year:⁶

Program Area	Historical Medians	2013 Medians	2014 Medians	2015 Medians	2016 Medians
Asbestos	\$2,000.00	\$0.00	\$0.00	\$0.00	\$0.00
Air (Excluding Asbestos)	\$1,699.50	\$4,000.00	\$3,750.00	\$4,000.00	\$4,125.00
Beaches/Coastal	\$500.00	\$875.00	\$875.00	\$1,000.00	\$750.00
Waste Cleanup	\$4,500.00	\$0.00	\$0.00	\$0.00	\$10,000.00 ⁷
Dredge & Fill	\$700.00	\$1,000.00	\$1,000.00	\$2,000.00	\$1,000.00
Domestic Waste	\$2,250.00	\$5,250.00	\$7,500.00	\$3,000.00	\$4,000.00
Hazardous Waste	\$4,100.00	\$10,700.00	\$4,250.00	\$3,275.00	\$6,500.00

⁶ Data in red represent declines from the performance in 2015. Data in orange represents performance in 2015 and previous years that represents declines from the immediately preceding year.

⁷ This result is based upon 1 case statewide.

Industrial Waste	\$4,500.00	\$2,750.00	\$9,500.00 ⁸	\$2,000.00⁹	\$3,500.00
Mangrove Alteration	\$1,100.00	\$830.00	\$2,000.00	\$2,480.00	\$1,500.00
Mining/Phospho-Gypsum	\$5,500.00	\$5,000.00	\$10,000.00	\$4,250.00	\$0.00
Potable Water	\$500.00	\$7,100.00	\$1,650.00	\$6,000.00 ¹⁰	\$1,000.00
State Lands	\$1,250.00	\$1,710.00	\$1,420.00	\$1,100.00	\$1,550.00
Stormwater Discharge	\$600.00	\$1,250.00	\$370.00	\$518.00	\$370.00
Solid Waste	\$2,843.00	\$6,250.00	\$4,500.00	\$3,000.00	\$3,437.50
Tanks	\$2,712.00	\$10,000.00	\$10,000.00	\$19,000.00	\$5,000.00
Underground Injection Control	\$6,850.00	\$0.00	\$0.00	\$0.00	\$16,195.00 ¹¹

7 of the 16 program areas shown above showed lower medians in 2016 than in the previous year. The most notable decreases were in the dredge & fill, mangrove alteration, potable water and tanks programs, each of which saw significant decreases. The potable water and tanks program results were the lowest since 2012.

This is the second year in a row in which we've seen rising medians in the air program, while the increases in the domestic waste, hazardous waste, industrial waste, and solid waste programs, reversed decreases seen in 2015. The state lands program also improved upon its 2015 performance. The results in the waste cleanup and underground injection control programs for 2016 are based upon one case in each program.

Only the Central and Southeast Districts saw decreases in the number of assessments in 2016, and the same two districts were the only two districts to show decreases in the overall penalties that were assessed. The Southwest District is showing signs of moving towards a more aggressive enforcement posture compared with previous years under this administration. Overall, the Districts' performance in the area of penalty assessments (including in-kind and penalty prevention projects) was as follows:

DISTRICT	NO. OF ASSESSMENTS IN 2013	NO. OF ASSESSMENTS IN 2014	NO. OF ASSESSMENTS IN 2015	NO. OF ASSESSMENTS IN 2016	TOTAL \$ ASSESSED IN 2016	% OF STATE TOTAL
Multi-Distri	14	20	22	22	\$2,674,311.50	65.43%
NWD	21	22	23	23	\$189,344.00	4.63%
NED	25	32	41	53	\$621,588.00	15.21%
CEN Distri	30	26	33	32	\$159,350.00	3.90%
SED	8	13	30	15	\$71,895.00	1.76%

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 on 2 cases statewide.

¹¹ This result is based upon 1 case statewide.

SD	13	17	15	27	\$76,496.00	1.87%
SWD	19	14	28	39	\$294,185.00	7.20%

For the Department as a whole the median assessment rose significantly from \$2,450.00 in 2015 to \$3,000.00 in 2016. The comparison of median assessments from 2015 to 2016 among the districts is as follows:

DISTRICT	2015 MEDIAN ASSESSMENTS	2016 MEDIAN ASSESSMENTS
Multi-District	\$518.00	\$370.00
NWD	\$3,420.00	\$5,000.00
NED	\$3,000.00	\$3,000.00
CEN District	\$4,260.00	\$3,750.00
SED	\$2,440.00	\$1,631.00
SD	\$3,420.00	\$2,000.00
SWD	\$2,000.00	\$4,000.00

Only two districts, the Northwest and Southwest, saw an increase in their median assessments in 2016 when compared to 2015. The Northeast District saw no change. This is the third straight year that medians have fallen in the South District and in the Multi-District category. It is the second year in a row that they have fallen in the Southeast District.

1. The Highest Assessments In The Department

The Department had only one assessment that exceeded \$100,000 in 2016 (2015 had none). The single assessment against *Mosaic Fertilizer* was an assessment based upon a joint enforcement action with the EPA in case number 121041. In addition to the civil penalty assessment, there was an in-kind assessment in the amount of \$1,200,000.00 against the same company in the same case. (These assessments pre-dated the discharge of contaminated wastewater by the company in Polk County as a result of a sinkhole opening in August 2016):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 = Phospho-Gypsum; 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; WW = Water Well Contractors.

District ¹³	Program	Polluter	Amount
0	HW	Mosaic Fertilizer	\$1,450,000.00

The next highest civil penalty assessment in 2016 was in a hazardous waste case against the Boeing Company in case number 160391. That assessment was in the amount of \$69,747.00.

As for the other programs, the highest assessments were quite a bit lower. The following table lists each of the programs and provides the highest assessment in the Department that was levied in each program:

District	Program	OGC#	Polluter	Assessed Amount
6	AP	150685	Paw Materials, Inc.	\$10,000.00
0	BS	160011	Gus B. Walton, Jr. & Mary Ellis Bullion Walton, Trustees	\$750.00
5	CU	160054	Ridgewood Enterprises #102, Inc.	\$10,000.00
5	DF	160418	Florida Keys Wild Bird Rehabilitation Center, Inc.	\$5,000.00
2	DW	140730	St. Johns County Utilities	\$32,300.00
3	EW	160005	City of New Smyrna Beach	\$8,000.00
0	HW	121041	Mosaic Fertilizer, LLC	\$1,450,000.00
6	IW	160092	Envirofocus Technologies, LLC	\$7,000.00
6	MA	160288	Catherine Finn	\$5,000.00
5	PW	151622	Carlisle/Wilson Plaza, LLC	\$3,000.00
0	RO	120844	Soundhaven, LLC	\$10,000.00
2	SL	160295	Carl Spadaro	\$3,000.00
1	SW	090706	GFD Construction, Inc.	\$51,049.00
2	TK	150181	TC 09, LLC, TC 09 Real Property Holding Company, LLC et al.	\$18,000.00
6	UC	150684	K.C. Industries, LLC	\$16,195.00
2	WW	161385	Jacksonville Electric Authority	\$6,000.00

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.

G. Civil Penalty Assessments By Program Area—District Comparison

This section addresses the performance of the major program areas. Our review of the FDEP’s programs included the number of assessments in each program area, the total dollars assessed, and the median dollar value of the assessments in each program. We have included our findings below, as well as the data from previous years, so that the reader can appreciate the current trends in each program.

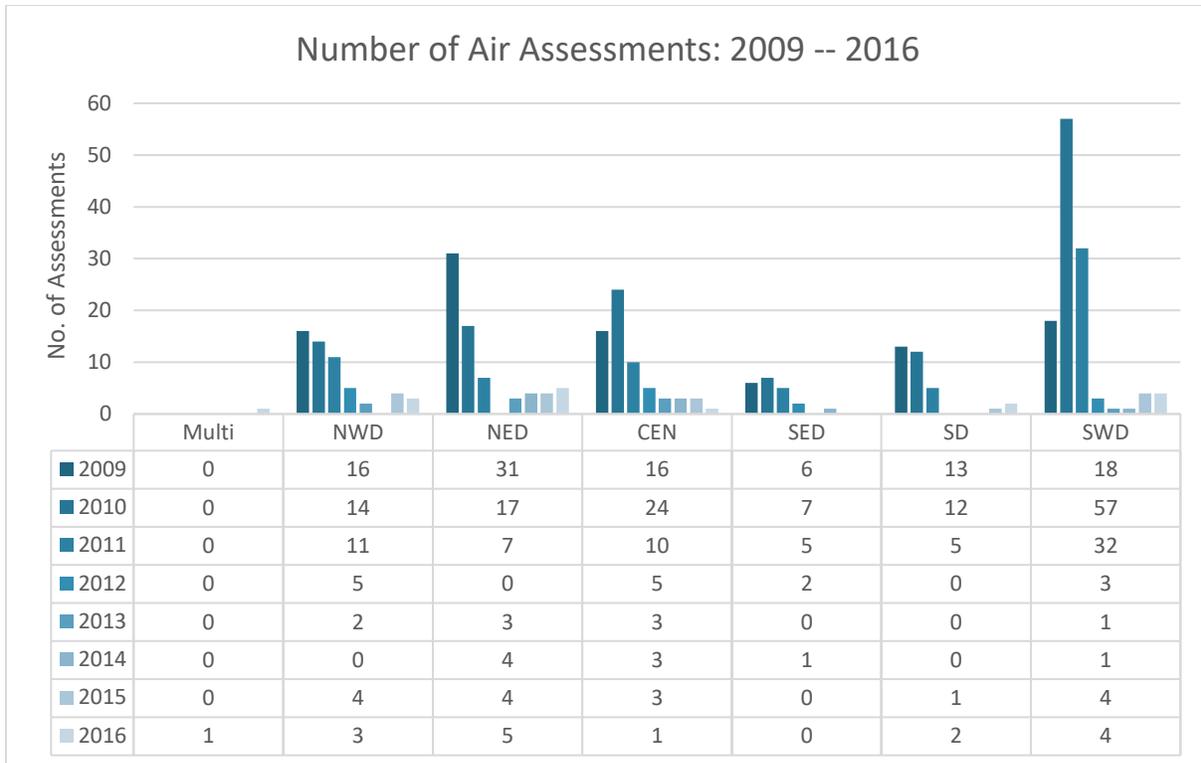
1. Air Program

Assessments in 2016 remained steady, equaling the number for 2015. However, the results are still far below the Department’s performance prior to 2011:

Year	Total Number of Air Assessments
2009	100
2010	131
2011	70
2012	15
2013	9
2014	9
2015	16
2016	16

As we noted in last year’s report, the results are significantly lower than in the years before the Scott Administration took over, but we do not expect them to fall much lower, simply because the agency must show some enforcement in order to justify the continued receipt of federal funding that pays for administration of the program.

The following chart demonstrates that, while, from time to time there are instances of modest improvement, over the last five years there is a clear pattern of bringing fewer enforcement cases in the air program in every district:



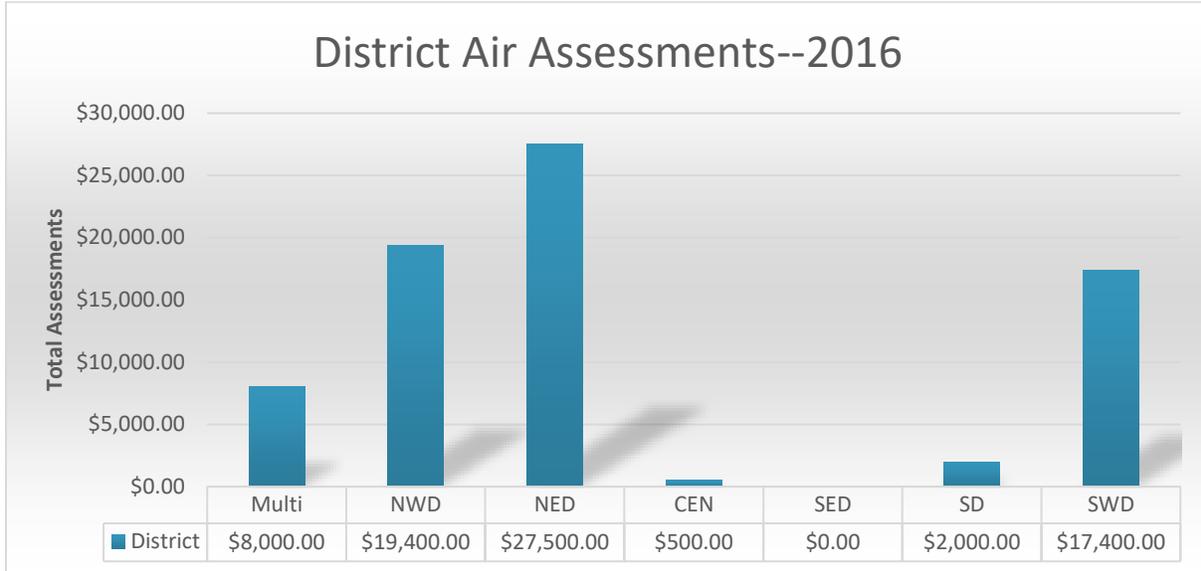
The steady number of assessments did not translate into an increase in the total dollars assessed. The following table illustrates the decline in the dollar value of assessments for the Department as a whole:

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
2016	\$74,800.00

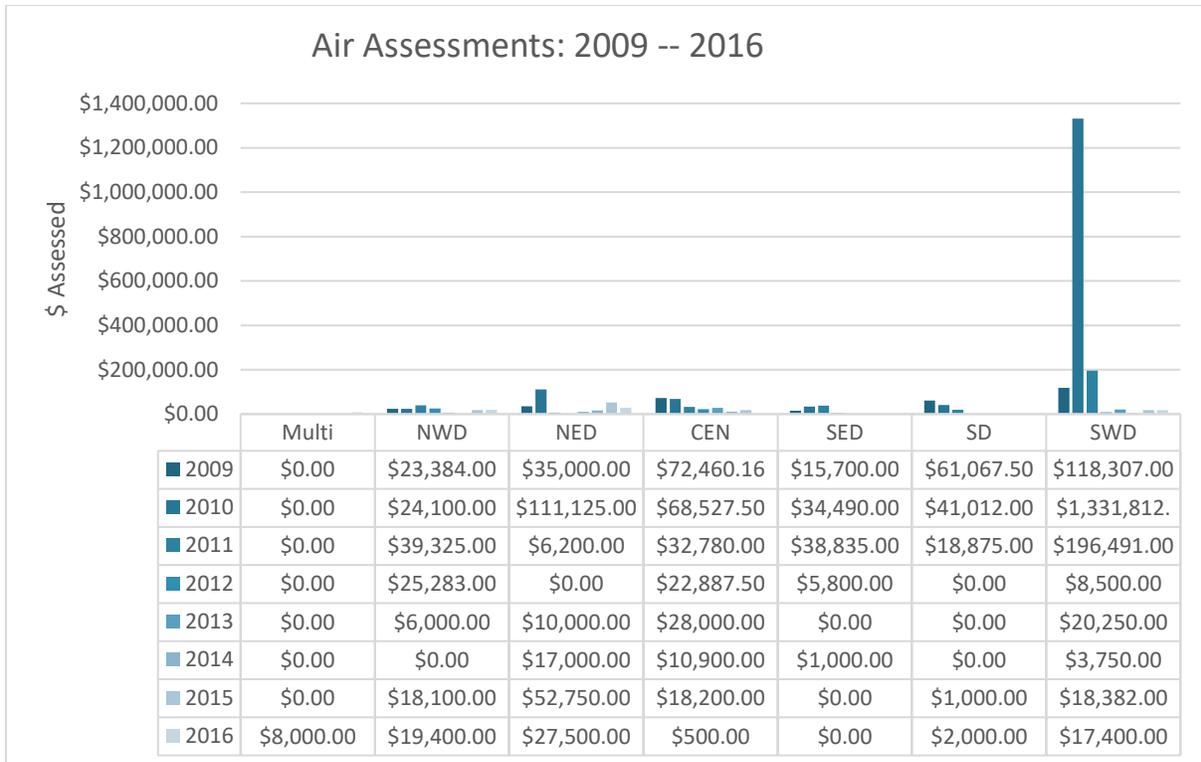
The 31% decline in assessments was the result of decreases in the Northeast, Central and Southwest Districts. This is also the first year in which there has been an air assessment in the Multi-District category.¹⁴ When compared to the results in 2010 the Department's performance has declined 95%. The Northwest District continues to be the only district that is now assessing

¹⁴ In those programs in which the multi-district group had no assessments we have not included the group in the tables.

penalties at a rate that exceeds 50% of the levels reached in 2010. The overall results for each district are as follows:



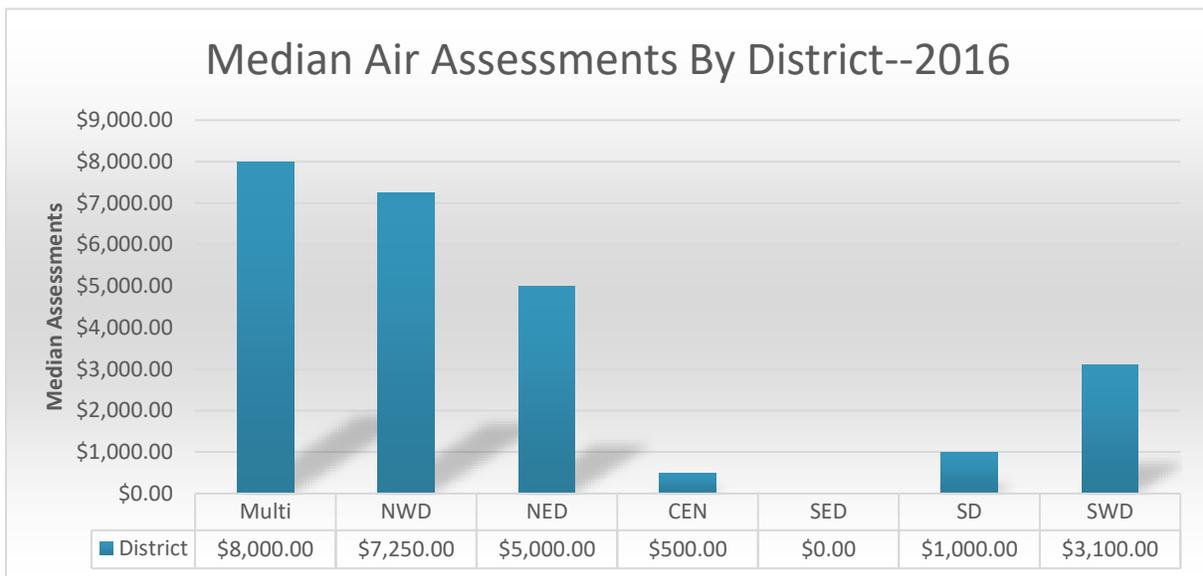
Increases in the individual districts were modest, while the Northeast saw a decline in assessments of \$25,250.00 and the Southeast District had no assessments for the second year in a row:



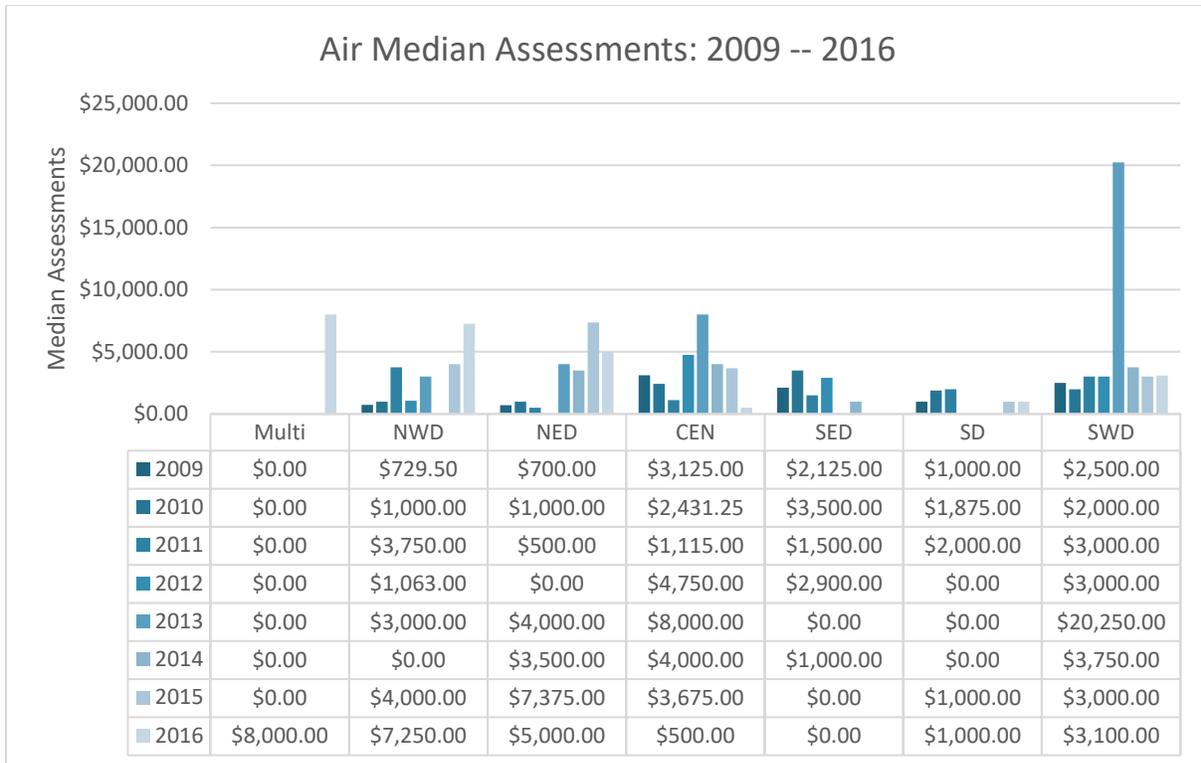
Despite the overall drop in total dollars assessed, the median value of those assessments rose slightly in 2016. The medians continue to be significantly higher than in 2010 and years previous to that.

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
2016	\$4,125.00

Median air assessments among the districts broke down as follows:



The high result in the Multi-District category is based upon only one case. There were 3 and 5 cases in the Northwest and Northeast districts respectively, making those results somewhat more indicative of an improved trend. Regardless, since there were only 16 cases statewide, it continues to be difficult to conclude just how robust the program is, other than to say that the medians continue to be significantly higher than in 2010. The result for the Central District is significantly lower than the previous year, and is based upon only 1 case.



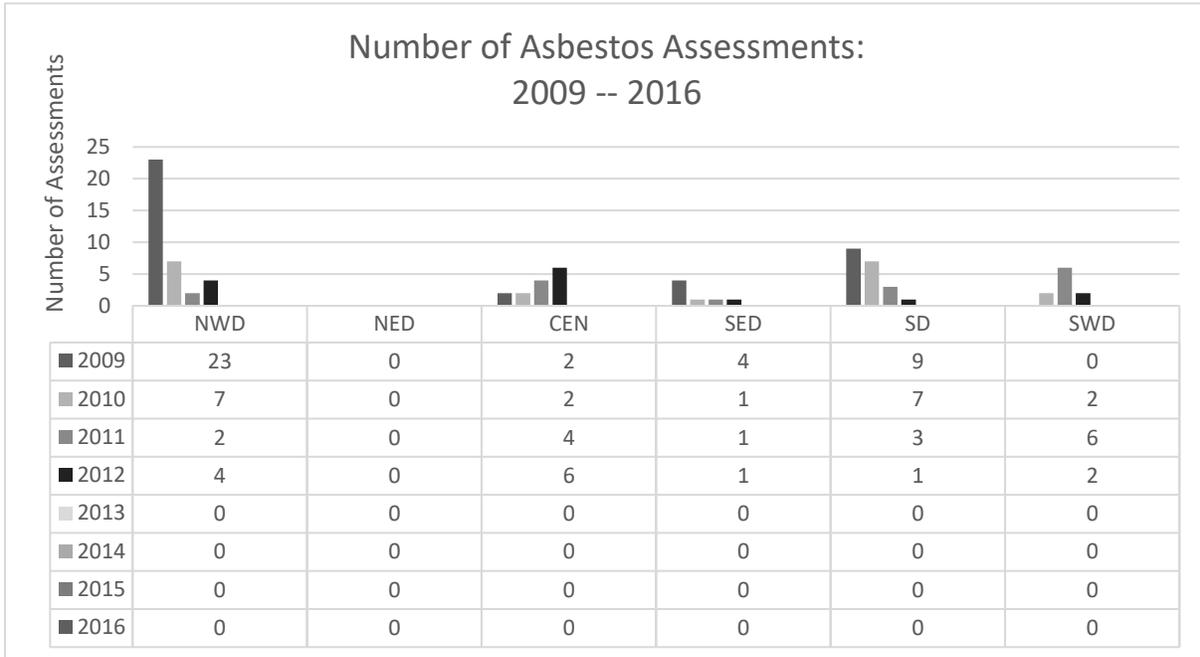
2. Asbestos Program

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.”¹⁵ 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 **four** years. In other words, there is no enforcement of this program at the state level. Any existing enforcement is occurring at the local level and not reported by the FDEP:

Year	Total Number of Asbestos Assessments
2009	38
2010	19
2011	16
2012	14
2013	0
2014	0
2015	0
2016	0

¹⁵ <http://www.dep.state.fl.us/air/emission/asbestos.htm>

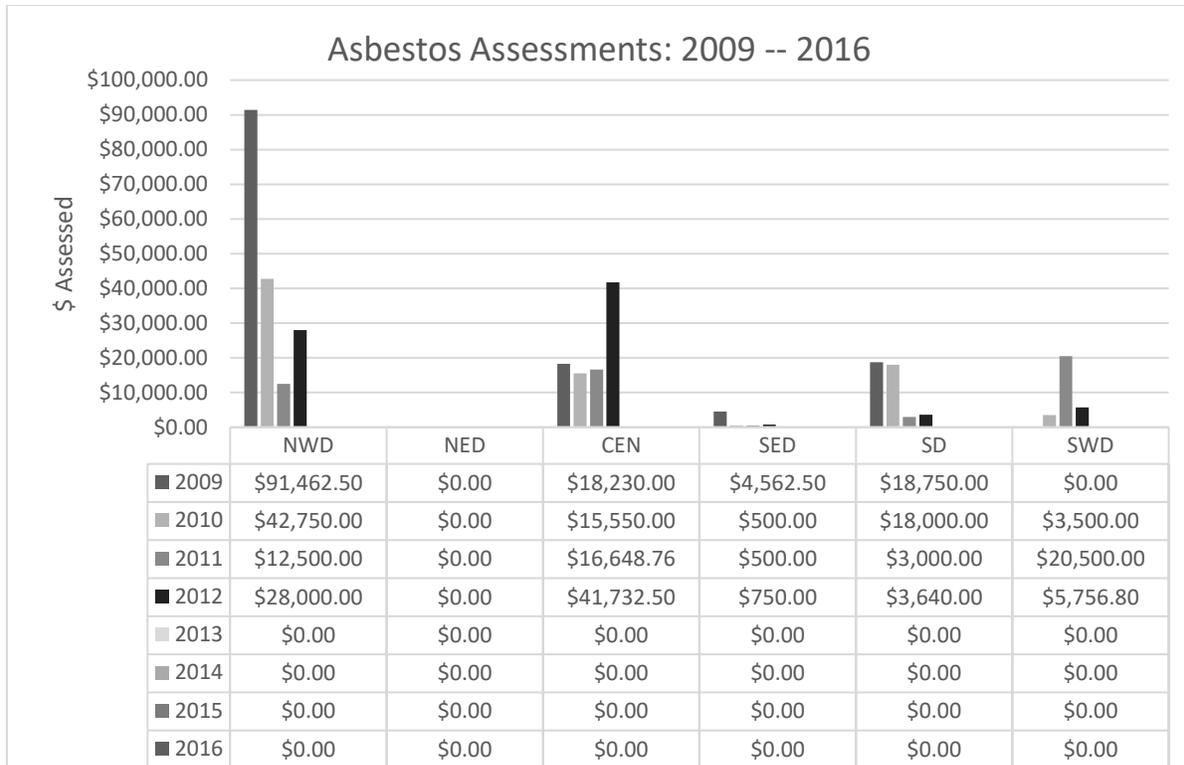
The breakdown at the district level is as follows:



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

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
2016	\$0.00

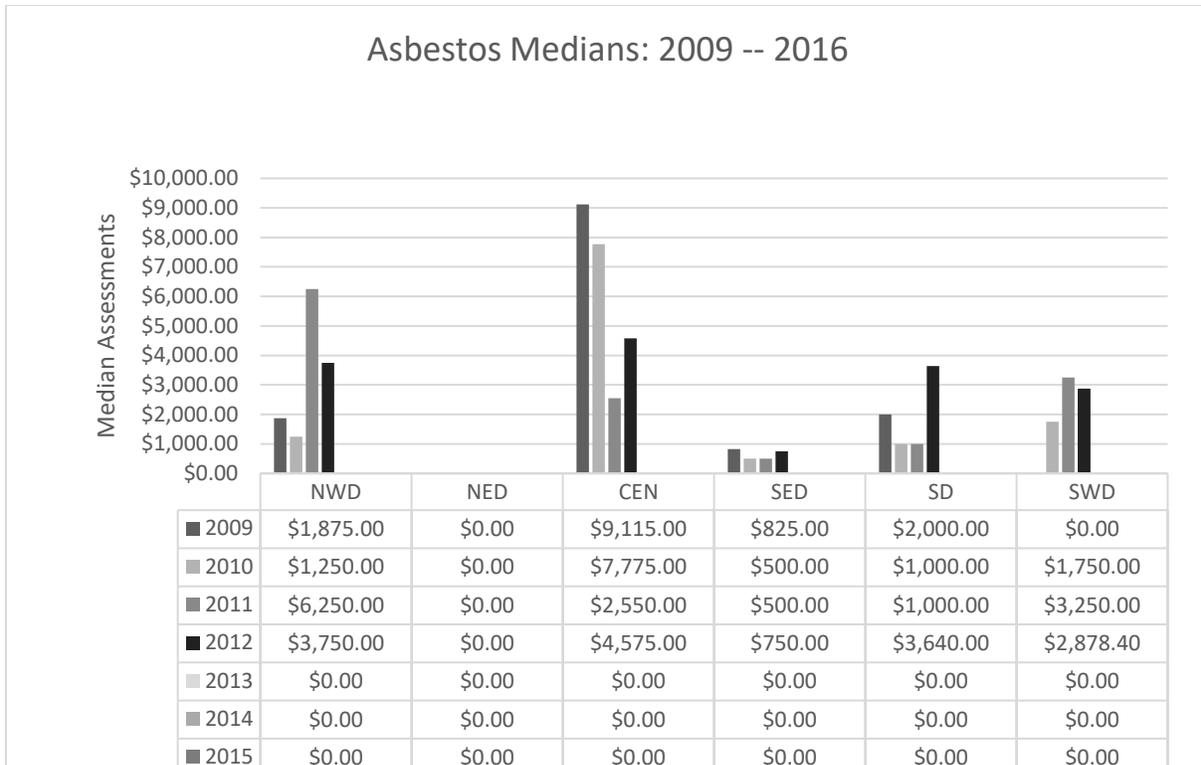
A breakdown by district shows the extent to which each individual district has fallen:



Median asbestos assessments for the Department as a whole have fallen from \$3,640.00 in 2012 to \$0.00 in 2013, 2014, 2015, and 2016:

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
2016	\$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.”¹⁶ (Emphasis in original) Under Florida’s Beach and Shore Preservation Act¹⁷ the Department is charged with adopting and enforcing programs designed to protect this highly important aspect of Florida’s environment.

The number of assessments levied by the Department has declined steadily since 2009. **The result for 2016 is the lowest in the Department’s history:**

Year	Total Number of Beaches & Coastal Assessments
2009	25
2010	14
2011	20

¹⁶ <http://www.dep.state.fl.us/beaches/>

¹⁷ Chapter 161, Florida Statutes

2012	13
2013	8
2014	7
2015	4
2016	2

All of the assessments in this program continue to be initiated in the Multi-District category. This has been the case since at least 2009. Consequently, we are not presenting detailed figures with breakdowns on a district-by-district basis.

The following table illustrates the decline in the dollar value of assessments for the Department as a whole. The results in 2016 are the second lowest in the Department's history. Only 2005 saw a worse result, \$1,100.00:

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
2016	\$1,500.00

Assessments are now 87% lower than they were in 2010.

Median assessments for the Department (and the Multi-District category) fell 25% in 2016, and it bears repeating that there were only 2 assessments statewide for the year:

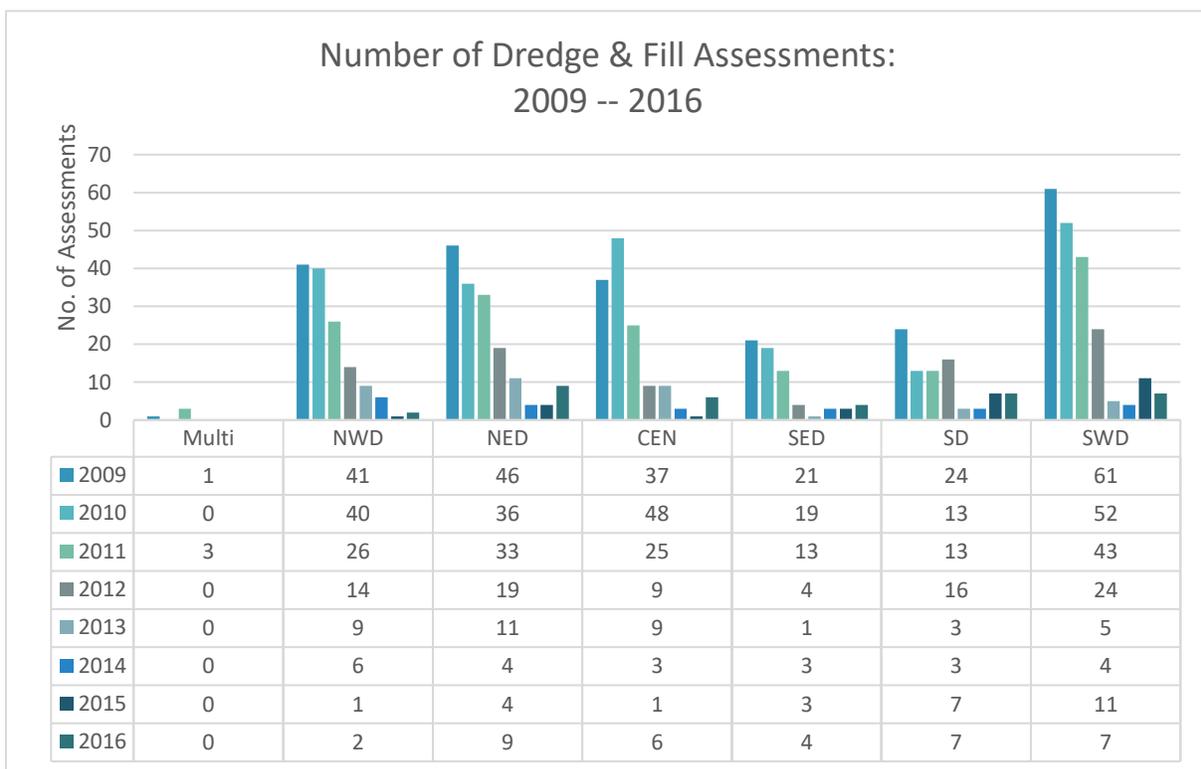
Year	Median Beaches & Coastal Assessments
2009	\$750.00
2010	\$875.00
2011	\$750.00
2012	\$1,000.00
2013	\$875.00
2014	\$500.00
2015	\$1,000.00
2016	\$750.00

4. Dredge and Fill Program

Insofar as the number of assessments is concerned, the Department has continued to show modest improvement. There were 8 more cases in 2016 than in the previous year, but the 35-case total is still far below the 208 case assessments that were made in 2010:

Year	Total Number of Assessments
2009	231
2010	208
2011	156
2012	86
2013	38
2014	23
2015	27
2016	35

Increases in the number of assessments were seen in all but the South and Southwest Districts. The South District maintained its 2015 levels, while the Southwest District assessed penalties in 4 fewer cases than in the previous year:

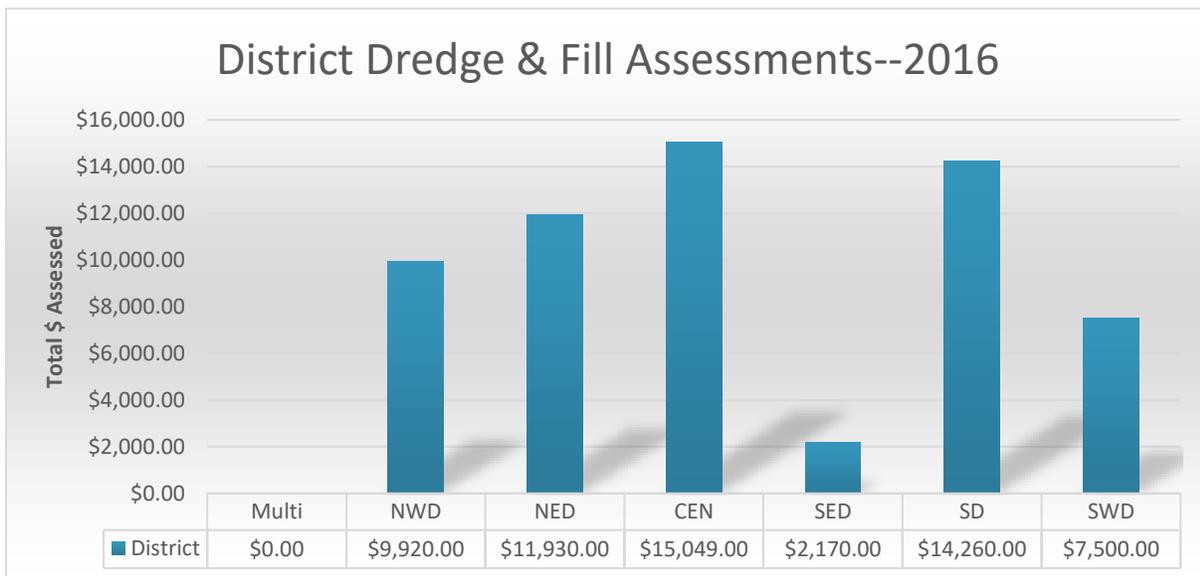


Statewide, the dollar value of dredge & fill assessments fell \$6,441.00 in 2016, making 2016 the second-worst year since 2010. It also supplants the results in 2015 as being the second-worst in the FDEP's history:

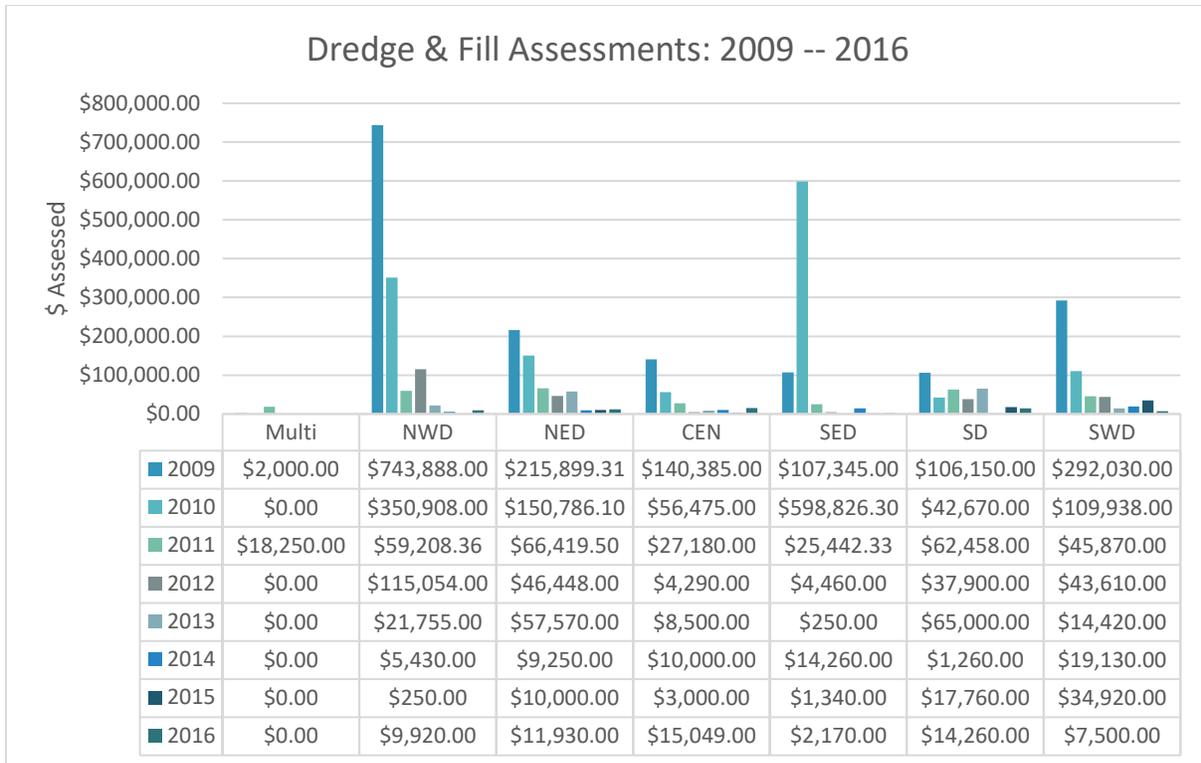
Year	Total \$ Assessed
2009	\$1,607,697.31
2010	\$1,309,603.40
2011	\$304,828.19
2012	\$251,762.00

2013	\$167,495.00
2014	\$59,330.00
2015	\$67,270.00
2016	\$60,829.00

Despite the overall decline, the Northwest, Northeast, Central and Southeast Districts all reported increases in dollar assessments in 2016, compared with the previous year. Two of the increases, i.e. in the Northwest and Central Districts, were significant. However, they were countered with equally sizeable decreases, in the South and Southwest Districts:



When looking at the 8-year history of the districts it is easy to see the cataclysmic results seen after 2010, when the current administration took office:



2016 also saw a significant decline (50%) in median assessments 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
2016	\$1,000.00

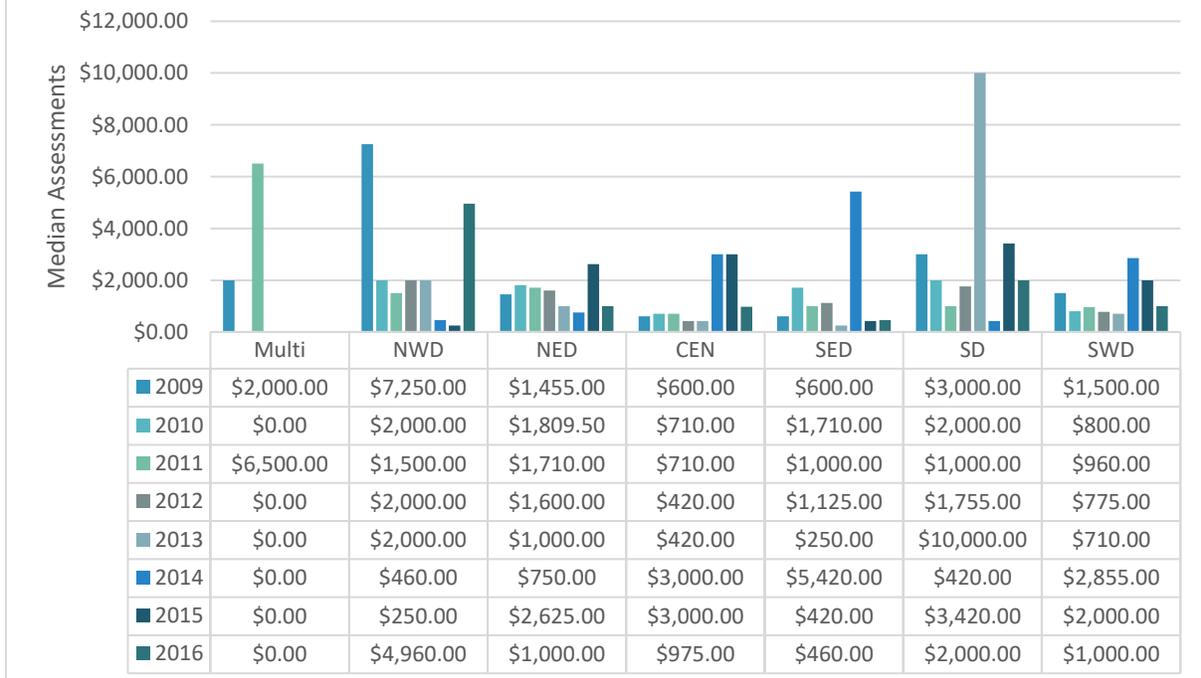
The median assessments amongst the districts for 2016 were:

Median Dredge & Fill By District-2016



Median assessments improved significantly in the Northwest District. They marginally improved in the Southeast District. Each of the remaining districts reported lower median assessments in 2016. The decline was most significant in the Central District, which fell from \$3,000 in 2015 to just \$975 in 2016.

Dredge & Fill Medians: 2009 -- 2016

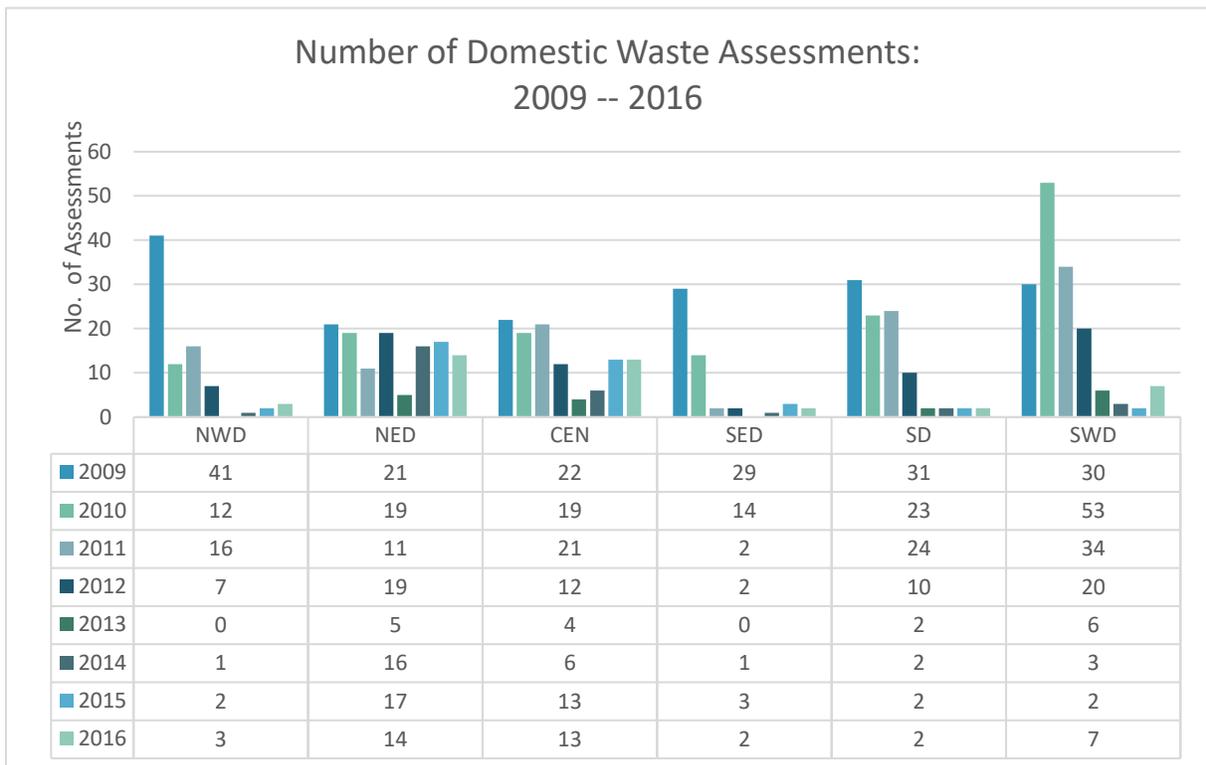


5. Domestic Waste Program

The Department assessed penalties in 41 cases in 2016. This is a marginal improvement over 2015's 39 cases, but it does continue a slow upward trend. The results continue to be among the 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
2016	41

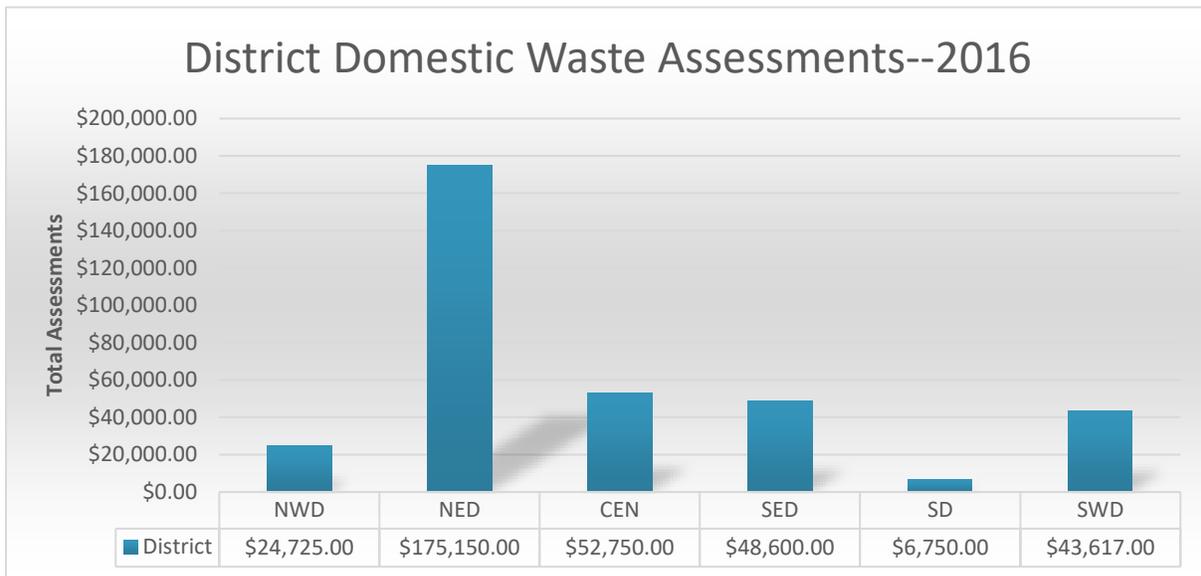
We have now seen three straight years of increases in the number of cases in which penalties were assessed in this program by the Department. Overall, the largest percentage increase was in the Southwest District, while the remaining districts each hovered around their prior performance:



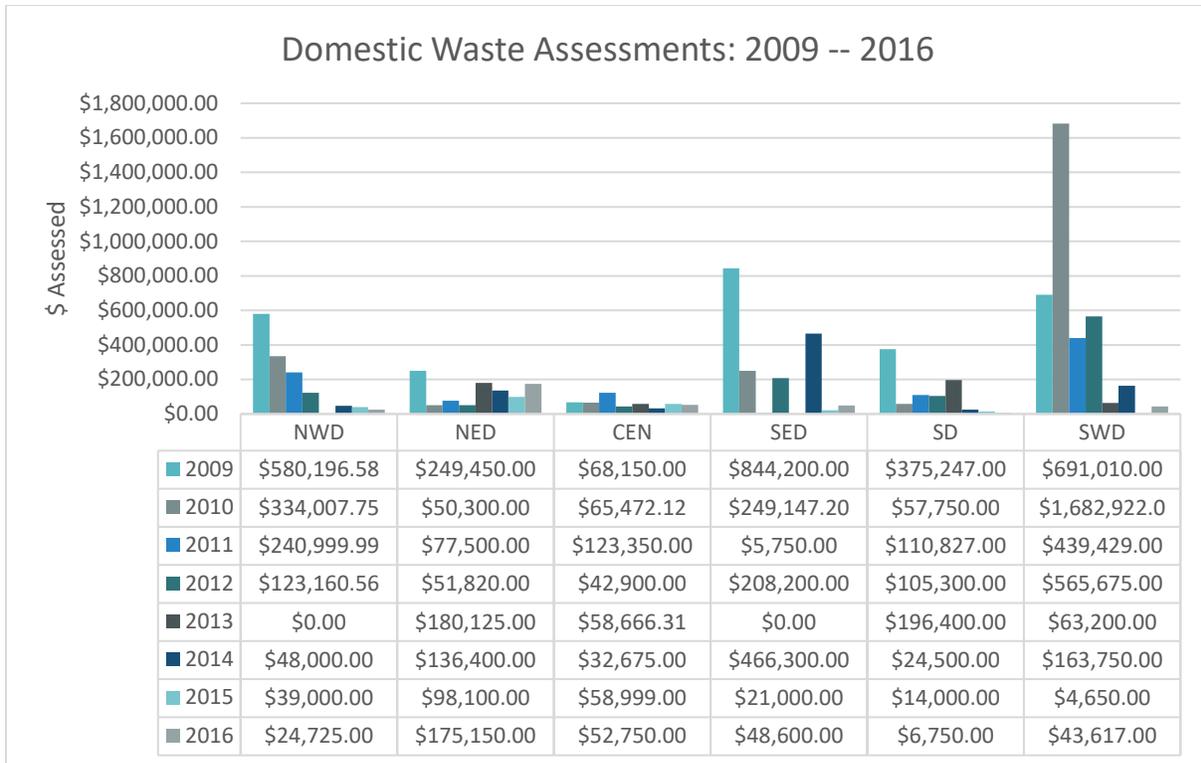
The Department assessed \$351,592.00 in civil penalties in 2016. **This represents a 49% increase from 2015.** Further, the results were not the result of one major case, unlike in previous years in which we have seen large increases in some of these programs being due, in large part, to one case assessment. Nevertheless, there is still much work to be done if the program is to regain the level of enforcement that it maintained prior to this administration. The results for the past 8 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
2016	\$351,592.00

The dollars assessed were distributed among the districts as follows:



As can be seen below, the healthy increase in assessments was not the result of across-the-board improvements in the districts. Rather, they were the result of significant gains in two of the districts, the Northeast and Southwest, with a more modest gain being seen in the Southeast District. The performance in the remaining three districts declined, particularly in the South District, which assessed 52% fewer dollars in civil penalties than it did in 2015:

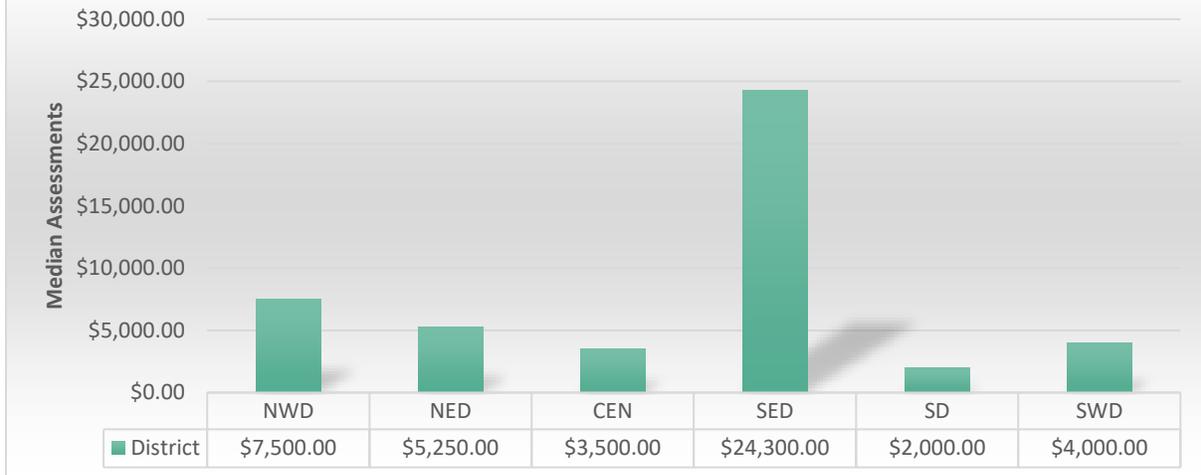


Medians for the Department as a whole also rose significantly in 2016. The \$4,000.00 median represents a 33% jump over the previous year's performance:

10Year	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
2016	\$4,000.00

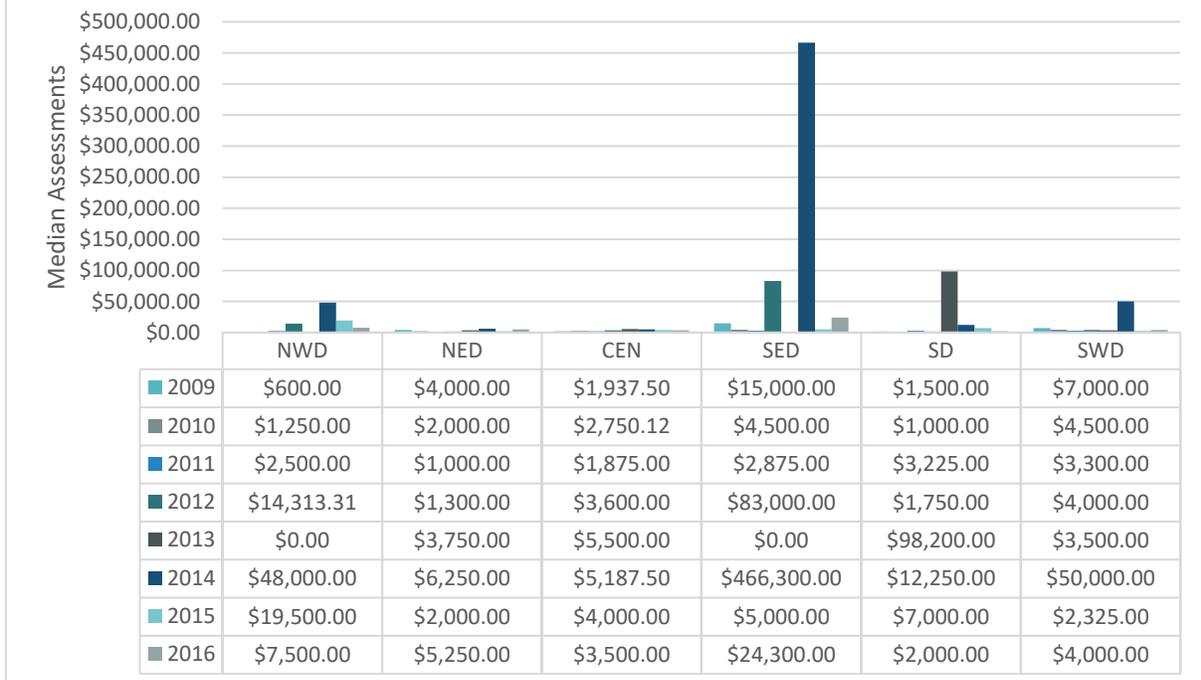
The medians in the South and Southeast Districts are based upon a total of 2 cases each and the median for the Northwest District is based upon only 3 cases. As in 2015, the Northeast and Central Districts (with 17 and 13 cases respectively) were the only districts that had over 10 assessments for the year, and give us any true ability to evaluate the aggressiveness with which they approach assessments. Their medians are both above and below the statewide results. The Northeast District, which had the most assessments, also had the highest percentage increase in its medians, with the exception of the Southeast District, whose results are only based on two cases. The medians for each district are shown below:

Median Domestic Waste By District--2016



The historical trend for each district is shown below:

Domestic Waste Medians: 2009 -- 2016



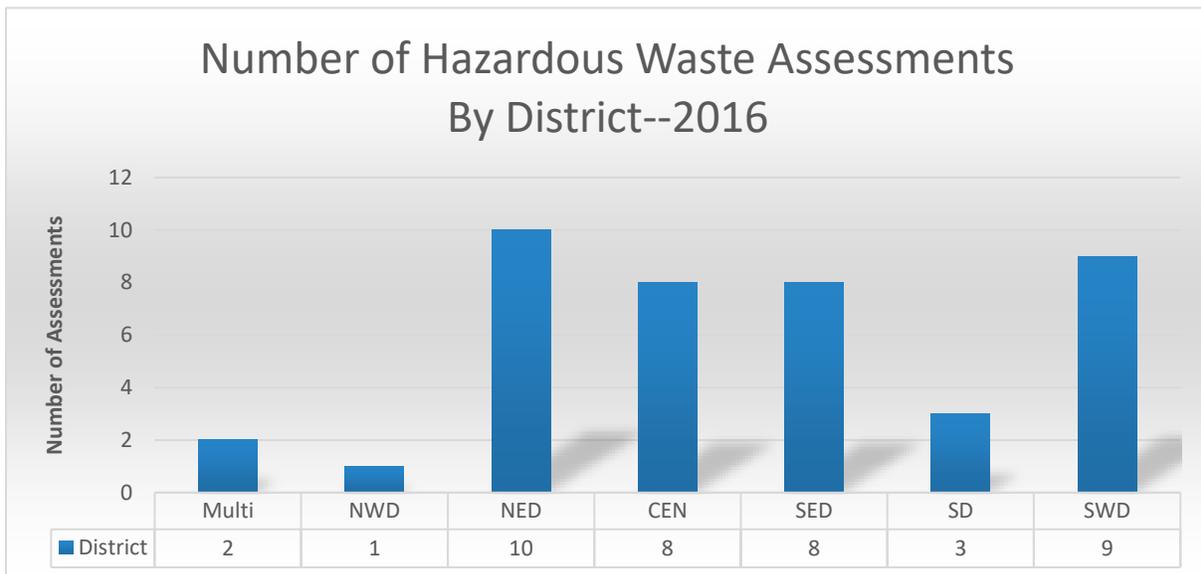
6. Hazardous Waste Program

While still significantly below the levels that the Department achieved in 2010, the program did assess penalties in 7 more cases in 2016 compared with the previous year. This 21%

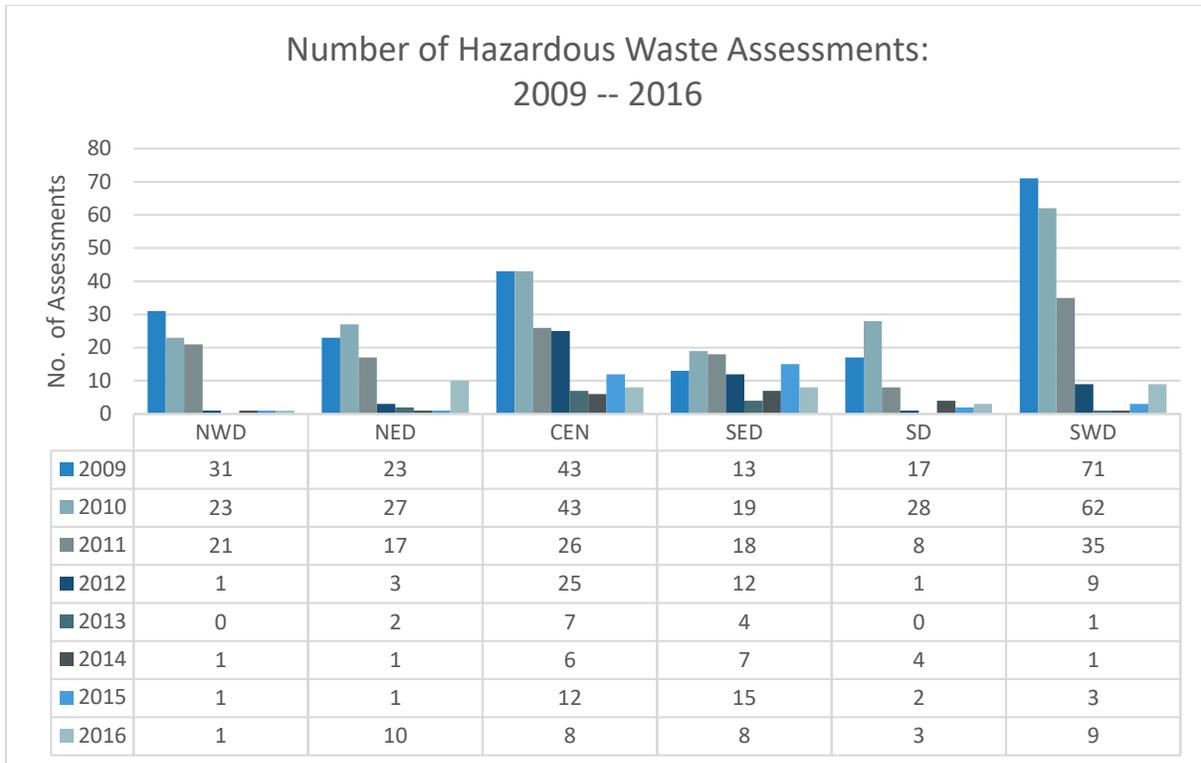
increase marks the third second straight year of improvement. Nevertheless, the number of assessments still lags far behind pre-2011 performance:

Year	Number of Hazardous Waste Assessments
2009	198
2010	202
2011	125
2012	51
2013	14
2014	20
2015	34
2016	41

The number of assessments for each district in 2016 are shown below:



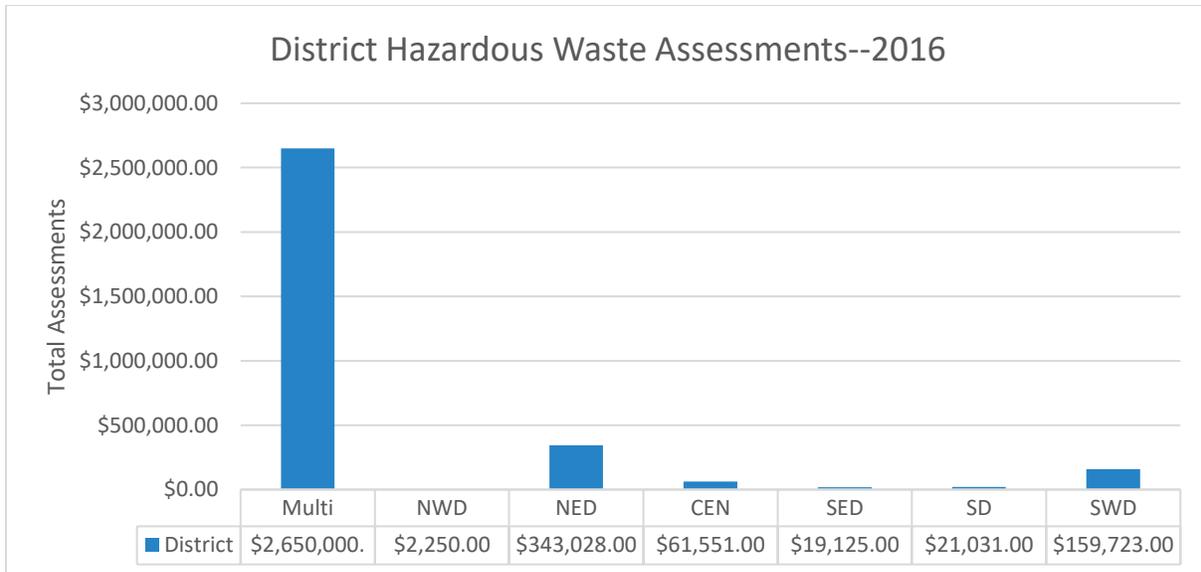
The number of assessments rose in all districts, except for the Central and Southeast Districts. This is the second straight year in which the Central District’s performance has declined. In addition, it has now been three straight years in which the Northwest District has had only one assessment for the entire year. **The Northwest District has now had a total of 4 assessments since January 1, 2012.** The historical trends for all districts, excluding the Multi-District Category (which has only had 2 assessments over the same period) are shown in the following chart:



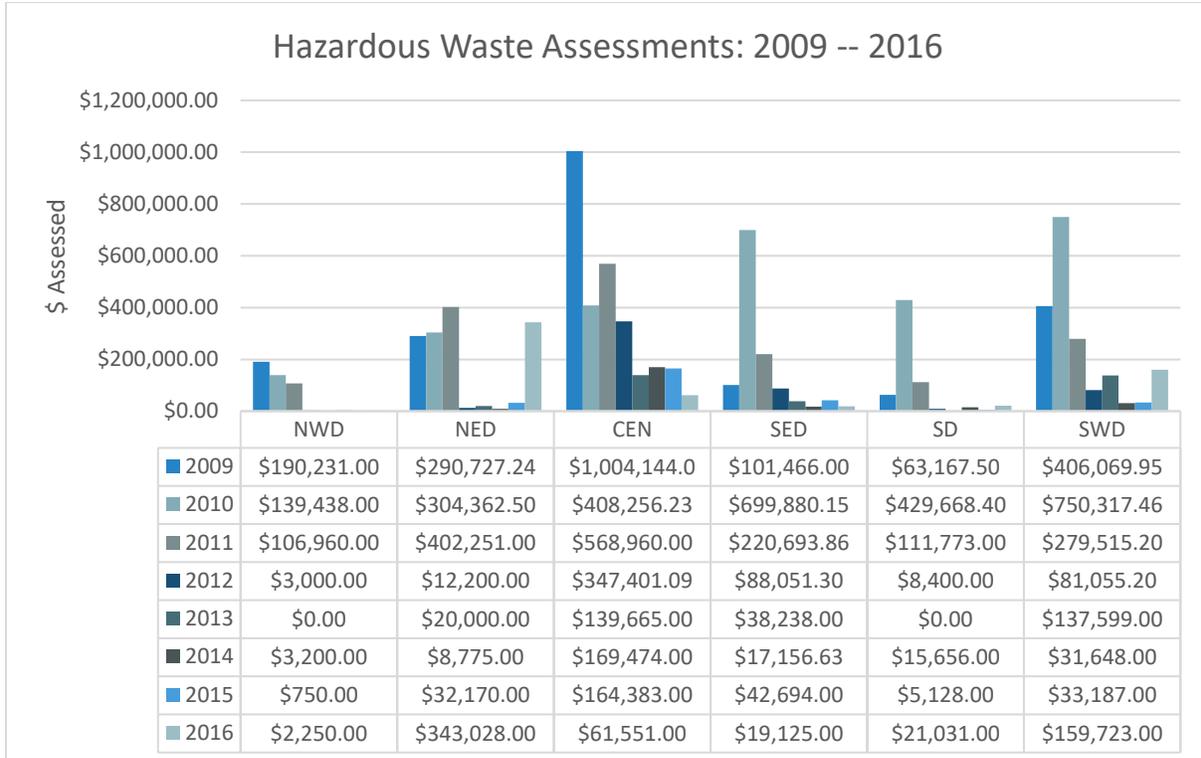
The dollar assessments rose significantly in 2016. However, the 1070% increase is largely due to one case (against *Mosaic Fertilizer*, OGC #121041) that was handled out of the Multi-District Category. This one case accounts for \$2,650,000.00 of the statewide total of \$3,256,708.00. If that one case is subtracted from the statewide total we get a more realistic picture of the program's performance. Absent the *Mosaic Fertilizer* case, the program assessed penalties totaling \$606,708.00 in 2016, still a significant increase over 2015, yet still far less than the program typically assessed in years prior to 2010. The results for the past 8 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
2016	\$3,256,708.00

The Department's assessments in 2016 were divided among the districts as follows:



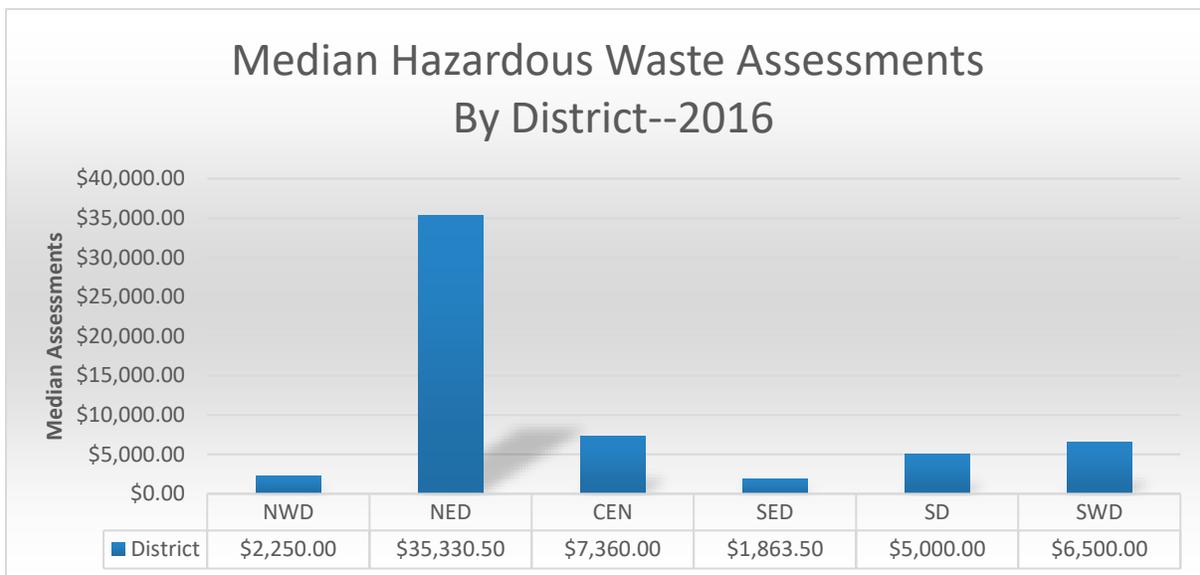
The Northeast District assessed the highest dollar amount of penalties in 2016, followed by the Southwest and South Districts. These same three districts also saw the highest percentage improvement of all 6 districts. The Northwest District assessed the fewest penalty dollars. As for the Northeast District, most of its assessments (\$161,219.00) came from one case (against *The Boeing Company*, OGC #160391). The assessments in the Southwest District were more evenly distributed.



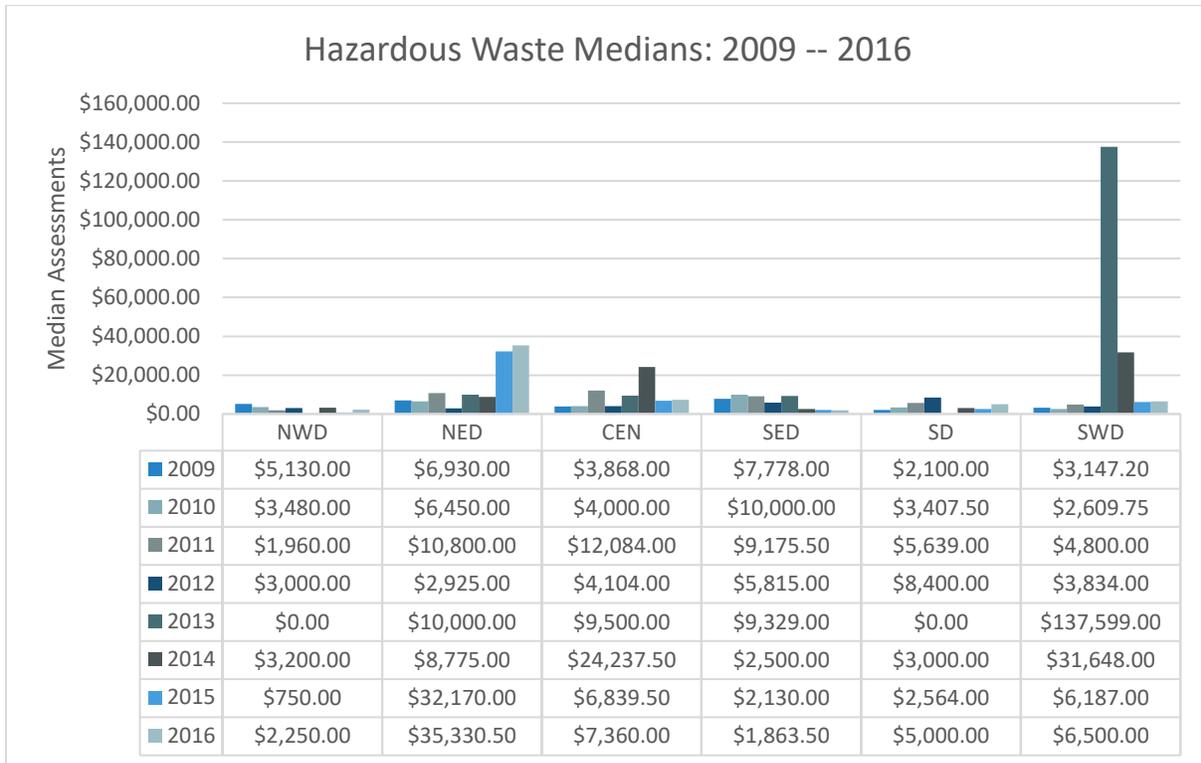
Median assessments for the Department as a whole rose 98%, to \$6,500, the highest level since 2013:

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
2016	\$6,500.00

In 2016, the median value of assessments in the Multi-District Category was \$1,325,000.00, a value that is wildly disproportionate compared to the other districts and based upon one case. The median assessments for each of the other districts in 2016 were:



Last year we noted that the high median assessment value in the Northeast District was based upon only one case, and thus not indicative of aggressive performance. This year the same cannot be said, because the district increased its median assessments in this program while simultaneously increasing the number of assessments ten fold. In addition, the medians increased in every other district, except for the Southeast District, which also saw a decline in the number of cases that in which it levied penalties. The Northwest District, we should reiterate, is based upon only one case. The overall trends are shown below:



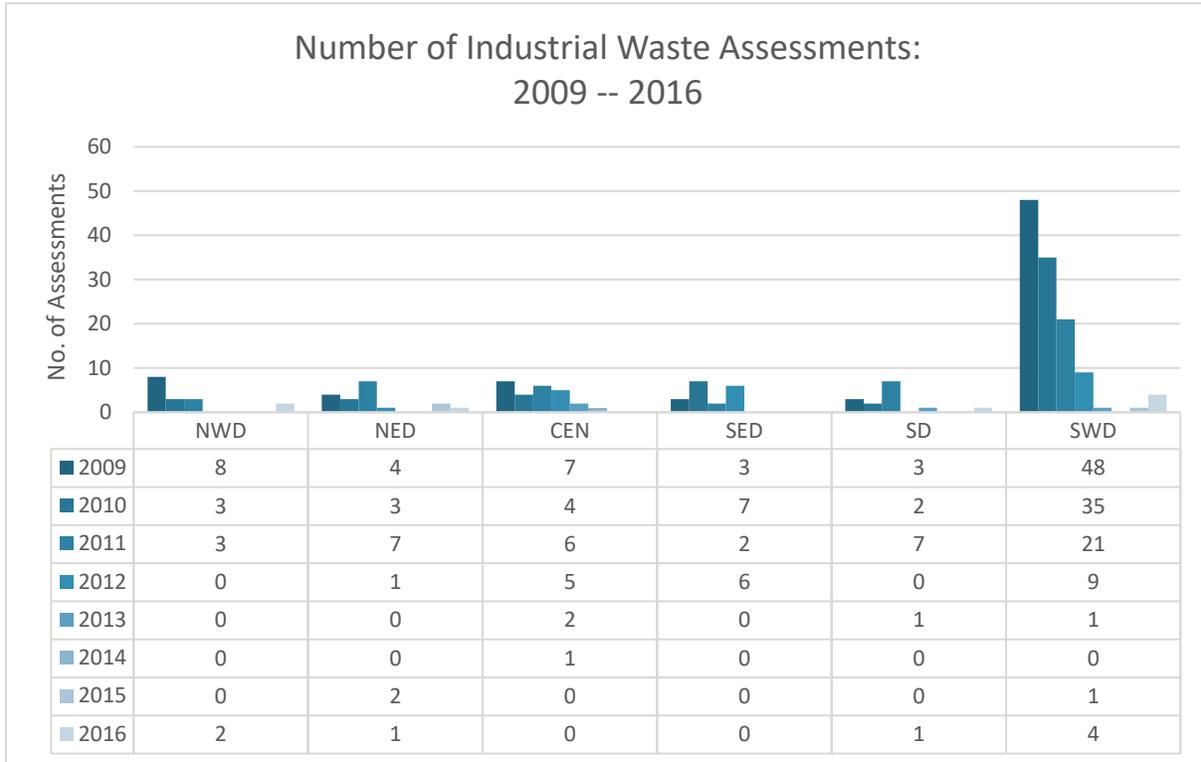
7. Industrial Waste Program

The industrial waste program has now seen three straight years of increasing assessments. There were 8 assessments in 2016, compared with 3 in 2015. While the numbers are improving, the reality is that even with the increase this program is functioning at a level that is 85% lower than in 2010:

Year	Number of Industrial Waste Assessments
2009	73
2010	54
2011	46
2012	21
2013	4
2014	1
2015	3
2016	8

The increased performance for the Department as a whole was the result of increases in the Southwest, Northwest and South Districts. The Southwest District saw the greatest jump in its numbers, assessing penalties in 4 cases, compared with just 1 assessment in the previous year.

The remaining districts saw no improvement at all, and the Southeast District has not taken enforcement in this program for four straight years:



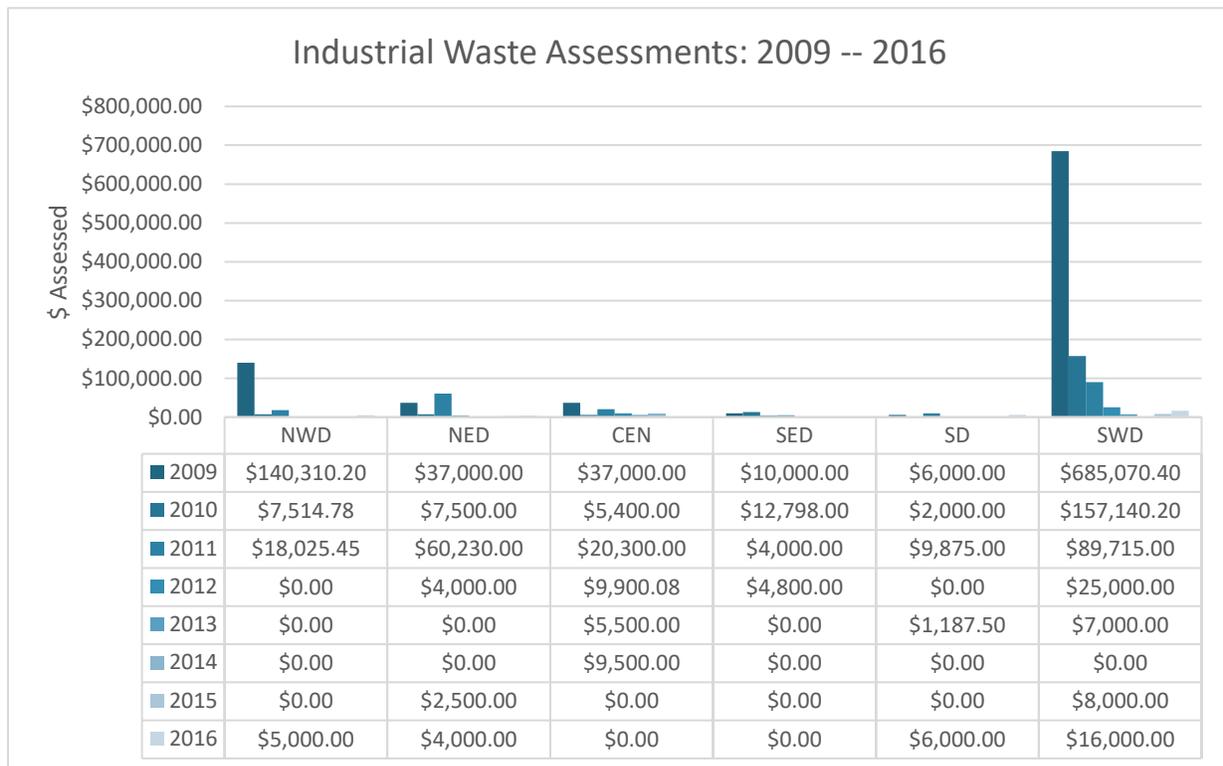
Overall the Department continued to see increased levels of civil penalty assessments, a trend that has now lasted for 3 years. The current performance is 195% better than in 2015, but still 84% lower than in 2010:

Year	Total Industrial Waste Assessments
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
2016	\$31,000.00

In 2016 the districts assessed penalties in this program as follows:



Unlike the results we saw last year, with the exception of the Central and Southeast Districts, in 2016, every district saw increases in the dollar value of penalty assessments:



Median penalties rose 75% in 2016 to a new level of \$3,500.00. This level is also 35% higher than the medians seen in 2010:

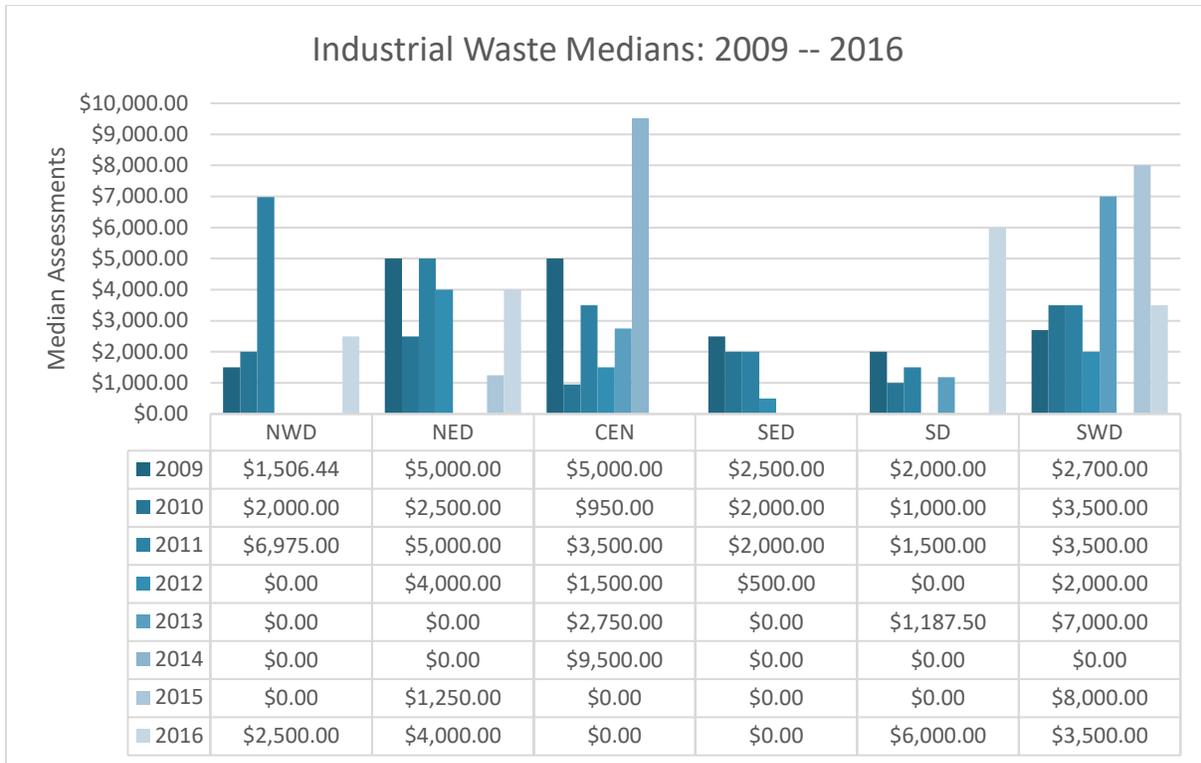
Year	Median Industrial Waste Assessments
2009	\$2,400.00

2010	\$2,590.10
2011	\$2,500.00
2012	\$1,500.00
2013	\$2,750.00
2014	\$9,500.00
2015	\$2,000.00
2016	\$3,500.00

The following chart shows the median industrial waste penalty assessments for each of the districts:



As can be seen below, the median value of civil penalty assessments in the Southwest District fell significantly (64%) in 2016, even though the district assessed penalties in the greatest number of cases, and also assessed the highest dollar value of civil penalties in the state. The remaining districts that did assess penalties each improved their medians:



8. Mangrove Alteration Program

According to the Department, “[m]angroves are important for many reasons, and mangrove trimming is regulated under Section 403.9321-403.9334, (F.S.) ‘Mangrove Act’. Mangroves serve as a key ecological component in several ecosystems, including serving as a nursery for many game and sport fisheries.”¹⁸ The Department has delegated some of its administrative responsibilities for this program to a handful of local government, a listing of which may be found at http://www.dep.state.fl.us/water/wetlands/mangroves/mangrove_trimming.htm. The program itself is one that has long been the bane of developers because of the impediments to construction that it poses.

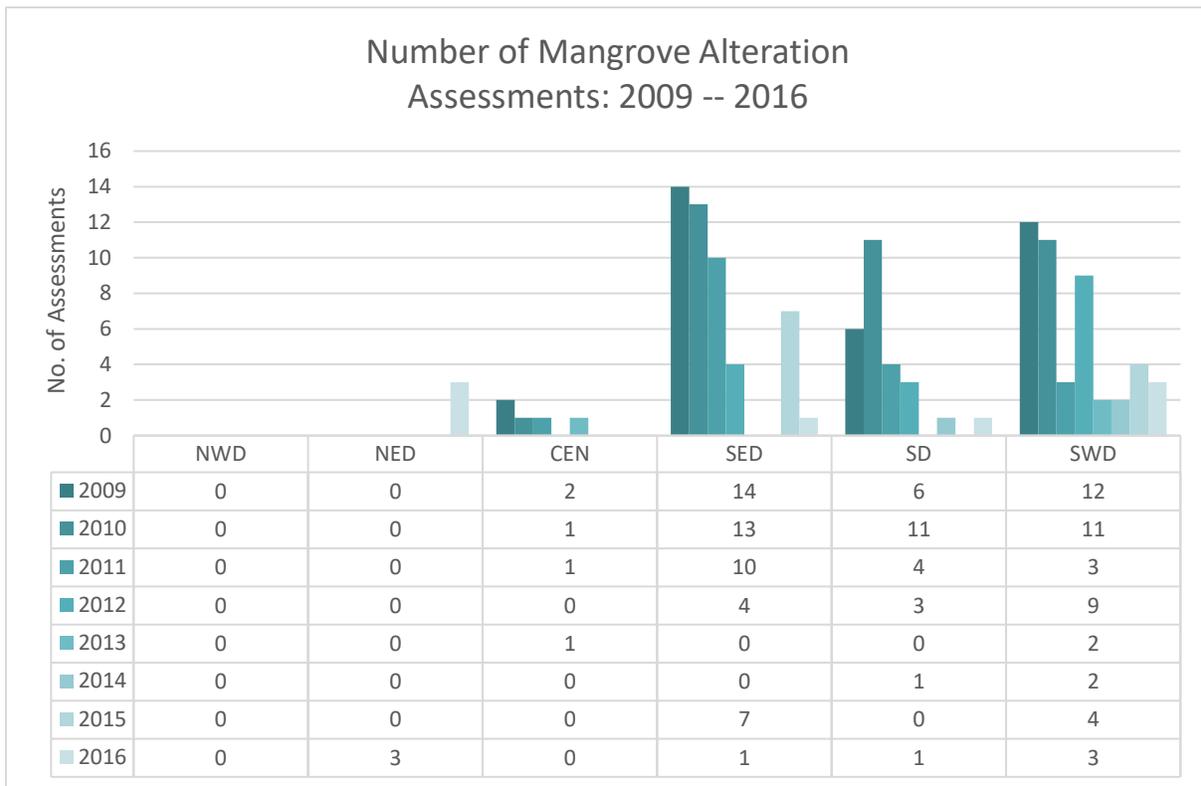
As indicated below, there has been a modest improvement in the program’s performance over the past couple of years. The Department’s efforts to protect mangroves over the years by means of enforcement of this program may be seen in the following table:

Year	Total Number of Mangrove Alteration Assessments
2009	34
2010	36

¹⁸ <http://www.dep.state.fl.us/water/wetlands/mangroves/faq.htm>

2011	18
2012	16
2013	3
2014	3
2015	11
2016	8

Historically, enforcement has taken place predominately in the southern districts where mangroves are found. Typically, the most enforcement has been in the Southwest, South, and Southeast Districts:

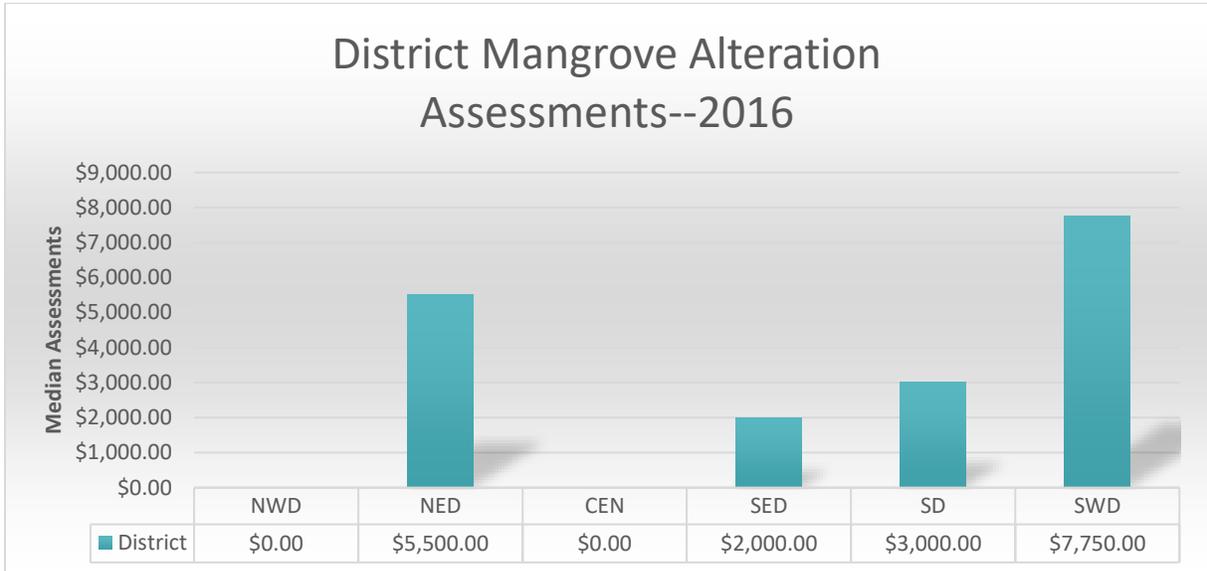


With the decline in enforcement has come an equivalent decline in the dollars that have been assessed over the years, the low point being in 2013. While there has been a modest improvement in the numbers, the program is still far removed from the levels that it enjoyed 6 years ago:

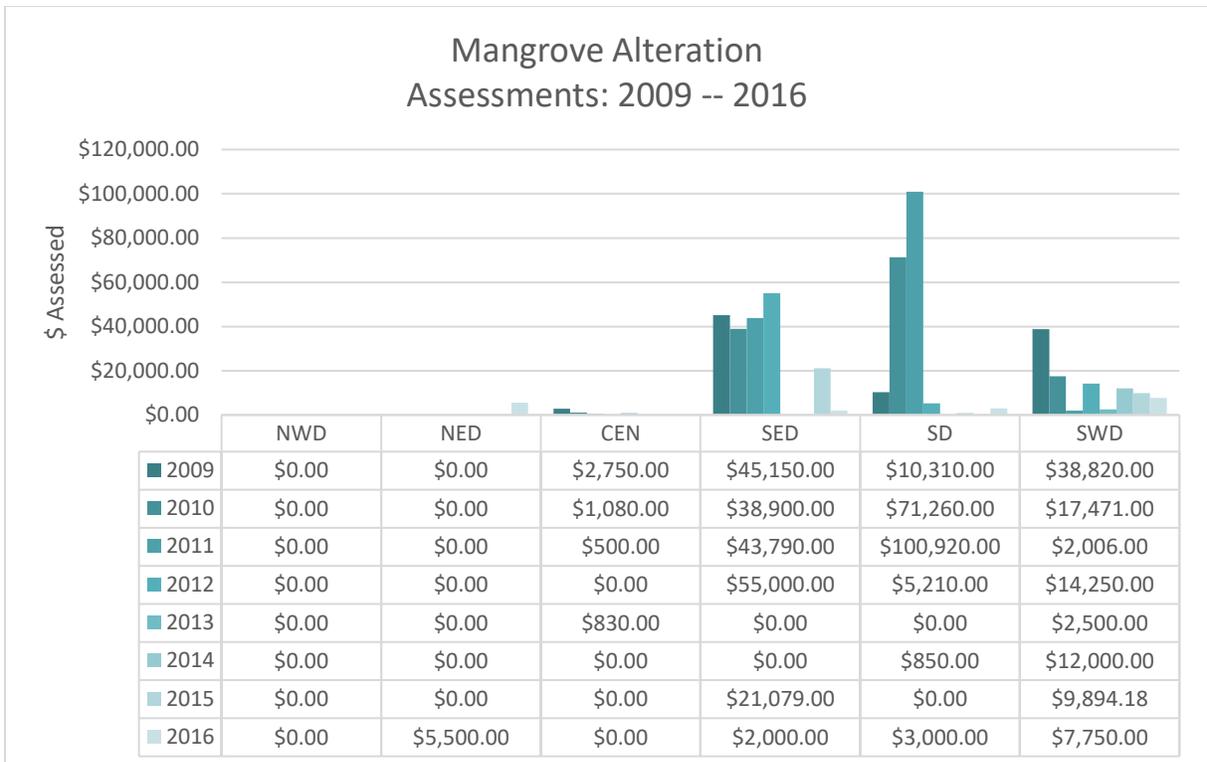
Year	Total Mangrove Alteration Assessments
2009	\$97,030.00
2010	\$128,711.00
2011	\$147,216.00
2012	\$74,460.00
2013	\$3,330.00
2014	\$12,850.00

2015	\$30,973.18
2016	\$18,250.00

In 2016, enforcement was distributed among the districts as follows:



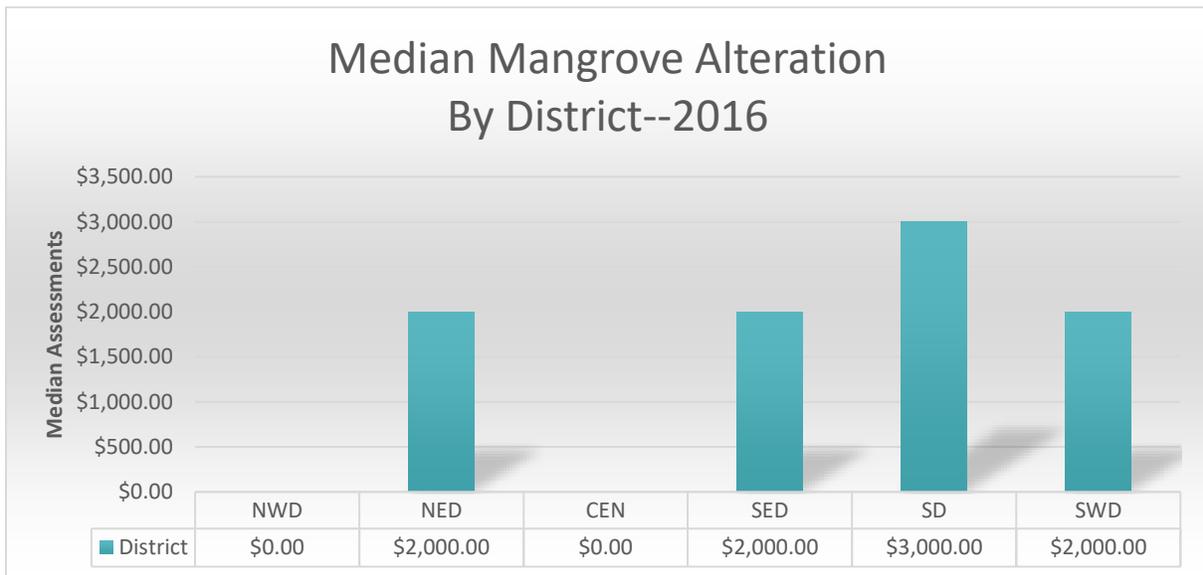
The decline in enforcement has been across the board among the districts:



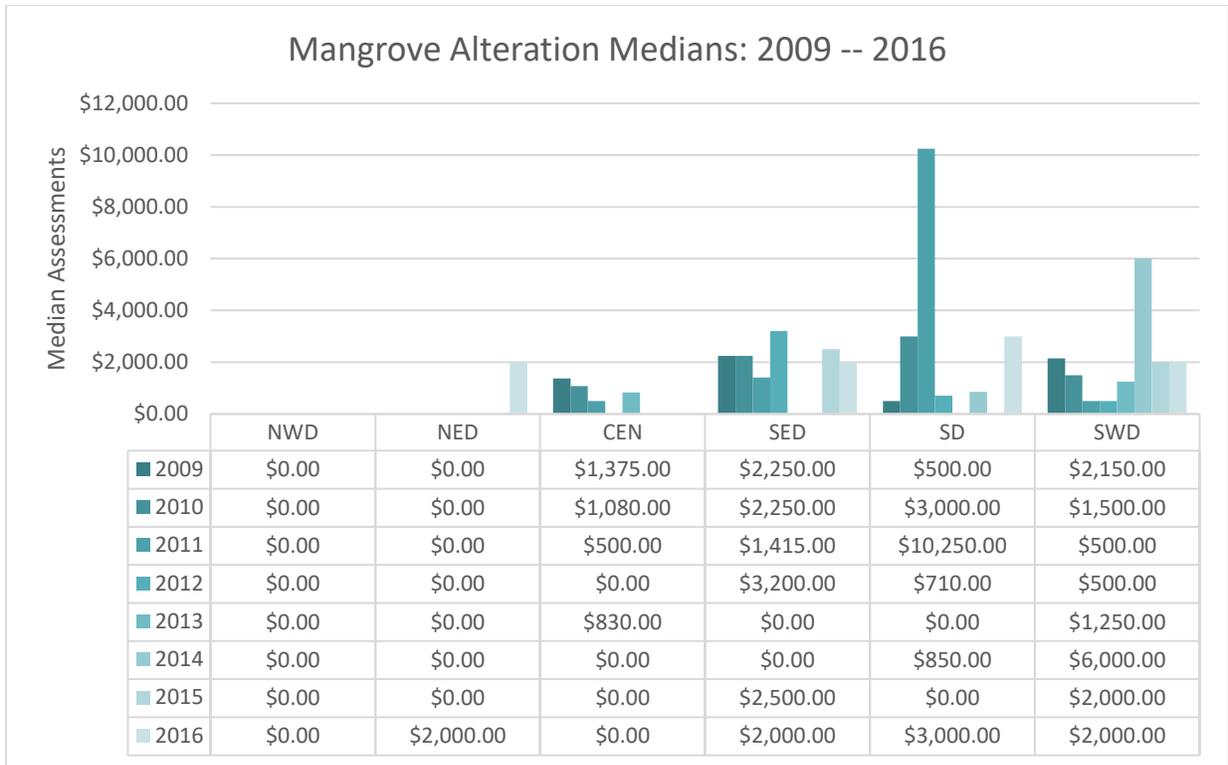
Median assessments over the years have generally been high, indicating the importance that Florida has placed upon maintaining these plants. While the medians dropped significantly between 2011 and 2013, they have basically rebounded:

Year	Median Mangrove Alteration Assessments
2009	\$2,125.00
2010	\$1,710.00
2011	\$830.00
2012	\$1,000.00
2013	\$830.00
2014	\$2,000.00
2015	\$2,480.00
2016	\$1,500.00

The district results for 2016 are:



Historically, there is no discernable trend in the districts. The Southeast and Southwest Districts have remained fairly stable over the years:



9. 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. Assessments continue to decline since that time, to the point that there were no assessments in 2016. Given the fact that there was no activity in this area in 2016 we will only show the recent histories of the program. Consequently, the recent history for the number of assessments, the dollar value of those assessments, and the median assessments is shown below:

Year	Total Number of Mining & PG Assessments
2009	5
2010	3
2011	3
2012	1
2013	1
2014	1
2015	2
2016	0

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
2016	\$0.00

The following table shows the median assessments for each year since 2009:

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
2016	\$0.00

10. Potable Water Program

The administration of the potable water program continues to be of significant concern given the breakdown in potable water oversight in Flint, Michigan. 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

The Department submits an annual report to the EPA assessing the status of its drinking water program. The latest available report is from 2015. The report provides the EPA with an overview of all regulated drinking water systems in Florida. While it remains ultimately responsible, the FDEP has for years delegated much of its administrative responsibilities to a few counties in Florida, particularly in South Florida. The drinking water program in the counties is, in turn, run in conjunction with the Florida, Department of Health (FDOH). For its part, the FDOH used to provide data to show the number of people served by these systems, but has not updated its website since 2009.²⁰ Thus, the exact number of people served by community water systems in these counties is unknown.

The annual report submitted by the FDEP to the EPA contains data that is derived from all of these systems, not just those that are directly overseen by the FDEP. The annual report submitted by the FDEP in 2016 (for calendar year 2015) shows that there are a total of 5,275 public water systems in Florida and that 702 of them had at least one violation.²¹ The Department claims that there were a total of 1,839 violations in that year. (See, report, page 13) 2015’s report claimed that there were 1842 violations in that year. Of the 1839 violations in 2016, 153 (8%) were violations of maximum contaminate levels (MCLs). These are violations for things such as total coliform, organic and inorganic compounds, radionuclides and disinfection byproducts. (The 153 MCL violations represent a drop from the 295 MCL violations in 2015.) 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 3 cases in the entire state of Florida. It is unknown exactly how many additional cases were initiated in the counties.

Notwithstanding the critical role that this program plays, there were only 3 assessments statewide in 2016. The number of potable water assessments may have risen by one case in 2016, but overall it has declined steadily since 2010 to a point that it is all but nonexistent in Florida:

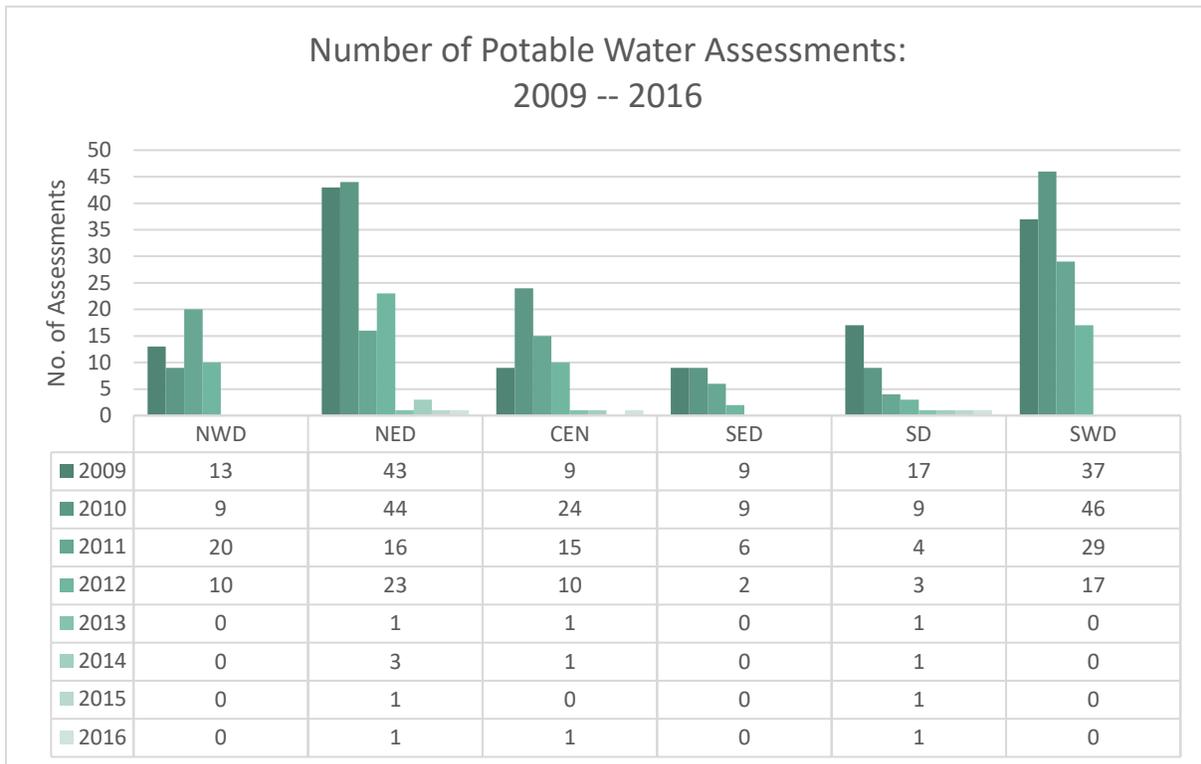
Year	Number of Assessments
2009	128
2010	141
2011	90
2012	65
2013	3
2014	5
2015	2

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

²⁰ <http://www.floridatracking.com/HealthTrackFL/report.aspx?IndNumber=1960&mes=21105>

²¹ <http://www.dep.state.fl.us/water/drinkingwater/docs/2015-ACR-Florida.pdf>

Only the Central District improved upon its 2015 performance, and it did this by assessing 1 assessment for the entire year. The historical performance looks like this:

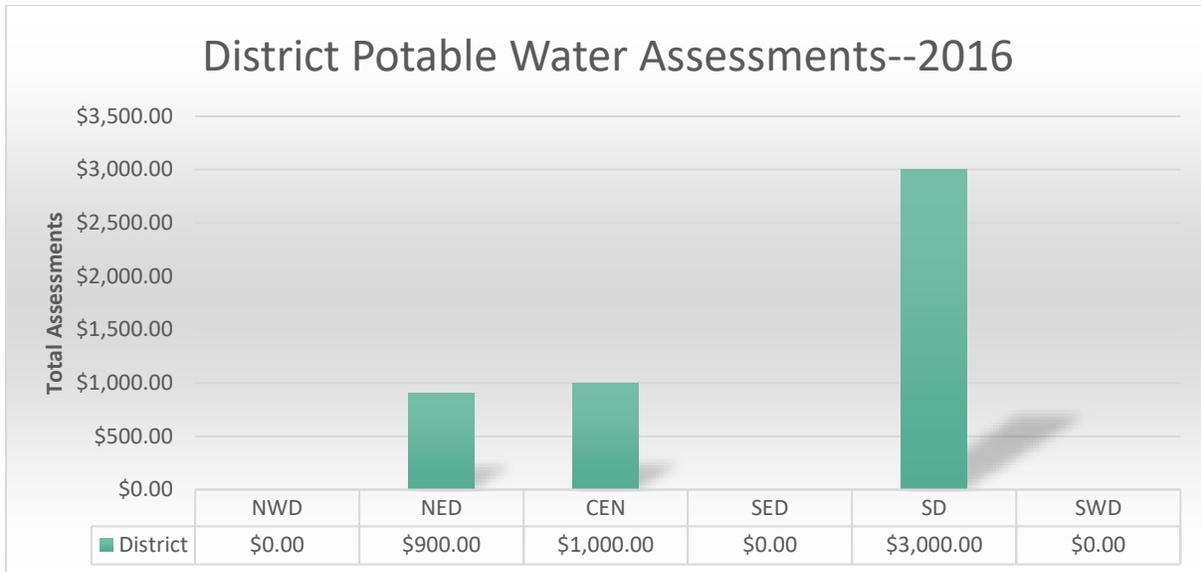


There continues to be a clear decline in the number of assessments in every district since 2011.

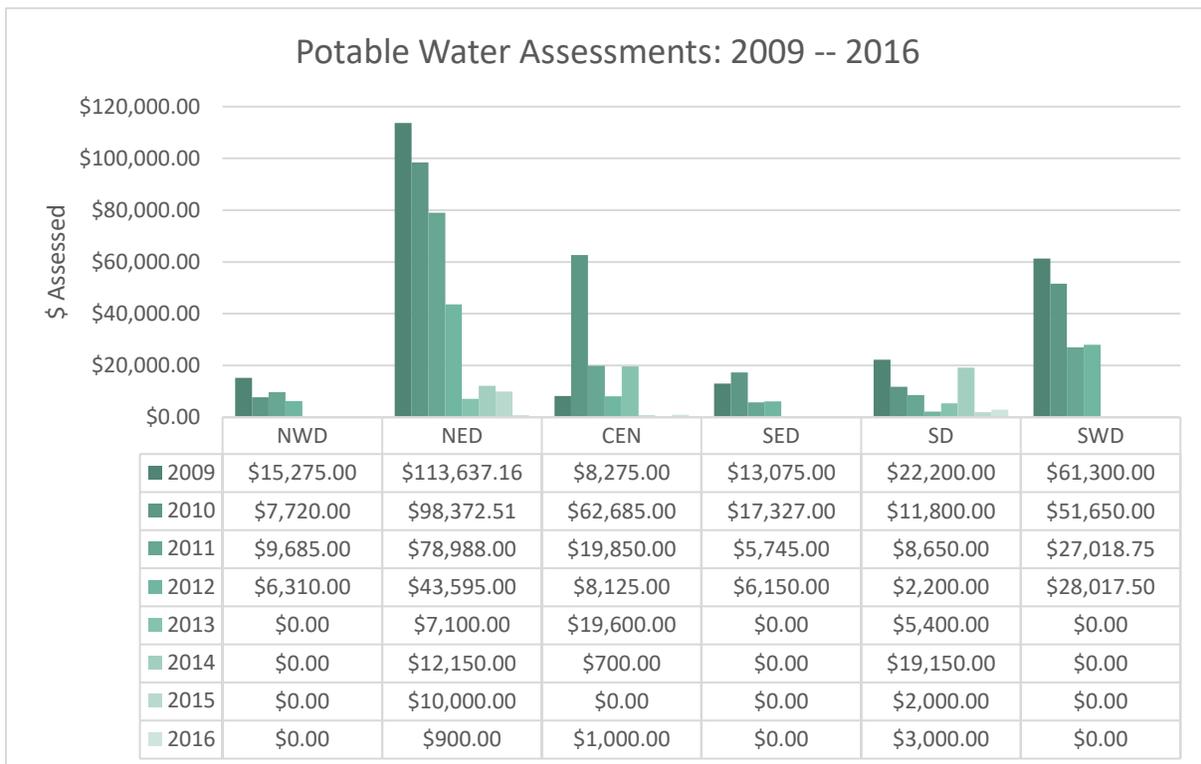
Despite assessing one additional case in 2016, the total value of assessments fell 59% compared with 2015. The current level is 98% lower than in 2010:

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
2016	\$4,900.00

The fines were distributed amongst the districts in 2016 as follows:



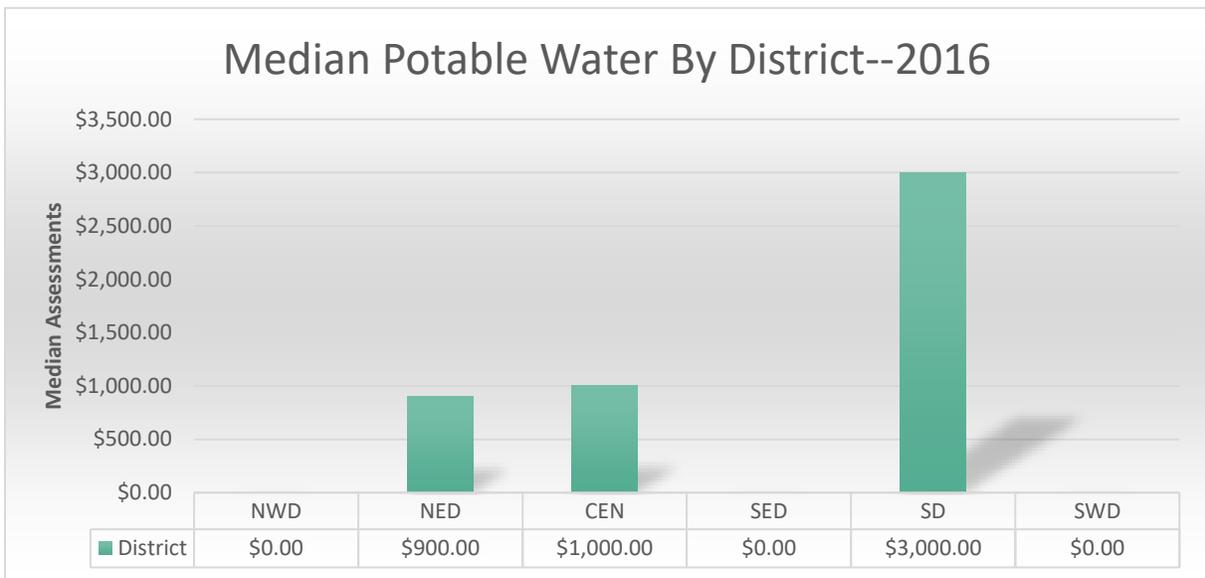
While the Central and South Districts improved upon their assessments, the Northeast District fell 91% and was the substantial contributor to the overall decline in the Department's final numbers. Nevertheless, the performance in none of the districts could be described as stellar:



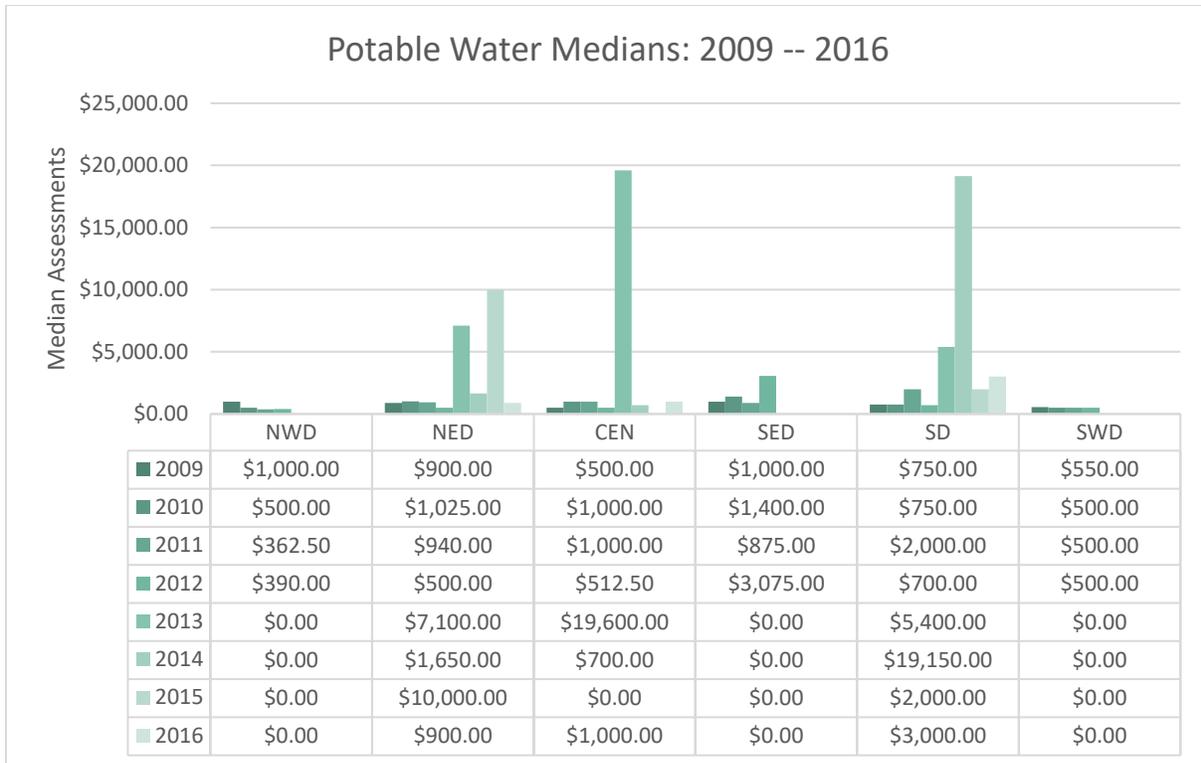
Median assessments fell 83% in 2016, though it must be remembered that the result is based upon only 3 cases statewide:

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
2016	\$1,000.00

A comparison of the medians for the districts in 2016 is shown below:



There continues to be a lack of a clear pattern of median assessments since 2010. The primary reason is the significant reduction in assessments over that period:



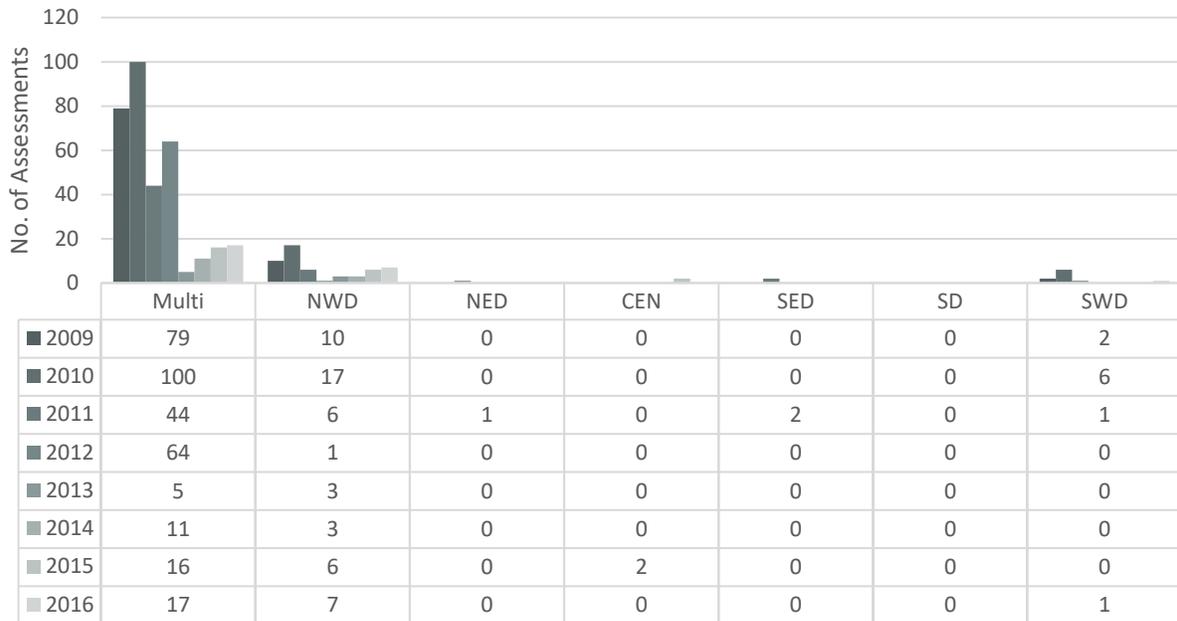
11. Stormwater Discharge Program

The stormwater discharge program continues to be mostly administered out of Tallahassee and to a lesser extent out of the Northwest District. 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 slightly in 2016, up 1 from the previous year. The current levels are still 80% lower than those in 2010, immediately before this administration took over:

Year	Number of Assessments
2009	91
2010	123
2011	54
2012	65
2013	8
2014	14
2015	24
2016	25

**Number of Stormwater Discharge Assessments:
2009 -- 2016**

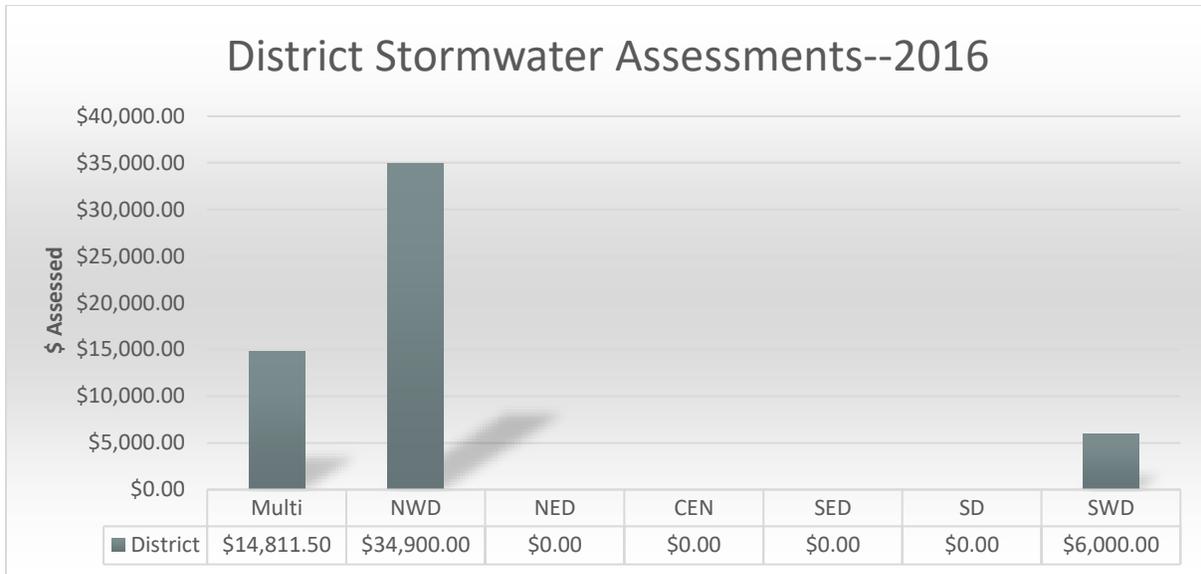


For the first time since 2011 there was an assessment out of the Southwest District. Otherwise, there has been little change over the past few years:

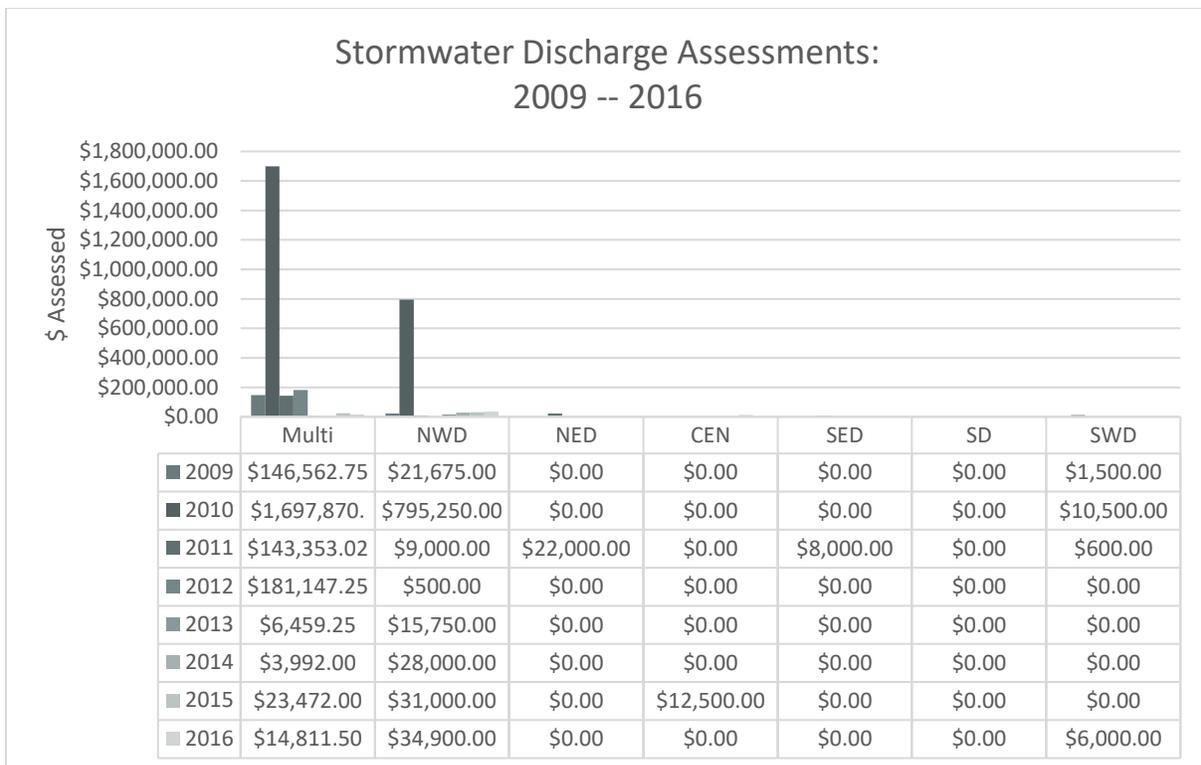
Despite increasing the number of assessments in 2016, the cumulative dollar value of assessments in this program fell 17% from 2015. The program is performing at levels that are 92% lower than those in 2010:

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
2016	\$55,711.50

These penalties were assessed across the state accordingly:



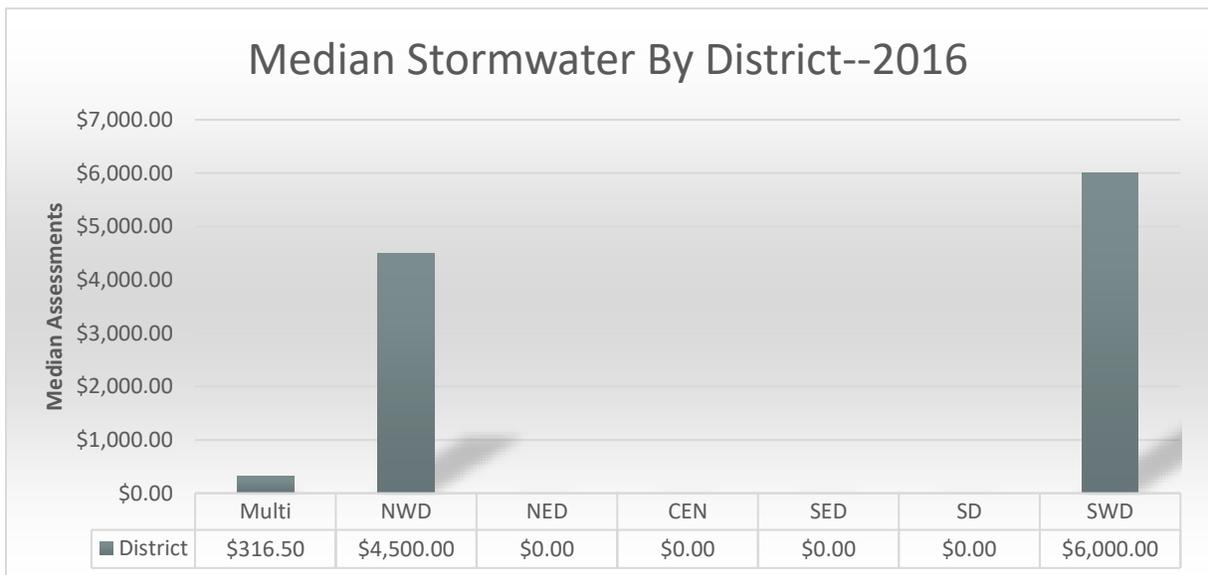
There continues to be no discernable pattern since 2010. The program appears to be stuck at a level that allows only the most minimal enforcement:



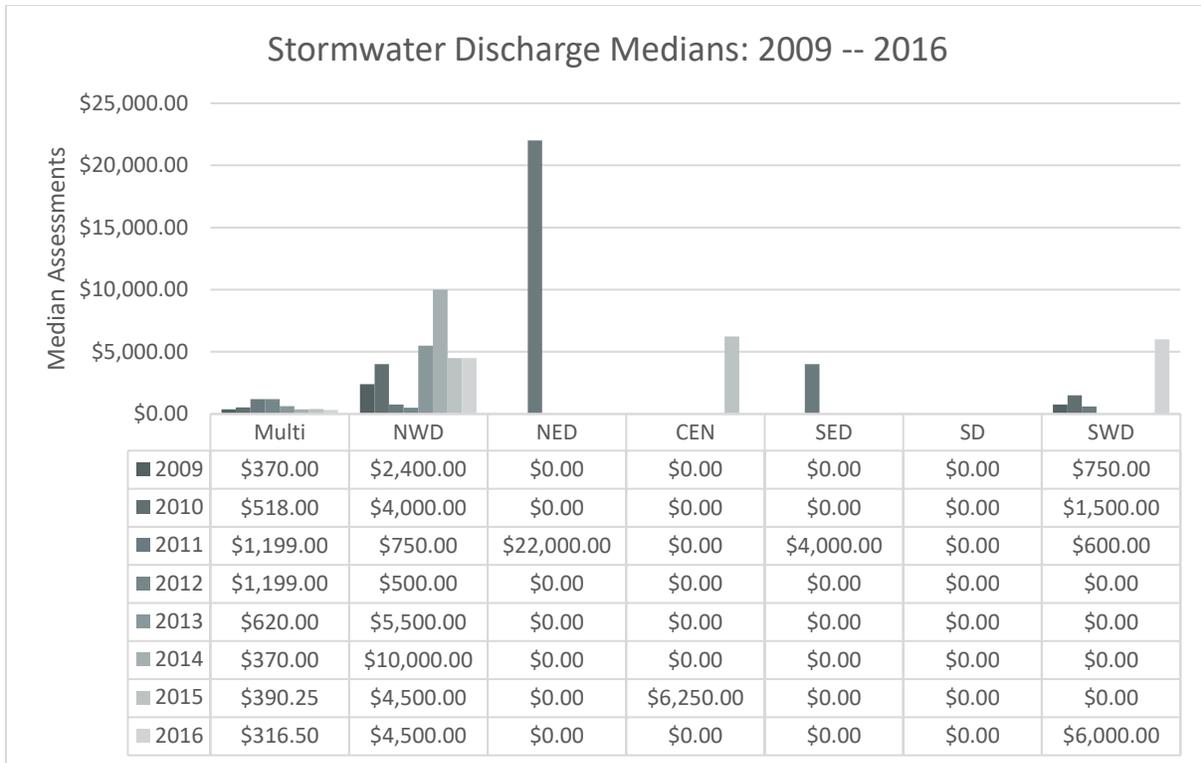
Median assessments also fell in 2016. They are now 29% lower than those in 2015 and are at the same level as in 2014:

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
2016	\$370.00

Medians were highest in the Southwest District, however, this result is based upon only one case for the entire year:



Medians fell sharply (29%) in those cases handled out of Tallahassee. The Northwest District is holding its own at present:



12. 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.”²²

One of former Secretary Steverson’s top priorities was placing an increased emphasis on this program. Part of that emphasis was in making Florida’s state parks more self-sufficient, while also protecting them for the public to enjoy.²³ What was the impact of his new policies? In 2016, the Department was only able to assess penalties in 4 cases, a 64% drop from the previous

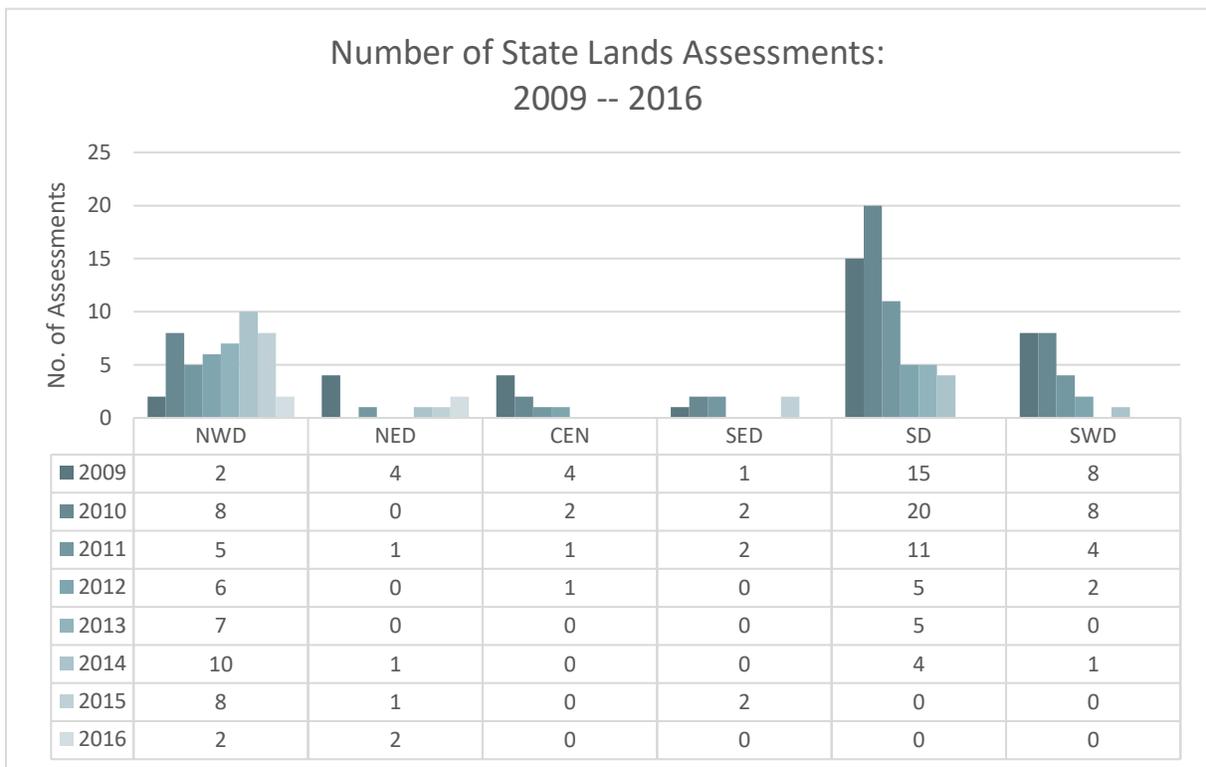
²² <http://www.dep.state.fl.us/lands/>

²³ <http://content.govdelivery.com/accounts/FLDEP/bulletins/129c50b>

year. To find lower levels you'd have to go back to calendar years 1997 through 2000 (each of which saw only 2 cases). The following are the results from 2009 through 2016:

Year	Number of State Lands Assessments
2009	34
2010	40
2011	24
2012	14
2013	12
2014	16
2015	11
2016	4

Enforcement continues to be concentrated out of the Tallahassee office and the Northwest District, both of which saw significant declines in 2016. The South District, which used to have a considerable number of cases each year, has not had an assessment since 2014:

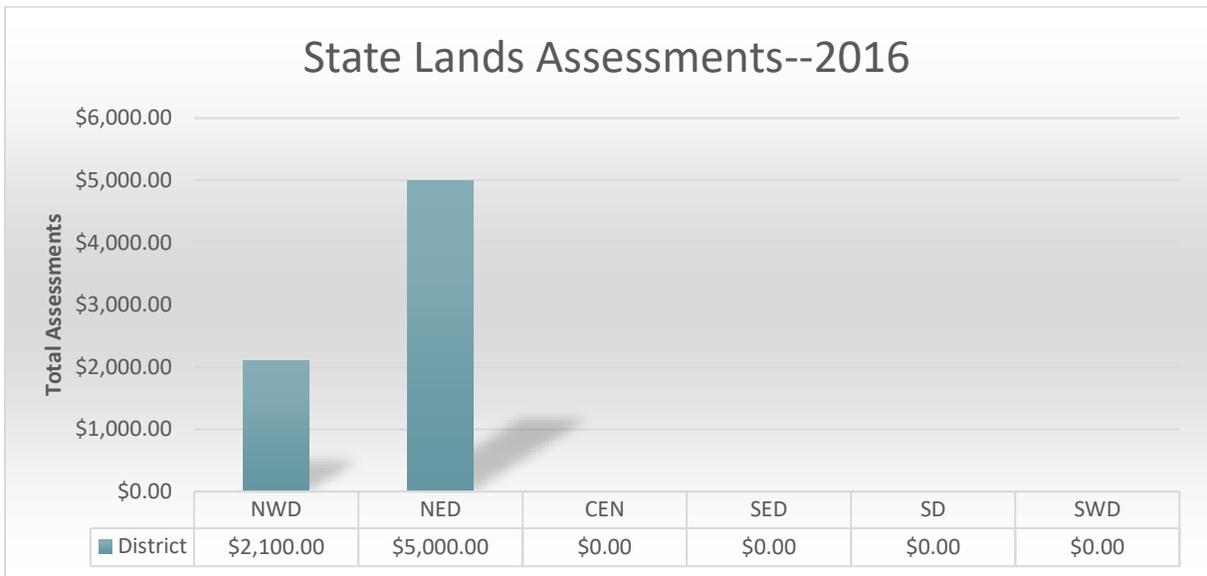


Not surprisingly, penalty assessments fell significantly (63%) in 2016, for the second year in a row. This is also the worst result since 2001:

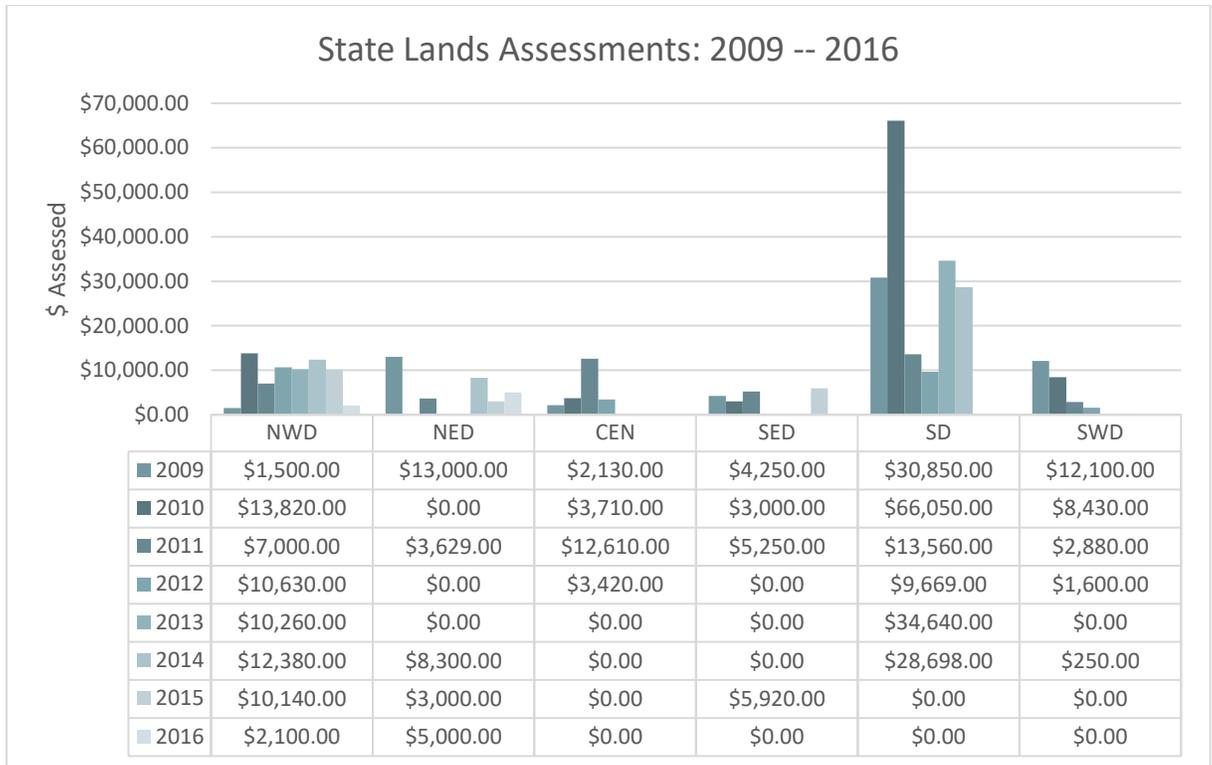
Year	Total State Lands Assessments
2009	\$63,830.00
2010	\$95,010.00
2011	\$44,929.00

2012	\$25,319.00
2013	\$44,900.00
2014	\$49,628.00
2015	\$19,060.00
2016	\$7,100.00

Assessments were distributed among the districts as follows:



There are no distinct trends among the districts, except that performance in each has declined significantly since 2010, particularly in the South and Southwest Districts. The historical performance of each of the districts is shown below:



The one bright spot for the program is that the medians increased slightly, to levels seen in 2012. Of course, it must be remembered that the result for 2016 is based upon only 4 cases:

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
2016	\$1,550.00

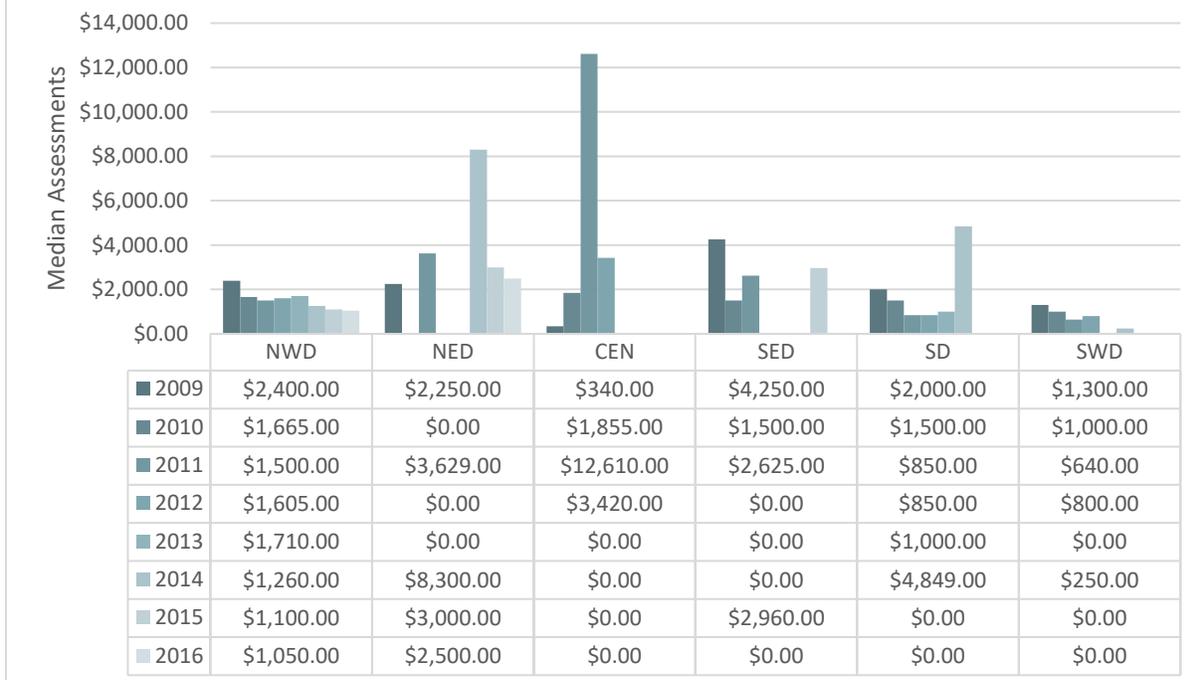
The medians for each district are shown below:

Median State Lands By District--2016



As can be seen in the chart below the one disturbing trend is the continual drop in medians in the Northwest District. Of course, this must be weighed against the fact that four of the districts had no assessments at all in 2016 and that the South and Southwest Districts have had no assessments for two years, while the Central District has had none for four. The historical results for all 6 districts are shown below:

State Lands Medians: 2009 -- 2016



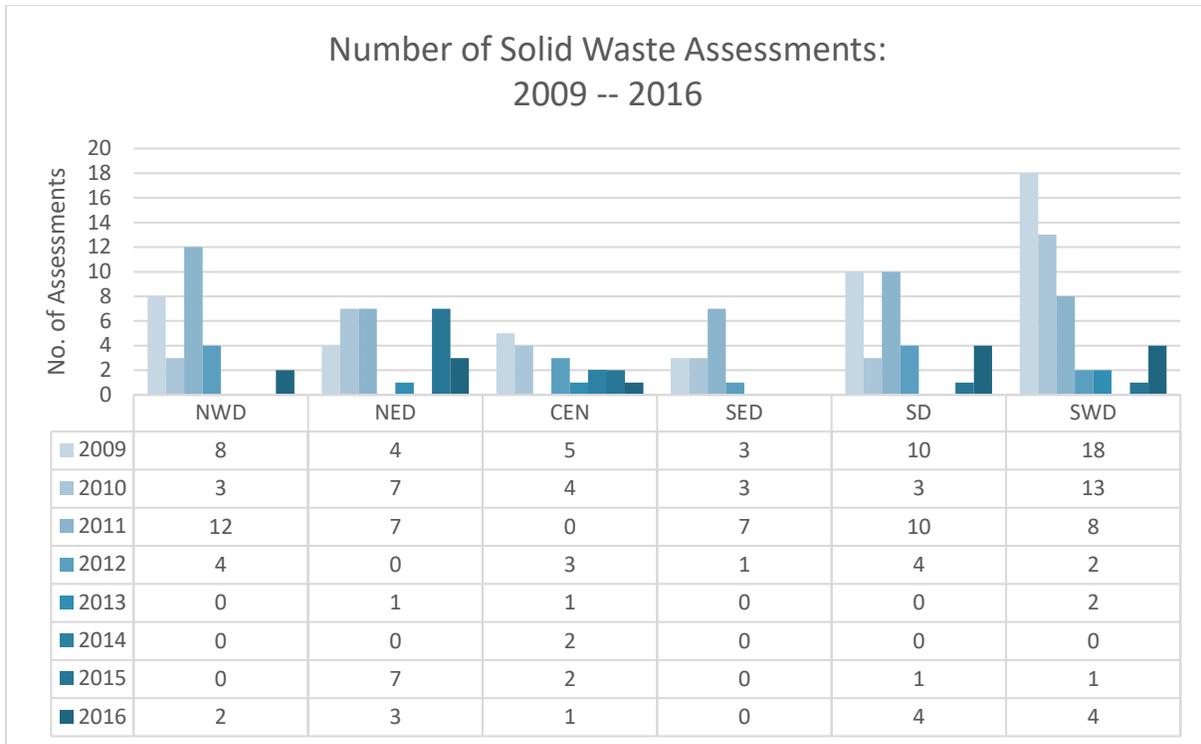
13. Solid Waste Program

This program oversees the handling of Florida’s solid waste, including hazardous waste (although its results are reported separately), most of which is deposited into landfills across the state. While the program has seen significant decreases in enforcement since 2011, it did manage to show marginal improvement in 2016.

There were 14 assessments in 2016, a 27% improvement over 2015 and the second year of increasing numbers. Nevertheless, the current enforcement level remains 58% below the level in 2010. **In general, the level of assessments since the Scott administration took over have been lower than any year since 1988 when the program was in its infancy.** The results for the last 8 years are as follows:

Year	Number of Solid Waste Assessments
2009	48
2010	33
2011	44
2012	14
2013	4
2014	2
2015	11
2016	14

The overall increase in assessments was in large part due to the performance in the South and Southwest Districts. The Northeast District fell significantly. The general trends for each district are shown below:



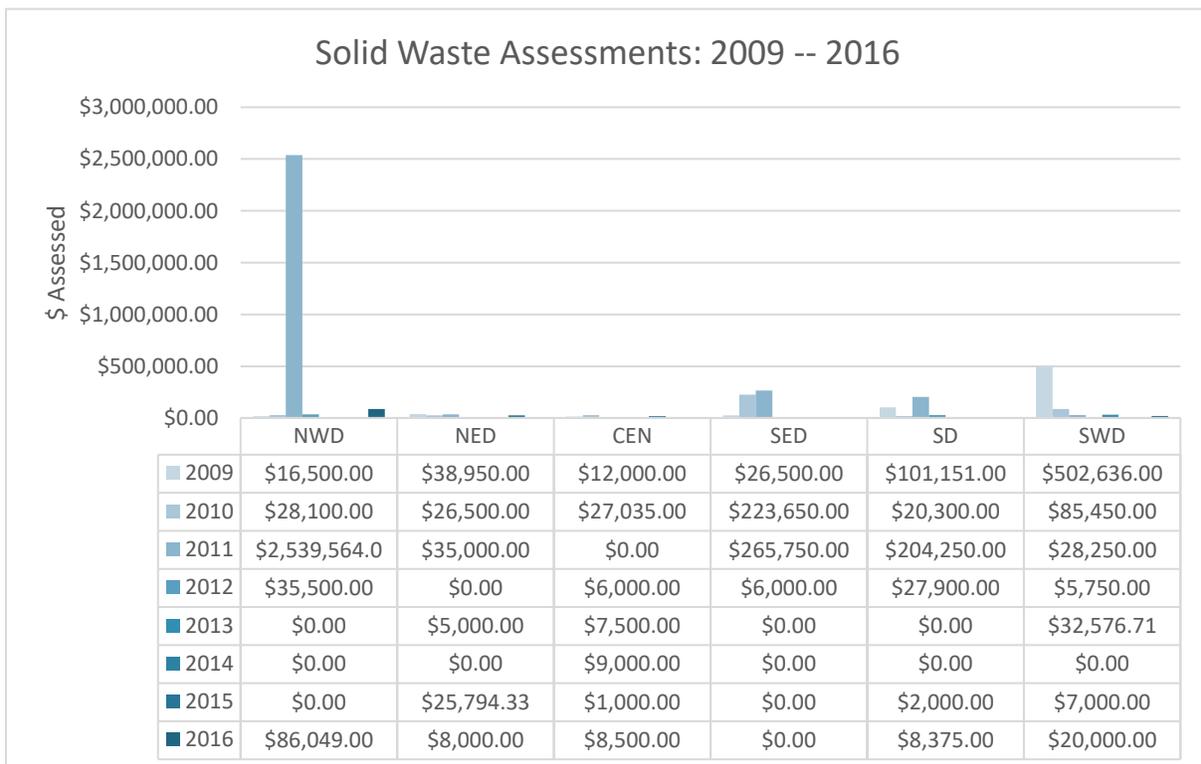
Penalty assessments rose substantially (266%) in 2016 as a result of the increase in cases. Yet, it is also the fifth worst result since 2000. The results for the past 8 years follow:

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
2016	\$130,924.00

As shown below, the sizeable increase in the dollars assessed is largely due to two cases that were assessed in the Northwest District. Significant increases were also seen in the Central, South and Southwest Districts:



The assessments in the Northwest District ended a three-year drought in that district. However, there were sizeable declines in the Northeast District, and the Southeast District has seen no enforcement since 2012. The historical performance of each of the districts is shown below:

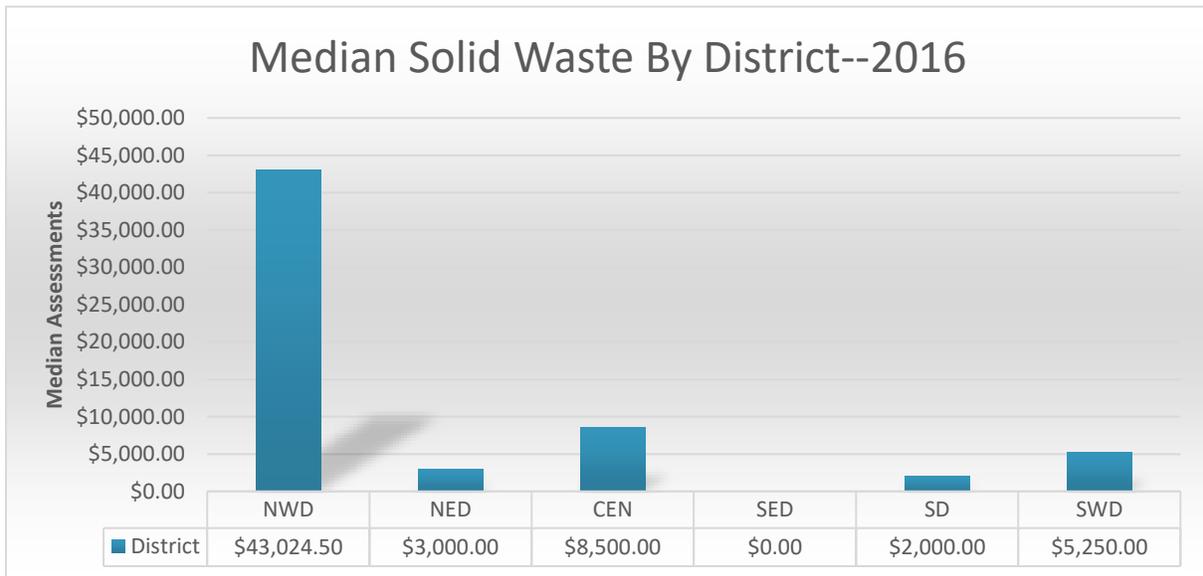


Another bright spot is that medians saw a moderate increase in 2016:

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
2016	\$3,437.50

The medians for each district are shown below:



The disproportionately large median in the Northwest District is due to only 2 cases, and thus not statistically significant. The same is true for the Central District, which had only 1 case for the entire year. The historical results for all 6 districts are shown below:



14. Tanks Program

The tanks program is part of the Division of Waste management. It 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. In describing its program, the Department states on its website that:

“The Storage Tank Compliance Section is part of the Permitting and Compliance Assistance Program in the Florida Department of Environmental Protection's (FDEP) Division of Waste Management. In 1983, Florida was one of the first states in the union to pass legislation and adopt rules for underground and aboveground storage tank systems. Since then, over 28,000 facilities have reported discharges of petroleum products from storage tank systems. Florida relies on groundwater for about 92 percent of its drinking water needs, and has some of the most stringent rules in the country.”²⁴

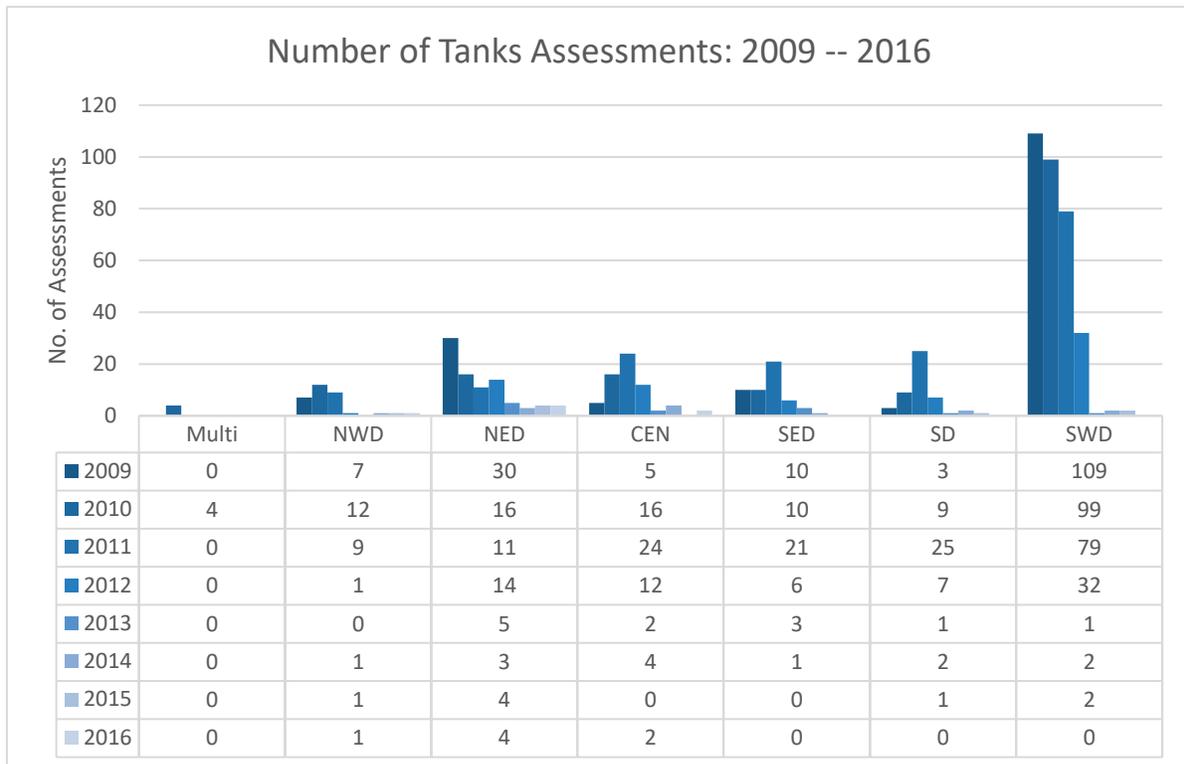
²⁴ <http://www.dep.state.fl.us/waste/categories/tanks/default.htm>

As we stated in our last report, “[t]his is a program that in the past has been relatively robust, but that began to change in 2012. It has declined markedly since that time.” Unfortunately, that decline has continued.

Statewide the number of tanks assessments fell by 1 compared with 2015, making 2016 the worst year since 1988. The results for the previous 8 years are shown below:

Year	Number of Tanks Assessments
2009	164
2010	166
2011	169
2012	72
2013	12
2014	13
2015	8
2016	7

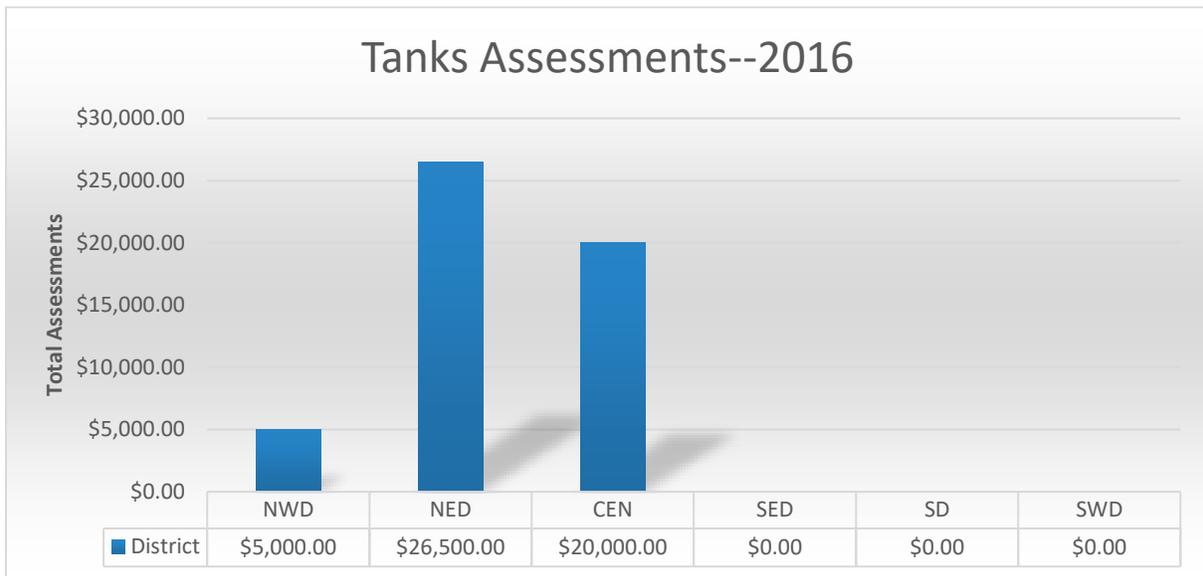
The Central District was the only district to register any improvement in this program. Meanwhile, the Northwest and Northeast Districts held steady, while the performance of the South and Southwest Districts fell. The Southeast District has had only 10 cases since 2012 and none in the past 2 years. This recent history for each district is shown below:



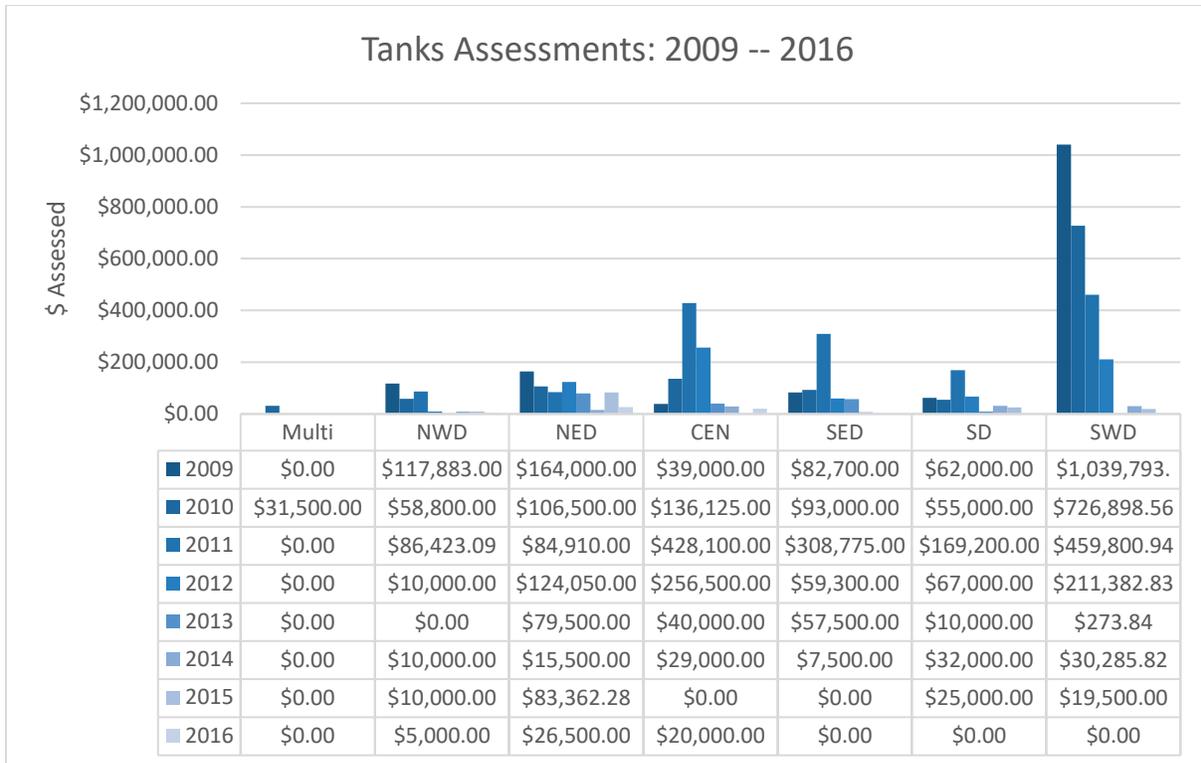
The decline in the number of assessments was accompanied by a 63% decline in the total penalty dollars assessed rose. **This is the lowest total since 1991.** The following chart shows the results for the past 8 years:

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
2016	\$51,500.00

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



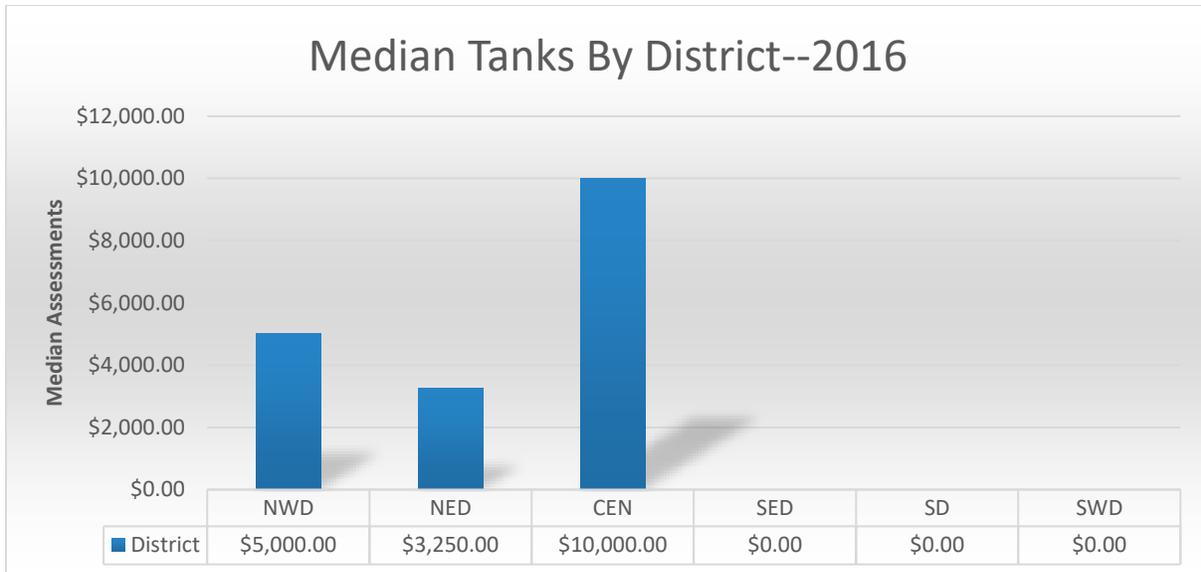
As can be seen below, the Central District was the only district to record an increase in the dollars assessed compared with 2015. All the remaining districts performed worse:



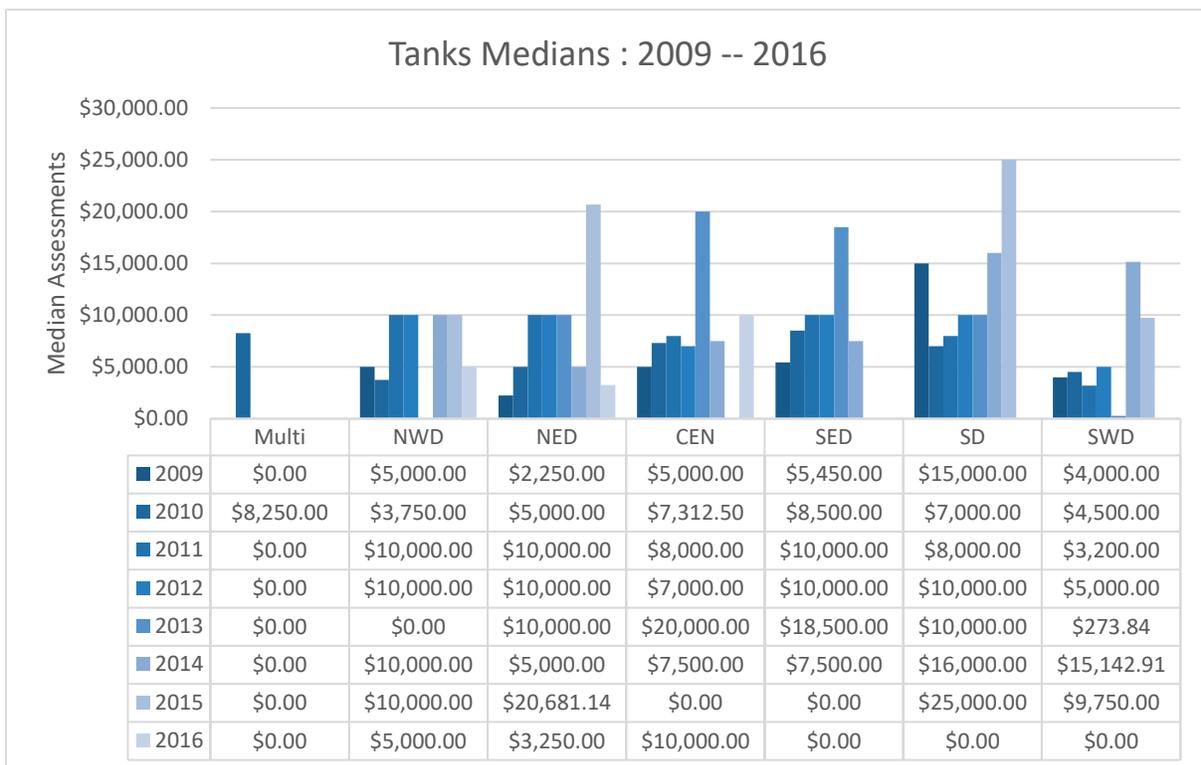
In addition to a decrease in the dollars assessed, the medians also fell significantly (74%) for the Department as a whole:

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
2016	\$5,000.00

In 2016 the median assessments in the districts were:



While the result in the Central District looks impressive, it is based upon only two cases. The result in the Northeast District, which is the lowest median, is based upon the greatest number of cases, i.e. 4 for the year:



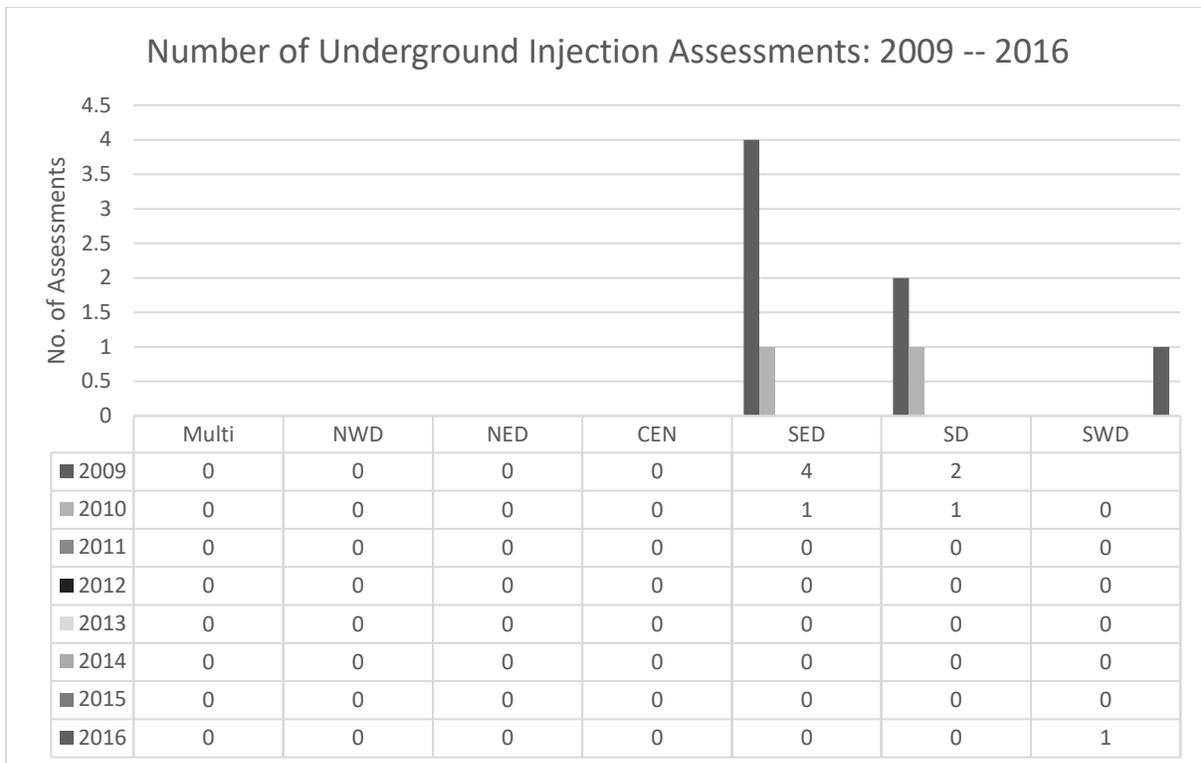
15. Underground Injection Program

The FDEP describes this program as follows: “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.”²⁵ This is a program that has seen very little enforcement of late. In fact, as the table below indicates, it’s first assessment since 2010 occurred in 2016:

Year	Number of UIC Assessments
2009	6
2010	2
2011	0
2012	0
2013	0
2014	0
2015	0
2016	1

It should come as no surprise that among the districts there has been little to no activity across the state:

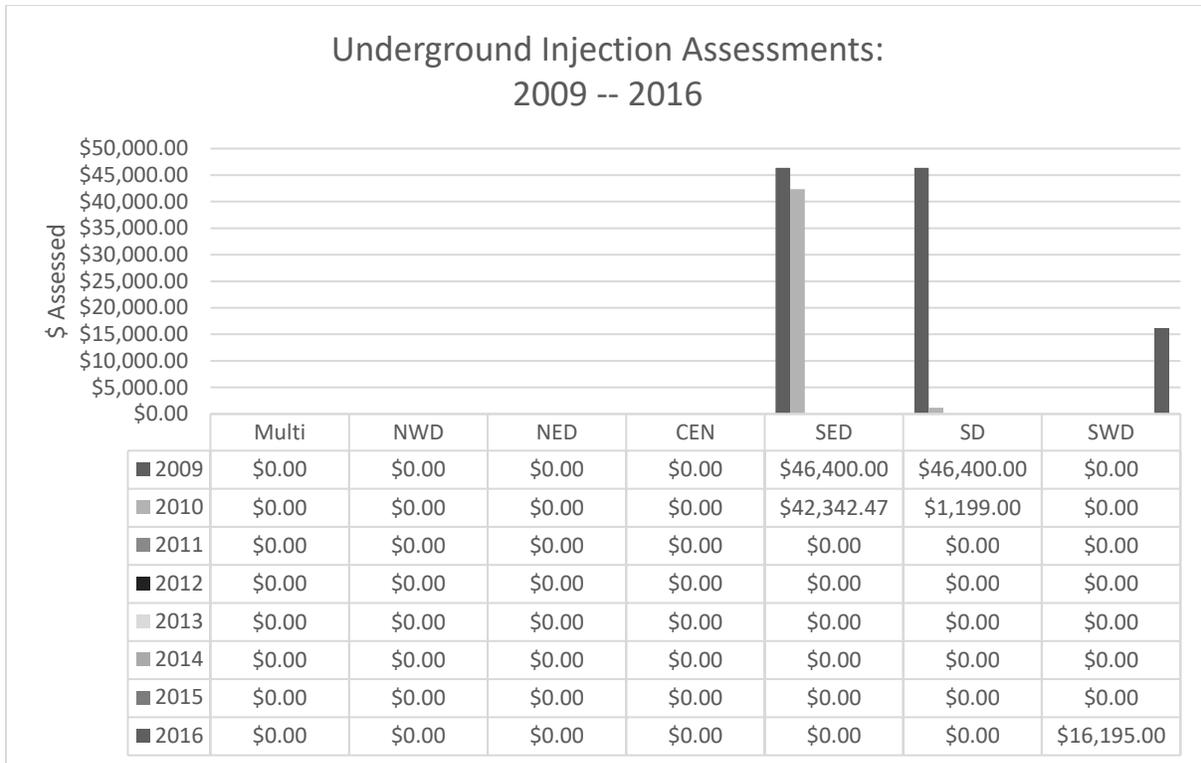
²⁵ <http://www.dep.state.fl.us/water/uic/index.htm>



The same result is found in the overall dollar value of assessments in this program:

Year	Total UIC Assessments
2009	\$92,800.00
2010	\$43,541.47
2011	\$0.00
2012	\$0.00
2013	\$0.00
2014	\$0.00
2015	\$0.00
2016	\$16,195.00

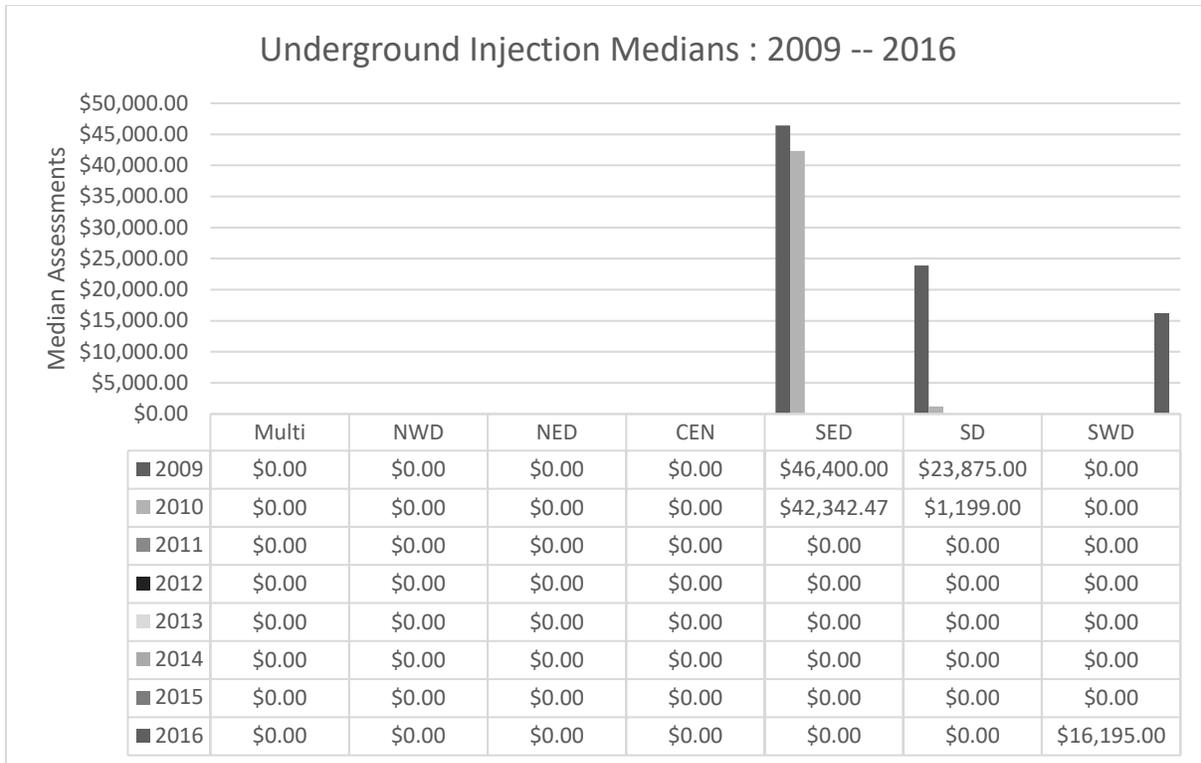
What little enforcement that has occurred has been exclusively in the southern districts in Florida:



The medians are not a particularly useful indicator for this program because of the paucity of cases across the state over the past number of years. The results in 2009 were based upon 6 cases, while the 2010 results were the product of only 2. 2016 is based upon only 1 case out of the Southwest District:

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
2016	\$16,195.00

Likewise, identifying a trend in the districts is all but impossible given the lack of cases:



H. Civil Penalty Collections By Program Area—District Comparison

A statewide total of \$2,211,826.55 was collected by the Department in 2016, an increase of \$1,418,912.32 from the \$792,914.23 that the Department collected in civil penalties in 2015. This marks the second year in a row in which the Department has improved upon its performance in this area. It is also the highest total dollar value of collected civil penalties since 2011.

Looking at the percentage of civil penalties collected each year we see that there has been a significant increase in 2016. The 89% of civil penalties that were collected is the highest collection rate, at least since 2007. 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%
2016	\$2,496,366.00	\$2,211,826.55	89%

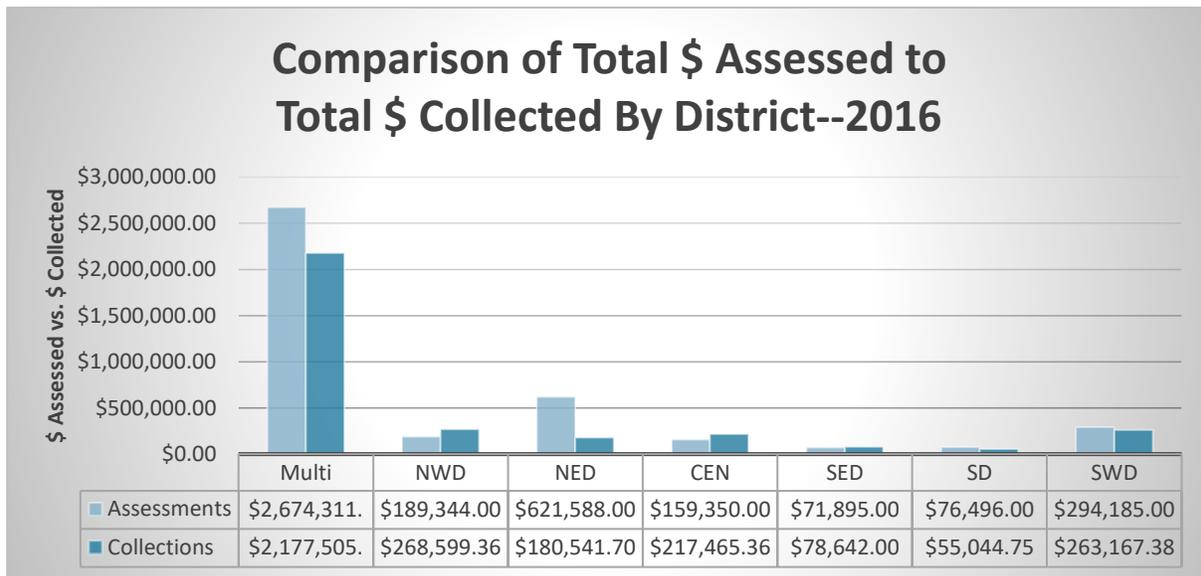
The Department also recorded in-kind and penalty prevention project fulfillments valued at \$1,029,139.25, down slightly (6%) from the \$1,094,303.00 that was recorded in 2015. Adding these to the penalty dollars that were collected gives us a total collection result in 2016 of \$3,240,965.80. This cumulative total is significantly higher than the \$1,355,504.02 that was collected in 2015.

The following chart shows the highest individual civil penalty collections for every program area that collected civil penalties in 2016, sorted by program area:

Program	Dist.	OGC #	Highest Collection	Amount of Highest Collection
AP	6	150685	<i>Paw Materials, Inc.</i>	\$10,000.00
BS	0	160011	<i>Walton, Jr. Gus B. & Mary Ellis Bullion Walton, Trustees</i>	\$750.00
CU			<i>None</i>	\$0.00
DF	5	160418	<i>Florida Keys Wild Bird Rehabilitation Center, Inc.</i>	\$5,000.00
DW	6	052682	<i>Pasco County Utilities</i>	\$26,117.00
EP			<i>None</i>	\$0.00
EW	3	160005	<i>City of New Smyrna Beach</i>	\$8,000.00
HW	0	121041	<i>Mosaic Fertilizer, LLC</i>	\$1,450,000.00
IW	6	160092	<i>Envirofocus Technologies, LLC</i>	\$7,000.00
LR	6	103555	<i>Thomas B. Mahon</i>	\$373.98
MA	6	160288	<i>Catherine Finn</i>	\$5,000.00
MN			<i>None</i>	\$0.00
OG			<i>None</i>	\$0.00

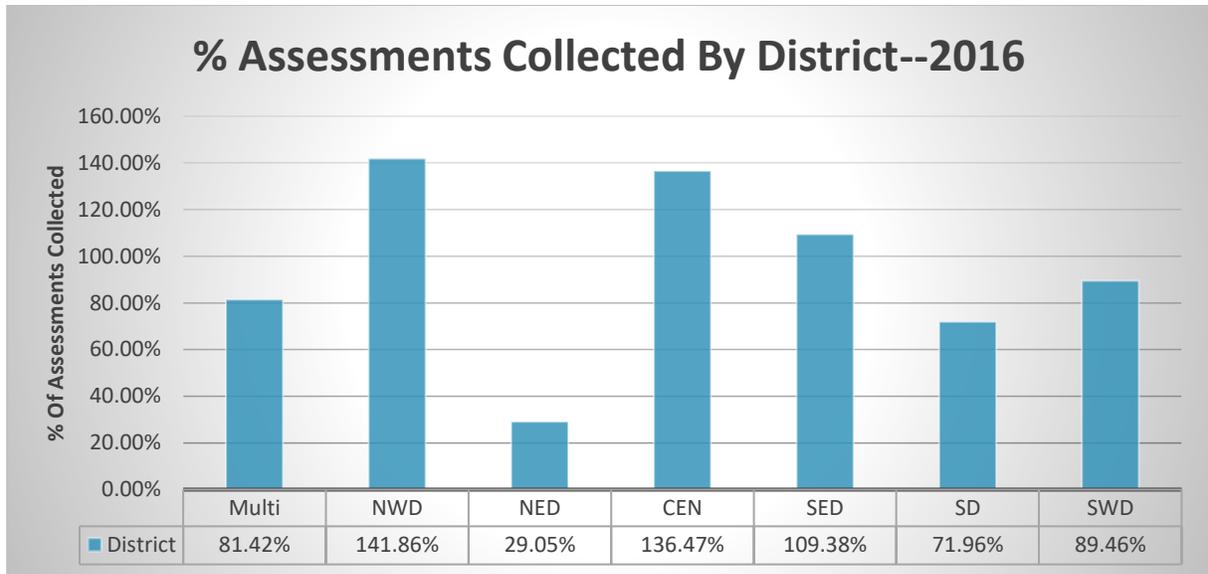
PW	6	070760	<i>Kucej, Joseph and Sandra</i>	\$10,500.00
RO	0	120844	<i>Soundhaven, LLC.</i>	\$10,000.00
SL	4	150458	<i>Advanced Marine Services, Inc.</i>	\$3,420.00
SW	3	161251	<i>Hubbard Construction Company</i>	\$8,500.00
TK	3	121458	<i>Avnish Patel & A & S Corporation of Cocoa</i>	\$10,000.00
UC	6	150684	<i>K.C. Industries, LLC</i>	\$16,195.00
WW	2	160266	<i>Paradise Village Mobile Home Park</i>	\$1,000.00

The following chart shows each district and compares the dollars assessed by each district in 2016 with the dollars actually collected, including dollar equivalents for in-kind and penalty prevention projects. The Northwest, Central and Southeast Districts each collected more money in 2016 than they assessed, while the remaining districts failed to collect 100% of the money that they assessed:



Three of the districts, the Northwest, Central and Southeast, collected over 100% of the assessments for 2016, meaning that, in terms of pure dollars, they collected monies that were also owed to them from prior years. On the other hand, the Northeast District failed to collect even a third of the assessments in 2016.²⁶

²⁶ 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.

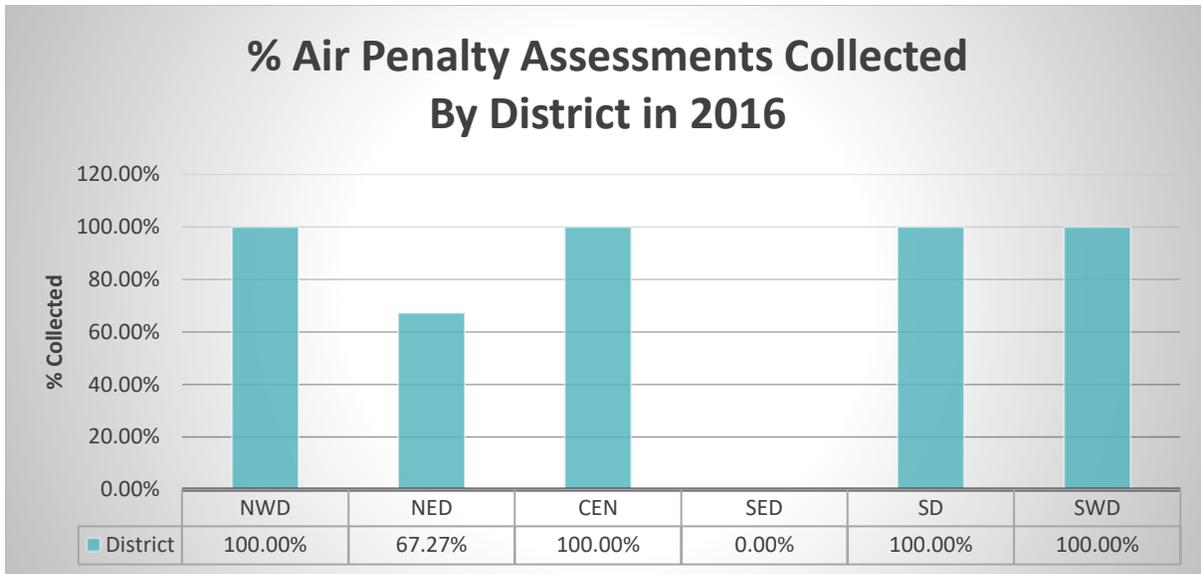


While the above results are generally good, when compared with the results in 2015, we found that, on a percentage basis, only the Multi-District Category, and the Northwest and Central Districts collected a higher percentage of assessments in 2016 than they did in the previous year.

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

1. Air Program

Except for the Northeast District, which collected 33% fewer civil penalties in 2016 than it did in the previous year, each district performed exactly the same in 2016. Except for the Southeast District, the remaining districts each collected 100% of their assessments. The Southeast District has not collected any air assessments since 2012. The Department collected only 87.97% of its assessments in 2016. The performance of the individual districts follows:



2. Asbestos Program

It has now been 4 years since the Department assessed any penalties in this program. Therefore, there were no penalty dollars collected in 2016 by the Department in Florida.

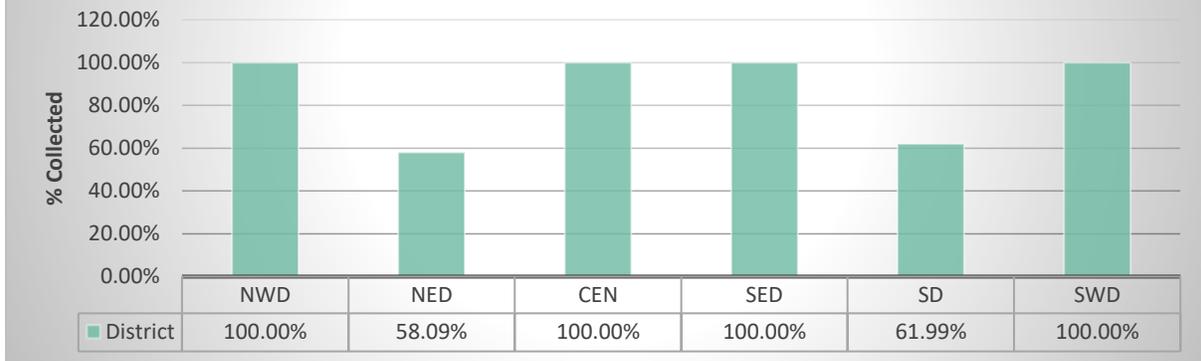
3. Beaches & Coastal Program

All the collections in this program were in the Multi-District Category. The category also collected 100% of its \$1,500.00 in assessments in 2016.

4. Dredge and Fill Program

The Department collected 82.87% its penalty assessments in 2016, down from the 94.94% that it collected the year before. Four of the districts, the Northwest, Central, Southeast and Southwest collected at least 100% of the penalties assessed, while the remaining two were significantly poorer performers:

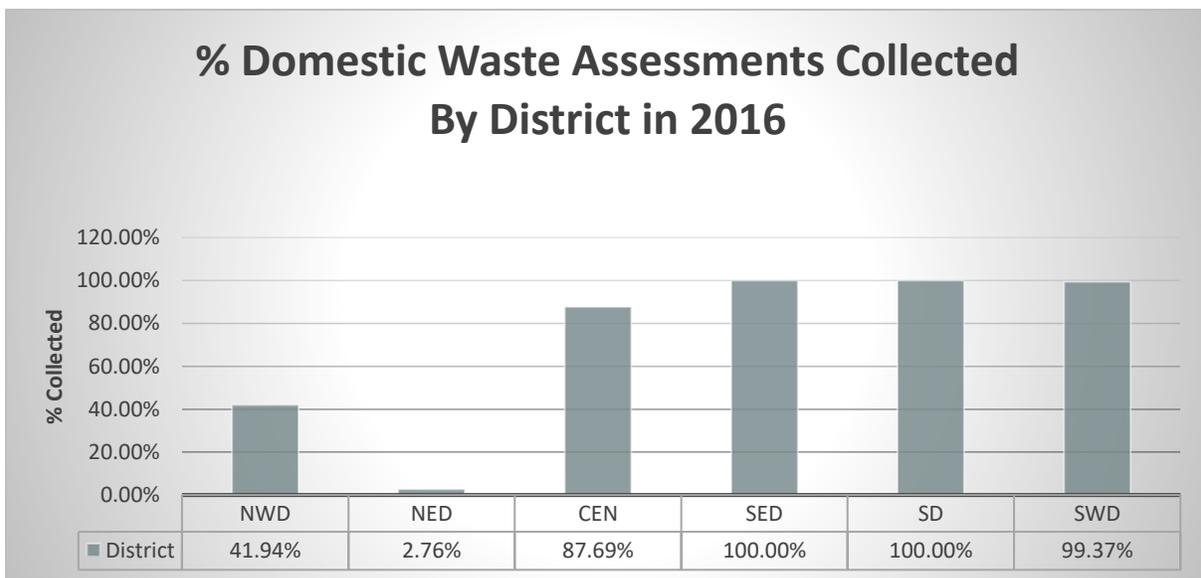
% Dredge & Fill Assessments Collected By District in 2016



5. Domestic Waste Program

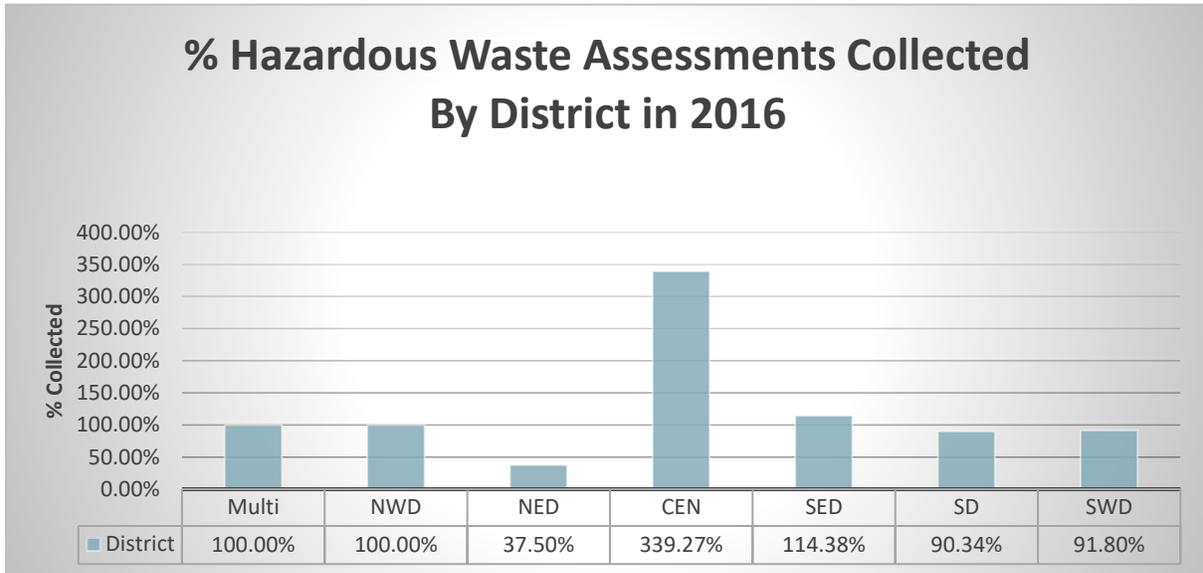
The Department collected just 61.74% of its assessments in 2016, compared to an 80.14% collection rate in 2015 and 86.66% in 2014. Only two of the districts, the South and Southeast, collected 100% of their assessments, while the remaining districts fell short of that mark and the Northeast District managed to collect just 2.76% of its assessments in this program.

The results for 2016 are:



6. Hazardous Waste

Hazardous waste collections rose slightly, from 94.40% in 2015 to 96.90% in 2016. Three of the districts and the Multi-District Category each collected 100% or more of their assessments, while the Northeast performed significantly lower in collecting just 37.50% of its assessments. The performance for each district follows:

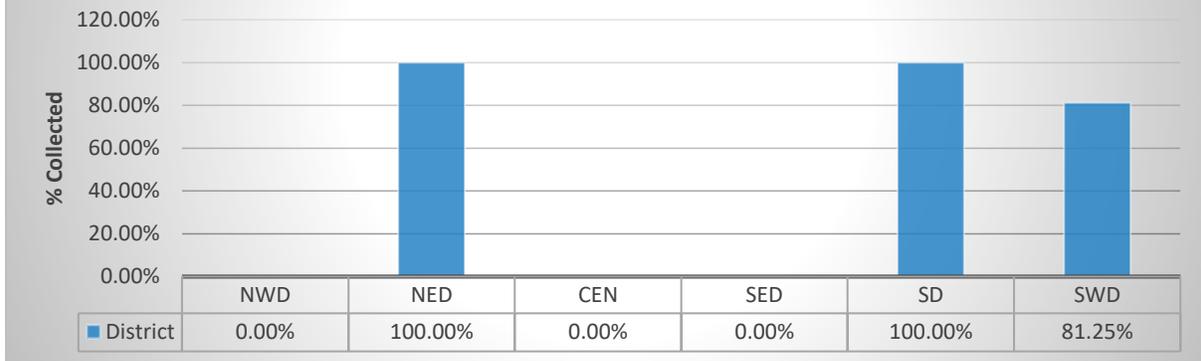


7. Industrial Waste

The Department collected 82.14% of its 8 assessments in this program in 2016. Two of the districts, the Northeast and South collected 100% of their assessments, while the Southwest District collected just over 81%. The Northwest District collected neither of its 2 assessments.

The districts performed as follows:

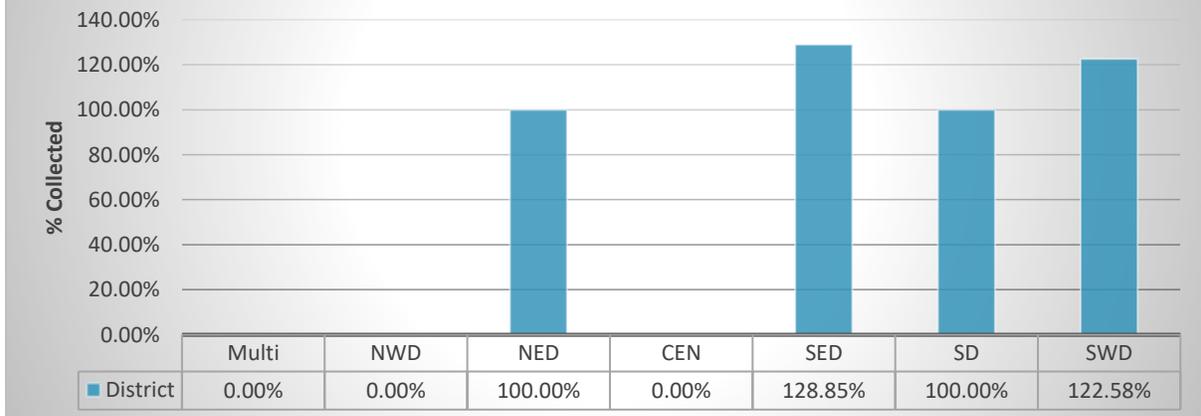
% Industrial Waste Assessments Collected By District in 2016



8. Mangrove Alteration Program

This program collected a robust 111.45% of its assessments in 2016. Every district with collections saw rates exceeding 100%:

% Mangrove Alteration Assessments Collected By District in 2016

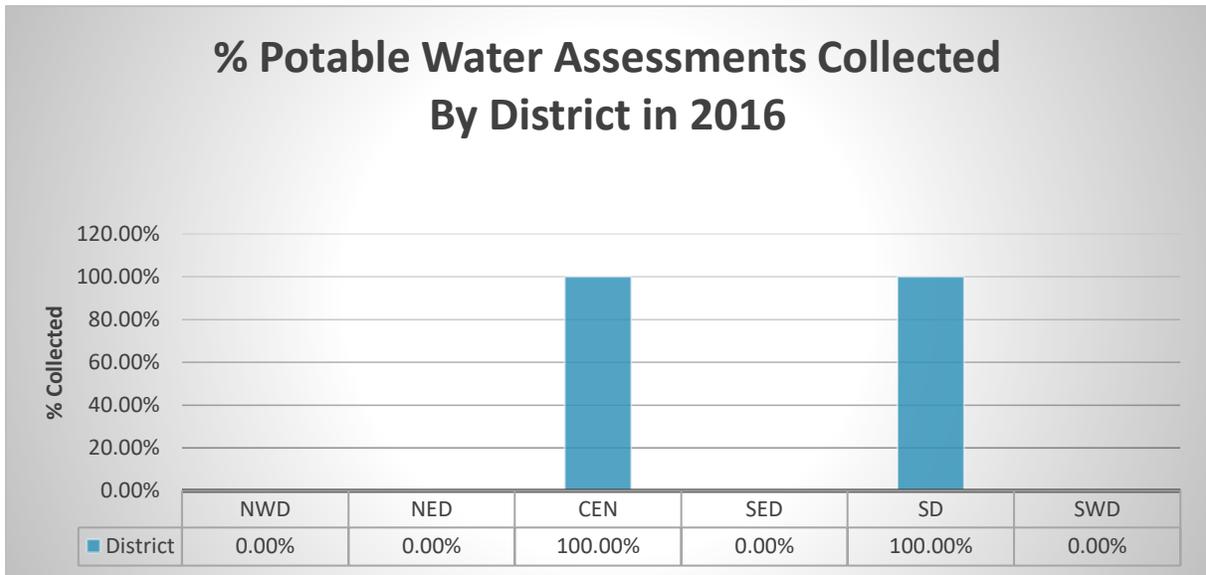


9. Mining & Phosphogypsum Program

There were no collections in this program in 2016.

10. Potable Water Program

Collections rose from 16.67% in 2015 to 295.92% in 2016; however, this result is based upon a total of only 2 collections. The district performances are shown below, but it should be noted that each of the results is based upon only 1 case for each district:

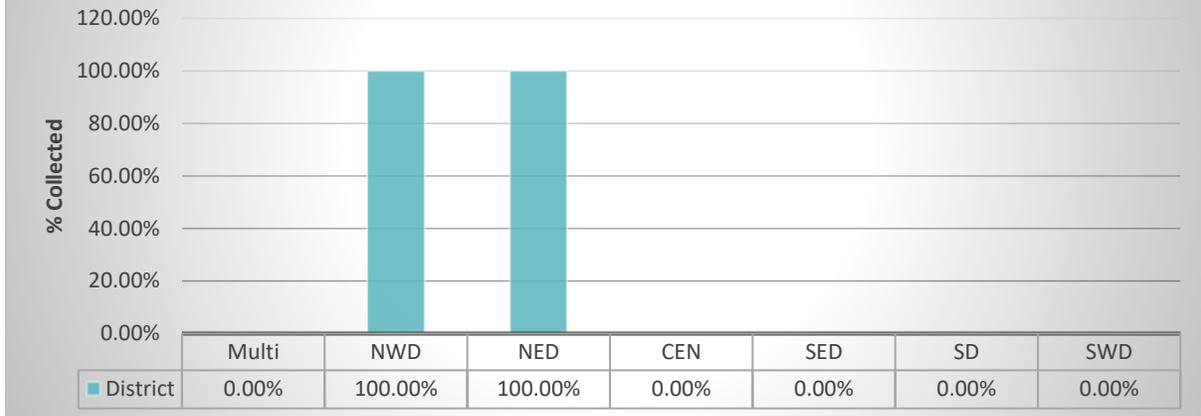


11. State Lands Program

In 2016 there was a total of \$10,520.00 collected by the Department. The agency actually collected 148.17% of its assessments in 2016, meaning that it collected on some assessments from prior years. The Northwest and Northeast Districts each collected 100% of their assessments, while the Southeast District, which had assessed no penalties in 2016, collected \$3,420.00 from earlier years. The remaining districts saw no activity in this program.

The following chart shows the percentage of assessments in 2016 that were collected for assessments from 2016:

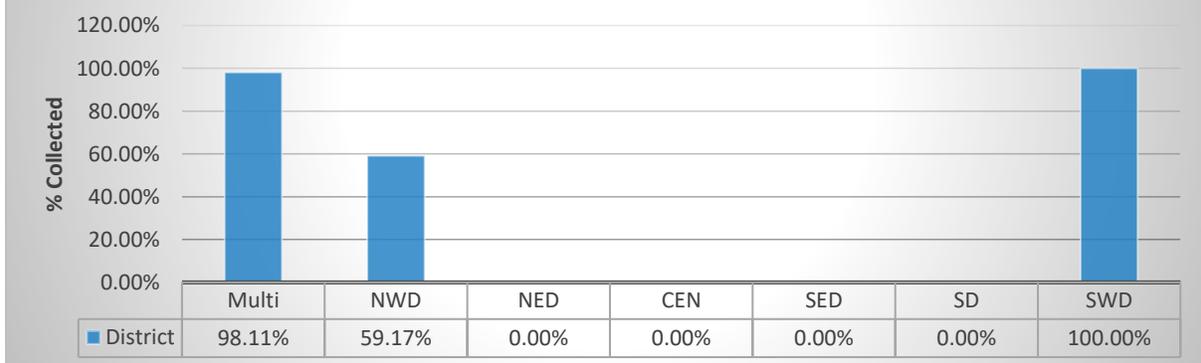
% State Lands Assessments Collected By District in 2016



12. Stormwater Discharge Program

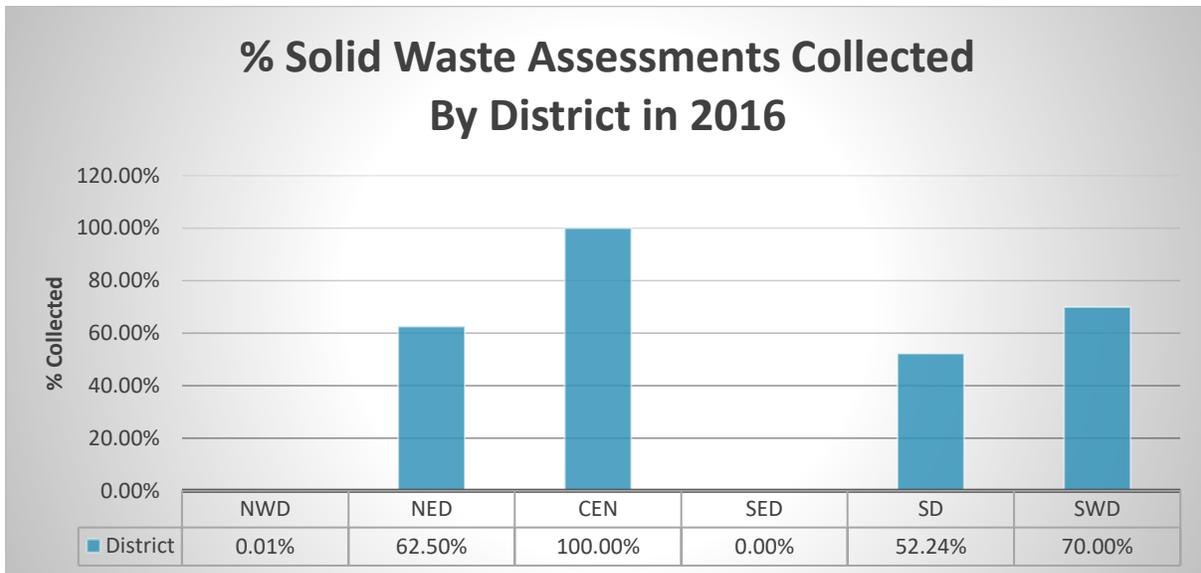
Collections fell in this program from 86.14% in 2015, to the current rate of 73.92%. The vast majority of the collections were in the Multi-District Category, which collected on 16 cases, while the Northwest District collected the largest total dollars in the state (\$20,650.00). The Southwest District collected 100% of its only assessment for the year:

% Stormwater Runoff Assessments Collected By District in 2016



13. Solid Waste Program

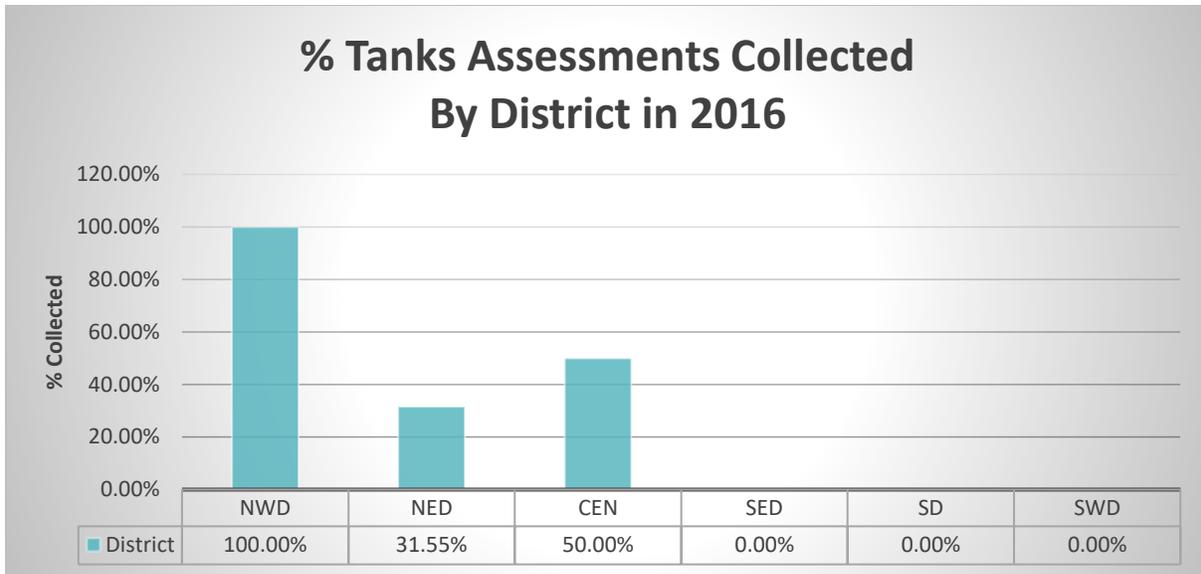
The Department collected only 24.35% of its assessments in 2016, down from the 54.46% rate in 2015. The Southwest District collected both the largest number of cases (6) and the largest dollars in the state (\$14,000.00). The percentage of recoveries is seen below:



14. Tanks Program

Performance fell in this program, from 68.80% in 2015 to the current rate of 53.91%. The Northeast District collected \$26,500.00, making it the best performing district in terms of actual dollars collected, while on a percentage basis it collected the fewest cases among the districts. Only the Northwest District collected money in more than one case in 2016, it collected penalties in 5 cases. The Southwest District collected \$4,035.55 in penalties that were assessed in previous years, although it had no assessments in this program in 2016.

The performance by each district was as follows:



15. Underground Injection Control Program

The Southwest District was the only district to have any activity in this program. It had one case and it collected 100% of the \$16,195.00 that it assessed in 2016.

I. A Quick Look At Statewide Results

The following is a summary of the overall enforcement picture for 2016:

Enforcement Area	Performance Compared with 2014	Performance Compared with 2015
Total Number of Cases	Up 31%	Up 3%
Case Reports	Up 7%	Down 57%
NOVs	Down 14%	Up 9%
Final Orders	Up 15%	Down 25%
Consent Orders—Total	Up 54%	Up 12%
Consent Orders—Long-Form	Up 60%	Up 57%
Consent Orders—Model	Up 35%	Up 9%
Consent Orders—Short-Form	Up 75%	Down 12%

Assessments for 2016 can be summarized as follows:

Assessment/Program Area	Performance Compared with 2014	Performance Compared with 2015
Total Number of Assessments	Up 51%	Up 10%
Total Dollars Assessed in Penalties	Down 29%	Up 191%
Total Medians	Down 14%	Up 18%
Air Program—Number of Assessments	Up 78%	Unchanged
Air Program—Dollars Assessed	Up 129%	Up 3%
Air Program—Median	Up 10%	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 71%	Down 50%
Beaches & Coastal—Dollars Assessed	Down 76%	Down 71%
Beaches & Coastal—Median	Up 56%	Down 25%
Dredge & Fill—Number of Assessments	Up 52%	Up 30%
Dredge & Fill—Dollars Assessed	Up 3%	Down 10%
Dredge & Fill—Median	Unchanged	Down 50%
Domestic Waste—Number of Assessments	Up 41%	Up 5%
Domestic Waste—Dollars Assessed	Down 60%	Up 49%
Domestic Waste—Median	Down 47%	Up 33%
Hazardous Waste—Number of Assessments	Up 105%	Up 21%
Hazardous Waste—Dollars Assessed	Up 1224%	Up 1070%
Hazardous Waste—Median	Up 53%	Up 98%
Industrial Waste—Number of Assessments	Up 700%	Up 167%
Industrial Waste—Dollars Assessed	Up 226%	Up 195%
Industrial Waste—Median	Down 63%	Up 75%
Mangrove Alterations—Number of Assessments	Up 166%	Down 27%
Mangrove Alterations—Dollars Assessed	Up 42%	Down 41%
Mangrove Alterations--Median	Down 25%	Down 40%
MN & PG—Number of Assessments	Down 100%	Down 100%

MN & PG—Dollars Assessed	Down 100%	Down 100%
MN & PG--Median	Down 100%	Down 100%
Potable Water—Number of Assessments	Down 40%	Up 50%
Potable Water—Dollars Assessed	Down 85%	Down 59%
Potable Water—Median	Down 39%	Down 83%
State Lands—Number of Assessments	Down 75%	Down 64%
State Lands—Dollars Assessed	Down 86%	Down 63%
State Lands--Median	Up 9%	Up 41%
Stormwater Discharge—Number of Assessments	Up 79%	Up 4%
Stormwater Discharge—Dollars Assessed	Up 74%	Down 17%
Stormwater Discharge—Median	Unchanged	Down 29%
Solid Waste—Number of Assessments	Up 600%	Up 27%
Solid Waste—Dollars Assessed	Up 1,355%	Up 266%
Solid Waste—Median	Down 34%	Up 15%
Tanks—Number of Assessments	Down 46%	Down 12%
Tanks—Dollars Assessed	Down 99%	Down 63%
Tanks—Median	Down 50%	Down 74%
UIC—Number of Assessments	Up 100%	Up 100%
UIC—Dollars Assessed	Up 100%	Up 100%
UIC--Medians	Up 100%	Unchanged

A comparison of collections of penalty assessments (excluding in-kind and pollution prevention project closures) for 2016 and the two previous years are:

Collections/Program Area	Performance Compared with 2014	Performance Compared with 2015
Total \$ Collected in Penalties & Closures	Up 137%	Up 179%
Air—Penalties Only Collected	Up 178%	Down 26%
Asbestos—Penalties Collected	Unchanged	Unchanged
Beaches & Coastal—Penalties Collected	Down 65%	Down 71%
Dredge & Fill—Penalties Collected	Down 30%	Down 18%
Domestic Waste—Penalties Collected	Down 81%	Up 17%
Hazardous Waste—Penalties Collected	Up 3291%	Up 601%
Industrial Waste—Penalties Collected	Up 135%	Down 34%

Mangrove Alterations-Penalties Collected	Up 731%	Down 20%
MN & PG—Penalties Collected	Down 100%	Down 100%
Potable Water—Penalties Collected	Up 1108%	Up 625%
State Lands—Penalties Collected	Down 88%	Down 74%
Stormwater Discharge—Penalties Collected	Up 462%	Down 21%
Solid Waste—Penalties Collected	Down 54%	Up 73%
Tanks—Penalties Collected	Down 97%	Down 71%
UIC—Penalties Collected	Up 100%	Up 100%

DISTRICT ENFORCEMENT RESULTS

A. Northwest District

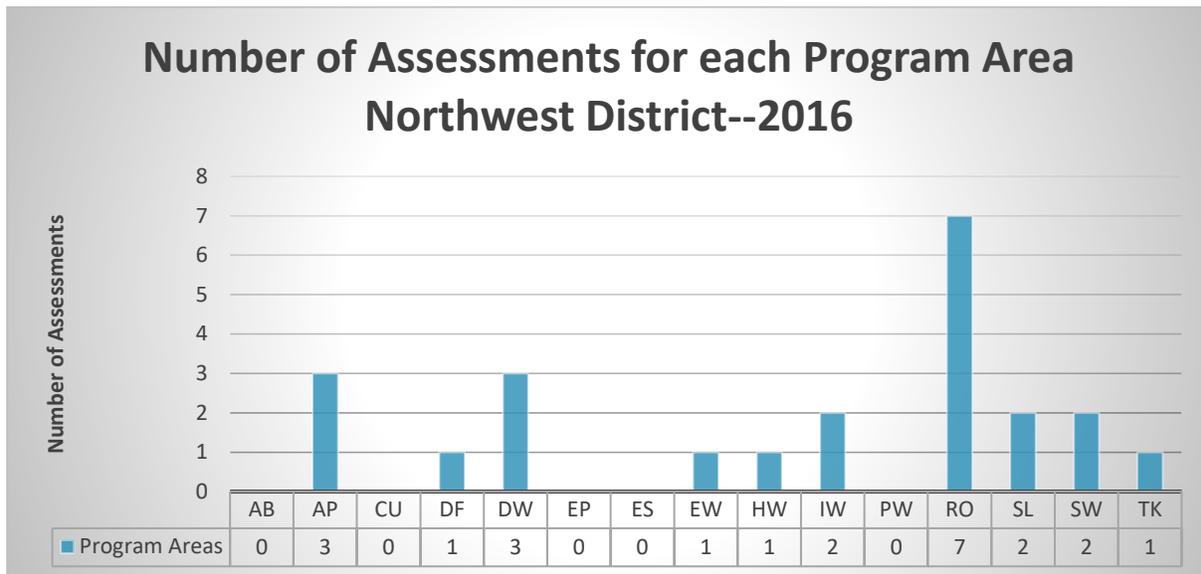
1. Case Reports, NOVs, Consent Orders, Final Orders

The Northwest District initiated enforcement in 32 cases in 2016, making this 3 straight years of decreasing numbers. 10.42% of all the enforcement cases opened by the Department came out of this district. It issued 1 case report, compared with 2 in 2015 and 5 case reports in 2014. It issued 3 NOVs, the same number as in 2015 and 2 final orders, 1 fewer than in 2015. The district issued 26 consent orders in 2016, a drop of 1 compared with the previous year. Long-form consent orders remained steady at 7 for the year, while short-form consent orders increased once again from 10 in 2015 to 13 in 2016. The district issued 15% of all short-form consent orders issued by the Department. 41% of all cases initiated by the Northwest District in 2016 were resolved with short-form consent orders, a 3% decrease from the previous year.

2. Program Area Enforcement

The Northwest District matched its decline in the overall number of new enforcement cases (3 fewer in 2016) by a decline in the number of cases in which penalty assessments were imposed. It assessed penalties in 21 cases in 2016, 2 less than in the previous year. The following

chart provides a breakdown²⁷ of how those assessments were distributed among the program areas:



There were 6 additional state lands case assessments in 2016, as well as marginal increases in the number of domestic waste (1) and industrial waste (2) cases in 2016. Otherwise, each program either remained the same or decreased slightly. *It has now been 4 years since this district had any potable water cases.*

3. Civil Penalty Assessments

The Northwest District assessed \$189,344.00 in civil penalties (including in-kind and P2 projects) in 2016, a substantial increase from the \$109,240.00 in civil penalties that were assessed in 2015. This makes the third straight year of increases in this parameter. Nevertheless, the district’s total assessments made up just 4.63% of all assessments levied by the Department in 2016, down from 11% in 2015. Given that the number of penalty assessments decreased in 2016, while the dollar value of those assessments increased, it was to be expected that the median civil penalty assessment would increase. This was the case. The median civil penalty assessment for 2016 for all programs combined in this district rose significantly in 2016, making this the third straight year of increases. In 2016, the median civil penalty assessment was \$5,000.00, compared to \$3,420.00 in 2015 and \$1,420.00 in 2014.

²⁷ 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:^{28,29}

Program Area	Total \$ Assessed in 2016	Total \$ Assessed in 2015	2016 Medians	2015 Medians
AP	\$19,400.00	\$18,100.00	\$7,250.00	\$4,000.00
DF	\$4,000.00	\$250.00	\$4,000.00	\$250.00
DW	\$24,725.00	\$39,000.00	\$8,612.50	\$19,500.00
EW	\$5,920.00	\$0.00	\$5,920.00	\$0.00
HW	\$2,250.00	\$750.00	\$2,250.00	\$750.00
IW	\$5,000.00	\$0.00	\$2,000.00	\$0.00
RO	\$34,900.00	\$26,500.00	\$4,500.00	\$4,500.00
SL	\$2,100.00	\$10,140.00	\$1,050.00	\$1,100.00
SW	\$86,049.00	\$0.00	\$43,024.50	\$0.00
TK	\$5,000.00	\$10,000.00	\$5,000.00	\$10,000.00

Both the dollar value of assessments and medians rose in all but the domestic waste, state lands and tanks programs. Medians in the state lands program have now fallen for 3 years in a row. The results in the dredge & fill, ERP wetlands, hazardous waste, industrial waste and tanks programs are each based upon only 1 case.

4. Civil Penalty Collections

The Northwest District collected \$66,549.36 in 2016, down from \$68,627.62 in civil penalties collected in 2015.³⁰ The Northwest District collected 7% of all collections by the Department in calendar year 2016.

B. Northeast District

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

The Northeast District initiated enforcement in 62 cases in 2016, making this 3 straight years of increased enforcement. In 2016, 20% of all enforcement cases statewide were opened by the Northeast District. It issued 2 case reports (a decrease of 5), 5 NOVs (a decrease of 3) and 6

²⁸ 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.

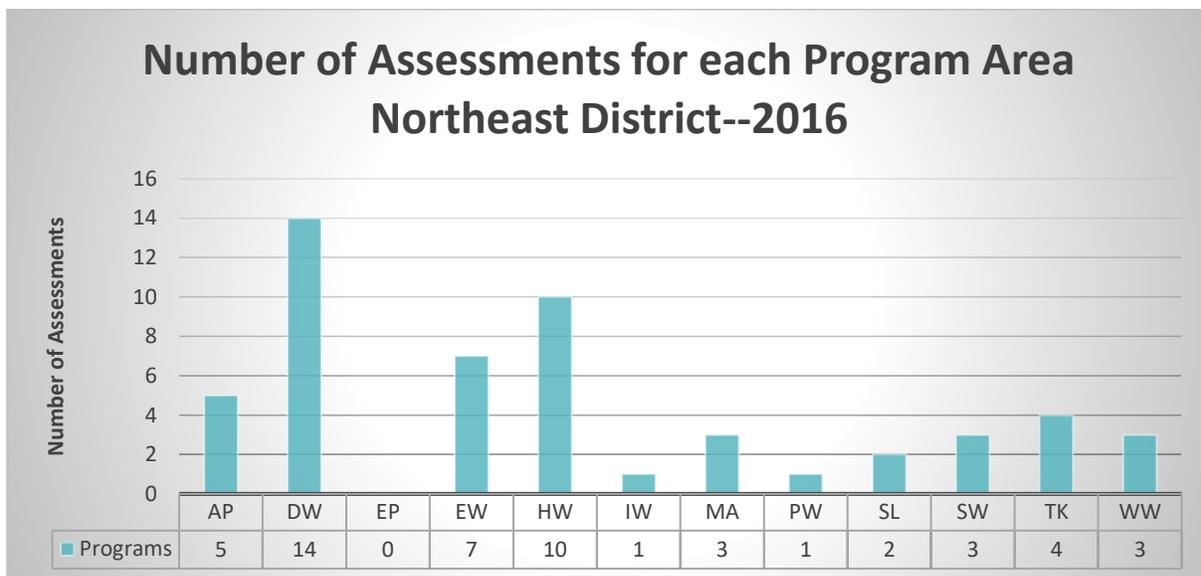
²⁹ Assessments provided in this table include penalty assessments, in-kind assessments and pollution prevention project assessments. The same is the case in subsequent tables provided for each district.

³⁰ 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.

final orders (an increase of 1). The increases came in the number of consent orders issued. 49 were issued in 2016, an increase of 15 over 2015's results and 19 more than in 2014. Moreover, 24 of the 49 consent orders were long-form, which is 9 more than in 2015, while 17 short-form consent orders were issued. 7. 27% of all cases initiated by the Northeast District in 2016 were resolved with short-form consent orders, a slight decline compared with 2015. 19% 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 2016, the same number as the year before. Thus, the 28% increase in 2015 has continued, but is 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 2015, except for the hazardous waste program, which increased from 1 case in 2015 to 10 cases in 2016. On the other hand, the solid waste program saw 4 fewer cases in 2016 (still better than in 2014, during which there were no cases).

3. Civil Penalty Assessments

The Northeast District significantly improved upon penalty assessments in 2016. It assessed civil penalties (including in-kind and P2 projects) totaling \$621,588.00, compared to \$236,926.61 assessed in 2015! This district's performance represented 15.21% of all assessments by the Department in 2016 and was the single-biggest contributor of all the districts. The median value of its assessments remained steady at \$3,000.00 in 2016, but is still lower than the results for 2014 and 2013.

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

Program	Total \$ Assessed in 2016	Total \$ Assessed in 2015	2016 Median	2015 Median
AP	\$27,500.00	\$52,750.00	\$5,000.00	\$7,375.00
DW	\$175,150.00	\$98,100.00	\$3,000.00	\$2,000.00
EW	\$10,010.00	\$10,000.00	\$1,000.00	\$2,625.00
HW	\$343,028.00	\$32,170.00	\$23,379.25	\$32,170.00
IW	\$4,000.00	\$2,500.00	\$4,000.00	\$1,250.00
MA	\$5,500.00	\$0.00	\$2,000.00	\$0.00
PW	\$900.00	\$10,000.00	\$900.00	\$10,000.00
SL	\$5,000.00	\$3,000.00	\$2,500.00	\$3,000.00
SW	\$8,000.00	\$25,794.33	\$3,000.00	\$3,000.00
TK	\$26,500.00	\$83,362.28	\$3,250.00	\$20,681.14
WW	\$16,000.00	\$0.00	\$3,500.00	\$0.00

Total assessments and medians fell in the air and potable water programs, although the potable water result is based upon only 1 case. The 2016 results for the industrial waste program are also based upon only 1 case. Assessments rose 79% in the domestic waste program, while the hazardous waste program increased its assessments by over 900%. Assessments in the tanks program fell 68%.

4. Civil Penalty Collections

The Northeast District collected \$129,550.20 in civil penalties in 2016, compared to \$150,729.65 collected in 2015. The district collected 11% of all collections by the Department in calendar year 2015, an 8% decline from 2015's results.

C. Central District

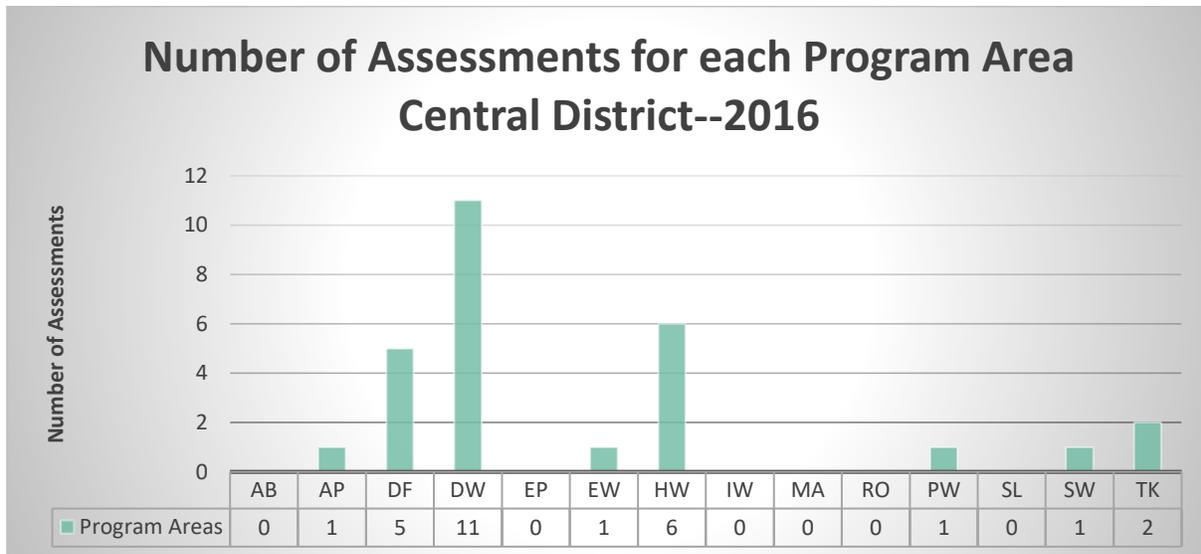
1. Case Reports, NOVs, Consent Orders, Final Orders

The Central District opened 52 enforcement cases in 2016, 8 more than in 2015, and 26 more than in 2014. It submitted only 1 case report to OGC in 2016, a decrease, but issued 4 NOVs. It issued no final orders in 2016. Its increased activity, like in the Northeast District, came from the issuance of consent orders. It issued 47 consent orders in 2016, 11 more than in 2015 and 28 more than the number issued in 2014. Of the 47 consent orders, 13 (28%) were long-form consent orders and 21 (45%) were the short-form variety. Of all its cases 40% were

resolved via short-form consent orders, and 25% were resolved with long-form consent orders (a 5% increase from 2015).

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 2016:



The Central District assessed penalties in 32 cases in 2016, 1 less than the year before. The main improvement was in the dredge and fill program, which had 4 more cases than in 2015. The tanks program had 2 cases in 2016, as opposed to none in the previous year. The other programs either remained steady or fell slightly.

3. Civil Penalty Assessments

The Central District levied \$159,350.00 in civil penalties, in-kind assessments and P2 projects in 2016. This compares to \$219,397.00 in assessments in 2015. It also continues the significant decline from the \$271,249.00 assessed in 2014 and the \$359,295.00 assessed in 2013. **The district now has five straight years of declining assessments.** The district assessed 3.9% of all penalties in 2016. Medians also declined from \$4,260.00 in 2015 to \$3,750.00 in 2016.

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

Program	Total \$ Assessed in 2016	Total \$ Assessed in 2015	2016 Medians	2015 Medians

AP	\$500.00	\$18,200.00	\$500.00	\$3,675.00
DF	\$7,049.00	\$3,000.00	\$450.00	\$3,000.00
DW	\$52,750.00	\$58,999.00	\$3,500.00	\$4,000.00
EP	\$0.00	\$0.00	\$0.00	\$0.00
EW	\$8,000.00	\$0.00	\$8,000.00	\$0.00
HW	\$61,551.00	\$164,383.00	\$4,915.00	\$6,839.50
IW	\$0.00	\$0.00	\$0.00	\$0.00
RO	\$0.00	\$12,500.00	\$0.00	\$6,250.00
PW	\$1,000.00	\$0.00	\$1,000.00	\$0.00
SL	\$0.00	\$0.00	\$0.00	\$0.00
SW	\$8,500.00	\$1,000.00	\$8,500.00	\$500.00
TK	\$20,000.00	\$0.00	\$10,000.00	\$0.00

This district continues to perform under expectations in most of the programs. The results were based upon single assessments in the air, ERP wetlands, potable water and solid waste programs. The programs with the most assessments (domestic waste and hazardous waste) saw fewer dollars assessed and lower medians. There continue to be no state lands assessments coming out of this district. The potable water program has now had a total of 3 cases over the past 4 years.

4. Civil Penalty Collections

Despite the drop off in assessments, the district did collect more in civil penalties in 2016 than it did in the previous year. In fact, collections have increased every year since 2013. In 2016, the Central District collected \$181,441.36, compared to \$136,671.00 that was collected in 2015. Collections for 2014 were \$103,558.96, and in 2013 they were \$74,070.36. 2016's performance represented 15% of all of the penalties collected department-wide.

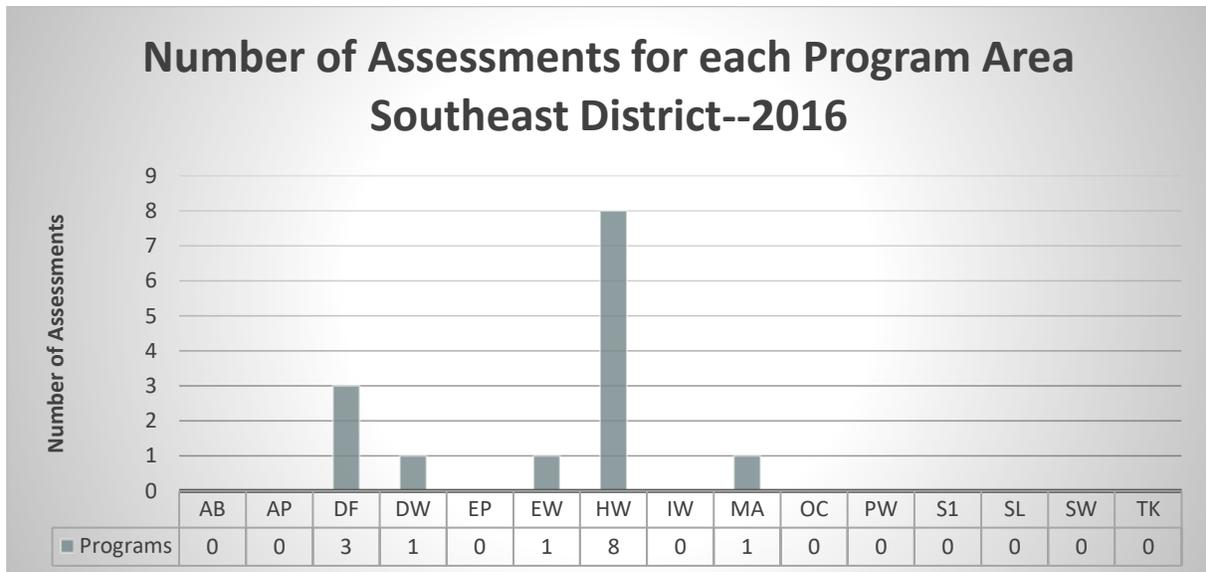
D. Southeast District

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

The Southeast District initiated enforcement in 22 cases in 2016, a significant decline from the 38 cases opened in 2015. This district accounted for the fewest (7%) percentage of enforcement cases of all the districts in 2016. It issued 1 NOV and 1 final order in 2016, both results being increases from the total lack of cases in 2015. It issued no case reports in 2016. It issued only 1 long-form consent order and 12 short-form consent orders, the latter mechanism accounting for 63% of all its consent orders and 55% of all its enforcement cases.

2. Program Area Enforcement

The Southeast District assessed penalties in exactly half as many cases in 2016 as it did in the previous year. It assessed penalties in 15 of the 22 cases (a rate of 68%) in which it took formal enforcement. The following chart provides the number of civil penalty assessments made by the Southeast District by program area in 2016:



Decreases were seen in every program, except for the dredge & fill program (which had one more assessment in 2016) and the ERP wetlands program (which remained steady with one case). It should be noted that, once again, there were no air, potable water, solid waste or tanks cases. In effect, the enforcement arm of these programs is now on life support.

3. Civil Penalty Assessments

The dollar value of the 15 assessments levied by the district in 2016 was \$71,895.00, a decline from the \$92,033.00 levied the year before. The Southeast District accounted for just 1.76% of all assessments levied in the State of Florida in 2016. Median assessments also fell from \$2,440.00 in 2015 to \$1,631.00 in 2016, a drop of 33%.

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

Program	Total \$ Assessed in 2016	Total \$ Assessed in 2015	2016 Medians	2015 Medians
AP	\$0.00	\$0.00	\$0.00	\$0.00
DF	\$1,670.00	\$920.00	\$420.00	\$460.00

DW	\$48,600.00	\$21,000.00	\$12,000.00	\$5,000.00
EW	\$500.00	\$420.00	\$500.00	\$420.00
HW	\$19,125.00	\$42,694.00	\$1,863.50	\$2,130.00
MA	\$2,000.00	\$21,079.00	\$2,000.00	\$2,500.00
SL	\$0.00	\$5,920.00	\$0.00	\$2,960.00
TK	\$0.00	\$0.00	\$0.00	\$0.00

Assessments fell in the hazardous waste and mangrove alterations programs. It was hoped that the hazardous waste program was turning around, but apparently such is not the case. Medians have also fallen in that program and have now done so for 3 straight years. While medians also fell in the mangrove alterations program, the result is based upon a single case.

4. Civil Penalty Collections

The Southeast District collected \$42,042.00 in civil penalties in 2016, down 65% from the \$118,737.01 collected the previous year. Nevertheless, this district still accounted for 15% of all dollars collected by the Department in civil penalties in 2016.

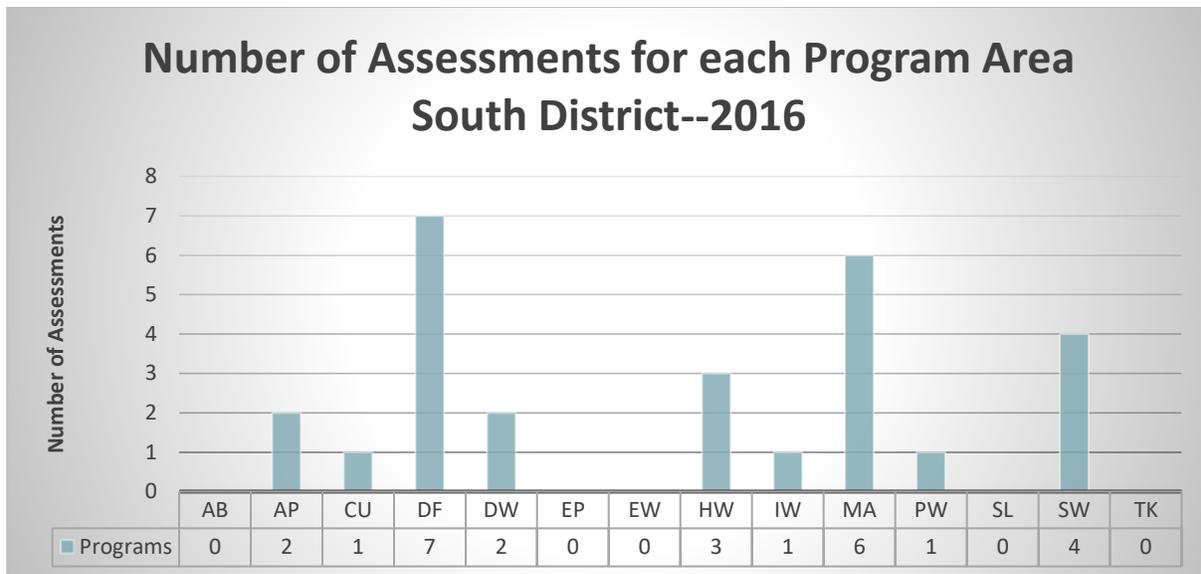
E. South District

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

The South District initiated enforcement in 47 cases in 2016, one more case than in the previous year. The district repeated 2015's performance by sending 7 Case Reports to the OGC. There were 2 NOVs (1 less than in 2015) and 3 final orders (4 less than in the previous year). The district issued 35 consent orders, a 21% increase over 2015, with 5 being short-form and 6 being long-form. There were also 21 model consent orders issued. Although 14% of its cases were settled by using short-form consent orders, this district continues to use this enforcement mechanism far less than the other districts. The South District also continues to lead the districts in seeking the assistance of OGC through the issuance of case reports. In 2016, 14% of its cases resulted in issuing case reports.

2. Program Area Enforcement

The following chart provides the number of civil penalty assessments issued by the South District by program area in 2016:



The South District assessed penalties in 27 cases in 2016, 12 more than in 2015. Thus, the district assessed penalties in 57% of the cases in which it took formal enforcement. While low, this is still better than the 32% rate from last year. The increases in the number of cases in which assessments were levied were not limited to one program, but essentially were spread across all programs in which enforcement was taken.

3. Civil Penalty Assessments

Despite increasing the number of assessments in 2016, the South District assessed fewer penalty dollars. In 2016, the district assessed \$76,496.00 in penalties, compared with 2015's \$92,033.00. This makes three straight years of declining numbers since 2013, when the district assessed \$312,627.50 in fines. The district provided 1.87% of all assessments levied by the FDEP in 2016, making this the second worst district in the state (just behind the Southeast District). Median assessments also fell for the third year in a row since 2013. In 2016, they were \$2,000.00, down from \$3,420.00 in 2015, and \$4,500.00 in 2014. (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 2016	Total \$ Assessed in 2015	2016 Medians	2015 Medians
AP	\$2,000.00	\$1,000.00	\$1,000.00	\$1,000.00
CU	\$10,000.00	\$0.00	\$10,000.00	\$0.00
DF	\$14,260.00	\$17,760.00	\$2,000.00	\$3,420.00
DW	\$6,750.00	\$14,000.00	\$2,000.00	\$7,000.00

HW	\$21,031.00	\$5,128.00	\$5,000.00	\$2,564.00
IW	\$6,000.00	\$0.00	\$6,000.00	\$0.00
MA	\$5,080.00	\$0.00	\$665.00	\$0.00
PW	\$3,000.00	\$2,000.00	\$3,000.00	\$2,000.00
SL	\$0.00	\$0.00	\$0.00	\$0.00
SW	\$8,375.00	\$2,000.00	\$2,000.00	\$2,000.00
TK	\$0.00	\$25,000.00	\$0.00	\$25,000.00

The results in the waste cleanup, industrial waste and potable water programs are each based upon 1 assessment for the year. There were only 2 assessments in the air and domestic waste programs. This district did manage to at least have one of the three potable water cases levied in Florida in 2016.

4. Civil Penalty Collections

As with assessments, collections fell in 2016. The district collected \$55,044.75 in civil penalties in 2016, compared with \$91,131.00 that was collected the year before. However, the results in 2016, are still better than the \$38,016.25 in 2014, and the \$37,717.42 collected in 2013. The performance in 2016, accounts for 9% of all dollars collected by the Department in civil penalties in 2016.

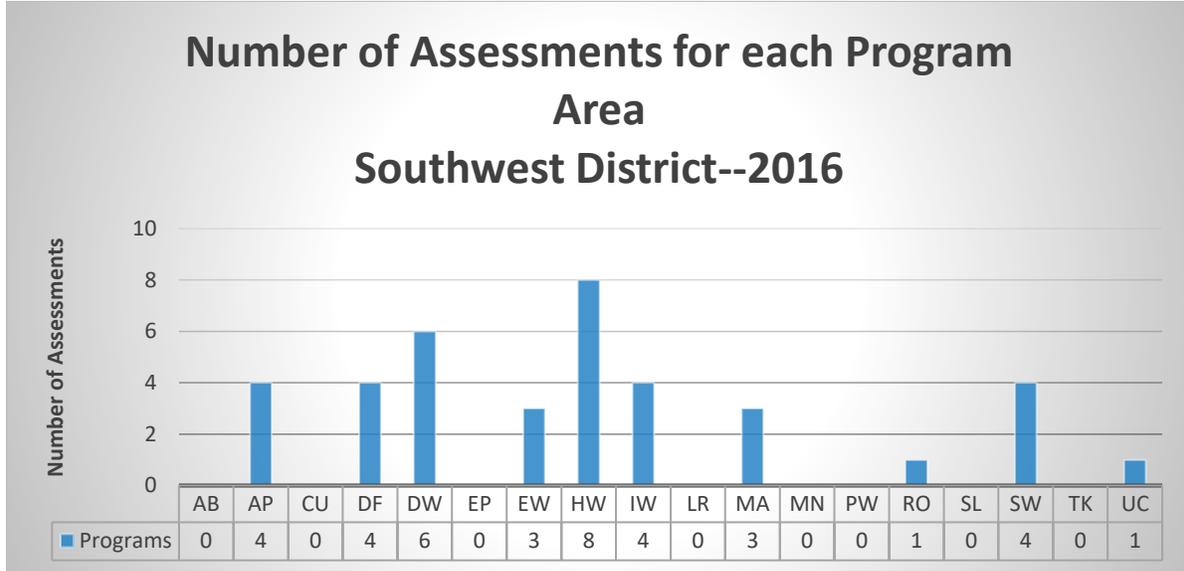
F. Southwest District

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

The Southwest District also increased the number of cases that it opened in 2016. 63 cases came out of this district, the most of all the districts. This is an improvement over the 52 cases opened in 2015. Nevertheless, it should not be forgotten that in 2012, the same district opened 164 enforcement cases. This district accounted for 21% of all enforcement taken by the Department in 2016. At the same time, only 1 case report was sent to the OGC, 6 fewer than in 2015. There were 7 NOVs issued (6 were issued in 2015) and 3 final orders were issued (unchanged from the previous year). In 2016, the district issued 52 consent orders, 15 more than in 2015. While clearly an improvement, the same district issued 117 consent orders in 2012. In 2016, 21% of all consent orders were issued out of the Southwest District, a 5% increase from 2015. 29% of the consent orders issued by the district were short-form consent orders, while 24% of all the cases settled by the Southwest District were settled via short-form consent orders. Meanwhile 29 long-form consent orders were issued out of this district in 2016, more than double the number issued in the previous year, and the most of any district.

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 2016:



Of the 63 cases in which the Southwest District initiated enforcement in 2016 it assessed penalties in 39. This is a rate of 62% of all formal enforcement cases opened in the district and improves upon the 54% rate from 2015 and the 37% rate in 2014. In 2010 the same district assessed civil penalties in 445 cases. The programs largely responsible for the better numbers in 2016 were domestic waste, hazardous waste, industrial waste and solid waste. *There continue to be no potable water cases in this district, making this the third straight year of no cases.*

3. Civil Penalty Assessments

Civil penalty assessments also rose in 2016, with total assessments equaling \$294,185.00. This is far better than the \$135,533.18 assessed in 2015, and is closer to the \$260,813.82 in 2014 and \$277,819.55 in 2013. In 2010, this district assessed fines of \$4,941,029.22. Overall, the district contributed 7% of all penalty assessments levied by the Department in 2016, compared with a 13% rate in 2015.

Median assessments also rose in 2016, to a new level of \$4,000.00. This parameter is clearly fluctuating, inasmuch as they were \$2,000.00 in 2015, \$5,000.00 in 2014 and \$2,500.00 in 2013.

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

Program	Total \$ Assessed in 2016	Total \$ Assessed in 2015	2016 Medians	2015 Medians
AP	\$17,400.00	\$18,382.00	\$3,100.00	\$3,000.00
DF	\$3,500.00	\$28,920.00	\$875.00	\$2,000.00
DW	\$43,617.00	\$4,650.00	\$3,000.00	\$2,325.00
EP	\$0.00	\$0.00	\$0.00	\$0.00
EW	\$4,000.00	\$6,000.00	\$1,500.00	\$2,000.00
HW	\$159,723.00	\$33,187.00	\$6,500.00	\$6,187.00
IW	\$16,000.00	\$8,000.00	\$3,500.00	\$8,000.00
MA	\$7,750.00	\$9,894.18	\$2,000.00	\$2,000.00
RO	\$6,000.00		\$6,000.00	
SL	\$0.00	\$0.00	\$0.00	\$0.00
SW	\$20,000.00	\$7,000.00	\$5,250.00	\$7,000.00
TK	\$0.00	\$19,500.00	\$0.00	\$9,750.00
UC	\$16,195.00		\$16,195.00	

There was a noticeable spike in assessments in the domestic waste program, due largely to a \$26,117.00 assessment against *Pasco County Utilities* (OGC # 052682). The significant increase in hazardous waste assessments was largely due to a \$69,539.00 assessment against *EQ Florida, Inc.* (OGC # 160275) The stormwater discharge and underground storage tanks program results are based upon 1 case each. Medians fell in every program but the stormwater discharge and underground storage tanks programs. Medians have fallen for the past 3 years in the air, ERP wetlands and hazardous waste programs.

4. Civil Penalty Collections

In 2016, the Southwest District collected \$263,167.38 in civil penalties, a significant increase over the \$187,961.95 that was collected the year before. Overall, in 2016 this district accounted for 36% of all the monies collected by the Department across the state, an increase of 12% from the 2015 results.

G. All Other Enforcement

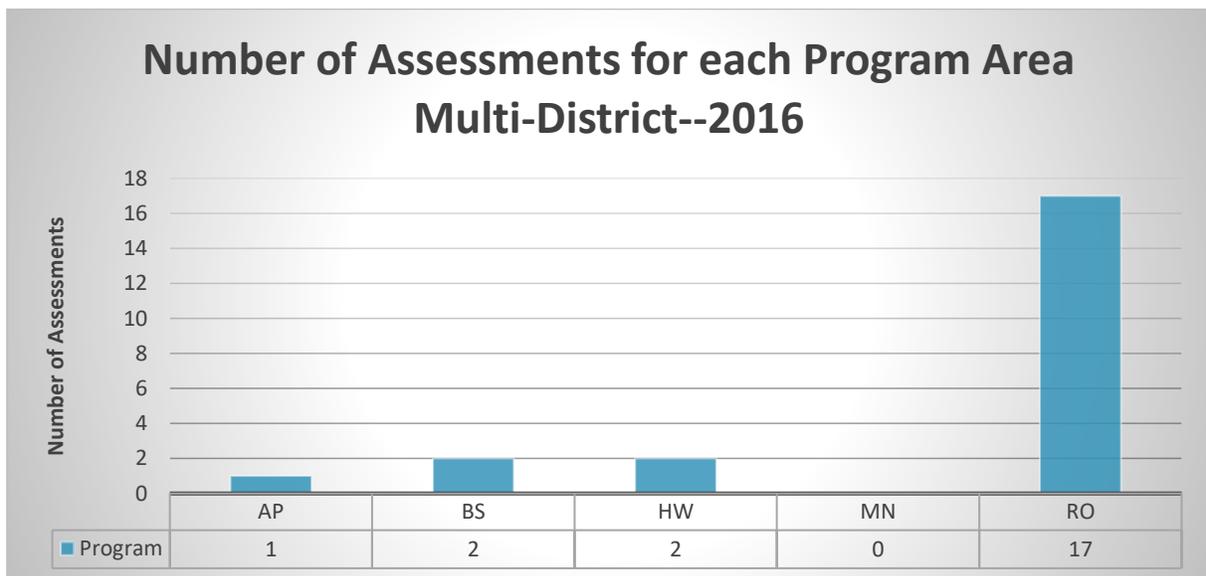
The Department’s headquarters in Tallahassee handles some cases, most of them being stormwater discharge cases associated with the National Pollutant Discharge Elimination Program (NPDES), a federally delegated program. Other types of cases, such as the beaches and coastal systems program and mining cases are also typically 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, NOV, Consent Orders, Final Orders

The remaining categories initiated 29 enforcement actions in 2016, one more than in 2015. The performance in 2016 equaled 9% of all cases opened by the Department, the same as in 2015. They sent 5 case reports to the OGC in 2016, 1 NOV, 0 final orders, and 23 consent orders, the latter being 2 less than in 2015. The remaining categories accounted for 17% of all case reports (the highest percentage in the Department), and 9% of all consent orders.

2. Program Area Enforcement

The following chart provides the number assessments issued by program area in 2016:



22 of the 29 enforcement actions resulted in civil penalties being assessed in 2016, the same number as were assessed in 2015. An overwhelming number of the assessments were levied in the stormwater discharge program, as in years past.

3. Civil Penalty Assessments

Civil penalty assessments rose significantly to \$2,674,311.50 in 2016, up from \$37,222.00 in 2015. This is largely due to \$2,650,000.00 that was assessed in one case that the FDEP and EPA jointly brought against *Mosaic Fertilizer, Inc.* (OGC # 121041) Absent this case, the result would have been \$24,311.50 for this category, which is actually far less than its 2015 performance. Medians fell from \$518.00 in 2015 to \$370.00 in 2016. Because of this extremely large assessment against *Mosaic Fertilizer, Inc.* the Multi-District Category accounted for 65%

of all assessments levied in Florida in 2016. There was only one assessment (*Mosaic Fertilizer, Inc.*) 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 in 2016	Total \$ Assessed in 2015	2016 Medians	2015 Medians
AP	\$8,000.00	\$0.00	\$8,000.00	\$0.00
BS	\$1,500.00	\$5,250.00	\$750.00	\$1,000.00
HW	\$2,650,000.00	\$0.00	\$1,450,000.00	\$0.00
MN	\$0.00	\$8,500.00	\$0.00	\$4,250.00
OG	\$0.00	\$0.00	\$0.00	\$0.00
RO	\$14,811.50	\$23,472.00	\$316.50	\$390.25

Stormwater discharge and the beaches and shores program assessments fell in 2016, as did the medians in both programs.

4. Civil Penalty Collections

The remaining categories collected \$1,474,031.50 in civil penalty assessments, which is significantly higher than the \$39,056.00 that was collected in 2015. The 2016 performance, which is largely the result of the *Mosaic Fertilizer, Inc.* assessment/collection, represents 7% 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 2014	Performance Compared with 2015
Northwest	Down 14%	Down 9%
Northeast	Up 59%	Up 15%
Central	Up 100%	Up 18%
Southeast	Down 21%	Down 42%
South	Up 24%	Up 2%
Southwest	Up 66%	Up 21%
Multi-District	Up 4%	Up 4%

Number of Assessments:

District	Performance Compared with 2014	Performance Compared with 2015
Northwest	Up 5%	Unchanged
Northeast	Up 66%	Up 29%
Central	Up 23%	Down 3%
Southeast	Up 15%	Down 50%
South	Up 59%	Up 80%
Southwest	Up 179%	Up 39%
Multi-District	Up 5%	Down 10%

Dollars Assessed:

District	Performance Compared with 2014	Performance Compared with 2015
Northwest	Up 77%	Up 73%
Northeast	Up 200%	Up 96%
Central	Down 41%	Down 38%
Southeast	Down 86%	Down 22%
South	Down 37%	Up 14%
Southwest	Up 13%	Up 117%
Multi-District	Up 6,546%	Up 7,085%

Medians By District:

District	Performance Compared with 2014	Performance Compared with 2015
Northwest	Up 252%	Up 46%
Northeast	Down 29%	Unchanged
Central	Down 32%	Down 12%
Southeast	Down 46%	Down 33%
South	Down 56%	Down 29%
Southwest	Down 20%	Up 100%
Multi-District	Down 6%	Up 100%

Overall civil penalty collections by district:

District	Performance Compared with 2014	Performance Compared with 2015
Northwest	Up 19%	Down 3%

Northeast	Up 167%	Down 14%
Central	Up 155%	Up 33%
Southeast	Down 92%	Down 65%
South	Up 45%	Down 40%
Southwest	Down 57%	Up 40%
Multi-District	Up 3,721%	Up 3,674%

CONCLUSION

2016 was yet another year of enforcement that barely managed to rise above the level of being non-existent. While it is true that the number of cases and assessments increased in 2016, the hard data still shows that the FDEP is but a shell of the agency that it used to be. In the final analysis, these newest results are modest in nature and continue to show that the enforcement arm of the FDEP has been relegated to the lowest possible level.

No one can seriously argue that the FDEP is feared by polluters, particularly when they know that, even if caught, odds are that they will receive nothing more than a letter from the agency instructing them to correct their deficiencies and all will be forgiven. The results covered in this report are for the unlucky few who ended up paying a fine, or otherwise having formal enforcement taken against them. Thus, in most of cases there is no economic downside to violating permits issued by the Department.

There have been drastic declines in the air, potable water, state lands, solid waste and tanks programs. Air assessments fell 31% and potable water assessments fell 59%. While the solid waste and potable water programs did see an increase in the number of cases, all the programs saw reductions in the number of assessments and the dollars assessed in penalties. In the state lands program (former secretary Steverson's specialty) the number of cases fell 45% and the number and dollar value of assessments also fell significantly. In another division, the number of solid waste assessments fell 64% and the dollars assessed fell 63%. The same story is seen in the tanks program in which the number of enforcement cases fell 56% and there were only 7 assessments in the state (there were 166 assessments in 2010). Meanwhile, penalty assessments in the tanks program fell 63% in just one year and medians fell 74%.

The potable water program is a program that has seen perhaps a significant overall reduction in enforcement. This is occurring at a time in which the nation is clearly concerned about potable water enforcement after having witnessed the failures in Flint, Michigan. One would have expected that, considering the situation in Flint, Florida officials would have done everything possible to ensure that Florida's drinking water program would be more rigorously enforced. Instead, the opposite has occurred. The program is now under the direction of Justin Green, the Director of the Division of Water Resource Management. Mr. Green used to oversee the Division of Air Resource Management, and thus oversaw its stupefying decline. In 2016, under Mr. Green's watch of the Division of Water Resource Management, the dollars assessed in the potable water program have fallen 59% to \$12,000. In 2010, they were \$249,554.51. Meanwhile, medians in the potable water program fell 83% from 2015 to 2016. It would therefore appear that the health, safety and welfare of Florida's residents, tourists, and environment are issues with which management at the FDEP cannot really be bothered.

Overall, 2016 was just more of the same for the FDEP. To be sure, there has been some tinkering around the edges, but there has not been any significant improvement in the Department's enforcement approach. Indeed, this is a Department that clearly values corporate profits over Florida's environmental health and the health of its residents and tourists. We see nothing in the numbers to suggest that there will be any significant improvement so long as the FDEP is controlled by people who are associated with the present administration.

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 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 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.