



Florida

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REPORT ON ENFORCEMENT EFFORTS BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

CALENDAR YEAR 2019

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PRELIMINARY STATEMENT

This report addresses the compliance and enforcement results of the State of Florida, Department of Environmental Protection (FDEP or the Department) in calendar year 2019. 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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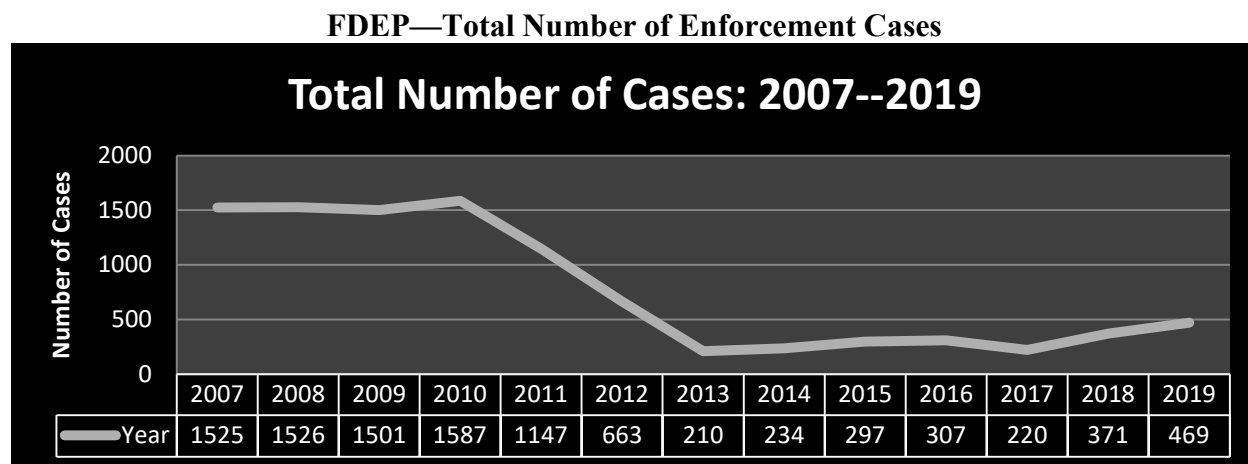
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EXECUTIVE SUMMARY

A. Statewide Results

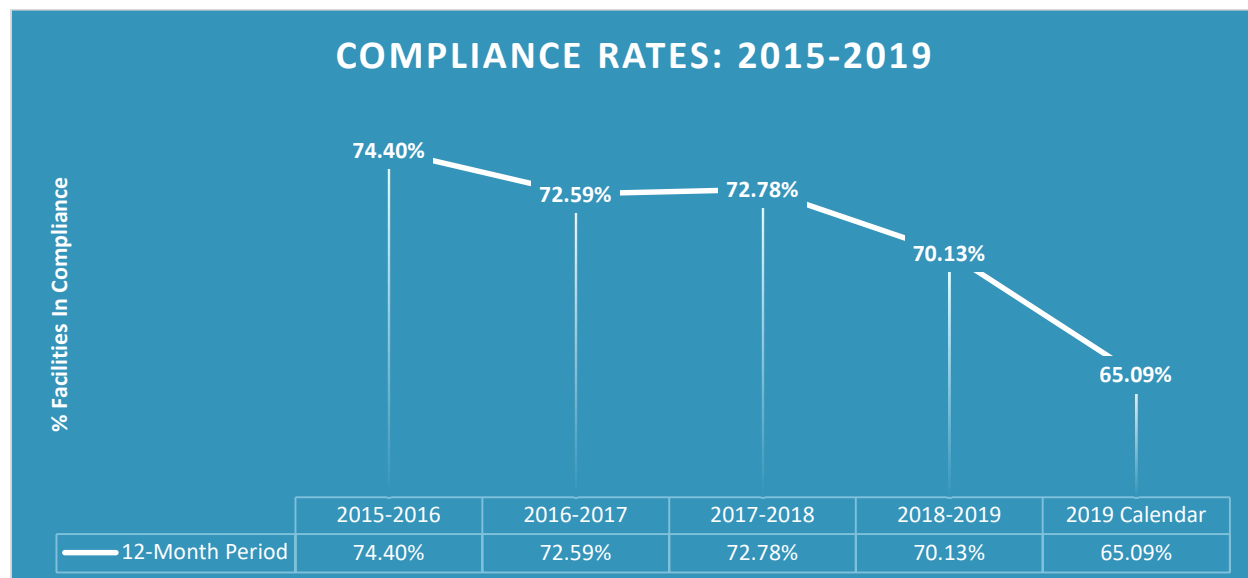
This is the second consecutive year in which we have been able to report on both the FDEP's enforcement program and the compliance data associated with that program. This allows for a more holistic review of the agency's performance because the compliance data allows us to evaluate how the agency responds to inspections that show regulated entities to be functioning out of compliance. For years, the FDEP resisted making the compliance data available, and now that we have the data the reasons for this resistance are clear. The data from 2019 continue to show an agency that simply cannot bring itself to take formal enforcement against violators. Consequently, the data shows that an increasing number of facilities across the state are operating in non-compliance.

A superficial review of the data would lead one to believe that the FDEP's performance is improving. The number of new cases opened in 2019 rose to 469 cases, up from 371 new cases recorded in 2018. While this is the largest number of new cases opened by the FDEP since 2012, the result nevertheless remains **70%** lower than the 1,587 cases opened in 2010. The graph below shows the number of new enforcement cases opened for the years from 2007 through 2019.



As previously stated, the above graph presents a superficial view of the FDEP's performance. When we looked closer and compared the number of enforcement cases to the number of facilities that the FDEP knew to be in noncompliance, we found that the agency's performance is far less than stellar. On a statewide basis, one positive finding in 2019, was that the number of inspections conducted by the FDEP increased significantly compared with the previous year. What the inspectors found, however, was a higher percentage of cases of noncompliance. There was a 5% increase over the past 12 months. The number of facilities that were found to be in significant noncompliance also increased by 5%, a trend that has been continuing since at least 2015. It is too soon to be able to discern the likely cause of the increased noncompliance levels. It could be that they are a result of the reduced agency presence in the

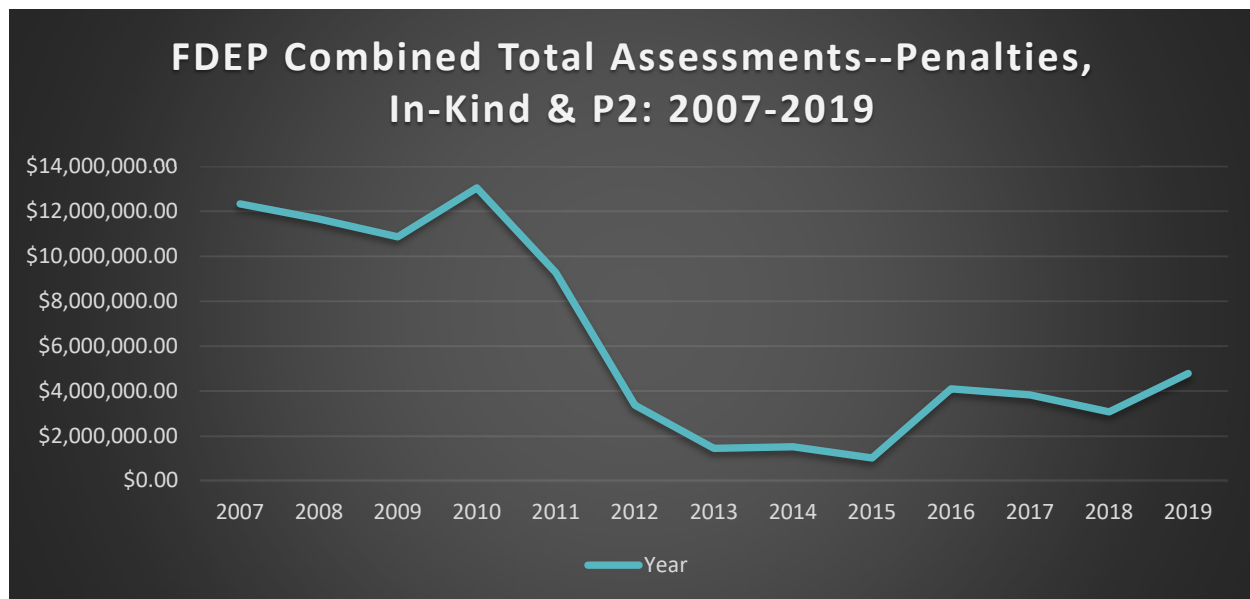
field during the previous administration, or it could be a result of the FDEP's omnipresent signals that it is loath to take enforcement against violators.



The increased level of noncompliance should have resulted in an increased rate of enforcement. This is particularly true given the new administration's public efforts to portray itself as being aggressive on protecting Florida's environment. However, the opposite occurred. The rate of enforcement has declined statewide during this period—**dropping 4% since 2018**. Consequently, it seems that the FDEP has no intention of signaling to violators that it is now going to be tough on violators, notwithstanding public pronouncements to the contrary.

Another consideration is the type of enforcement mechanism chosen by the FDEP when it decides to take enforcement against a polluter. The data indicates that not only did the enforcement rate drop, but also the agency's oversight over facilities known to be noncompliant fell in 2019. This is based upon the percentages of cases in which the easier resolution of paying a civil penalty was chosen over the stricter choice of entering into a long-form consent order that requires more agency oversight. While the number of long-form consent orders increased, so too did the number of short-form consent orders. Actually, the percentage of cases resolved via the use of short-form consent orders, which require nothing more than the payment of a penalty, increased compared to 2019. Meanwhile, the percentage of cases resolved via the use of long-form consent orders fell in 2019 when compared to 2018.

As with the increased number of new enforcement cases, there was also an increase in the number of cases in which civil penalties were assessed. The FDEP assessed penalties in 73% of cases in which it elected to open an enforcement case. This is a 2% improvement over 2018. The 342 assessments resulted in a total dollar assessment of \$2,811,615.43, a significant increase from 2018's \$1,665,376.56 in penalty assessments. In addition, the value of in-kind assessments was \$1,813,785.37, and pollution prevention projects were valued at \$144,642.55.



However, the increase in penalties did **not** mean that the penalty assessments were harsher. Instead, they remained at the same level as in 2018—a median of \$2,500 across all program areas.

The Department had three assessments that exceeded \$100,000 in 2019 (2018 had one). These three penalty assessments totaled \$896,800.00, which is 32% of all of the civil penalties assessed in 2019.

The three assessments were:

- \$127,000.00 assessed against *Jacksonville Electric Authority (JEA)* in case number 061796 for wastewater violations. In addition, JEA entered into an in-kind project valued at \$190,500.00 to fulfill this civil penalty. This is the second year in a row that JEA has been among the violators penalized the most by the FDEP;
- \$624,800.00 assessed against *Sarasota County Utilities* in case number 190255 for wastewater violations. In addition, Sarasota County Utilities entered into an in-kind project valued at \$937,200.00 to fulfill its obligations under this civil penalty;
- \$145,000.00 assessed against *Maverick Demolition, Inc.* in case number 140140 for asbestos violations.

The FDEP also collected more penalty dollars in 2019. This is to be expected, given the increase in the number and volume of penalty assessments. Total penalty collections were \$1,227,530.76, compared to a total collection of \$901,266.23 in 2018. This number doesn't tell the whole story, however, because the percentage of penalties that were collected actually fell 10% compared to 2018's performance.

Perhaps the most troubling findings were in the individual programs. The number of inspections at potable water facilities fell to its lowest level in 5 years, while the other programs either stayed the same, or improved. Meanwhile, the number of facilities found to be noncompliance increased sharply in the domestic wastewater program. There were 828 such

facilities in 2018, and 2231 in 2019. At the same time, the number of facilities in significant noncompliance increased in the domestic wastewater, air, beaches and coastal systems, dredge and fill, hazardous waste, industrial waste, and underground injection programs. The lowest overall compliance rate was in the domestic wastewater program, followed by the hazardous waste program. The highest compliance rate was in the beaches and coastal systems program.

While the domestic wastewater program had the highest level of noncompliance, it inexplicably also saw a **decrease** in the number of new enforcement cases opened. It also saw a 3% rate of enforcement, down 8% from 2018, **and the lowest of all programs**. Another program, dredge and fill, which oversees the development of Florida's wetlands, **dropped 36% in 2019**. At the same time, the median penalty assessment stayed the same in the dredge and fill program, but in the domestic wastewater program it fell from \$7,500 in 2018, to \$5,250 in 2019.

The above program results are simply incredible in a year in which the new administration went out of its way to tell Floridians that it would do everything possible to improve Florida's waters. The domestic wastewater program regulates the discharge of wastewater by Florida's wastewater systems. Much of this wastewater is laden with nutrients, such as nitrogen and phosphorus, that promote algae growth. Given that most of these facilities discharge to surface waters, we would expect the FDEP to be highly intolerant of violators if the agency is seriously intent on cleaning up Florida's waterbodies. The dredge and fill program is also significantly important in maintaining the health of Florida's wetlands. The FDEP's willingness to go soft on violators seeking to harm these wetlands is ill-advised.

B. District Results

Every district conducted more inspections in 2019 than it did the year before. The South District conducted 2,533 inspections, the most of all of the districts. The Northwest District conducted 1333 inspections, the fewest of the 6. **Compliance rates fell in every district in 2019**. The Central District had the largest number of inspections (670) in which noncompliance was found. It also had the lowest compliance rate, 39.73%, and for each of the past 5 years it has had the lowest compliance rate of all of the districts.

While the Northwest District had no change in the number of new enforcement cases opened, every other district improved upon their prior-year's performance. The results for the Northeast, Central and Southwest Districts are the best since 2012, while the South District's results are the best since 2011.

At the same time, however, every district in the state, other than the Central District, took enforcement at a lower rate than it did in the previous year. The Central District improved upon its 2018 enforcement rate by a meager 1%, and it still took enforcement in only 7% of its cases in which the inspection showed noncompliance. This is the lowest rate of all of the districts. The Northwest District initiated enforcement in the highest percentage of cases—19%.

Over the course of the past 5 years, the district with the lowest compliance rate has also been the district with the lowest rate of enforcement. This is the Central District. However, the

highest average enforcement rate (17%) corresponded to the second-highest compliance rate (80%), and this combination belongs to the Northwest District.¹

Looking at the types of enforcement used by the districts, we found that the Northeast, Central, and Southeast Districts increased their reliance upon short-form consent orders, that require nothing of the violator other than the payment of a penalty.

The number of times in which the districts included penalty assessments in their formal enforcement cases varied. The South District assessed penalties in 62% of their cases, whereas the Southwest District did so in 95% of theirs. The assessment rate has dropped three straight years in the South District. At the same time, the South District assessed the highest total dollars in civil penalties, \$1,705,937.00, while the Central District assessed the fewest dollars, \$228,503.29.

The median value of assessments tells us the harshness of the civil penalties that were imposed. In that regard, the Northwest and Southwest Districts imposed the higher penalties, each having median values of \$5,000.00. The South District was in sharp contrast, at a mere \$500.00. Medians declined overall in the Northeast, Southeast, and South Districts when compared with 2018.

In looking at the individual programs on a statewide basis we found that the domestic wastewater program's performance declined the most. Drilling down a bit, we noticed that the median penalty assessments in this program fell in the Northwest, Northeast, and Central Districts. Another program, dredge and fill, saw a significant reduction in its median assessments in the Southwest District.

The collection of civil penalty dollars is also a parameter that we track. In 2019, the Central District collected the highest percentage of its civil penalty assessments. Its rate was 116%, meaning that it collected all of the value of its 2019 assessments, while also collecting some of the monies owed from previous years.

STATEWIDE ENFORCEMENT RESULTS²

A. Compliance and Inspection Considerations

When the FDEP finally produced years of compliance data in 2019 we were able to conduct a more comprehensive evaluation of the FDEP's compliance/enforcement performance during Governor Scott's tenure. That performance was essentially marked by fewer inspections, coupled with an overall decline in compliance results. Meanwhile, as we had been reporting over the years, the FDEP's enforcement efforts had diminished by over 80%.

¹ The highest average compliance rate (the South District's 81%) corresponded to an enforcement rate of 12%.

² The FDEP's prior performance can be seen in our report that covers 1988 through 2007, see http://www.peer.org/assets/docs/fl/08_25_11_fl_rpt_on_historical_enforcement.pdf.

When Governor DeSantis became Florida’s governor, he began his term by telling Floridians that he intended to aggressively push for improvements to Florida’s environment, [particularly Florida’s waterbodies](#). Given the FDEP’s poor performance over the course of the past 8 years, we welcomed Governor DeSantis’ stated change in policy. Unfortunately, the agency’s data from 2019, suggests that little has changed at the FDEP that would support Governor DeSantis’ rhetoric. While the FDEP conducted 10,812 inspections across all program areas in 2019, inspectors found that in 35% of the cases, the facility inspected was in non-compliance, meaning that the overall compliance rate was 65% for 2019. This is actually **5% lower** than the results for 2018. Drilling down further, we found that both the number and percentage of facilities that were in significant non-compliance rose in 2019. The 565 facilities in significant non-compliance (SNC) represented 5% of all of those that were inspected. Both the number and percentage of facilities in significant non-compliance were higher in 2019 than in the year before.

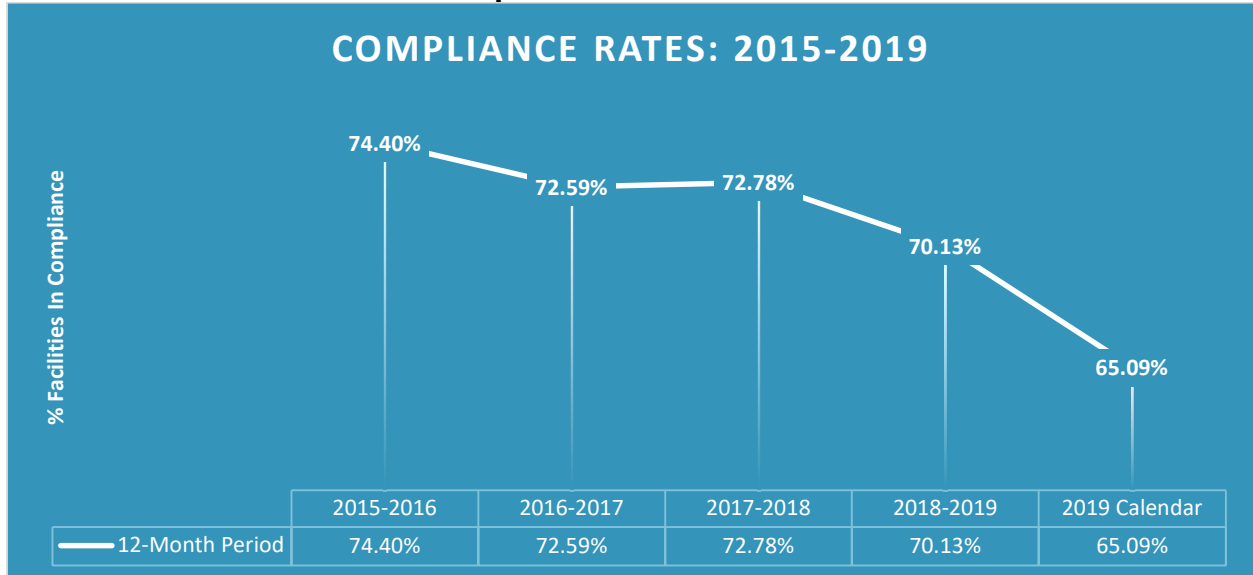
The following table presents the FDEP’s data for the 4 years from 2015 to 2019 and shows both the number of inspections and the resulting compliance rate. There is one caveat to the historical data. The FDEP supplies its data on a fiscal year, rather than a calendar year basis. 2019 represents the first full year in which we have been able to separate out the data and determine the results for a full calendar year. Consequently, even though each of the reporting years represents a 12-month period, there will be some overlap in the 2017/2018 fiscal year results and the 2019 calendar year results. Even so, it is clear that the overall compliance rate has been in decline over the past 4 years:

Fiscal Year and Calendar Year	Total Number of Inspections	% Compliance Rate ³
2015/2016	8,519	74.40
2016/2017	8,303	72.59
2017/2018	8,431	72.78
2018/2019	7694	70.13
2019	10,812	65.09

The overall trend in the decreasing compliance rates is shown in the following chart:

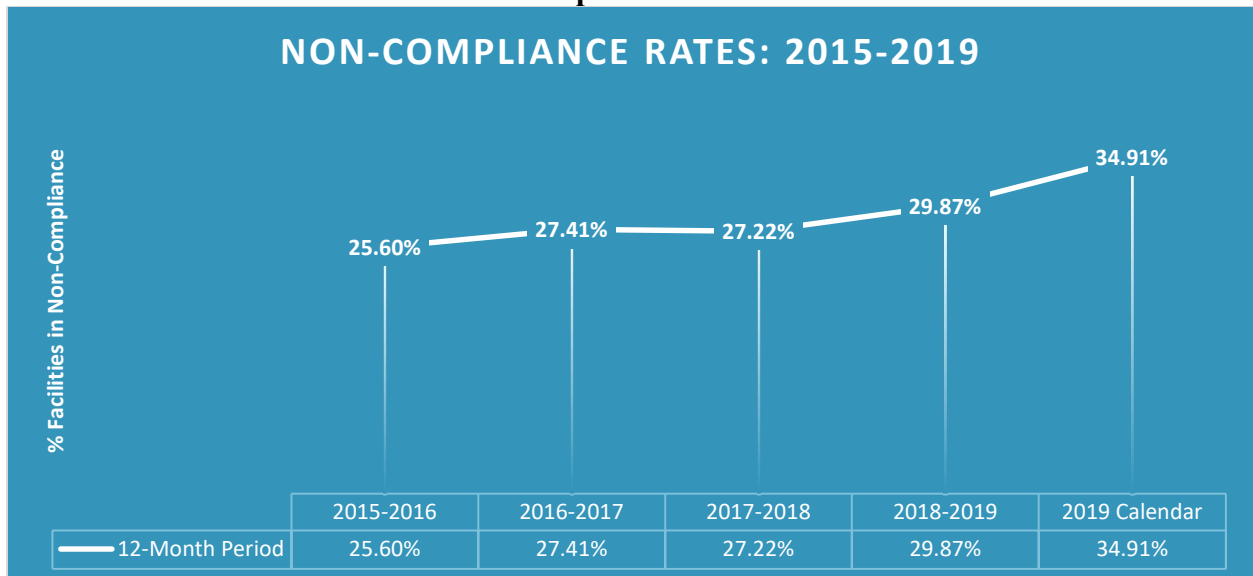
³ Based upon the total number of facilities found to be in general noncompliance and SNC.

Compliance Rates: 2015-2019



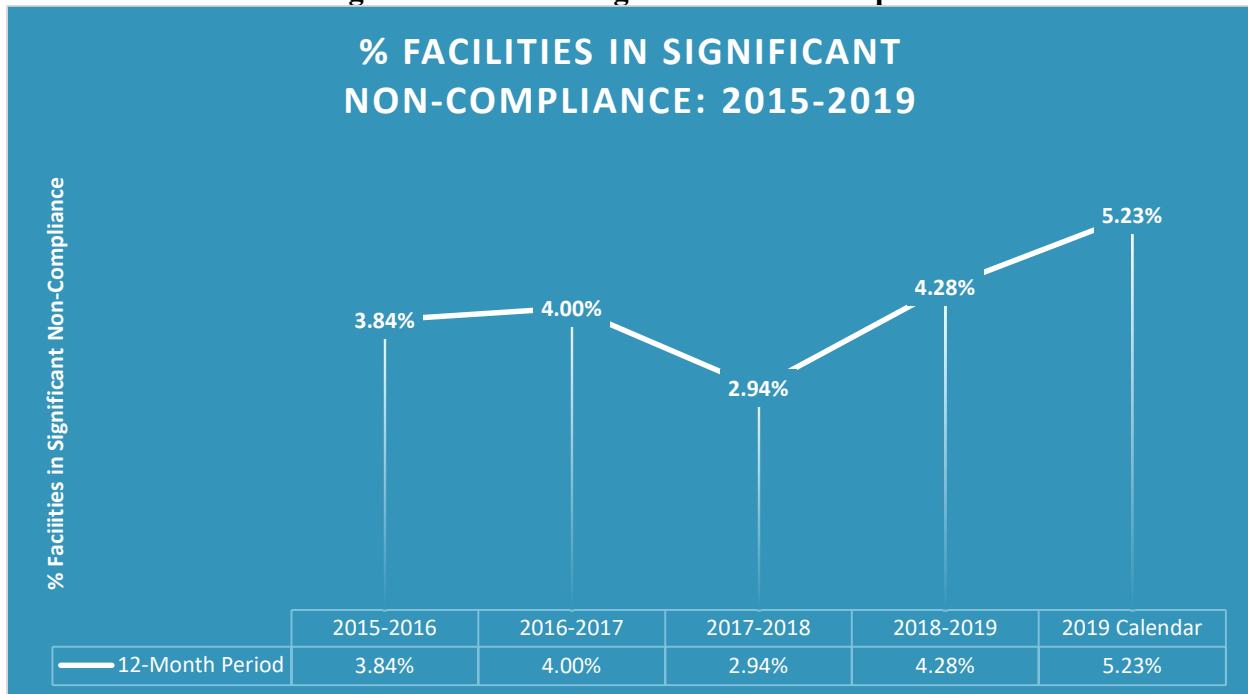
By the same token, the number of facilities found to be non-compliance at the time of inspection also increased over the same period:

Non-Compliance Rates: 2015-2019



The downward trend of facilities that are in non-compliance, while predictable given the FDEP's policies, is nevertheless disturbing. More disturbing, however, is that the percentage of facilities that, according to the FDEP's inspectors, are in significant non-compliance is rising. In fact, over the course of the past 3 years, the percentage in significant non-compliance has almost doubled:

Percentage of Facilities in Significant Non-Compliance: 2015-2019



The data seems rather clear that the FDEP's reduced presence in the field and lack of enforcement has resulted in an increase in non-compliance. Given the past pattern, it may be that 2019's increase in the number of inspections simply uncovered more non-compliance than was previously known. If the trend towards more inspections continues the data should tell us the extent of the connection between the number of inspections and the compliance rate.

B. Compliance and the Number and Types of Enforcement Actions Taken—Statewide Results⁴

2018's increase in the number of enforcement actions was replicated in 2019. The number of enforcement cases increased to 469 in 2019, significantly better than the 371 cases that were opened the year before. However, the FDEP still has a long way to go if it is to be viewed as an agency that will not be hesitant to take enforcement against polluters. By way of comparison, in 2010, the year before Governor Scott took office, the Department opened 1,587 new cases. Thus, the 469 new cases in 2019, while a start, is still far from the level at which the agency performed prior to the assumption of control by the Scott and DeSantis administrations.

Governor DeSantis took office pledging to take more steps to improve Florida's environment. One way of determining the extent to which his administration adhered to that pledge is to consider the FDEP's enforcement that it takes against non-compliant facilities. One way of doing this is to compare the number of cases that were found to be non-compliant against the number of enforcement cases opened by the FDEP. This approach gives us a rate at which the FDEP actually took enforcement against polluters. When looking at Governor DeSantis' first

⁴ For an overview of the various enforcement tools, as well as the historical averages for the various program areas please see the Appendix to this report.

year in office we found that the rate at which the FDEP took enforcement was actually **lower** than it was under Governor Scott. In 2018, Governor Scott's last year in office, the FDEP took enforcement in 371 cases, meaning that his administration opened enforcement cases in **16.14%** of the situations in which the FDEP found a facility to be non-compliant. While the number of new enforcement actions grew to 469 in 2019, the fact is that this was only **12.43%** of the cases in which the FDEP had found the facility to be in non-compliance. The **3.71%** drop in the percentage of cases in which enforcement was initiated is disturbing when we consider the governor's efforts to portray himself as being a steward of Florida's environment. It also reverses what had been an increase in the enforcement rate in Governor Scott's last year in office.

The following table sets forth the data for each of the past 4 years. As can be seen from the data, the FDEP's current enforcement rate is the **second lowest** in the past 5 years. Further, the drop in enforcement also comes at a time when compliance rates are falling and the percentage of facilities in significant non-compliance is increasing.

Comparison of Inspections, Compliance Status & Enforcement Rates

Year	Total Number of Inspections Showing NC	Total Number of Inspections Showing SNC	Total Number of Facilities in Noncompliance	Total Number of Enforcement Actions	Enforcement Rate
2015-2016	1854	327	2181	297	13.62%
2016-2017	1944	332	2276	307	13.49%
2017-2018	2047	248	2295	220	9.59%
2018-2019	1969	329	2298	371	16.14%
2019 Calendar	3209	565	3774	469	12.43%

Over the course of 8 years, Governor Scott's argument was that the FDEP would only take enforcement in the worst cases and that this would bring about more universal compliance because the FDEP would be working with the facilities to show them how to comply. The argument was specious, of course, but that did not deter either Governor Scott or the FDEP leadership. Now, the past 5 years of data strongly suggests that a reduction in the rate of formal enforcement does not result in positive changes in the overall compliance rates. Instead, the level of noncompliance is worsening.

Percentage Changes in Inspections and Noncompliance

Year	Total Number of Inspections	% Change	Total Number of Facilities in Noncompliance	% Change	Total Number of Enforcement Actions	Enforcement Rate
2015-2016	8519	N/A	2181	N/A	297	13.62%
2016-2017	8303	(3)	2276	4	307	13.49%
2017-2018	8431	2	2295	1	220	9.59%
2018-2019	7694	(9)	2298	1	371	16.14%
2019 Calendar	10,812	41	3774	64	469	12.43%

Once the FDEP elects to initiate formal enforcement against a violator, it has multiple enforcement tools at its disposal. Those tools include administrative Notices of Violation (NOVs), Final Orders, Consent Orders, and Case Reports that are sent from the districts to the

Office of General Counsel (OGC) asking for more serious enforcement by way of circuit court litigation. The number of cases initiated in 2019 was divided as follows:

Number of Cases of Each Enforcement Mechanism	
Type of Enforcement	Number of Cases Opened Statewide in 2019
NOVs	34
Final Orders	21
Long-form Consent Orders	85
Model Consent Orders	98
Amended Consent Orders	22
Short-form Consent Orders	178
Case Reports	31

There were improvements in every enforcement mechanism, except for the number of model consent orders, which fell slightly (4 fewer than in 2018). The total number of consent orders increased from 315 in 2018 to 383 in 2019, a 22% improvement!

C. Statewide Civil Penalty Assessments

The Department assessed penalties in 342 cases in 2019, an increase over the 262 penalty assessments in 2018. There were also 11 pollution prevention projects and 37 in-kind projects that were initiated as a result of the penalty assessments. This makes two straight years of increases in penalty assessments.

In comparing the number of penalty assessments with the number of formal enforcement cases that were open, we found that the FDEP assessed penalties in 73% of the cases in which it opened an enforcement case. This is a 2% improvement over 2018's results. Two years ago, the FDEP assessed penalties in 67% of its enforcement cases.

The 342 assessments resulted in a total dollar assessment of \$2,811,615.43, a significant increase from 2018's \$1,665,376.56 in penalty assessments. In addition, the value of in-kind assessments was \$1,813,785.37, and pollution prevention projects were valued at \$144,642.55. In 2018, in-kind and pollution prevention projects were valued at \$155,596.00 and \$1,240,810.72, respectively.⁵ In 2019, the three areas combined totaled \$4,770,043.35, a 56%

⁵ Throughout this report these projects will be described as in-kind and pollution prevention projects, or P2 Projects.

increase from 2018. \$3,061,783.28. 2019's penalty assessments were also 37% higher than 2017's results.

Despite the increase in the total penalty dollars assessed, the median assessments remained flat, at \$2,500.00 per assessment. When we factored in all aspects of 2019's assessments, i.e. include in-kind and pollution prevention projects, we found that the median actually fell from \$3,460.00 in 2018 to \$3,000 in 2019. In 2017, medians for penalty assessments were \$1,775.00, but the cumulative result in 2019 is still higher than the \$2,000.00 median in 2017.

1. The Department's Highest Assessments

The Department had three assessments that exceeded \$100,000 in 2019 (2018 had one). These three penalty assessments totaled \$896,800.00, which is 32% of all of the civil penalties assessed in 2019.

The three assessments were:

- \$127,000.00 assessed against *Jacksonville Electric Authority (JEA)* in case number 061796 for wastewater violations. In addition, JEA entered into an in-kind project valued at \$190,500.00 to fulfill this civil penalty;
- \$624,800.00 assessed against *Sarasota County Utilities* in case number 190255 for wastewater violations. In addition, Sarasota County Utilities entered into an in-kind project valued at \$937,200.00 to fulfill this civil penalty;
- \$145,000.00 assessed against *Maverick Demolition, Inc.* in case number 140140 for asbestos violations.

D. Statewide Civil Penalty Collections

2019's increase in penalty assessments resulted in a similar increase in collections. Total penalty collections were \$1,227,530.76, compared to a total collection of \$901,266.23 in 2018.⁶ In addition, the FDEP recorded \$488,309.25 in completed in-kind and/or pollution prevention projects. This is also an increase compared to 2018's results, which were \$209,026.63. 2019's combined total collections were therefore \$1,715,840.01, compared to \$1,110,292.86 in 2018.

The FDEP collected 44% of the civil penalties assessed in 2019. **This constitutes a 10% drop from 2018's performance. This is actually the second-worst result since 2012 and the third worst since 2007.** The following table shows the percentage of penalty assessments

⁶ We should point out that, when looking at collections for this report, we concentrate upon only the collection of penalty assessments that are collected. The reason for not including in-kind & pollution prevention project fulfillments in these numbers is that, even when approved by the Department, the expenditures for such fulfillments can vary, depending upon the situation encountered when the project is actually undertaken. Furthermore, some of these projects can take years to complete, and thus not be a true indicator of the Department's current performance. These variables make year-to-year comparisons more unreliable, whereas looking strictly at penalty dollars assessed versus penalty dollars collected is quite straightforward. Consequently, unless otherwise indicated, the data that we report in this section is limited to actual penalty dollars collected.

(absent in-kind and pollution prevention projects) that were collected each year from 2007 to the present:

Annual Percentage of Collected Penalty Assessments			
<i>Year</i>	<i>Assessments</i>	<i>Collections</i>	<i>% Assessments Collected</i>
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%
2017	\$2,057,542.31	\$705,891.90	34%
2018	\$1,665,376.56	\$901,266.23	54%
2019	\$2,811,615.43	\$1,227,530.76	44%

E. Statewide Program Performance

1. Compliance Rates Among the Programs

Not all the programs that we track for enforcement have corresponding compliance data. However, the FDEP has provided us with compliance data for the majority of the programs, and the following tables list each program and the compliance results for each of the past 5 years.

The number of inspections conducted in each program is shown below. Unlike 2018, there was an increase in all of the major programs, **except for the potable water program**, which fell to its lowest level in the past 5 years:

Number of Inspections in Program Areas: 2015-2019

Program ⁷	2015/2016	2016/2017	2017/2018	2018/2019	Calendar 2019
Air	327	307	284	246	832
Beaches	1024	963	1015	1115	1117
DF-ERP	2266	2068	2240	2011	2184
DW & NPDES	1633	1503	1574	1357	3600
HW	485	587	432	420	438
IW	271	475	910	307	381
PW	1193	1065	993	1039	785
SW	615	960	1152	771	900
Tanks	452	381	352	331	336
UIC	189	181	135	97	239

The number of inspections in which noncompliance was identified is shown below. *As the data indicates, noncompliance has risen in every major program, except for the potable water and tanks programs. The largest increase in noncompliance is in the domestic wastewater program:*

Number of Facilities Found to be in Noncompliance: 2015-2019

Program	2015/2016	2016/2017	2017/2018	2018/2019	Calendar 2019
Air	50	33	36	41	79
Beaches	1	5	4	2	3
DF-ERP	266	325	356	276	342

⁷ 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; OT=Other; PG = Phospho-Gypsum; PW = Potable Water; RO = Stormwater Discharge; S1 = Untreated Domestic Waste Spills; S2= Untreated DW Spills Plus Other; S3 =Other Domestic Waste Spills; SL = State Lands; SW = Solid Waste; TK = Tanks; UIC = Underground Injection; WW = Water Well Contractors.

DW & NPDES	784	717	874	828	2231
HW	188	257	166	188	215
IW	24	45	87	129	184
PW	622	662	614	592	447
SW	50	97	70	96	104
Tanks	95	91	76	140	125
UIC	24	23	11	6	44

We now have 2 consecutive years of data setting out the number of facilities in significant noncompliance. The following table shows the results for fiscal year 2018/2019 and calendar year 2019. While the number of facilities in SNC declined in the tanks and potable water programs and were unchanged in the solid waste program, there were **increases** in every other major program. The domestic wastewater and dredge and fill programs showed the greatest increases:

Number of Facilities in Significant Noncompliance: 2018-2019

Program	Fiscal 2018/2019 Number of Facilities in SNC	Calendar 2019 Number of Facilities in SNC
Air	10	24
Beaches	2	3
DF-ERP	19	85
DW&NPDES	38	248
HW	17	18
IW	8	28
PW	90	70
SW	1	1
Tanks	92	85
UIC	0	3

Turning to the overall compliance rates in each program, we found that compliance improved in the air program, while it stayed the same in the beaches,⁸ potable water, solid waste,

⁸ The compliance rates in all programs are rounded off. The beaches and coastal systems program actually had 3 SNC violations, but the percentage rose to 100% when the result was rounded up.

and tanks programs. All other programs saw declining performance. Performance in the domestic wastewater program has fallen 15% over the course of the past 5 years.

Compliance Rates by Program: 2015-2019

Program	2015/2016	2016/2017	2017/2018	2018/2019	Calendar 2019
Air	85%	89%	87%	83%	91%
Beaches	100%	99%	100%	100%	100%
DF-ERP	88%	84%	84%	86%	83%
DW & NPDES	52%	52%	45%	39%	37%
HW	61%	56%	62%	55%	46%
IW	91%	91%	90%	58%	51%
PW	48%	38%	38%	43%	43%
SW	92%	90%	94%	88%	88%
Tanks	79%	76%	78%	58%	58%
UIC	87%	87%	92%	94%	82%

2. The Number of Enforcement Cases Opened in each Program and the Resulting Enforcement Rates

Looking first at the overall number of enforcement cases opened in each program we found improvement in each program except for beaches and coastal systems, and the domestic wastewater programs. The following table sets out the number of enforcement cases⁹ brought in each key program area over the past 4 years:

Historical View of Number of Enforcement Cases by Program: 2016-2019

Program Area	Total No. of Enforcement Cases--2016	Total No. of Enforcement Cases--2017	Total No. of Enforcement Cases--2018	Total No. of Enforcement Cases--2019
Asbestos	0 ¹⁰	0	1	3
Air (Excluding Asbestos)	17	9	22	38
Beaches/Coastal	4	4	10	9

⁹ Defined as the sum of case reports, all consent orders, NOV's and final orders.

¹⁰ Throughout this report, numbers reported in **red** will indicate declines in performance from the previous year.

Waste Cleanup	9	5	7	8
Dredge & Fill¹¹	63	54	99	123
Domestic Waste	44	34	77	62
Hazardous Waste	35	19	34	40
Industrial Waste	11	12	13	18
Mangrove Alterations	8	12	21	22
Mining/Phospho-Gypsum	0	0	0	3
Potable Water	15	15	17	27
State Lands	16	7	10	18
Stormwater Discharge	23	14	16	24
Solid Waste	31	18	15	36
Tanks	11	15	25	26
Underground Injection Control	1	1	2	3

This is the second straight year in which enforcement has been taken in the asbestos program.

The compliance data produced by the Department also sheds light on the rate at which known violations are enforced in each program. The following table shows the enforcement rates for the major programs for which we have compliance data.

Compliance Rates in Each Program: 2015-2019

Program	Enforcement Rate	Enforcement Rate	Enforcement Rate	Enforcement Rate	Enforcement Rate
	2015	2016	2017	2018	2019
Air	36%	52%	25%	54%	48%
Beaches	700%	80%	100%	500%	300%
DF-ERP	20%	19%	15%	47%	36%
Domestic Waste	4%	6%	4%	11%	3%
Hazardous Waste	23%	14%	11%	19%	19%
Industrial Waste	29%	24%	14%	10%	10%

¹¹ This includes Environmental Resource Permitting.

Potable Water	1%	2%	2%	3%	6%
Solid Waste	38%	32%	26%	16%	35%
Tanks	26%	12%	20%	18%	21%
Underground Injection Control	0%	4%	9%	33%	7%

The enforcement rate is the lowest in the domestic wastewater program at an abysmal 3% rate, which is a 5-year low for that program. **It should not be lost on anyone that this program, which has the lowest compliance rate also has the lowest enforcement rate in the state.** The dredge and fill program fell 10% from 2018 but is still performing at a higher rate than in the other years for which we have data. Improvement was seen in the potable water program, but it is still far from performing at a credible level.

3. Assessments in Each Program

The new enforcement cases translated into civil penalties being levied in each program area. The table below looks only at cases in which civil penalties were assessed and does not take into consideration the cases in which there were in-kind or pollution prevention projects. Including in-kind and pollution prevention projects can result in a less than optimal comparison, because the decision of whether to engage in these projects is up to the violator. Including these projects in a review that looks solely at the number of instances in which penalties were assessed would often result in some cases being counted twice, thereby inflating the Department's performance in the program area involved. Consequently, when considering the rate of assessment, we first look to the number of cases in which only civil penalties are assessed.

The following table lists each program and the percentage of cases that actually resulted in civil penalties (excluding in-kind and pollution prevention projects) being assessed. As can be seen below, not every new enforcement case resulted in civil penalty assessments.

Percentage of Cases Resulting in Civil Penalty Assessments

Program Area	Total No. of Enforcement Cases--2019	Total No. of Assessments in 2019	% of Cases Resulting in Civil Penalty Assessment--2019
Asbestos	3	3	100%
Air (Excluding Asbestos)	38	38	100%
Beaches/Coastal	9	6	67%
Waste Cleanup	8	2	25%

Dredge & Fill ¹²	123	105	85%
Domestic Waste	62	68	110%
Hazardous Waste	40	37	93%
Industrial Waste	18	15	83%
Mangrove Alterations	22	16	73%
Mining/Phospho-Gypsum	3	3	100%
Potable Water	27	25	93%
State Lands	18	6	33%
Stormwater Discharge	24	28	116%
Solid Waste	36	16	44%
Tanks	26	10	38%
Underground Injection Control	3	4	133%

Clearly, the rate of civil penalty assessment varies across the programs. The waste cleanup, state lands, solid waste and tanks programs had the lowest rates of civil penalty assessment in 2019. The potable water program's performance improved significantly compared to 2018.

Looking solely at the dollar value of civil penalty assessments, we found that the levied penalties for 2019 was higher for each program than it was in the previous year, with the exception of the beaches and coastal, industrial waste, and mangrove alterations programs. This is the third straight year of increasing penalty assessments in the air, dredge and fill, hazardous waste, potable water, stormwater discharge, and solid waste programs.

Dollar Value of Civil Penalty Assessments

Program Area	\$ Value of Penalties Assessed in 2017	\$ Value of Penalties Assessed in 2018	\$ Value of Penalties Assessed in 2019
Asbestos	\$0.00	\$500.00	\$158,000.00
Air (Excluding Asbestos)	\$28,450.00	\$76,137.00	\$121,975.00
Beaches/Coastal	\$4,750.00	\$36,500.00	\$19,250.00
Waste Cleanup	\$1,000.00	\$2,500.00	\$24,500.00

¹² This includes Environmental Resource Permitting.

Dredge & Fill¹³	\$57,179.00	\$98,779.00	\$196,824.00
Domestic Waste	\$1,516,447.00	\$765,857.27	\$1,239,333.16
Hazardous Waste	\$202,652.75	\$375,507.50	\$394,799.00
Industrial Waste	\$123,457.00	\$103,100.33	\$90,968.00
Mangrove Alterations	\$9,179.00	\$34,480.00	\$24,180.00
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$11,025.00
Potable Water	\$5,021.00	\$18,325.00	\$74,015.00
State Lands	\$3,000.00	\$840.00	\$8,940.00
Stormwater Discharge	\$52,268.00	\$97,950.46	\$265,806.27
Solid Waste	\$15,100.00	\$31,900.00	\$71,000.00
Tanks	\$28,000.00	\$22,500.00	\$46,500.00
Underground Injection Control	\$4,038.56	\$500.00	\$10,600.00

In some instances, the violator will choose to pay some or none of the penalty assessment, electing instead to engage in an in-kind or pollution prevention project. This is a choice that the Department almost always gives to the violator. It is up to the violator to propose a project, which the Department must then approve if it is to move forward. According to the Department's guidelines, these projects must be valued at a minimum of 1.5 times the amount of the assessed civil penalty. For example, an in-kind or pollution prevention project chosen to satisfy a penalty of \$100 would need to be valued at a minimum of \$150. In programs in which such projects were undertaken to satisfy a civil penalty assessment, the total value of assessments in the affected program areas typically increases, sometimes significantly.

The following table shows the total number of new enforcement cases, followed by the number of assessments for each program, followed by the total dollar value of the civil penalties assessed, including in-kind projects and pollution prevention projects that arose out of those assessments. As can be seen when comparing the following results with those above that only consider assessed civil penalties, the effect on both a count of the number of cases and the dollars assessed is substantial.

¹³ This includes Environmental Resource Permitting.

Assessments Including Penalties, In-Kind and Pollution Prevention Projects

Program Area	Total No. of Enforcement Cases--2019	Total No. of Assessments, including Penalties, In-Kind and Pollution Prevention Projects in 2019	\$ Value of Penalties, In-Kind and Pollution Prevention Projects Assessed in 2019
Asbestos	3	3	\$158,000.00
Air (Excluding Asbestos)	38	38	\$160,400.00
Beaches/Coastal	9	6	\$19,250.00
Waste Cleanup	8	2	\$24,500.00
Dredge & Fill ¹⁴	123	105	\$211,824.00
Domestic Waste	62	68	\$2,755,123.03
Hazardous Waste	40	37	\$681,616.00
Industrial Waste	18	15	\$159,815.00
Mangrove Alterations	22	16	\$24,180.00
Mining/Phospho-Gypsum	3	3	\$11,025.00
Potable Water	27	25	\$76,265.00
State Lands	18	6	\$8,940.00
Stormwater Discharge	24	28	\$280,705.32
Solid Waste	36	16	\$71,000.00
Tanks	26	10	\$46,500.00
Underground Injection Control	3	4	\$18,100.00

A comparison of penalty assessments (including in-kind and pollution prevention projects) from 2018 to 2019 shows that only three programs, beaches and coastal, industrial waste, and mangrove alterations assessed fewer penalty dollars in 2019 than in the previous year. There have now been three straight years of improvement in the air, beaches and coastal, waste cleanup, dredge and fill, hazardous waste, potable water, stormwater discharge, and solid waste programs.

¹⁴ This includes Environmental Resource Permitting.

Comparison of Penalty Assessments from 2017 to 2019

Program Area	\$ Value of Penalties Assessed in 2017 (Including In-Kind & Pollution Prevention Projects)	\$ Value of Penalties Assessed in 2018 (Including In-Kind & Pollution Prevention Projects)	\$ Value of Penalties Assessed in 2019 (Including In-Kind & Pollution Prevention Projects)
Asbestos	\$0.00	\$500.00	\$158,000.00
Air (Excluding Asbestos)	\$28,450.00	\$76,137.00	\$160,400.00
Beaches/Coastal	\$4,750.00	\$36,500.00	\$19,250.00
Waste Cleanup	\$1,000.00	\$2,500.00	\$24,500.00
Dredge & Fill ¹⁵	\$57,179.00	\$98,779.00	\$211,824.00
Domestic Waste	\$3,209,687.50	\$1,922,858.99	\$2,755,123.03
Hazardous Waste	\$250,339.50	\$544,232.50	\$681,616.00
Industrial Waste	\$144,457.00	\$173,780.33	\$159,815.00
Mangrove Alterations	\$18,250.00	\$34,480.00	\$24,180.00
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$11,025.00
Potable Water	\$9,521.00	\$18,325.00	\$76,265.00
State Lands	\$3,000.00	\$840.00	\$8,940.00
Stormwater Discharge	\$52,268.00	\$97,950.46	\$280,705.32
Solid Waste	\$15,100.00	\$31,900.00	\$71,000.00
Tanks	\$28,000.00	\$22,500.00	\$46,500.00
Underground Injection Control	\$4,038.56	\$500.00	\$18,100.00

We also considered the actual severity of the assessments in each program. In order to do that we looked at the median value of the assessments, and then compared those medians with the medians from the previous year. By doing so we can tell whether enforcement is becoming harsher or lighter, e.g. if medians rise it is an indication that more of the civil penalties that were levied were higher than the previous year. As the table below indicates, penalty assessments in the beaches and coastal systems, domestic wastewater, and solid waste programs were less severe in 2019 than in the previous year.

¹⁵ This includes Environmental Resource Permitting.

Comparison of Penalty Assessment Medians from 2018 to 2019

Program Area	2018 Medians	2018 Medians
Asbestos	\$500.00	\$9,000.00
Air (Excluding Asbestos)	\$3,500.00	\$3,000.00
Beaches/Coastal	\$2,500.00	\$875.00
Waste Cleanup	\$1,250.00	\$12,250.00
Dredge & Fill	\$420.00	\$420.00
Domestic Waste	\$7,500.00	\$5,250.00
Hazardous Waste	\$5,639.50	\$8,520.00
Industrial Waste	\$2,500.00	\$5,000.00
Mangrove Alteration	\$830.00	\$830.00
Mining/Phospho-Gypsum	\$0.00	\$3,375.00
Potable Water	\$1,550.00	\$2,052.50
State Lands	\$420.00	\$1,460.00
Stormwater Discharge	\$4,000.00	\$6,480.78
Solid Waste	\$3,500.00	\$3,000.00
Tanks	\$500.00	\$3,000.00
Underground Injection Control	\$500.00	\$4,500.00

We also considered the medians when in-kind and pollution prevention projects were included in the calculations. The following table shows the results (including all penalties, in-kind projects and P2 projects) for each program, according to year.

Comparison of Penalty Assessment Medians (Including In-Kind and Pollution Prevention Projects) from 2018 to 2019

Program Area	2018 Medians	2019 Medians
Asbestos	\$500.00	\$4,750.00
Air (Excluding Asbestos)	\$3,500.00	\$3,100.00
Beaches/Coastal	\$2,500.00	\$875.00
Waste Cleanup	\$1,250.00	\$12,250.00
Dredge & Fill	\$420.00	\$420.00
Domestic Waste	\$8,000.00	\$7,000.00
Hazardous Waste	\$6,457.00	\$13,000.00

Industrial Waste	\$2,500.00	\$7,300.00
Mangrove Alteration	\$830.00	\$830.00
Mining/Phospho-Gypsum	\$0.00	\$3,375.00
Potable Water	\$1,550.00	\$2,105.00
State Lands	\$420.00	\$1,460.00
Stormwater Discharge	\$4,000.00	\$6,480.78
Solid Waste	\$3,500.00	\$3,000.00
Tanks	\$500.00	\$3,000.00
Underground Injection Control	\$500.00	\$4,750.00

2019 saw another decline in medians in the domestic wastewater program, as well as the underground injection control program. Otherwise, all program medians improved in 2019.

The following table provides the highest civil penalty assessment in 2019 for each of the indicated programs, as well as the district in which each assessment was made.

Highest Single Assessment in Each Program

District	Program	OGC#	Case Style	Assessed Amount
2	AB	140140	MAVERICK DEMOLITION, INC.	\$145,000.00
3	AP	181499	SUWANNEE AMERICAN CEMENT COMPANY, LLC	\$16,900.00
5	BS	191445	MADEIRA ON MARCO ISLAND CONDOMINIUM ASSOCIATION, INC.	\$14,500.00
6	CU	171090	TD DEL RIO, LLC, AND DAVID LYNN DEARING	\$24,000.00
1	DF	190204	GULF COAST SOLAR CENTER I, LLC	\$11,199.00
5	DW	190255	SARASOTA COUNTY UTILITIES ¹⁶	\$624,800.00
6	ES	190018	D.A.B. CONSTRUCTORS, INC.	\$21,594.00
2	EW	190272	JACKSONVILLE PORT AUTHORITY	\$63,666.00
6	HW	190154	THATCHER CHEMICAL OF FLORIDA, INC.	\$44,210.00
6	IW	190075	TAMPA BAY DOWNS, INC.	\$33,598.00
4	MA	191475	RODRIGUEZ, IGNACIO & LOLITA, AND PALM COVE	\$7,600.00
1	MN	191541	ANDERSON COLUMBIA COMPANY, INC.	\$5,000.00
1	OG	181077	BREITBURN OPERATING, LP	\$17,500.00

¹⁶ This is the second year in a row that the highest penalty assessment has been against Sarasota County.

3	OT	191823	MOSAIC FERTILIZER, LLC.	\$11,000.00
1	PW	191623	ASCEND PERFORMANCE MATERIALS;	\$10,000.00
1	RO	181199	SANDCO, INC.	\$85,000.00
6	S1	191677	CITY OF PALMETTO WWTF	\$43,553.68
6	S2	190147	APAMEA MANAGEMENT & LEASING LLC	\$7,000.00
6	S3	190301	CITY OF HAINES CITY	\$48,539.00
6	SL	170912	GUTHRIE, JR., RAYMOND	\$5,500.00
6	ST	181292	JVS CONTRACTING, INC.	\$5,000.00
6	SW	190162	NATIONAL WASTE MANAGEMENT SYSTEMS, LP	\$18,500.00
2	TK	191195	ALLEN, JAMES AND ALLEN, BETTY	\$19,000.00
6	UC	191683	ST. PETERSBURG, CITY OF	\$5,000.00
2	WW	181150	PILGRIM'S PRIDE	\$10,000.00

4. Collections in Each Program

Motorists have long accepted the fact that they are required to either challenge a traffic ticket and its fine in court or pay it up front. Such is simply not the case when considering the assessment of civil penalties in environmental cases. The vast majority of penalties assessed by the FDEP are agreed to by the violators via the consent order mechanism. Often, these penalties are used to fund environmental programs meant to protect Florida's environment. And they are also used, along with other revenues, to pay the salaries of FDEP employees. Yet, these same penalties often go unpaid. The rate at which the penalties are collected varies from year to year and from program to program. As we stated above, in 2019, the Department collected 44% of total dollar value of all the penalties that it assessed, a 10% decline from 2018's performance. The following table lists the dollar value of the civil penalties (excluding in-kind and pollution prevention projects) that were collected in each program. Values in red in the % Collected column indicate results that are below the results recorded for 2019.

Program Area Collections

Program Area	\$ Value of Penalties Assessed in 2019	\$ Value of Civil Penalties Collected—2019	% Civil Penalties Collected—2019
Asbestos	\$158,000.00	\$20,250.00	13%
Air (Excluding Asbestos)	\$121,975.00	\$104,362.00	86%
Beaches/Coastal	\$19,250.00	\$19,500.00	101%
Waste Cleanup	\$24,500.00	\$6,000.00	24%
Dredge & Fill¹⁷	\$196,824.00	\$169,581.11	86%

¹⁷ This includes Environmental Resource Permitting.

Domestic Waste	\$1,239,333.16	\$209,381.25	17%
Hazardous Waste	\$394,799.00	\$249,484.13	63%
Industrial Waste	\$90,968.00	\$45,070.00	50%
Mangrove Alterations	\$24,180.00	\$32,520.00	134%
Mining/Phospho-Gypsum	\$11,025.00	\$10,305.00	93%
Potable Water	\$74,015.00	\$67,736.67	92%
State Lands	\$8,940.00	\$1,360.00	15%
Stormwater Discharge	\$265,806.27	\$150,822.84	57%
Solid Waste	\$71,000.00	\$63,916.66	90%
Tanks	\$46,500.00	\$37,641.10	81%
Underground Injection Control	\$10,600.00	\$5,600.00	53%

In addition to civil penalties that were collected, several in-kind and pollution prevention projects were completed in 2019. These projects originated in the air, domestic waste, hazardous waste, and industrial waste programs. The total value of those projects for each program area in which they originated is listed below.

Dollar Value of In-Kind and Pollution Prevention Projects

Program Area	Total No. of In-Kind and P2 Projects Completed—2019	\$ Value of In-Kind and P2 Projects Completed-- 2019
Air	4	\$13,300.00
Domestic Waste	17	\$218,990.25
Hazardous Waste	3	\$90,145.00
Industrial Waste	1	\$70,680.00

DISTRICT ENFORCEMENT RESULTS

A. Compliance Rates—District Results

The first consideration in evaluating district performance is the extent to which the inspectors are actually in the field, conducting inspections. The following table shows the total number of inspections conducted by each district over the past 4 fiscal years.

Total Number of Inspections Conducted by Each District: 2016-2019

District	2016/2017	2017/2018	2018/2019	Calendar 2019
Northwest	1159	1416	1141	1333

Northeast	1189	1290	1178	1548
Central	1237	1300	1228	1578
Southeast	1666	1168	1074	1779
South	1890	2027	1966	2533
Southwest	1162	1230	1107	1807

Management clearly placed an emphasis on conducting inspections in 2019. The number of inspections conducted by every district increased in 2019 and was actually the highest for each district over the course of the past 5 years. On average, over the course of the past 4 years, the Northwest District has conducted the fewest number of inspections each year. The South District has conducted the most.

Average Number of Inspections Conducted Each Year: 2016-2019

District	Average Number of Inspections
Northwest	1,262
Northeast	1,301
Central	1,336
Southeast	1,422
South	2,104
Southwest	1,327

We also evaluated the average number of facilities that were found to be in noncompliance in each district over the same 4-year period.

Average Number of Facilities Found to be in Noncompliance: 2016-2019

District	Average Number of Facilities in Noncompliance 2019
Northwest	237
Northeast	448
Central	670
Southeast	264

South	540
Southwest	499

The average number of facilities in noncompliance over the immediate past 4 years rose in every district for this reporting period, when compared with last year's results. There continues to be no perceptible correlation between the average number of inspections conducted in each district and the average number of facilities found to be in noncompliance. Neither does the average number of noncompliant facilities appear to be dependent upon the population of the respective districts.

Compliance rates (defined by the number of facilities in compliance out of the number that were inspected) among the districts vary widely. The following table shows the compliance rates for each of the 6 districts over the course of the past 4 fiscal years.

Percentage of Facilities in Compliance by District

District	2015/2016	2016/2017	2017/2018	2018/2019	Calendar 2019
Northwest	80.60%	79.72%	83.90%	82.03%	71.72%
Northeast	66.48%	64.51%	72.87%	65.70%	57.88%
Central	60.05%	56.99%	56.54%	45.77%	39.73%
Southeast	84.85%	86.37%	82.19%	76.07%	76.05%
South	80.82%	74.97%	74.94%	80.57%	63.88%
Southwest	67.71%	66.70%	64.55%	65.31%	52.79%

Compliance rates fell in every district in 2019. Moreover, compliance rates have fallen for 5 straight years in the Central District, and 4 straight years in the Southeast district.

The combined 4-year compliance rate for each of the above districts is shown below. The four-year compliance average fell in every district in 2019.

District Compliance Rate Over 4 Years: 2016-2019

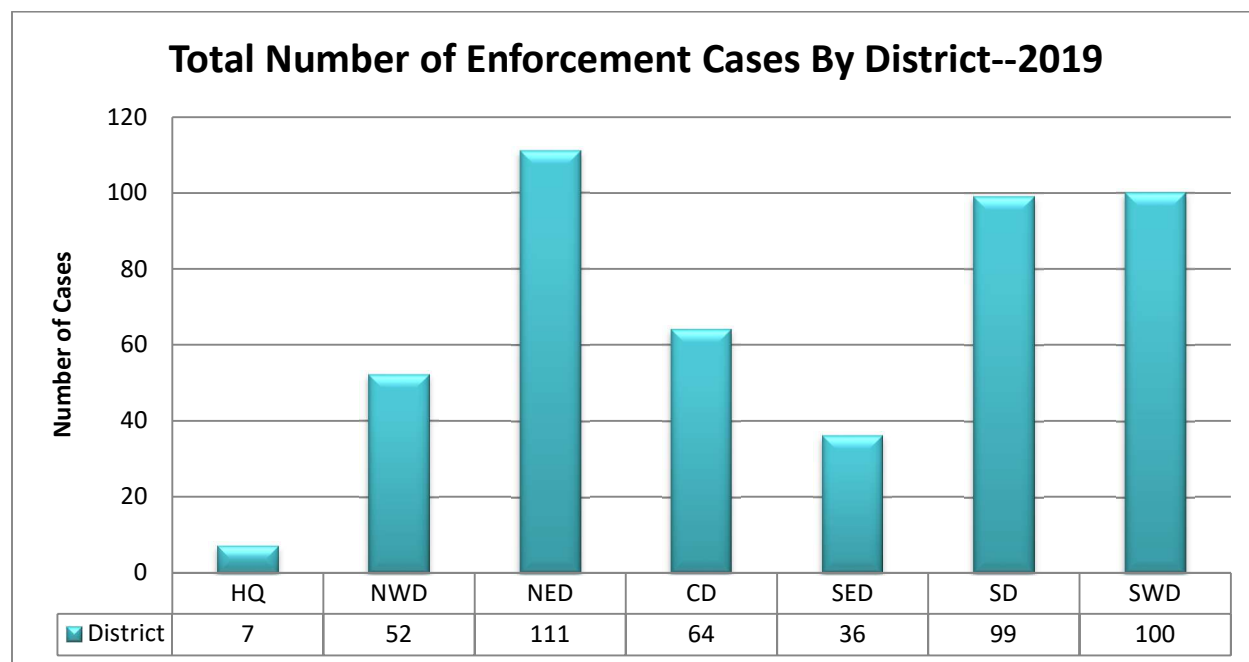
District	Compliance Rate
Northwest	79.30%

Northeast	64.88%
Central	49.20%
Southeast	80.34%
South	72.93%
Southwest	61.18%

B. Number and Types of Enforcement Actions Taken—District Results

The data provided by the FDEP allows us to determine the extent to which new cases were opened in each district. Overall, enforcement was divided between the Department's district offices as follows.

Number of Enforcement Cases by District in 2019



While the Northwest District had no change in the number of new cases opened, every other district improved upon their prior-year's performance. The results for the Northeast, Central and Southwest Districts are the best since 2012, while the South District's results are the best since 2011. But as the following table shows, none of the districts are performing at anywhere near 2010 levels.

Historical Results of Number of Enforcement Cases by District

District	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Headquarters	134	67	88	15	28	28	29	7	4	7
Northwest	167	156	60	37	37	35	32	33	52	52
Northeast	230	133	116	41	39	54	62	47	82	111
Central	208	161	109	32	26	44	52	36	43	64
Southeast	206	128	56	18	28	38	22	18	33	36
South	187	145	70	33	38	46	47	33	85	99
Southwest	455	357	164	34	38	52	63	46	72	100

The next question that we addressed was the enforcement rate in each of the 6 districts. This rate is the percentage of those facilities that were subjected to formal enforcement when they were deemed to be in noncompliance. The results of our analysis are shown below. Every district, except for the Central District, turned in lower enforcement rates in 2019. The Central District improved upon its low performance last year by 1%.

Enforcement Rate in Each District for Individual Years 2015 – 2019

District	2015/2016	2016/2017	2017/2018	2018/2019	Calendar 2019
Northwest	15%	14%	14%	25%	19%
Northeast	15%	15%	13%	20%	18%
Central	8%	10%	6%	6%	7%
Southeast	18%	10%	9%	13%	10%
South	11%	10%	6%	22%	12%
Southwest	12%	16%	11%	19%	13%

The 4-year enforcement rate for each of the 6 districts is shown below. All of the results are unchanged from last year.

District Average Enforcement Rate Over 5 Years: 2015-2019

District	Compliance Rate
Northwest	17%
Northeast	16%
Central	8%
Southeast	12%
South	12%
Southwest	14%

The final consideration is to compare the compliance rates among the districts to the enforcement rates. This 5-year comparison is shown below.

**Comparison of Average District Compliance and Enforcement
Rates Over 5 Years: 2015-2019**

District	Compliance Rate	Enforcement Rate
Northwest	80%	17%
Northeast	65%	16%
Central	51%	8%
Southeast	81%	12%
South	75%	12%
Southwest	62%	14%

The above results continue to indicate that the district with the lowest enforcement rate, the Central District, also had the lowest overall compliance rate. Of the 6 districts, we found that the Central District also had the highest percentage of facilities in significant noncompliance (6%) and the highest percentage of facilities that were otherwise in noncompliance (48%). The Northwest District, which had the highest enforcement rate, also had the lowest percentage of

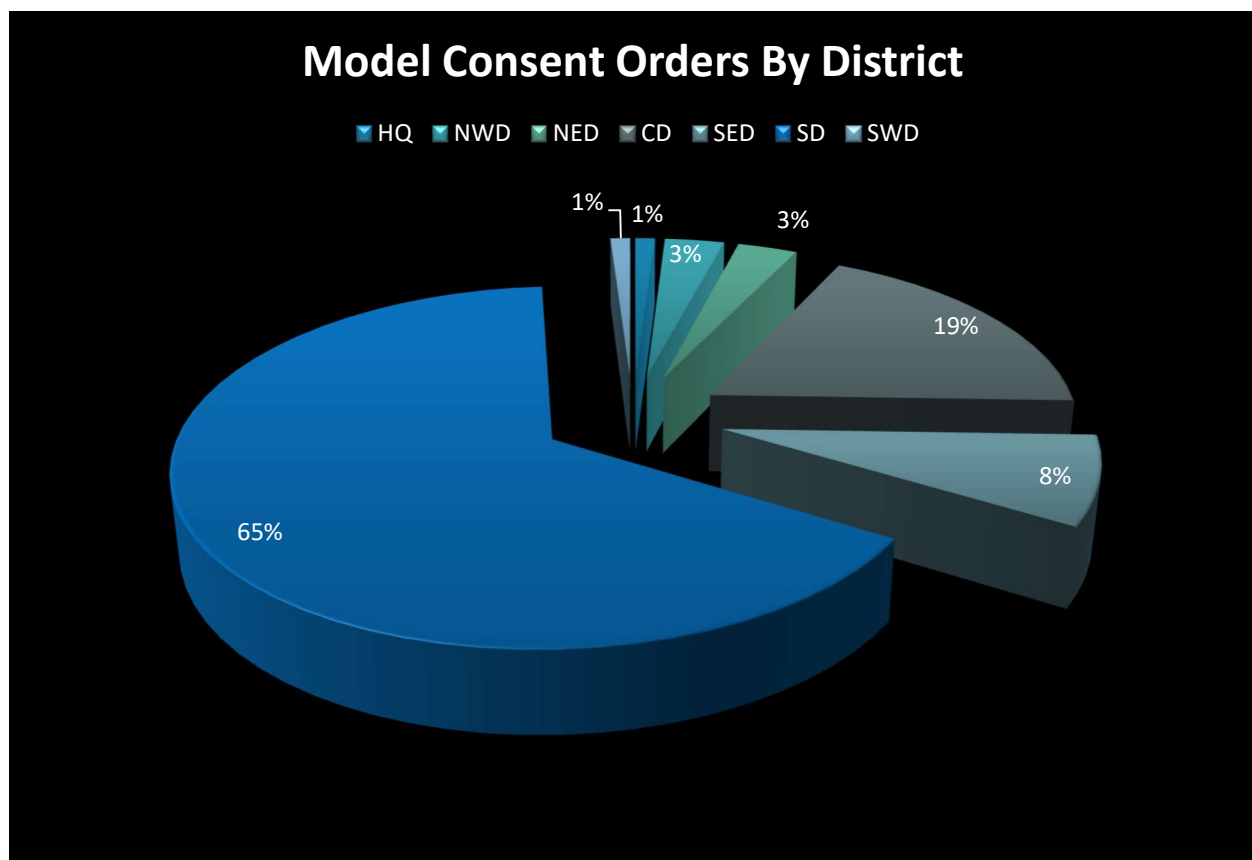
facilities in significant noncompliance (3%) and the second¹⁸ lowest percentage of facilities that were otherwise in noncompliance (17%).

1. Consent Orders – District Comparisons

The Department's use of consent orders varied with each district and type of consent order issued:

a. Model Consent Orders

Model Consent Orders--2019

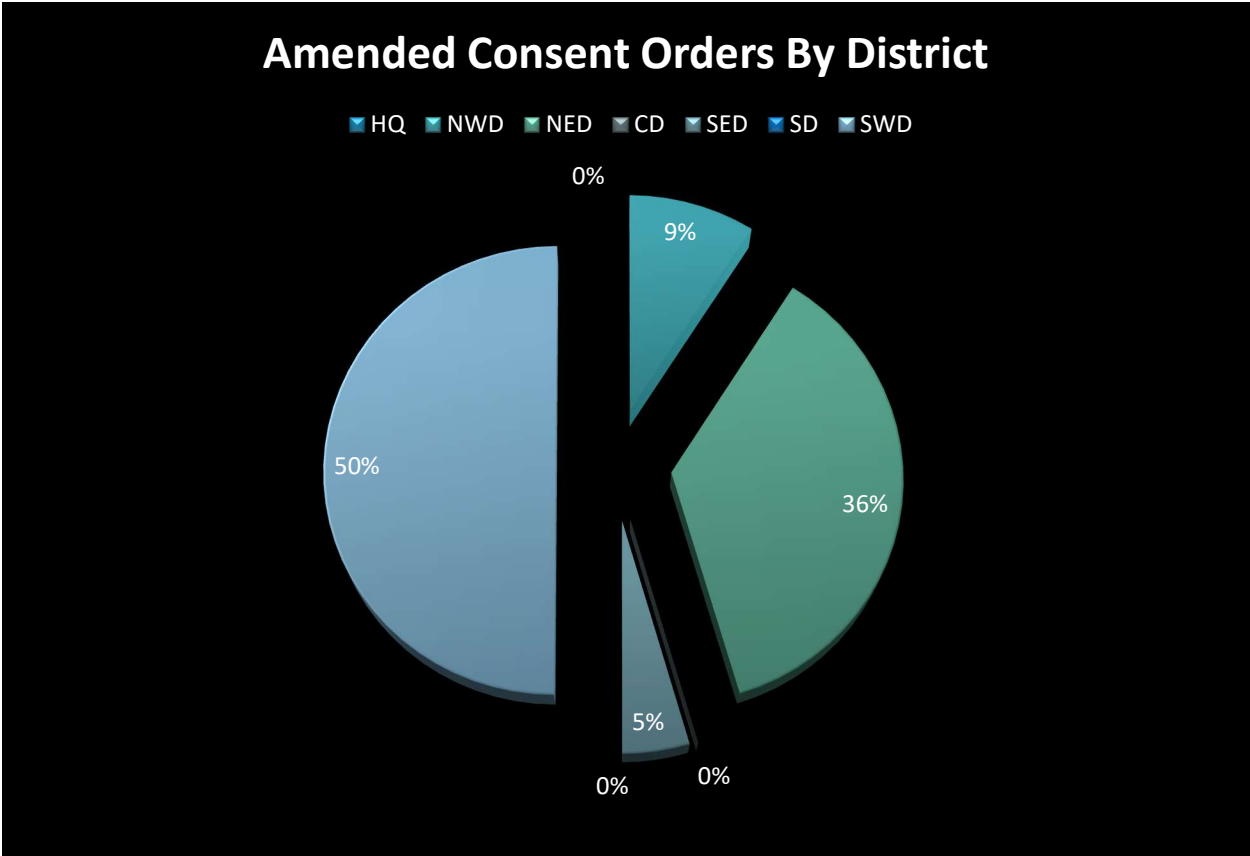


98 model consent orders were issued in 2019, 4 fewer than the amount issued in 2018. The overall decline was due to lower numbers in the Northwest, Central and Southeast districts.

¹⁸ The Southeast District had the lowest percentage (15%) of facilities that were in noncompliance (excluding significant noncompliance).

b. Amended Consent Orders

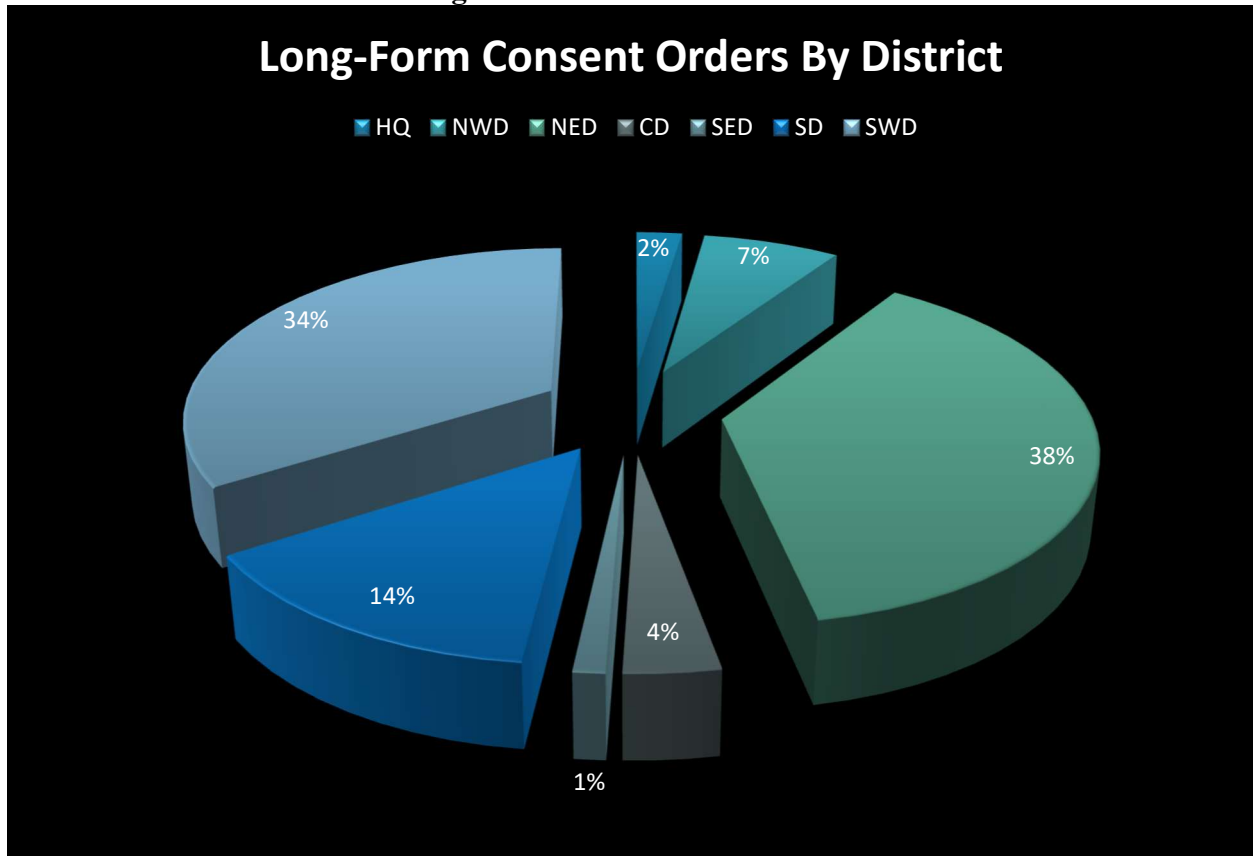
Amended Consent Orders—2019



The number of amended consent orders rose slightly in 2019, with only 2 districts, the Central and South filing fewer orders. 22 were issued statewide.

c. Long-Form Consent Orders

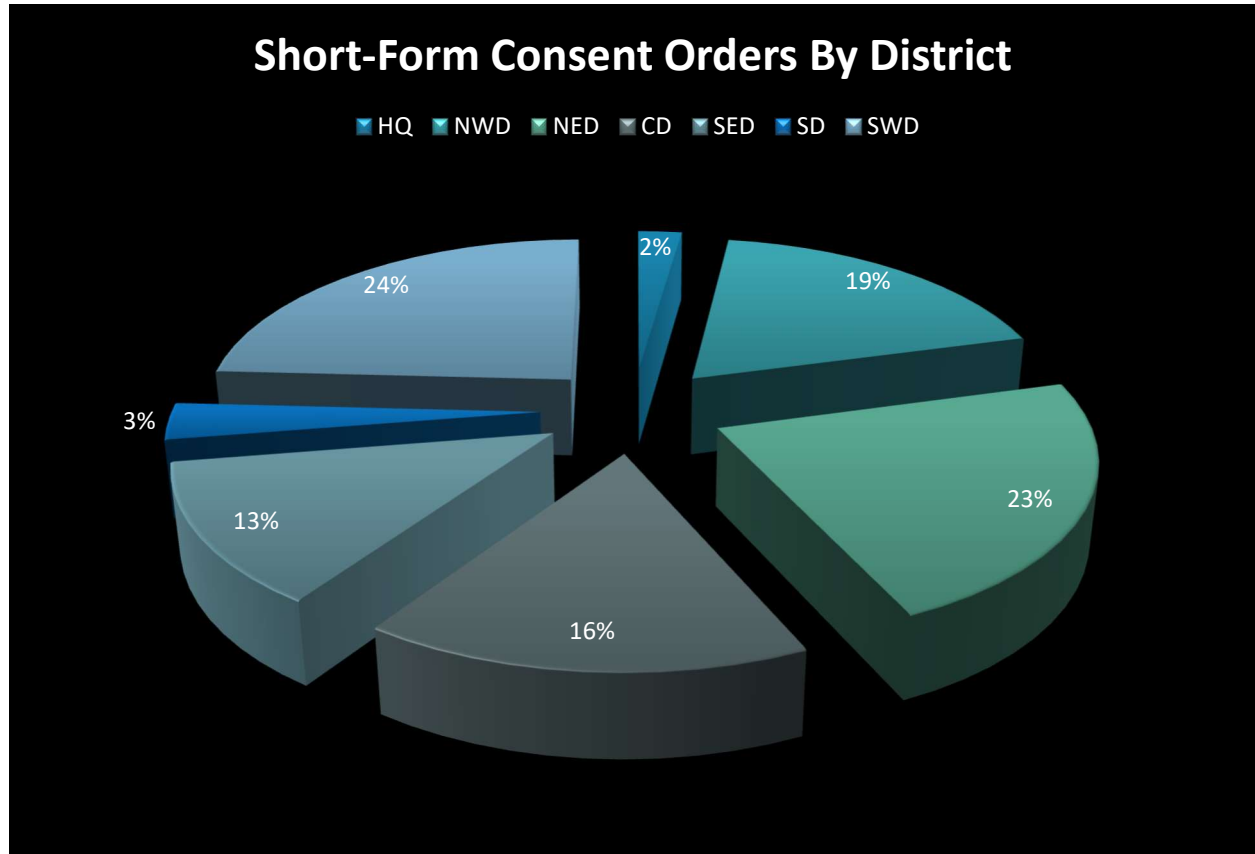
Long-Form Consent Orders--2019



85 long-form consent orders were issued in 2019, an improvement over the 70 that were issued in 2018. Only the Northwest and Central districts saw declines. The Southwest District settled 29% of its cases using this enforcement tool, the highest percentage of all of the districts.

d. Short-Form Consent Orders

Short-Form Consent Orders--2019



178 short-form consent orders were issued in 2019, 52 more than in 2018. This is the highest total for this enforcement mechanism since 2012, when 276 were issued.

The increase in the number of short-form consent orders issued also marks the second year since 2015, in which their use as a percentage of all enforcement cases has increased, this time to 38% of all cases. It is also the highest percentage we've seen since 2012.

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.

Historical Overview of Percentage Usage of 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%

2017	30.00%
2018	33.96%
2019	37.95%

The short-form consent order is perhaps the easiest of the enforcement mechanism with which to resolve enforcement cases. This is simply because it requires nothing more of the violator than the payment of a civil penalty. Three of the districts, the Northeast, Central, and Southeast, increased the percentage of cases resolved via this mechanism. The Southeast District uses this mechanism more than the other districts, while the South District uses it the least. The following table, which compares the use of short-form consent orders to all other enforcement tools, gives the actual percentages for the current and immediately preceding year.

Percentage of Cases Settled with Short-Form Consent Orders

<i>District</i>	<i>% Cases Settled Through SF Cos-2018</i>	<i>% Cases Settled Through SF Cos-2019</i>
<i>Central</i>	32.56%	45.31%
<i>Northeast</i>	40.24%	36.04%
<i>Multi-District</i>	25.00%	57.14%
<i>Northwest</i>	30.77%	63.46%
<i>Southeast</i>	57.58%	63.89%
<i>South</i>	10.59%	6.06%
<i>Southwest</i>	47.22%	43.00%

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 that would require more oversight over the violator. Overall, the Department chose short-form consent orders in 46% of the cases in which it wanted to resolve cases via consent orders. This is a 6% increase over 2018.

The Northwest and Southeast Districts settled cases using short-form consent orders over other consent orders at their highest rate in the last 6 years. Yet, the Northeast, Southwest and South Districts all relied less on short-form consent orders than they did in 2018. The South District continues to be the district that is the least reliant upon this enforcement tool. Moreover, the South District settles 92.68% of its consent orders using either the long-form, amended, or model consent order. The next highest district is the Northeast District, which uses one of these forms in 51.81% of its consent order resolutions.

Usage of Short-Form Consent Orders Compared to Other Consent Orders

<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>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders-- 2017</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders-- 2018</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders-- 2019</i>
<i>Central</i>	52.94%	58.33%	44.68%	40.00%	35.90%	58.00%
<i>Northeast</i>	26.67%	47.06%	34.69%	30.56%	50.00%	48.19%
<i>Headquarters</i>	54.17%	44.00%	26.09%	33.33%	33.33%	57.14%
<i>Northwest</i>	33.33%	37.04%	50.00%	50.00%	41.03%	75.00%
<i>Southeast</i>	30.00%	62.16%	63.16%	47.06%	57.58%	69.70%
<i>South</i>	18.18%	10.34%	14.29%	14.29%	11.39%	7.32%
<i>Southwest</i>	11.54%	45.95%	28.85%	50.00%	60.71%	51.19%

C. Overall Assessments in Each District

The Department does not assess penalties in every case in which a formal enforcement case is opened. The rates at which penalties are assessed always varies from district to district. In 2019 the districts assessed penalties as follows.

Percentage of Cases in which Penalties were Assessed—By District--2019

District	Number of Cases opened in 2019	Number of Assessments in 2019 (Excluding In-Kind & Pollution Prevention Projects)	Percentage of Cases in which Penalties were Assessed
Headquarters	7	5	71%
Northwest	52	47	90%
Northeast	111	102	92%
Central	64	40	63%
Southeast	36	34	94%
South	99	63	64%
Southwest	100	95	95%

A comparison with the results from 2018 shows that the Northeast, Central, and South Districts all assessed penalties at a lower rate in 2019 than they did in 2018. Each of the three remaining districts assessed civil penalties in a higher percentage of cases. The South District's assessment rate fell by a significant 17% in 2019. In addition, the assessment rate has dropped for three straight years in the South District, while it has risen for three straight years in the Southwest District.

Percentage Assessment Rate by District

District	Percentage of Cases in which Penalties were Assessed in 2017	Percentage of Cases in which Penalties were Assessed in 2018	Percentage of Cases in which Penalties were Assessed in 2019
Headquarters	100%	75%	71%
Northwest	70%	81%	90%
Northeast	64%	83%	92%
Central	56%	53%	63%
Southeast	89%	70%	94%
South	85%	68%	64%
Southwest	52%	63%	95%

Turning to the dollar value of the penalties that were assessed, the Districts' performance in the area of penalty assessments (including in-kind and pollution prevention projects) was as follows.

Dollar Value of Penalty Assessments by District

DISTRICT	TOTAL \$ ASSESSED IN 2017	TOTAL \$ ASSESSED IN 2018	TOTAL \$ ASSESSED IN 2019	% OF STATE TOTAL 2019
Headquarters	\$43,788.00	\$3,086.00	\$19,615.00	0.41%
NWD	\$98,925.00	\$293,626.38	\$475,482.58	9.97%
NED	\$400,181.00	\$1,113,182.50	\$897,955.00	18.82%
CEN	\$127,323.00	\$427,234.46	\$228,503.29	4.79%
SED	\$1,056,584.56	\$282,412.50	\$242,620.00	5.09%
SD	\$56,436.00	\$308,474.14	\$1,705,937.00	35.76%

SWD	\$2,040,732.00	\$633,767.30	\$1,199,930.48	25.16%
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As the table above indicates, three districts, the Northeast, Central and Southeast assessed fewer combined (penalty, in-kind and pollution prevention) dollars in 2019 than they did in the previous year. Each of these three districts also saw their overall contribution to the state totals decline in 2019. The Central District's percentage of the state total fell by over 50% compared to 2018. What should also be noted is that the number of assessments also rose in each of these three districts. Further, the Southeast District has now seen fewer combined penalty dollars assessed for two consecutive years.

Of the six districts, only the Central District assessed fewer penalty dollars in 2019 than it did in 2018.

In looking at the median assessments for each district we found that two of the districts, the Northeast and Southeast, had both fewer dollar assessments and lower median assessments when compared to 2018. The Central District, which also assessed fewer dollars, managed to increase the median assessments in 2019. The downward trend in the South District is troubling. The comparison of median assessments (each of which includes in-kind and/or pollution prevention projects) from 2017 to 2019 among the districts is as follows.

Median Assessments by District

DISTRICT	2017 MEDIAN ASSESSMENTS	2018 MEDIAN ASSESSMENTS	2019 MEDIAN ASSESSMENTS
Headquarters	\$500.00	\$310.00	\$2,325.00
NWD	\$3,000.00	\$4,500.00	\$5,000.00
NED	\$1,310.00	\$2,500.00	\$2,000.00
CEN District	\$3,000.00	\$3,500.00	\$3,980.07
SED	\$6,104.75	\$3,917.00	\$2,891.50
SD	\$830.00	\$830.00	\$500.00
SWD	\$2,600.00	\$2,000.00	\$5,000.00

We also looked at the issue of where the median penalty assessments were highest in the state, i.e. which district had the highest median penalty assessments in each program area. Those results are shown below, and each result excludes in-kind and pollution prevention projects. What is noteworthy about this list is that in all but two of the programs, the district with the highest median assessment achieved that result with 5 or fewer assessments for the entire year. Even the domestic wastewater program, one of the largest programs, had only four assessments in the district with the highest median.

Median Assessments by Program

Program Area	District with Highest Median Assessment Value	Median Assessment in District	Based Upon District's Total Number of Penalty Assessments
Asbestos	Northeast	\$77,000.00	2
Air (Excluding Asbestos)	Central	\$3,600.00	9
Beaches/Coastal	Southwest	\$2,000.00	1
Waste Cleanup	Southwest	\$12,250.00	2
Dredge & Fill ¹⁹	Central	\$2,424.50	2
Domestic Waste	Southeast	\$11,000.00	4
Hazardous Waste	Northeast	\$16,913.00	8
Industrial Waste	Northeast	\$9,000.00	3
Mangrove Alterations	Southeast	\$2,750.00	4
Mining/Phospho-Gypsum	Northwest	\$5,000.00	1
Potable Water	Northwest	\$4,000.00	5
State Lands	Southwest	\$2,500.00	3
Stormwater Discharge	Central	\$8,226.14	3
Solid Waste	Northwest	\$4,750.00	2
Tanks	Southwest	\$4,000.00	3
Underground Injection Control	Southwest	\$5,000.00	2

D. Overall Collections in Each District

The following chart shows the total collections reported by each district, itemized by the total penalty dollars collected and the total dollar value of in-kind and pollution prevention project closures.

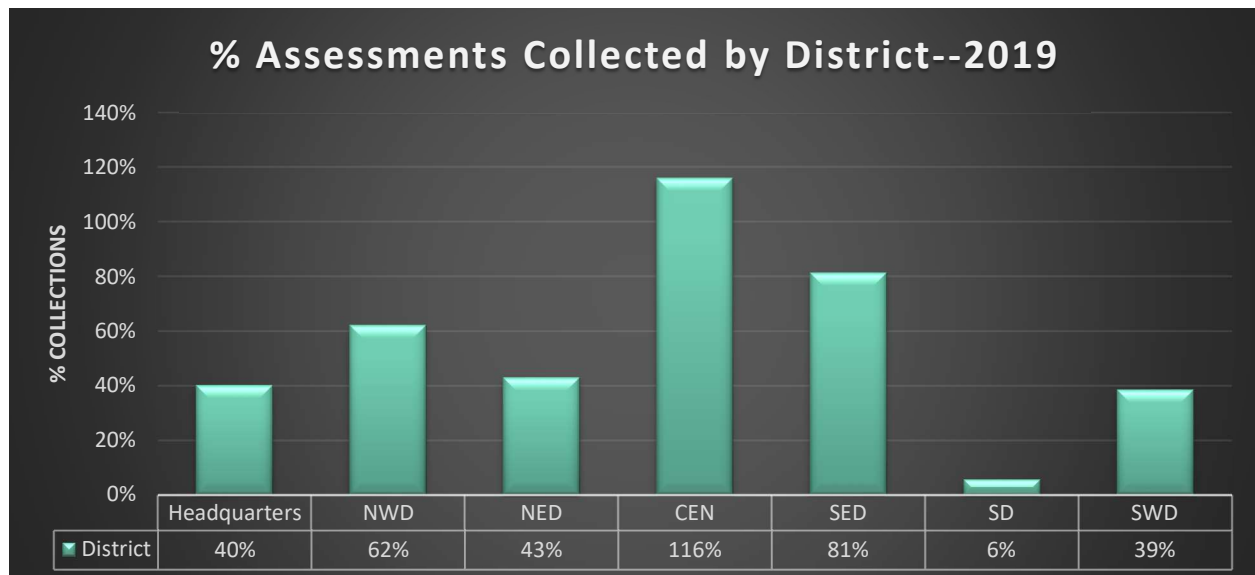
¹⁹ This includes Environmental Resource Permitting.

Collections by District--2019

District	Total Penalty \$ Collected	Total Value of In-Kind and Pollution Prevention Project Closures	Cumulative Total of Penalties, In-Kind and Pollution Prevention Project Closures
Headquarters	\$7,895.00	\$0.00	\$7,895.00
NWD	\$251,537.70	\$44,250.00	\$295,787.70
NED	\$307,588.66	\$79,490.25	\$387,078.91
CEN	\$144,861.30	\$120,494.00	\$265,355.30
SED	\$111,860.00	\$85,680.00	\$197,540.00
SD	\$96,890.00	\$2,250.00	\$99,140.00
SWD	\$306,898.10	\$156,145.00	\$463,043.10

Based upon the above cumulative collection totals, we found that, compared with the other districts, the Central District collected the highest percentage of its assessments. The South District collected the lowest percentage of its assessments. The following graph shows the percentage of assessments (excluding in-kind and pollution prevention projects) that were collected in each district.

% Assessments Collected by District--2019



E. Program Performance in each District

This section addresses the performance of the major program areas in each district. Our review of the FDEP's programs included the number of assessments in each program area, the total penalty dollars assessed, and the median dollar value of the penalty assessments in each program. Unless stated otherwise, the results that follow exclude in-kind and pollution prevention project data.

1. Northwest District

The Northwest District's programs generally assessed penalties in a high rate of cases in which formal enforcement cases were opened.

NWD—Enforcement Cases and Assessments--2019

Northwest District Program Area	Total No. of Enforcement Cases--2019	Total No. of Assessments in 2019	% of Cases Resulting in Civil Penalty Assessment--2019
Asbestos	2	2	100%
Air (Excluding Asbestos)	6	6	100%
Beaches/Coastal	2	1	50%
Waste Cleanup	1	0	0%
Dredge & Fill²⁰	12	13	108%
Domestic Waste	3	3	100%
Hazardous Waste	4	2	50%
Industrial Waste	0	0	N/A
Mangrove Alterations	0	0	N/A
Mining/Phospho-Gypsum	1	1	100%
Potable Water	6	5	83%
State Lands	0	0	0%
Stormwater Discharge	8	10	125%
Solid Waste	4	2	50%
Tanks	2	0	0%
Underground Injection Control	0	0	N/A

The table below shows the same programs, the penalty dollars assessed, the dollar value of in-kind and pollution prevention projects, and the median assessments (excluding in-kind and pollution prevention projects). *The single largest change was in the median for the domestic wastewater program, which fell significantly in 2019.*

²⁰ This includes Environmental Resource Permitting.

NWD—Assessments and Medians--2019

Northwest District Program Area	Total Penalty Dollars Assessed	Total Dollar Value of In-Kind/P2 Projects	Combined Penalty, In-Kind and P2 Assessments	Medians (Based on Penalties Only)
Asbestos	\$154,000.00	\$0.00	\$154,000.00	\$77,000.00
Air (Excluding Asbestos)	\$19,500.00	\$0.00	\$19,500.00	\$3,500.00
Beaches/Coastal	\$750.00	\$0.00	\$750.00	\$750.00
Waste Cleanup	\$0.00	\$0.00	\$0.00	\$0.00
Dredge & Fill²¹	\$40,999.00	\$0.00	\$40,999.00	\$1,500.00
Domestic Waste	\$32,750.00	\$6,000.00	\$38,750.00	\$4,000.00
Hazardous Waste	\$3,350.00	\$0.00	\$3,350.00	\$1,675.00
Industrial Waste	\$0.00	\$0.00	\$0.00	\$0.00
Mangrove Alterations	\$0.00	\$0.00	\$0.00	\$0.00
Mining/Phospho-Gypsum	\$5,000.00	\$0.00	\$5,000.00	\$5,000.00
Potable Water	\$22,500.00	\$0.00	\$22,500.00	\$4,000.00
State Lands	\$0.00	\$0.00	\$0.00	\$0.00
Stormwater Discharge	\$163,633.58	\$0.00	\$163,633.58	\$7,710.00
Solid Waste	\$9,500.00	\$0.00	\$9,500.00	\$4,750.00
Tanks	\$0.00	\$0.00	\$0.00	\$0.00
Underground Injection Control	\$0.00	\$0.00	\$0.00	\$0.00

Our final look at the Northwest District lists the penalty dollars actually collected, the in-kind and pollution projects that were completed, and the percentage of assessed penalty dollars that were actually collected.

NWD—Collections--2019

Northwest District Program Area	Value of In-Kind and P/2 Projects Completed	Penalty Dollars Collected	Total Penalty Dollars Assessed	% of Assessed Penalties Actually Collected
Asbestos	\$0.00	\$16,250.00	\$154,000.00	10.55%
Air (Excluding Asbestos)	\$0.00	\$21,887.00	\$19,500.00	112.24%
Beaches/Coastal	\$0.00	\$0.00	\$750.00	0%
Waste Cleanup	\$0.00	\$0.00	\$0.00	0%
Dredge & Fill²²	\$0.00	\$21,574.00	\$40,999.00	52.62%
Domestic Waste	\$44,250.00	\$32,750.00	\$32,750.00	100%
Hazardous Waste	\$0.00	\$2,000.00	\$3,350.00	59.70%
Industrial Waste	\$0.00	\$0.00	\$0.00	0%
Mangrove Alterations	\$0.00	\$0.00	\$0.00	0%
Mining/Phospho-Gypsum	\$0.00	\$5,000.00	\$5,000.00	100%

²¹ This includes Environmental Resource Permitting.

²² This includes Environmental Resource Permitting.

Potable Water	\$0.00	\$22,500.00	\$22,500.00	100%
State Lands	\$0.00	\$0.00	\$0.00	0%
Stormwater Discharge	\$0.00	\$102,576.70	\$163,633.58	62.69%
Solid Waste	\$0.00	\$9,500.00	\$9,500.00	100%
Tanks	\$0.00	\$0.00	\$0.00	0%
Underground Injection Control	\$0.00	\$0.00	\$0.00	0%

2. Northeast District

The Northeast District's programs generally assessed penalties in a high rate of cases in which formal enforcement cases were opened. The lowest result was in the solid waste program in which only 31% of assessed penalties were collected.

NED—Enforcement Cases and Assessments--2019

Northeast District Program Area	Total No. of Enforcement Cases in 2019	Total No. of Assessments in 2019	% of Cases Resulting in Civil Penalty Assessment in 2019
Asbestos	1	1	100%
Air (Excluding Asbestos)	15	14	93%
Beaches/Coastal	0	0	N/A
Waste Cleanup	1	0	0%
Dredge & Fill²³	34	38	112%
Domestic Waste	15	11	73%
Hazardous Waste	10	6	60%
Industrial Waste	4	3	75%
Mangrove Alterations	0	0	N/A
Mining/Phospho-Gypsum	0	0	N/A
Potable Water	7	6	86%
State Lands	1	0	0%
Stormwater Discharge	1	0	0%
Solid Waste	13	4	31%
Tanks	8	4	50%
Underground Injection Control	0	0	N/A

The median penalty assessments for each program are shown below.

²³ This includes Environmental Resource Permitting.

NED--Assessments and Medians--2019

Northeast District Program Area	Total Penalty Dollars Assessed	Total Dollar Value of In-Kind/P2 Projects	Combined Penalty, In-Kind and P2 Assessments	Medians (Based on Penalties Only)
Asbestos	\$4,000.00	\$0.00	\$4,000.00	\$4,000.00
Air (Excluding Asbestos)	\$51,250.00	\$16,875.00	\$68,125.00	\$1,500.00
Beaches/Coastal	\$0.00	\$0.00	\$0.00	\$0.00
Waste Cleanup	\$0.00	\$0.00	\$0.00	\$0.00
Dredge & Fill ²⁴	\$103,976.00	\$15,000.00	\$118,976.00	\$500.00
Domestic Waste	\$172,214.00	\$227,871.00	\$400,085.00	\$4,000.00
Hazardous Waste	\$112,139.00	\$96,258.00	\$208,397.00	\$16,913.00
Industrial Waste	\$19,437.00	\$0.00	\$19,437.00	\$9,000.00
Mangrove Alterations	\$0.00	\$0.00	\$0.00	\$0.00
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	\$0.00
Potable Water	\$24,185.00	\$96,258.00	\$26,435.00	\$3,595.00
State Lands	\$0.00	\$0.00	\$0.00	\$0.00
Stormwater Discharge	\$0.00	\$0.00	\$0.00	\$0.00
Solid Waste	\$17,000.00	\$0.00	\$17,000.00	\$2,500.00
Tanks	\$25,500.00	\$0.00	\$25,500.00	\$2,750.00
Underground Injection Control	\$0.00	\$0.00	\$0.00	\$0.00

Notable problems with the collection of civil penalties in this district were seen in the domestic wastewater program, while the collection rate in the potable water program improved significantly.

NED—Collections--2019

Northeast District Program Area	Value of In-Kind and P/2 Projects Completed	Penalty Dollars Collected	Total Penalty Dollars Assessed	% of Assessed Penalties Actually Collected
Asbestos	\$0.00	\$4,000.00	\$4,000.00	100%
Air (Excluding Asbestos)	\$0.00	\$41,000.00	\$51,250.00	80%
Beaches/Coastal	\$0.00	\$1,000.00	\$0.00	0%
Waste Cleanup	\$0.00	\$0.00	\$0.00	0%
Dredge & Fill ²⁵	\$0.00	\$91,556.00	\$103,976.00	88%
Domestic Waste	\$77,990.25	\$11,000.00	\$172,214.00	6%
Hazardous Waste	\$0.00	\$81,004.00	\$112,139.00	72%
Industrial Waste	\$0.00	\$19,437.00	\$19,437.00	100%
Mangrove Alterations	\$0.00	\$0.00	\$0.00	N/A

²⁴ This includes Environmental Resource Permitting.

²⁵ This includes Environmental Resource Permitting.

Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	N/A
Potable Water	\$0.00	\$20,895.00	\$24,185.00	86%
State Lands	\$0.00	\$0.00	\$0.00	N/A
Stormwater Discharge	\$0.00	\$0.00	\$0.00	N/A
Solid Waste	\$0.00	\$12,166.66	\$17,000.00	72%
Tanks	\$0.00	\$15,530.00	\$25,500.00	61%
Underground Injection Control	\$0.00	\$0.00	\$0.00	N/A

3. Central District

The Central District's programs assessed penalties at a moderately high rate of cases in some programs, however, some major programs such as the dredge and fill, domestic wastewater, solid waste, and tanks programs performed poorly.

CD—Enforcement Cases and Assessments--2019

Central District Program Area	Total No. of Enforcement Cases—2019	Total No. of Assessments in 2019	% of Cases Resulting in Civil Penalty Assessment--2019
Asbestos	0	0	N/A
Air (Excluding Asbestos)	11	6	55%
Beaches/Coastal	0	0	N/A
Waste Cleanup	1	0	0%
Dredge & Fill²⁶	7	2	29%
Domestic Waste	15	7	47%
Hazardous Waste	5	5	100%
Industrial Waste	1	0	0%
Mangrove Alterations	1	0	0%
Mining/Phospho-Gypsum	0	0	N/A
Potable Water	4	4	100%
State Lands	1	0	0%
Stormwater Discharge	4	3	75%
Solid Waste	3	1	33%
Tanks	10	3	30%
Underground Injection Control	0	0	N/A

The table below shows the penalty dollars assessed, the dollar value of in-kind and pollution prevention projects, and the median assessments (excluding in-kind and pollution prevention projects) for each program.

²⁶ This includes Environmental Resource Permitting.

CD--Assessments and Medians--2019

Central District Program Area	Total Penalty Dollars Assessed	Total Dollar Value of In-Kind/P2 Projects	Combined Penalty, In-Kind and P2 Assessments	Medians (Based on Penalties Only)
Asbestos	\$0.00	\$0.00	\$0.00	\$0.00
Air (Excluding Asbestos)	\$32,000.00	\$11,800.00	\$43,800.00	\$3,600.00
Beaches/Coastal	\$0.00	\$0.00	\$0.00	\$0.00
Waste Cleanup	\$0.00	\$0.00	\$0.00	\$0.00
Dredge & Fill ²⁷	\$4,849.00	\$0.00	\$4,849.00	\$2,424.50
Domestic Waste	\$45,713.81	\$20,327.34	\$66,041.15	\$3,960.14
Hazardous Waste	\$41,496.00	\$101,832.00	\$205,996.00	\$8,520.00
Industrial Waste	\$0.00	\$0.00	\$0.00	\$0.00
Mangrove Alterations	\$0.00	\$0.00	\$0.00	\$0.00
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	\$0.00
Potable Water	\$6,330.00	\$0.00	\$6,330.00	\$1,575.00
State Lands	\$0.00	\$0.00	\$0.00	\$0.00
Stormwater Discharge	\$34,097.14	\$0.00	\$34,097.14	\$8,226.14
Solid Waste	\$500.00	\$0.00	\$500.00	\$500.00
Tanks	\$6,500.00	\$0.00	\$6,500.00	\$2,500.00
Underground Injection Control	\$0.00	\$0.00	\$0.00	\$0.00

Except for the dredge and fill, stormwater discharge, and potable water program, the district performed reasonably well in collecting the civil penalties that it assessed in each program.

CD—Collections--2019

Central District Program Area	Value of In-Kind and P/2 Projects Completed	Penalty Dollars Collected	Total Penalty Dollars Assessed	% of Assessed Penalties Actually Collected
Asbestos	\$0.00	\$0.00	\$0.00	N/A
Air (Excluding Asbestos)	\$11,800.00	\$32,000.00	\$32,000.00	100%
Beaches/Coastal	\$0.00	\$0.00	\$0.00	N/A
Waste Cleanup	\$0.00	\$0.00	\$0.00	N/A
Dredge & Fill ²⁸	\$0.00	\$0.00	\$4,849.00	0%
Domestic Waste	\$13,500.00	\$41,162.25	\$45,713.81	90%
Hazardous Waste	\$95,194.00	\$42,150.13	\$41,496.00	102%
Industrial Waste	\$0.00	\$0.00	\$0.00	N/A
Mangrove Alterations	\$0.00	\$0.00	\$0.00	N/A

²⁷ This includes Environmental Resource Permitting.

²⁸ This includes Environmental Resource Permitting.

Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	N/A
Potable Water	\$0.00	\$3,341.67	\$6,330.00	53%
State Lands	\$0.00	\$0.00	\$0.00	N/A
Stormwater Discharge	\$0.00	\$8,226.14	\$34,097.14	24%
Solid Waste	\$0.00	\$500.00	\$500.00	100%
Tanks	\$0.00	\$6,500.00	\$6,500.00	100%
Underground Injection Control	\$0.00	\$0.00	\$0.00	N/A

4. Southeast District

Penalties were assessed in a majority of each program area in which enforcement cases were opened in the Southeast District.

SED—Enforcement Cases and Assessments--2019

Southeast District Program Area	Total No. of Enforcement Cases--2019	Total No. of Assessments in 2019	% of Cases Resulting in Civil Penalty Assessment--2019
Asbestos	0	0	N/A
Air (Excluding Asbestos)	4	4	100%
Beaches/Coastal	1	1	100%
Waste Cleanup	0	0	N/A
Dredge & Fill²⁹	4	5	80%
Domestic Waste	2	3	67%
Hazardous Waste	6	4	150%
Industrial Waste	1	1	100%
Mangrove Alterations	5	4	125%
Mining/Phospho-Gypsum	0	0	N/A
Potable Water	7	7	100%
State Lands	0	0	N/A
Stormwater Discharge	0	0	N/A
Solid Waste	0	0	N/A
Tanks	0	0	N/A
Underground Injection Control	2	2	100%

The median penalty assessments for the Southeast District are shown below.

²⁹ This includes Environmental Resource Permitting.

SED--Assessments and Medians--2019

Southeast District Program Area	Total Penalty Dollars Assessed	Total Dollar Value of In-Kind/P2 Projects	Combined Penalty, In-Kind and P2 Assessments	Medians (Based on Penalties Only)
Asbestos	\$0.00	\$0.00	\$0.00	\$0.00
Air (Excluding Asbestos)	\$17,350.00	\$9,750.00	\$27,100.00	\$2,800.00
Beaches/Coastal	\$1,000.00	\$0.00	\$1,000.00	\$1,000.00
Waste Cleanup	\$0.00	\$0.00	\$0.00	\$0.00
Dredge & Fill³⁰	\$3,090.00	\$0.00	\$3,090.00	\$250.00
Domestic Waste	\$93,000.00	\$10,500.00	\$103,500.00	\$11,000.00
Hazardous Waste	\$68,347.00	\$0.00	\$68,347.00	\$13,583.50
Industrial Waste	\$3,133.00	\$0.00	\$3,133.00	\$3,133.00
Mangrove Alterations	\$13,350.00	\$0.00	\$13,350.00	\$2,750.00
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	\$0.00
Potable Water	\$16,000.00	\$0.00	\$16,000.00	\$1,650.00
State Lands	\$0.00	\$0.00	\$0.00	\$0.00
Stormwater Discharge	\$0.00	\$0.00	\$0.00	\$0.00
Solid Waste	\$0.00	\$0.00	\$0.00	\$0.00
Tanks	\$0.00	\$0.00	\$0.00	\$0.00
Underground Injection Control	\$5,600.00	\$0.00	\$5,600.00	\$2,800.00

Collections were below 50% in the air, domestic wastewater, and hazardous waste programs.

SED—Collections--2019

Southeast District Program Area	Value of In-Kind and P2 Projects Completed	Penalty Dollars Collected	Total Penalty Dollars Assessed	% of Assessed Penalties Actually Collected
Asbestos	\$0.00	\$0.00	\$0.00	N/A
Air (Excluding Asbestos)	\$0.00	\$7,600.00	\$17,350.00	44%
Beaches/Coastal	\$0.00	\$1,000.00	\$1,000.00	100%
Waste Cleanup	\$0.00	\$0.00	\$0.00	N/A
Dredge & Fill³¹	\$0.00	\$2,670.00	\$3,090.00	86%
Domestic Waste	\$15,000.00	\$18,000.00	\$93,000.00	19%
Hazardous Waste	\$0.00	\$33,007.00	\$68,347.00	48%
Industrial Waste	\$70,680.00	\$3,133.00	\$3,133.00	100%
Mangrove Alterations	\$0.00	\$23,350.00	\$13,350.00	175%
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	N/A
Potable Water	\$0.00	\$16,000.00	\$16,000.00	100%

³⁰ This includes Environmental Resource Permitting.

³¹ This includes Environmental Resource Permitting.

State Lands	\$0.00	\$0.00	\$0.00	N/A
Stormwater Discharge	\$0.00	\$0.00	\$0.00	N/A
Solid Waste	\$0.00	\$0.00	\$0.00	N/A
Tanks	\$0.00	\$0.00	\$0.00	N/A
Underground Injection Control	\$0.00	\$5,600.00	\$5,600.00	100%

5. South District

The South District assessed penalties in a high percentage of cases in most programs except for the state lands and solid waste programs. However, there were very few cases opened in most programs other than the dredge and fill and mangrove alteration programs. *It should be noted that it has been at least 2 years since there were any cases in the air and tanks programs.*

SD—Enforcement Cases and Assessments--2019

South District Program Area	Total No. of Enforcement Cases—2019	Total No. of Assessments in 2019	% of Cases Resulting in Civil Penalty Assessment--2019
Asbestos	0	0	N/A
Air (Excluding Asbestos)	0	0	N/A
Beaches/Coastal	4	3	75%
Waste Cleanup	0	0	N/A
Dredge & Fill³²	50	30	60%
Domestic Waste	3	3	100%
Hazardous Waste	2	2	100%
Industrial Waste	3	3	100%
Mangrove Alterations	14	10	71%
Mining/Phospho-Gypsum	0	0	N/A
Potable Water	1	3	300%
State Lands	15	3	20%
Stormwater Discharge	2	3	N/A
Solid Waste	5	2	40%
Tanks	0	0	N/A
Underground Injection Control	0	0	N/A

The median penalty assessments for the programs in the South District are shown below, as are the total dollar value of penalty assessments and projects.

³² This includes Environmental Resource Permitting.

SD--Assessments and Medians--2019

South District Program Area	Total Penalty Dollars Assessed	Total Dollar Value of In-Kind/P2 Projects	Combined Penalty, In-Kind and P2 Assessments	Medians (Based on Penalties Only)
Asbestos	\$0.00	\$0.00	\$0.00	\$0.00
Air (Excluding Asbestos)	\$0.00	\$0.00	\$0.00	\$0.00
Beaches/Coastal	\$15,500.00	\$0.00	\$15,500.00	\$500.00
Waste Cleanup	\$0.00	\$0.00	\$0.00	\$0.00
Dredge & Fill³³	\$32,650.00	\$0.00	\$32,650.00	\$420.00
Domestic Waste	\$639,075.00	\$948,862.00	\$1,587,937.00	\$7,775.00
Hazardous Waste	\$11,510.00	\$0.00	\$11,510.00	\$5,755.00
Industrial Waste	\$19,300.00	\$10,950.00	\$30,250.00	\$7,300.00
Mangrove Alterations	\$8,330.00	\$0.00	\$8,330.00	\$830.00
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	\$0.00
Potable Water	\$0.00	\$0.00	\$0.00	\$9,000.00
State Lands	\$3,340.00	\$0.00	\$3,340.00	\$420.00
Stormwater Discharge	\$8,920.00	\$0.00	\$8,920.00	\$2,000.00
Solid Waste	\$7,500.00	\$0.00	\$7,500.00	\$3,750.00
Tanks	\$0.00	\$0.00	\$0.00	\$0.00
Underground Injection Control	\$0.00	\$0.00	\$0.00	\$0.00

The South District collected 100% of its penalty assessments in the beaches and coastal systems, dredge and fill, stormwater discharge and solid waste programs. However, the other programs did not perform so well. The domestic wastewater program collected only 1% of the dollar value of its 3 assessments; and in 2018, it only collected 14% of penalty assessments. The hazardous waste and industrial waste programs collected only 40% and 62% of their assessments, respectively.

SD—Collections--2019

South District Program Area	Value of In-Kind and P2 Projects Completed	Penalty Dollars Collected	Total Penalty Dollars Assessed	% of Assessed Penalties Actually Collected
Asbestos	\$0.00	\$0.00	\$0.00	N/A
Air (Excluding Asbestos)	\$0.00	\$0.00	\$0.00	N/A
Beaches/Coastal	\$0.00	\$15,500.00	\$15,500.00	100%
Waste Cleanup	\$0.00	\$0.00	\$0.00	N/A
Dredge & Fill³⁴	\$0.00	\$32,790.00	\$32,650.00	100%
Domestic Waste	\$2,250.00	\$7,625.00	\$639,075.00	1%
Hazardous Waste	\$0.00	\$4,625.00	\$11,510.00	40%

³³ This includes Environmental Resource Permitting.

³⁴ This includes Environmental Resource Permitting.

Industrial Waste	\$0.00	\$12,000.00	\$19,300.00	62%
Mangrove Alterations	\$0.00	\$6,670.00	\$8,330.00	80%
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	N/A
Potable Water	\$0.00	\$0.00	\$0.00	N/A
State Lands	\$0.00	\$1,260.00	\$3,340.00	38%
Stormwater Discharge	\$0.00	\$8,920.00	\$8,920.00	100%
Solid Waste	\$0.00	\$7,500.00	\$7,500.00	100%
Tanks	\$0.00	\$0.00	\$0.00	N/A
Underground Injection Control	\$0.00	\$0.00	\$0.00	N/A

6. Southwest District

The Southwest District's programs assessed penalties in a moderately high rate of cases when formal enforcement cases were opened. A higher percentage of penalties were assessed in the dredge and fill program, compared with 2018's performance. Industrial waste assessments, while low, were still higher than they were in 2018. Penalties continue to be assessed at high rates in stormwater, mangrove alteration and potable water cases.

SWD—Enforcement Cases and Assessments--2019

Southwest District Program Area	Total No. of Enforcement Cases--2019	Total No. of Assessments in 2019	% of Cases Resulting in Civil Penalty Assessment--2019
Asbestos	0	0	N/A
Air (Excluding Asbestos)	2	1	50%
Beaches/Coastal	1	1	100%
Waste Cleanup	5	2	25%
Dredge & Fill³⁵	15	13	87%
Domestic Waste	23	17	74%
Hazardous Waste	13	10	77%
Industrial Waste	9	5	56%
Mangrove Alterations	2	2	100%
Mining/Phospho-Gypsum	0	0	N/A
Potable Water	2	2	100%
State Lands	1	3	0%
Stormwater Discharge	8	9	113%
Solid Waste	11	7	64%
Tanks	6	3	50%
Underground Injection Control	1	1	N/A

³⁵ This includes Environmental Resource Permitting.

The penalty dollars assessed, the dollar value of in-kind and pollution prevention projects, and the median assessments (excluding in-kind and pollution prevention projects) are shown in the table below.

SWD--Assessments and Medians--2019

Southwest District Program Area	Total Penalty Dollars Assessed	Total Dollar Value of In-Kind/P2 Projects	Combined Penalty, In-Kind and P2 Assessments	Medians (Based on Penalties Only)
Asbestos	\$0.00	\$0.00	\$0.00	\$1,875.00
Air (Excluding Asbestos)	\$1,875.00	\$0.00	\$1,875.00	\$2,000.00
Beaches/Coastal	\$2,000.00	\$0.00	\$2,000.00	\$12,250.00
Waste Cleanup	\$24,500.00	\$0.00	\$24,500.00	\$335.00
Dredge & Fill ³⁶	\$10,840.00	\$0.00	\$10,840.00	\$500.00
Domestic Waste	\$254,580.35	\$302,229.53	\$556,809.88	\$9,631.66
Hazardous Waste	\$157,957.00	\$183,469.00	\$341,426.00	\$10,430.00
Industrial Waste	\$49,098.00	\$57,897.00	\$106,995.00	\$5,000.00
Mangrove Alterations	\$2,500.00	\$0.00	\$2,500.00	\$1,250.00
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	\$0.00
Potable Water	\$5,000.00	\$0.00	\$5,000.00	\$2,500.00
State Lands	\$5,600.00	\$0.00	\$5,600.00	\$2,500.00
Stormwater Discharge	\$58,985.55	\$14,899.05	\$73,884.60	\$5,625.00
Solid Waste	\$36,500.00	\$0.00	\$5,500.00	\$3,000.00
Tanks	\$14,500.00	\$0.00	\$2,000.00	\$4,000.00
Underground Injection Control	\$5,000.00	\$7,500.00	\$0.00	\$5,000.00

Collections in the Southwest District fell in the hazardous waste, industrial waste, stormwater discharge, solid waste, and tanks programs. Collections in the domestic wastewater program were still quite low at 38%.

SWD—Collections--2019

Southwest District Program Area	Value of In-Kind and P2 Projects Completed	Penalty Dollars Collected	Total Penalty Dollars Assessed	% of Assessed Penalties Actually Collected
Asbestos	\$0.00	\$0.00	\$0.00	N/A
Air (Excluding Asbestos)	\$0.00	\$1,875.00	\$1,875.00	100%
Beaches/Coastal	\$0.00	\$2,000.00	\$2,000.00	100%
Waste Cleanup	\$0.00	\$6,000.00	\$24,500.00	24%
Dredge & Fill ³⁷	\$0.00	\$9,590.00	\$10,840.00	88%
Domestic Waste	\$66,000.00	\$96,844.00	\$254,580.35	38%
Hazardous Waste	\$90,145.00	\$86,698.00	\$157,957.00	55%

³⁶ This includes Environmental Resource Permitting.

³⁷ This includes Environmental Resource Permitting.

Industrial Waste	\$0.00	\$10,500.00	\$49,098.00	21%
Mangrove Alterations	\$0.00	\$2,500.00	\$2,500.00	100%
Mining/Phospho-Gypsum	\$0.00	\$0.00	\$0.00	N/A
Potable Water	\$0.00	\$5,000.00	\$5,000.00	100%
State Lands	\$0.00	\$100.00	\$5,600.00	N/A
Stormwater Discharge	\$0.00	\$30,930.00	\$58,985.55	52%
Solid Waste	\$0.00	\$34,250.00	\$36,500.00	94%
Tanks	\$0.00	\$15,611.10	\$14,500.00	108%
Underground Injection Control	\$0.00	\$0.00	\$5,000.00	0%

7. Headquarters

The Department's headquarters in Tallahassee handles some cases, most of them being stormwater discharge cases associated with the National Pollutant Discharge Elimination (NPDES) Program, 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 having arisen out of Headquarters. Except for the beaches and coastal program, this category assessed civil penalties in all of the cases that it opened.

Headquarters—Enforcement Cases and Assessments--2019

Program Area	Total No. of Enforcement Cases--2019	Total No. of Assessments in 2019	% of Cases Resulting in Civil Penalty Assessment--2019
Asbestos	0	0	N/A
Air (Excluding Asbestos)	0	0	N/A
Beaches/Coastal	1	0	0%
Waste Cleanup	0	0	N/A
Dredge & Fill³⁸	1	1	100%
Domestic Waste	1	1	100%
Hazardous Waste	0	0	N/A
Industrial Waste	0	0	N/A
Mangrove Alterations	0	0	N/A
Mining/Phospho-Gypsum	2	2	100%
Potable Water	0	0	N/A
State Lands	0	0	N/A
Stormwater Discharge	1	1	100%
Solid Waste	0	0	N/A
Tanks	0	0	N/A
Underground Injection Control	0	0	N/A

³⁸ This includes Environmental Resource Permitting.

The median assessments shown below are based upon a total of only 1 dredge and fill case, 1 domestic wastewater case, 2 mining cases, 1 stormwater case and 1 beaches and coastal systems case. Therefore, they are not terribly representative of the programs as a whole from a statistical standpoint.

Headquarters—Assessments and Medians--2019

Program Area	Total Penalty Dollars Assessed	Total Dollar Value of In-Kind/P2 Projects	Combined Penalty, In-Kind and P2 Assessments	Medians (Based on Penalties Only)
Asbestos	\$0.00	\$0.00	\$0.00	\$0.00
Air (Excluding Asbestos)	\$0.00	\$0.00	\$0.00	\$0.00
Beaches/Coastal	\$0.00	\$0.00	\$0.00	\$0.00
Waste Cleanup	\$0.00	\$0.00	\$0.00	\$0.00
Dredge & Fill ³⁹	\$420.00	\$0.00	\$420.00	\$420.00
Domestic Waste	\$2,000.00	\$0.00	\$2,000.00	\$2,000.00
Hazardous Waste	\$0.00	\$0.00	\$0.00	\$0.00
Industrial Waste	\$0.00	\$0.00	\$0.00	\$0.00
Mangrove Alterations	\$0.00	\$0.00	\$0.00	\$0.00
Mining/Phospho-Gypsum	\$6,025.00	\$0.00	\$6,025.00	\$3,012.50
Potable Water	\$0.00	\$0.00	\$0.00	\$0.00
State Lands	\$0.00	\$0.00	\$0.00	\$0.00
Stormwater Discharge	\$170.00	\$0.00	\$170.00	\$170.00
Solid Waste	\$0.00	\$0.00	\$0.00	\$0.00
Tanks	\$0.00	\$0.00	\$0.00	\$0.00
Underground Injection Control	\$0.00	\$0.00	\$0.00	\$0.00

Except for the mining program, in 2019, all the penalties assessed in this category were collected.

Headquarters—Collections--2019

Program Area	Value of In-Kind and P2 Projects Completed	Penalty Dollars Collected	Total Penalty Dollars Assessed	% of Assessed Penalties Actually Collected
Asbestos	\$0.00	\$0.00	\$0.00	N/A
Air (Excluding Asbestos)	\$0.00	\$0.00	\$0.00	N/A
Beaches/Coastal	\$0.00	\$0.00	\$0.00	N/A
Waste Cleanup	\$0.00	\$0.00	\$0.00	N/A
Dredge & Fill ⁴⁰	\$0.00	\$420.00	\$420.00	100%
Domestic Waste	\$0.00	\$2,000.00	\$2,000.00	100%

³⁹ This includes Environmental Resource Permitting.

⁴⁰ This includes Environmental Resource Permitting.

Hazardous Waste	\$0.00	\$0.00	\$0.00	N/A
Industrial Waste	\$0.00	\$0.00	\$0.00	N/A
Mangrove Alterations	\$0.00	\$0.00	\$0.00	N/A
Mining/Phospho-Gypsum	\$0.00	\$5,305.00	\$6,025.00	88%
Potable Water	\$0.00	\$0.00	\$0.00	N/A
State Lands	\$0.00	\$0.00	\$0.00	N/A
Stormwater Discharge	\$0.00	\$170.00	\$170.00	100%
Solid Waste	\$0.00	\$0.00	\$0.00	N/A
Tanks	\$0.00	\$0.00	\$0.00	N/A
Underground Injection Control	\$0.00	\$0.00	\$0.00	N/A

CONCLUSION

In our concluding thoughts about the FDEP's results in 2018, we stated that,

“2018 was the year that stopped what was fast becoming the relegation of enforcement at the FDEP to little more than an afterthought. It remains to be seen whether the positive results in 2018 were an anomaly or whether they ultimately signal the beginning of a genuine turnaround. If past is prologue it would be a foolish mistake to assume that we are witnessing a true, lasting uptick in enforcement.”

It turns out that the 2018 results were, in fact, an anomaly. While the FDEP will surely boast that it inspected more facilities, opened more enforcement cases, and assessed more civil penalty dollars in 2019, the unfortunate reality is that the good news ends there. When the FDEP inspectors were sent back into the field what they found was that years of neglect had resulted in fewer facilities being in compliance with their permits. This should have resulted in a higher percentage of enforcement cases being opened. Instead, the enforcement rates fell.

In addition to falling enforcement rates, it now appears that the agency is reverting to its old ways of using the simplest means of enforcement when formal enforcement is deemed necessary. The traffic-ticket approach of issuing short-form consent orders is now on the increase, while the more detailed oversight required in long-form consent orders is declining.

Governor DeSantis has spent his first year in office touting his administration's supposed insistence that Florida clean up its polluted waterways so that a return to the algae plague of 2018 doesn't happen. The problem is that his statements are all talk. If he were genuinely interested in cleaning up Florida's waterways, an excellent place to begin would be to crack down on noncompliant domestic wastewater facilities. Instead, 2019 saw this program underperform 2018 in every major indicator at a time when the inspectors in the field were finding higher noncompliance rates. So, while the press releases and photo-ops try to paint a picture of success, the reality is that in Florida it's business as usual and a continuation of the failed, Rick Scott policies.

So far as the individual districts are concerned, it is clear that the Central District is leading the way to an official no-enforcement policy. We recently issued a [report](#) on the Orange

County Utilities Wastewater facility and its many problems over the past few years. This facility operates in the FDEP's Central District, and the cumulative data from 2019 (as well as previous years) now shows unequivocally that this district has all but abandoned the thought of aggressive enforcement, even in the face of continually falling compliance rates. One has to wonder what it will take for this district, and the agency as a whole, to rediscover its statutory requirement to enforcement Florida's environmental laws.

The other program that saw a decline in compliance and enforcement is the dredge and fill program. This program oversees the regulation of impacts to Florida's vital wetlands. We saw hints of the problems that this program was facing when, in our last [compliance and enforcement report](#), we questioned Governor DeSantis' true intentions on the issue of environmental protection. While he was constantly touting a [supposed change of course](#) so that the FDEP would begin protecting the environment, he went on to [sign](#) a highway bill that is generally seen as one of the worst environmental bills in over 40 years. Not surprisingly, the data from his first year in office shows a drop in enforcement of wetland programs—the same programs that should be front and center in slowing down the highway bill that he proudly champions. Now, to add insult to injury, the DeSantis administration is [moving forward with its efforts](#) to fully assume delegated authority to oversee the federal permitting of wetlands projects under Section 404 of the Clean Water Act. This program has heretofore been administered by the Army Corps of Engineers and the Environmental Protection Agency.

The data clearly show that polluters in Florida have little to fear from this governor or the FDEP that he and Secretary Valenstein lead. Even if polluters are found to be in noncompliance, the fact is that there is a decreasing likelihood that they will be prosecuted. And even when cases are opened, penalties are likely to be smaller than they were under Governor Scott. And then, even if assessed, they are less likely to be collected. In other words, the FDEP is increasingly showing itself to be an agency staffed with middle and upper managers who are beholden to industry. And this governor has no intention of changing that. Indeed, after one year in office, we now know that Governor DeSantis' true policies are not found in his press releases, news conferences or photo-ops. Rather, his true intentions are operating behind the scenes to use the quiet hallways of the FDEP to bring about the continued dismantling of Florida's environmental protection laws.

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). OGC would then evaluate such cases and decide upon the appropriate course of action. Often, OGC would file a circuit court case. However, in the late 1990s, the filing of lawsuits lost favor politically. The result was a consistent decrease in the number of civil circuit court filings each year. Consequently, the OGC has often elected to issue a Notice of Violation, or to embark upon negotiations to resolve a case through entry of a consent order.

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.

Historically, the FDEP's next strongest enforcement tool has been 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. 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.