



Florida

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

CALENDAR YEAR 2017

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PRELIMINARY STATEMENT

This report addresses the enforcement results of the State of Florida, Department of Environmental Protection (FDEP or the Department) in calendar year 2017. The information provided herein was obtained from raw data provided to Florida PEER by the FDEP in response to a public records request made to the FDEP by Florida PEER under Chapter 119, Florida Statutes.

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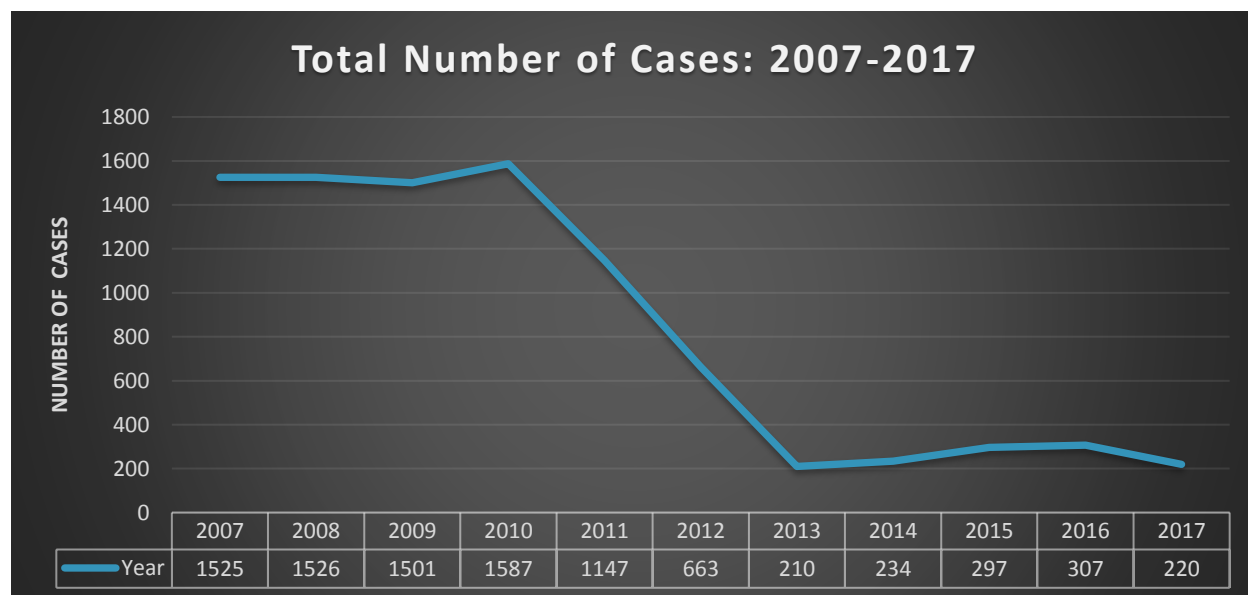
EXECUTIVE SUMMARY

A. Statewide Results

Any gains made by the FDEP in the past three years were largely eradicated in 2017. Overall, the results from 2017 are the second-worst enforcement results that we have seen over the course of seven years of the Scott administration—only 2013 was worse, and it was the worst year for enforcement since 1987, when the FDEP was still in its infancy. The reason for the decline is unclear; however, it should not be lost on anyone that the decline occurred at the same time that the EPA, which oversees many of the FDEP’s administration of environmental programs, was undergoing significant changes, including a transition that would lead to the EPA having an even more hands-off approach towards its oversight responsibilities. Whatever the reason, the FDEP’s data unmistakably points to the tangible results of a policy dedicated to allowing polluters to circumvent Florida’s environmental laws.

The Department opened 220 cases in 2017, a 28% decrease from the results in 2016 (and only 5% more than what we saw in 2013). The results are also 86% lower than the results of 2010. The total number of cases fell in every district, except for the Northwest District, which opened one more case than it did in 2016. 2017 saw a statewide reduction in the number of cases involving final orders, long-form consent orders, model consent orders, short-form consent orders and case reports.

We are now seven years into the current administration, and the data shows a clear determination on the part of FDEP to significantly degrade enforcement. The slight improvements that we saw over the past 3 years have given way to yet another decline:



Looking at individual programs, we found that no cases were opened in the asbestos, aquatic weed, waste cleanup, and mining programs. There were declines in the air, dredge and

fill, domestic waste, hazardous waste, mangrove alteration, stormwater discharge, solid waste, and state lands programs. The only increases were in the industrial waste program (which had 1 additional case) and the tanks program (which had 4 additional cases). Meanwhile, the number of cases remained the same in the beaches and coastal, potable water, and underground injection programs. Only the stormwater discharge program is performing above its historical averages. And significant decreases (over 10%) in the number of cases were seen in the air, dredge and fill, domestic waste, hazardous waste, mangrove alteration, state lands, stormwater discharge, and solid waste programs. Meanwhile, there has been only 1 asbestos case since 2013, and the potable water program only had 15 cases in 2017 and assessed penalties in only 5.

176 consent orders were issued in 2017, compared to 251 in 2016. This performance put an end to what had been 4 straight years of increasing (albeit modest) numbers for this parameter. Moreover, 2017's results are 80% lower than they were in 2011, which was Scott's first full year in office, and this result was significantly worse than the Department's performance in 2010, which saw 1249 such orders issued. There were a combined 110 long-form consent orders, amended consent orders and model consent orders issued in 2017, which is 52 fewer than last year. 66 short-form consent orders were issued in 2017, which is 23 fewer than in 2016, a result that ordinarily would be considered a sign of improvement, but in this atmosphere, the decrease is to be expected because it parallels the overall drop in enforcement. Even so, in spite of the overall drop in the number of short-form consent orders in 2017, the Department settled a slightly higher percentage of its cases using short-form consent orders than it did in the previous year. And once again, the Southeast District, which had the fewest number of enforcement cases in 2017, resolved those cases more often with short-form consent orders (44%) than did the other districts.

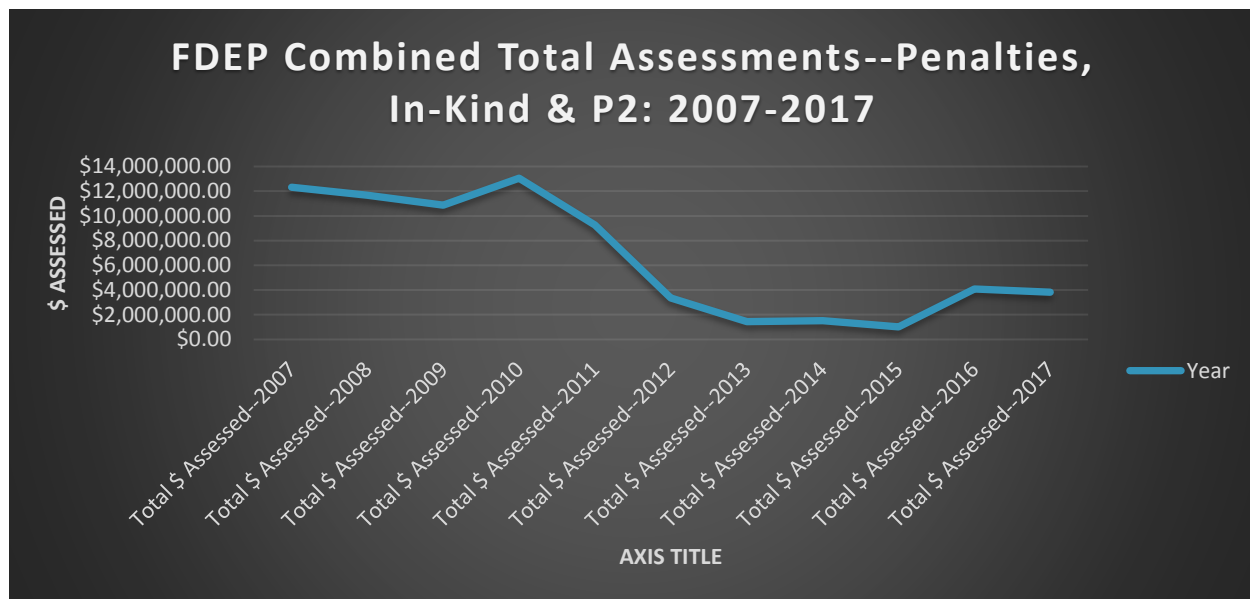
The Department is fond of asserting (without measurable data) that compliance rates are high, and that consequently, less enforcement is required. However, the records strongly suggest that the decline in enforcement is due to a willingness on the part of the Department to repeatedly "forgive" violations. We found this to be the case with [hazardous waste violators](#), including wholesale hazardous waste violations committed by [CVS Pharmacies](#) where 100s of violations were simply ignored. We have also documented repeated failures on the part of the Department to initiate enforcement in wastewater cases. Florida PEER recently filed 1 complaint with EPA concerning violations in [Lynn Haven](#), Florida, and [6 complaints](#) dealing with multiple violations at 6 wastewater facilities in the Northeast District. The latter violations involve wastewater discharges to the St. Johns River. These are but a few of the violations that are known to exist in Florida, yet the FDEP is routinely ignoring them. In each case the FDEP seems more than content to stand on the sidelines while the violations continue, all while telling the public that it is aggressively acting to protect Florida's environment.

In 2017, the number of cases in which penalties were assessed also fell. There were 163 penalty assessments in 2017. The number of assessments fell in the Northeast, Central and Southwest Districts. Although the number of assessments fell, the rate of assessments did improve somewhat. For example, on a statewide level, the Department assessed penalties in 74% of the cases in which it took enforcement in 2017. In 2016, the Department assessed penalties in 211 cases, which equates to a 69% rate of penalty assessment, and in 2015, the Department took formal enforcement in 297 cases and assessed penalties in 192 (a 65% rate).

The dollar value of all penalties assessed by the FDEP in 2017 was \$2,057,542.31, a sizeable decrease compared to the \$2,494,446.00 assessed in 2016. It is, however, much higher than the \$857,639.79 that was assessed in 2015. Overall, the total value of penalty assessments in 2017 was the 4th highest of each of the years from 2011 through 2017. But what we found was that the total of all penalty assessments in 2017 was almost entirely attributable to three domestic waste cases. One was an assessment of \$810,000.00 against the *City of St. Petersburg*, another was an assessment of \$334,577.00 against the *City of Ft. Lauderdale*, and the third was against the *City of Gulfport* in the amount of \$144,000.00. These three cases accounted for \$1,288,577.00 (63%) of the \$2,057,542.31 in penalty assessments for the year.¹ If these three cases are subtracted out of the total we see that the remaining cases totaled \$768,965.31, which is a significant decrease from the \$2,494,446.00 assessed in 2016. Total penalties fell in all but the Southeast and Southwest Districts in 2017. These two districts were the districts that assessed the three highest penalties in the state over the course of the year.

The other way to view the Department's performance is to combine the penalty assessments with pollution prevention projects (P2 Projects) and in-kind projects undertaken by defendants in order meet their obligations in their enforcement cases. P2 Projects and in-kind projects are chosen by the defendants as a means of avoiding the payment of mandated civil penalties. In choosing this option, however, the value of the alternative project must be at least 1.5 times higher than the civil penalty. Thus, by including these projects, the final results are necessarily higher than would have been the case if only civil penalty assessments were considered. By the same token, when alternative penalties are chosen by the defendants, the data shows them as being separate cases, meaning that the total number of cases is artificially increased. Nevertheless, by combining all forms of penalties/projects we found that the total assessments were \$3,823,969.56 in 2017, a drop from the \$4,087,169.50 in 2016. However, the 2017 results were significantly better than the \$1,016,674.79 assessed in 2015. Further, 2017 represented the third best year during the 2011-2017 period. Nevertheless, there has been an overall decline in the assessment of the combination of all forms of penalties, and the following chart shows the extent of the decline in the dollar value of all assessments, i.e. including penalties, in-kind and P2 Projects) over the ten-year period from 2007 through 2017:

¹ We should note, however, that there was another domestic waste case (OGC #061796) against the Jacksonville municipal utility (*JEA*) in which there was a \$90,000.00 penalty assessment. Also, in each of the above-four cases there were connected in-kind or pollution prevention projects undertaken by the defendants that exceeded the penalty assessments themselves.



The total value of penalty assessments (including in-kind and P2) fell in the following programs:

Program	Amount of Decline
Air	62%
Dredge and Fill	6%
Hazardous Waste	92%
Mangrove Alteration	50%
State Lands	58%
Stormwater Discharge	6%
Solid Waste	88%
Tanks	46%
Underground Injection	75%

When looking at available hard data, median penalty assessments are typically the best performance indicator in judging the strength of an agency's enforcement efforts. This is because they tell us the mid-level amount of penalty assessments in each program. If the number increases, it means that a higher number of assessments were of dollar values that were higher than before. If the median falls, the opposite is the case. In 2017, the median of all the Department's penalty assessments (excluding in-kind and pollution prevention projects) fell significantly to \$1,775.00. In 2016, the median was \$2,250.00, meaning that 2017 saw a 21% drop in performance when looking only at penalty assessments. The Southeast District was the only district that increased its median penalty assessment. Median penalty assessments have now fallen for three years in a row in the Central and South Districts. What is striking is that the overall median assessments for 2017 represent the lowest level since at least 2006, meaning that it is fair to say that in 2017 the Department was far less aggressive in assessing civil penalties than it had been in at least the previous ten years.

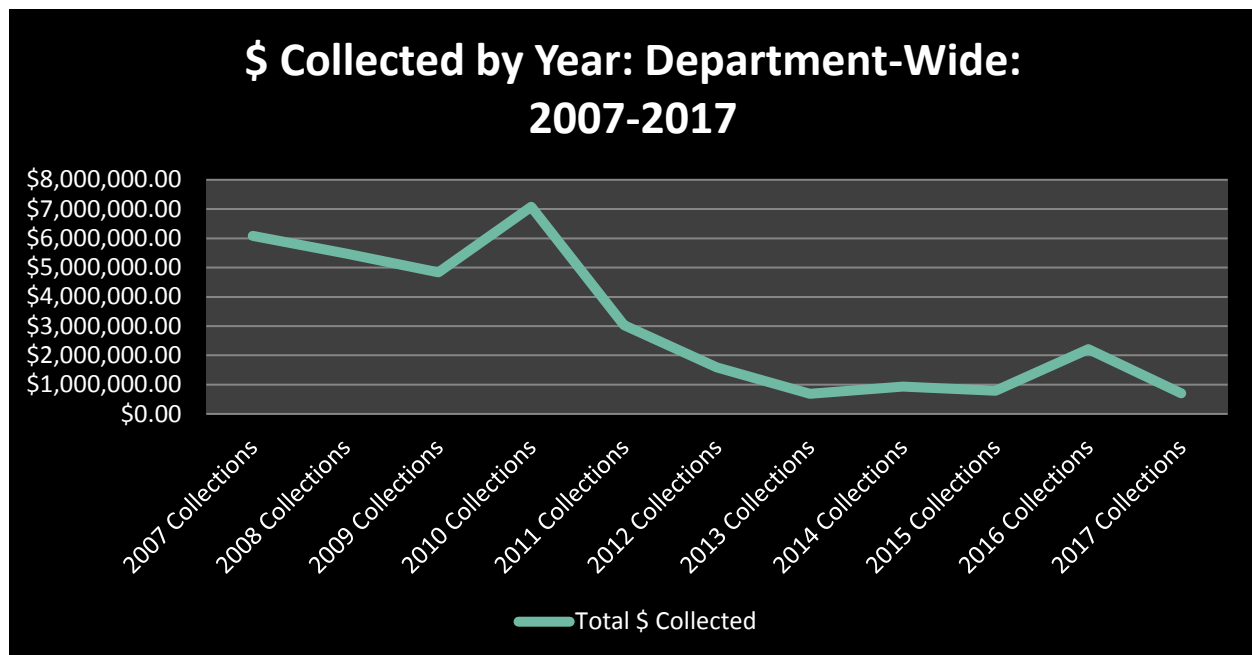
The results for medians did not change tremendously when we factored in pollution prevention project completions and in-kind penalty fulfillments. When those factors are included the overall median for the Department in 2017 rose slightly to \$2,000, but the adjusted median for 2016 also rose, this time to \$3,000. In the end, the 2017 median is the lowest since 2012.

Looking at penalties, in-kind projects and pollution prevention projects together, we found that medians rose in the beaches and coastal, domestic waste, industrial waste, potable water, state lands, stormwater discharge and tanks programs. However, they fell in the air, dredge and fill, hazardous waste, mangrove alteration and solid waste programs. There were no cases in the asbestos, waste cleanup, and mining programs.



When we looked at a combination of the number of assessments, the dollar value of assessments and the median assessments, we found that in the air, and hazardous waste programs all of the indicators were down when compared with 2016's results. The dredge and fill and mangrove alterations programs lost ground in all but the number of assessments. The beaches and coastal systems, industrial waste, and potable water programs saw the exact opposite result, i.e. all indicators improved over 2016. The remaining programs showed mixed overall results.

A statewide total of \$705,891.90 was collected by the Department in 2017, a decrease of \$1,505,934.65 (or 68%) from the \$2,211,826.55 that the Department collected in civil penalties in 2016. Given the significant reduction in the dollar value of assessments in 2017, this decline is expected. This is also the second worst result since 2011 (The FDEP collected just \$687,777.69 in 2013). The Department collected just 34% of the penalties (excluding in-kind and pollution prevention projects) that it assessed in 2017, and this is the worst result since 2011. The trend in penalty collections over the course of the past ten years is depicted below:



When compared to 2016's results, total penalty collections (excluding in-kind and P2 projects) fell in the air, hazardous waste, mangrove alteration, potable water, state lands, solid waste, tanks and underground injection programs. There continued to be no collections in the asbestos and mining programs. Collections rose in the beaches and coastal systems, dredge and fill, domestic waste, industrial waste and stormwater discharge programs.

The Department also recorded in-kind and pollution prevention project fulfillments valued at \$77,232.00, down significantly from the \$1,029,139.25 that was recorded in 2016. Adding these to the penalty dollars that were collected gives us a total collection result in 2017 of \$783,123.90. This cumulative total is also significantly lower than the \$3,240,965.80 that was collected in 2016.

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

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

B. District Results

Historically, enforcement in the districts has varied widely; however, in 2017, the districts largely exhibited the same performance. Except for limited exceptions that were predominately due to 3 large enforcement cases, all the districts opened fewer cases in 2017 and also assessed fewer civil penalties than was the case in 2016. The sole exception was the Northwest District, which opened 1 more case in 2017 than it did in 2016. Medians, which gauge

the typical size (and thus severity) of assessed penalties fell in every district but the Southeast District. Collections of penalties fell in three of the six districts in the Department.

Overall, there continues to be no evidence in the districts to indicate significant changes towards revitalizing enforcement of Florida's environmental laws. As in years past, we have provided a ["Quick Look"](#) section in this report to give the reader an overview of the performance of each district. In addition, the Department maintains a [map of the boundaries of each of its districts](#) which can be viewed by the public. The performance of each individual district is as follows:

1. Northwest District

The Northwest District shows only modest signs of improving its enforcement posture. It opened 33 enforcement cases in 2017, 1 more than in the previous year. Enforcement mechanisms such as NOV's, and final orders improved somewhat, while the number of consent orders fell slightly. Even though the decline was small, it was enough to cut in half the district's overall contribution to the total number of consent orders statewide. Long-form consent orders fell by 1, as did short-form consent orders. In general, the number of assessments grew by 1 case, however, the air, stormwater, state lands, and solid waste programs each had 2 fewer cases in 2017 than in 2016. The Northwest District assessed \$98,925.00 in civil penalties (including in-kind and P2 projects) in 2017, compared with \$189,344.00 that was assessed in 2016. Medians also fell from \$5,000 to \$3,000 in 2017. Both the dollar value of assessments and medians fell in the air, domestic waste, ERP wetlands, hazardous waste, state lands, and solid waste programs. Collections rose significantly in the Northwest District in 2017.

2. Northeast District

The number of enforcement cases fell from 62 in 2016, to 47 in 2017. This ended a 3-year period of improving numbers. The district issued no case reports, 10 NOV's and 1 final order. The main reason for the drop in the number of cases was a significant drop in the number of consent orders from 49 in 2016 to 36 in 2017. Both long-form and short-form consent orders fell. The percentage of cases resolved via short-form consent orders declined in 2017, although they still accounted for 17% of all short-form consent orders issued by the Department. The decline in the overall number of enforcement cases was accompanied by a 36% drop in the number of penalty assessments in this district. Civil penalty assessments (including in-kind and P2 projects) also fell 36% and now stand at \$400,181.00, compared to \$621,588.00 in 2016. The median value of its assessments fell significantly, from \$3,000.00 in 2016, to a current level of just \$1,310.00. Civil penalty collections rose 18% in 2017 to a new level of \$153,507.60.

3. Central District

The number of enforcement cases also fell in the Central District. It opened 36 cases in 2017, which is 16 fewer than in 2016. No case reports were sent to OGC and no NOV's were filed. Only 1 final order was issued. Consent orders made up the overwhelming majority of enforcement cases, but they also fell. There were 35 in 2017, a significant decline from the 47 that were issued in 2016. The district issued only 3 long-form consent orders and 14 short-form consent orders. 39% of all its enforcement cases were resolved with short-form consent orders. The decline in the number of total enforcement cases was matched by a 25% decline in the number of cases in which penalties were assessed. The main decline was in the domestic waste program, while the potable water's assessments in 2 cases is actually an improvement over 2016. Except for the hazardous waste program, which remained steady at 6 cases, every other program that had any activity in 2016, fell in 2017. The Central District levied \$127,323.00 in civil penalties, in-kind assessments and P2 projects in 2017, a 20% decline. **The district now has six straight years of declining assessments.** The district assessed 3.3% of all penalties in 2017, an indicator of its ineffectiveness. Medians also continue to decline. They were \$3,000.00 in 2017, \$3,750.00 in 2016, and \$4,260.00 in 2015. Collections also fell, this time by 66%. The district collected \$62,069.68 in civil penalties in 2017, compared to \$181,441.36 collected in 2016 and \$136,671.00 in 2015.

4. Southeast District

For the second straight year, the Southeast District produced the fewest number of all the enforcement cases opened by the Department. In 2017, 8% of all cases statewide originated in this district. It opened 18 cases, 4 fewer than the year before. It issued 1 case report, and no NOV's or final orders. 1 long-form consent order came out of this district in 2017, as did 8 short-form consent orders. 47% of its consent orders were short-form consent orders, a significant improvement from 2016, and they accounted for 44% of all its enforcement cases. The district assessed penalties in 16 cases, and in-kind/P2 projects were opened in 4 more, for a total of 20 cases. There were no potable water, solid waste or tanks cases in 2017. This is a district that historically seems to turn in at least one major assessment in each calendar year. Such was the case in 2017. The dollar value of the 16 penalty assessments levied by the district in 2017 was significant--\$452,194.06. This represents a significant increase over the \$71,895.00 that was assessed the year before. However, \$334,577.00 of this total is due to one domestic waste case against the *City of Fort Lauderdale*. Median assessments also increased from \$1,727.00 (including in-kind and P2 projects) in 2016 to \$6,104.75 in 2017. Collections fell 7% in 2017, in spite of the increase in assessments. They totaled \$39,129.56.

5. South District

The South District opened 33 enforcement cases in 2017, a 30% decline from the previous year. It issued 2 case reports, 2 NOV's and 1 final order. There were 3 long-form

consent orders and 4 short-form consent orders. As such, it settled just 12% of its cases using the short-form consent order mechanism. It continues to rely upon short-form consent orders far less than do the remaining 5 districts. The overwhelming majority of its consent orders were model consent orders (19). The number of cases in which penalties were assessed also increased in 2016 (28 cases resulted in penalty assessments), meaning that the district assessed penalties in 85% of its cases. Despite increasing the number of assessments in 2017, the South District assessed fewer penalty dollars for the fourth straight year. In 2017, the district assessed \$56,436.00, a 26% decline from 2016. Medians also fell for the fourth straight year. They were \$830.00 in 2017, compared to \$2,000.00 in 2016 and \$3,420.00 in 2015. In spite of the dwindling dollar value of assessments, collections rose in 2017, and accounted for 14% of all collections statewide. The district collected \$85,162.96 in civil penalty assessments, compared to \$55,044.75 in civil penalties collected in 2016.

6. Southwest District

In 2017, the total number of enforcement cases fell to 46 in the Southwest District. The district nevertheless accounts for 21% of all enforcement taken by the Department. There were 4 case reports, 7 NOV's and 5 final orders. The district also issued 10 long-form consent orders, which represents 22% of all its enforcement cases. It also issued 15 short-form consent orders, and they accounted for 33% of the district's enforcement cases. This district also relies on model consent orders far less than the other districts. In 2017, it issued only 1 model consent order. The total number of all consent orders fell to 30 in 2017, down from 52 in the previous year. 24 of the 46 cases opened by the district resulted in civil penalties being assessed. This is a 33% decline from 2016's results. Civil penalty assessments rose again in 2017. The total of penalties assessed, together with in-kind and P2 projects initiated was \$2,040,732.00, compared to \$294,185.00 the year before. However, \$1,919,200.00 of the \$2,040,732.00 in assessments was due to 1 case, a domestic waste case against the *City of St. Petersburg*. All the remaining assessments totaled just \$121,532.00 for the entire year. At the end of the day, this district accounted for 53% of all assessments levied by the Department. Median assessments fell from \$4,000 to \$2,600 in 2017. Despite the significant increase in assessments, the Southwest District collected just \$229,279.10 in civil penalties in 2017, an amount that is 13% lower than the \$263,167.38 in civil penalties that the district collected in 2016.

7. All Other Enforcement

This category typically involves the beaches and coastal systems program and the stormwater discharge program, but occasionally includes cases in other programs. All total, the remaining categories initiated just 7 enforcement actions in 2017 (22 less than in 2016) and accounted for 3% of all cases opened by the Department. 1 case report was sent to OGC, while there were no NOV's or final orders. 6 of the enforcement cases were resolved with consent orders. 1 was a long-form consent order and 2 were short-form consent orders. All of the 7 enforcement actions resulted in penalties being assessed. 4 of those were in the stormwater

discharge program. Civil penalty assessments fell substantially in 2017. The total dollar value of assessments was \$43,788.00, compared to \$2,674,311.50 in 2016, a 98% drop. Yet, medians for the 7 cases rose from \$370.00 in 2016 to \$500.00 in 2017. Without any major cases, collections fell 97% to \$43,568.00, compared to \$1,474,031.50 in 2016, but more in line with the \$39,056.00 that was collected in 2015.

STATEWIDE ENFORCEMENT RESULTS²

A. Case Reports, NOVs, Consent Orders, Final Orders—Statewide Results³

The Department began enforcement in 220 cases in 2017. By contrast, in 2016 the Department opened 307 cases. The decline in cases stemmed what had been a three-year increase in the number of cases brought by the Department. 2017's performance is the second worse since 2011 (2013 was the worst, with 210 cases). In 2010, the year before Governor Scott took office, the Department opened 1,587 new cases.

The FDEP nearly halved serious enforcement in 2017, when it sent just 9 new case reports to the Office of General Counsel (OGC). In 2016, 17 such case reports were sent to the OGC. After the OGC receives the case reports it decides whether to proceed in these cases by filing either a complaint in circuit court or an administrative petition in the Department of Administrative Hearings. The OGC could also choose to resolve the case by negotiating a consent order. Regardless, elevating a case to the OGC is an indication that more serious enforcement is being contemplated. **The results from 2017 represent a 48% drop compared to 2016. They are also the lowest in the Department's history!** By way of comparison, in 2010 the districts sent 157 case reports to the OGC.

24 administrative Notices of Violation (NOVs) were issued in 2017, the same as in 2016. 22 were issued in 2015. The previous years have seen 28 issued in 2014, 11 in 2013, 54 in 2012, 96 in 2011 and 114 in 2010.

11 final orders were issued in 2017, down from the 15 final orders that were issued in 2016, an overall 27% reduction.

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.

³ 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.

1. Statewide Results for Consent Orders

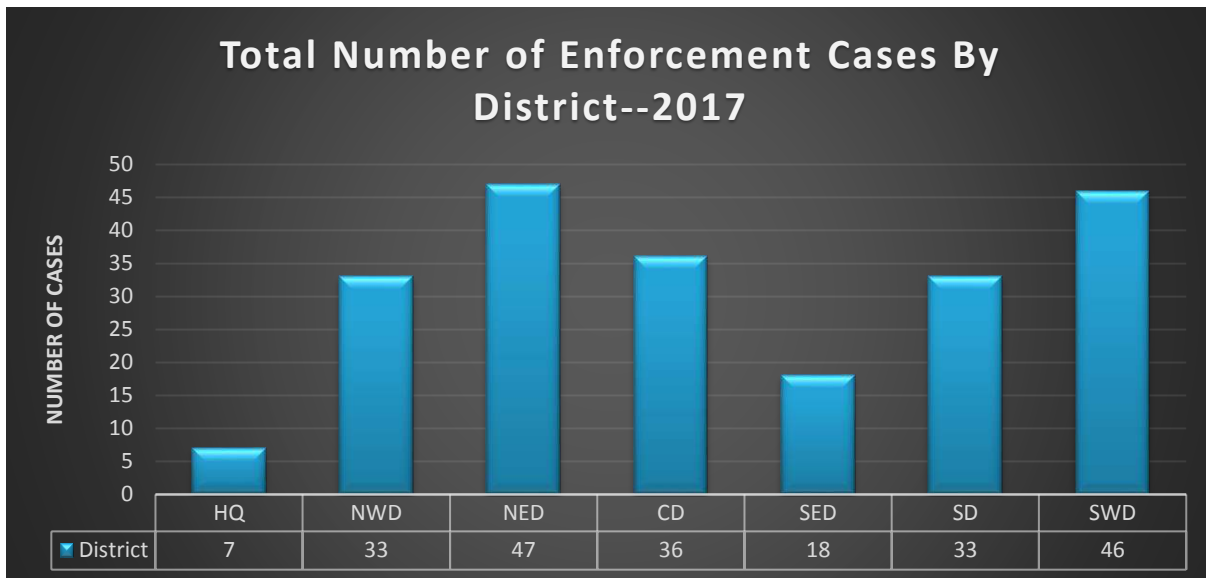
The issuance of consent orders fell in 2017, as would be expected given the overall drop in enforcement. The FDEP issued 176 consent orders in 2017, down from the 251 issued in 2016. Thus, what had been an upward trend in the issuance of these orders has now ceased. The results are the third lowest since 2011. To find a lower result, one would have to go back to 1987, when the Department was just getting started. In 2010, the same agency issued 1,249 of these enforcement orders.

The increase in the number of model consent orders also stopped in 2017. 51 were issued, compared to the 58 issued in 2016. The results are the third lowest since 2011. Model consent orders are essentially long-form consent orders that are tailor-made to fit more routine violations in each program area. They are long-form in nature, i.e. they require more future oversight vs. short-form consent orders that only require payment of a civil penalty to complete the requirements contained in the order.

There were a combined 90 long-form and model consent orders in 2017, compared to 143 in 2016. What had been three straight years of improvements in the number of these orders has now stopped. Other than the Rick Scott years, the Department has not recorded this few long-form and model consent order since 1987 when the agency was in its infancy and recorded a total of 13 such documents.

The FDEP issued 66 short-form consent orders in 2017, compared to 89 such orders issued in 2016, and 101 issued in 2015. The drop in the number of short-form consent orders would normally be seen as a positive, but in this case, it is clearly not based on a decision to use other, more effective mechanisms. Instead, it appears to be the result of the overall Department-wide decline in enforcement. The Department actually increased by 1% the number of cases that it resolved with this mechanism as compared to all other enforcement tools. Additionally, 38% of all consent orders were of the short-form variety, a 3% increase compared with the previous year.

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

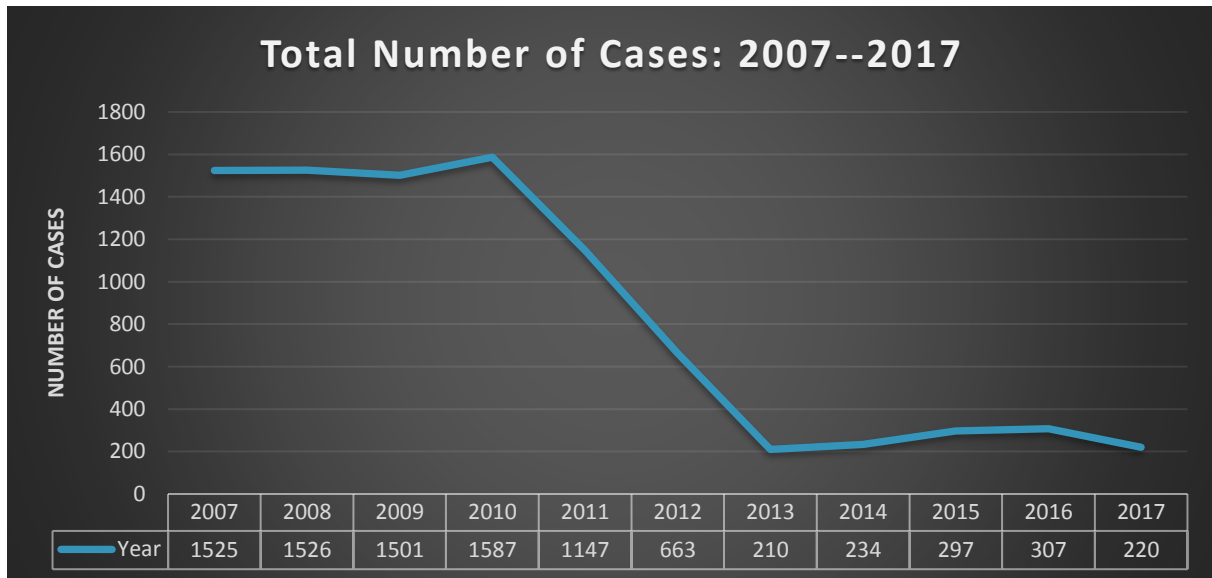


Except for the Northwest District, every district brought fewer cases in 2017 than it did in the previous year. While the Northwest District increased the number of cases, the increase was minimal, i.e. it filed one additional case. Each of the remaining districts turned in significantly poorer results. It goes without saying that none of the districts are performing at anywhere near 2010 levels:

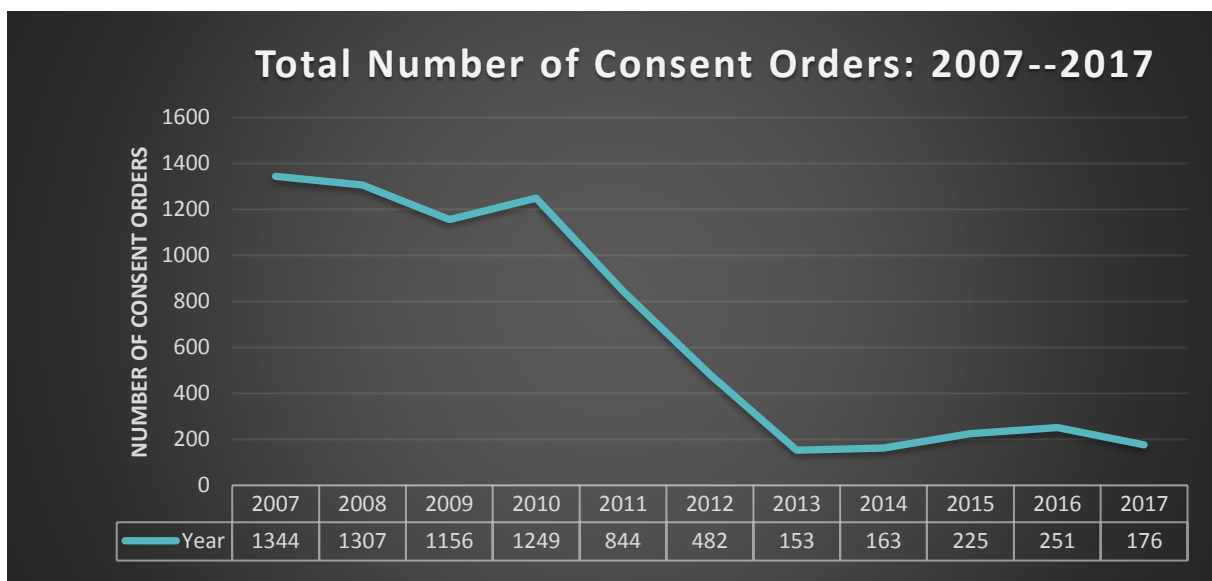
<i>District</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>
<i>Headquarters</i>	134	67	88	15	28	28	29	7
<i>Northwest</i>	167	156	60	37	37	35	32	33
<i>Northeast</i>	230	133	116	41	39	54	62	47
<i>Central</i>	208	161	109	32	26	44	52	36
<i>Southeast</i>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

B. Statewide Trends From 2007 through 2017

The following chart (with adjusted numbers from last year's report) shows the overall number of enforcement cases brought by the Department over the past decade. What appeared to be a moderate trend towards more enforcement has now stopped. Instead, the results from 2017 show a Department that views enforcement as a nuisance rather than a mechanism to be used to protect Florida's environment:

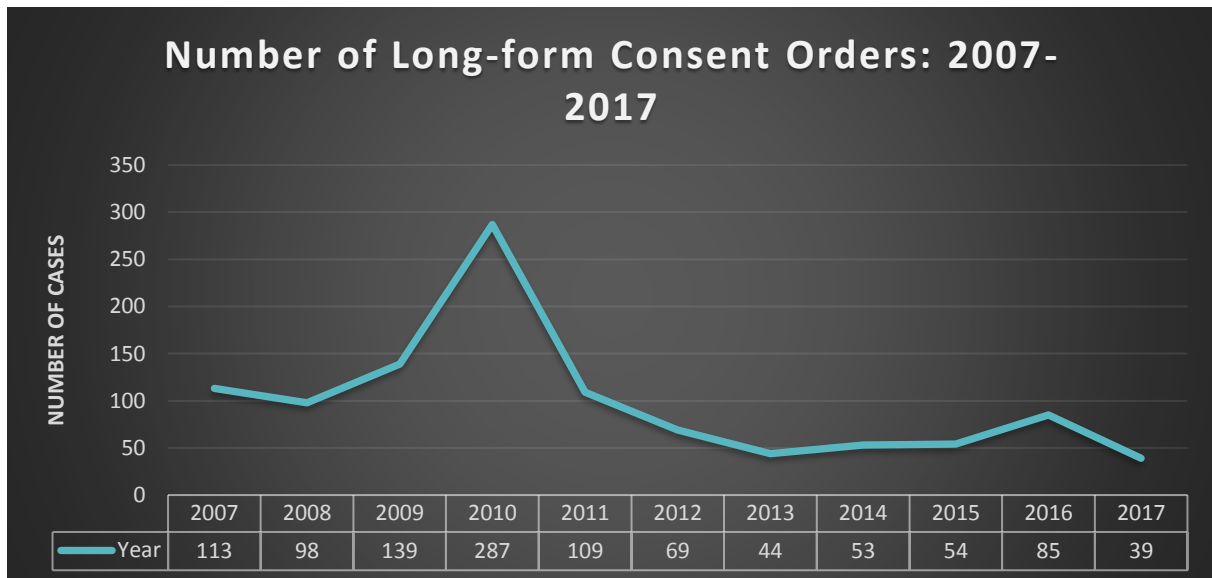


Consent orders continue to be the Department's enforcement mechanism of choice, but their usage has drastically fallen, in line with the overall drop of enforcement over the years:

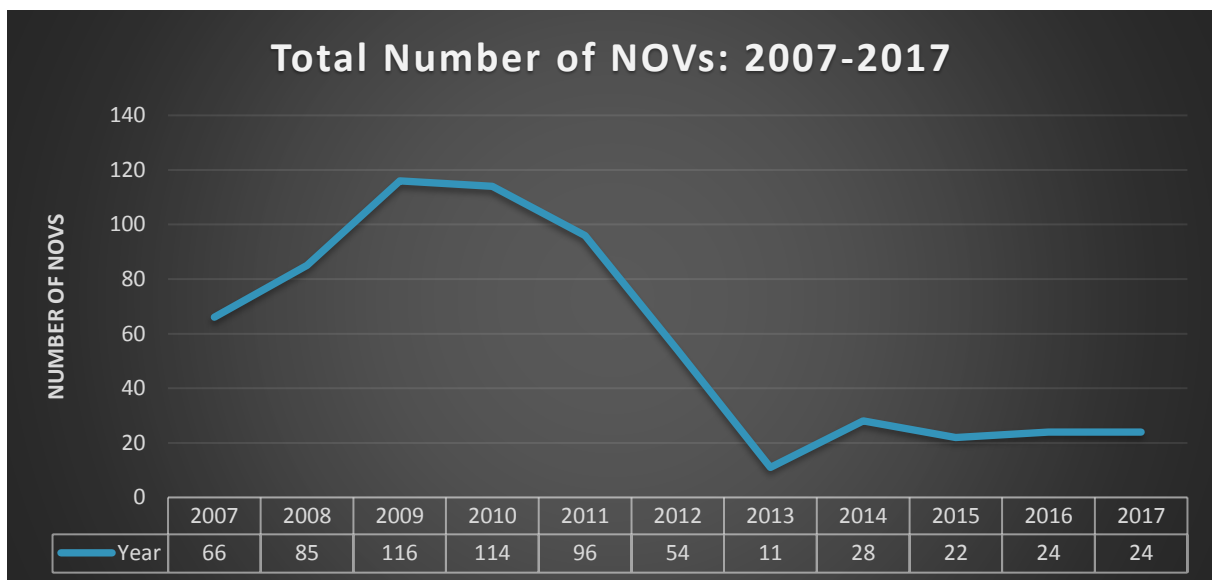


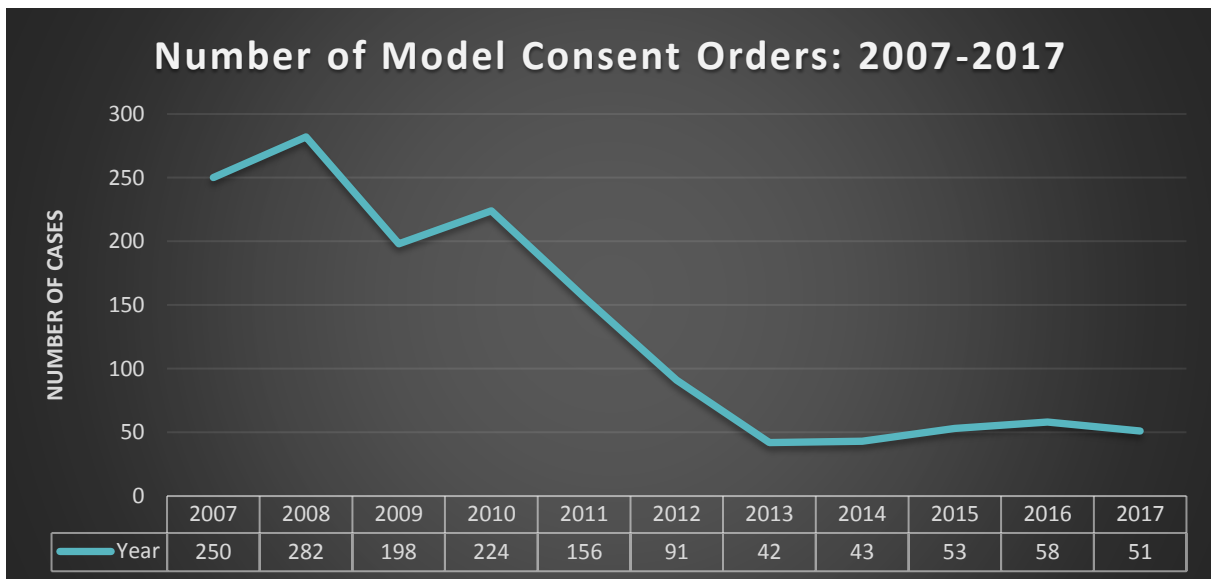
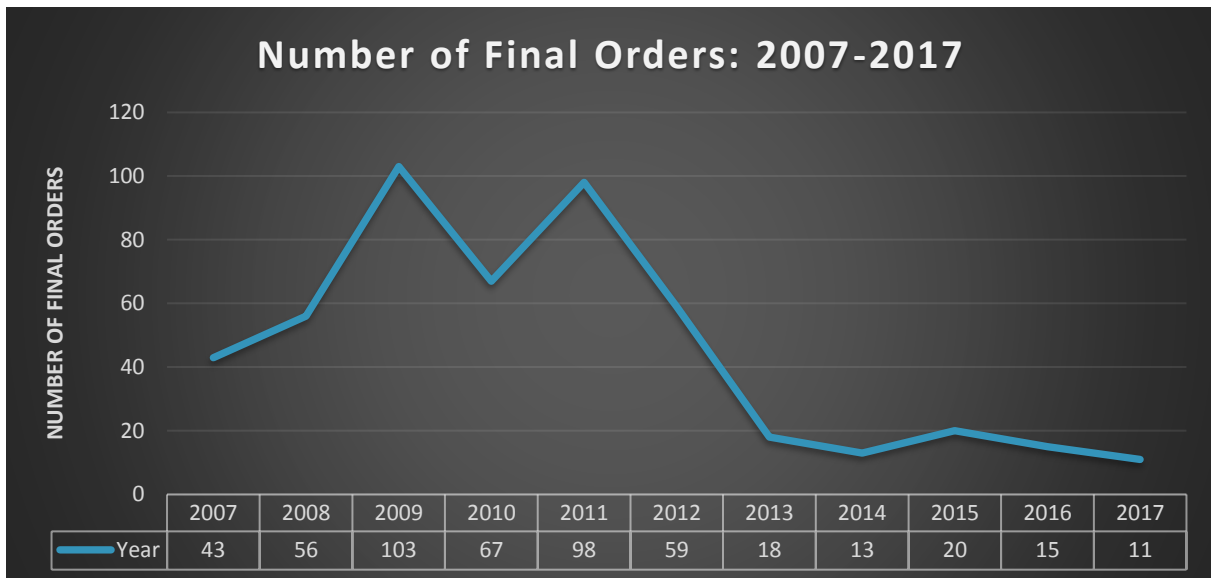
Of all of the various enforcement mechanisms at the Department's disposal, the only one that was showing improvement was the use of long-form consent orders. That changed in 2017,

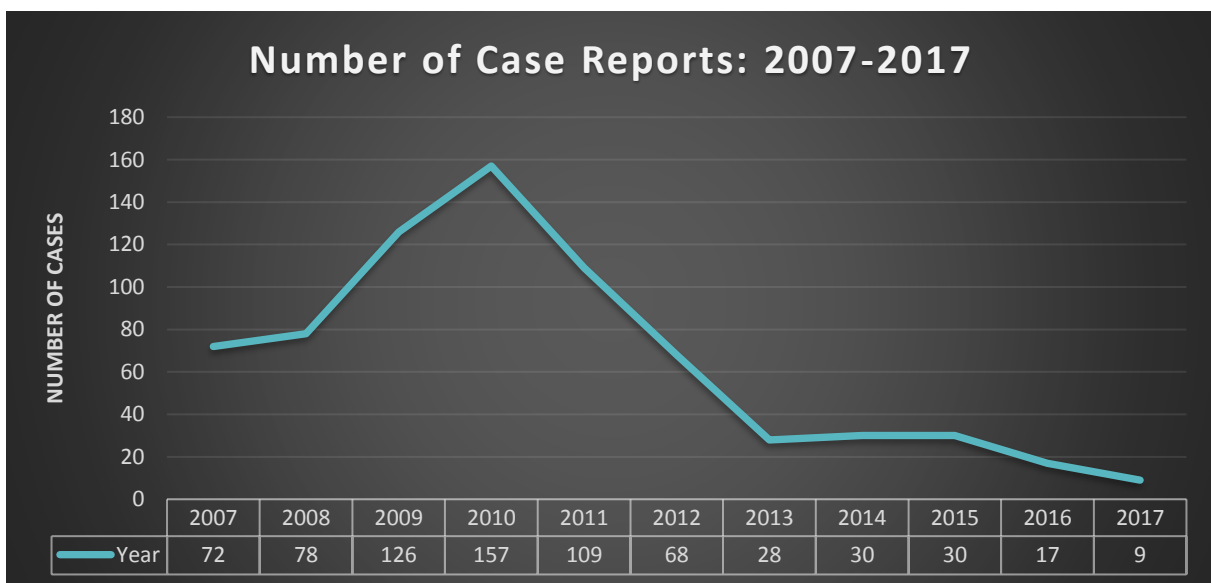
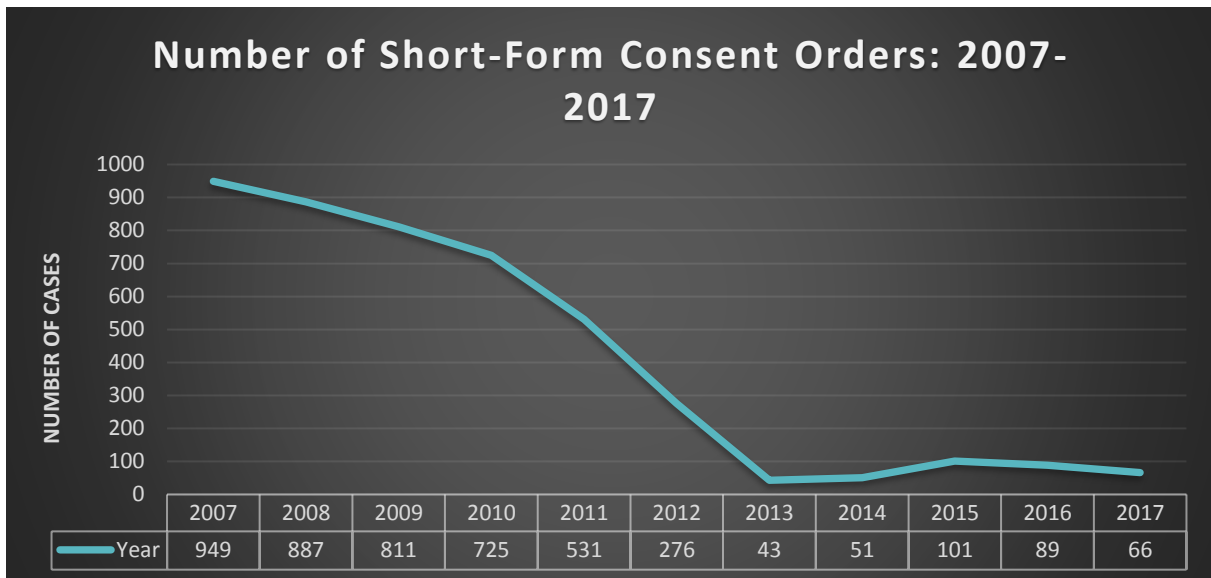
when this enforcement tool was cut by 54%. It now joins the other tools that essentially remain stuck at minimal usage levels:



The results for the remaining enforcement tools are shown below:



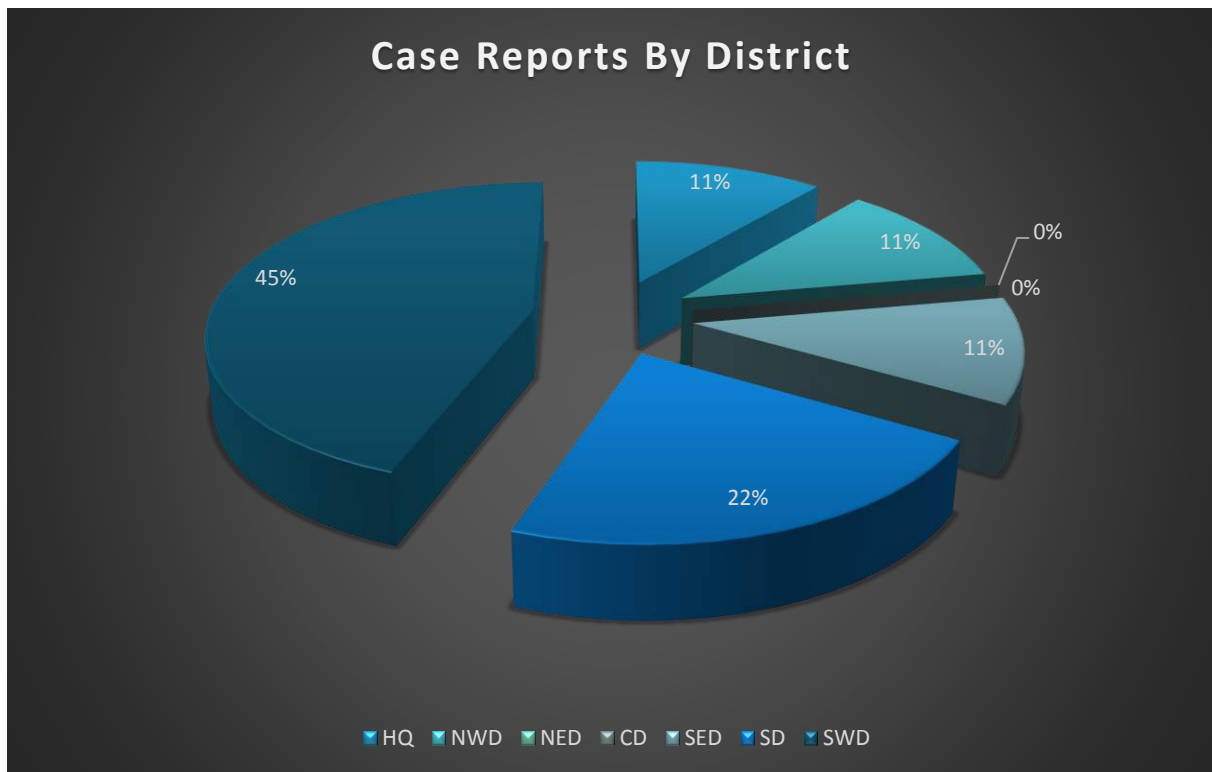




C. Case Reports, NOVs, Consent Orders, Final Orders – District Comparisons

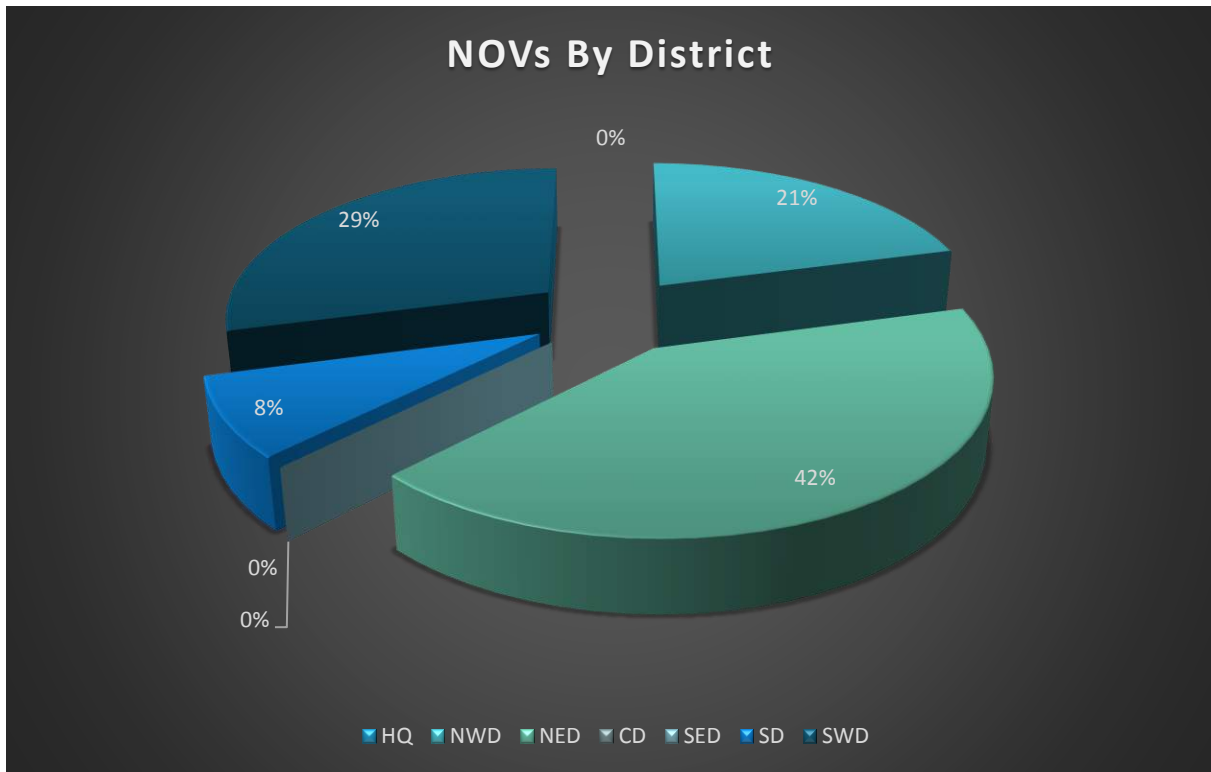
The Department’s various enforcement tools were distributed among the Districts as follows:

1. Case Reports



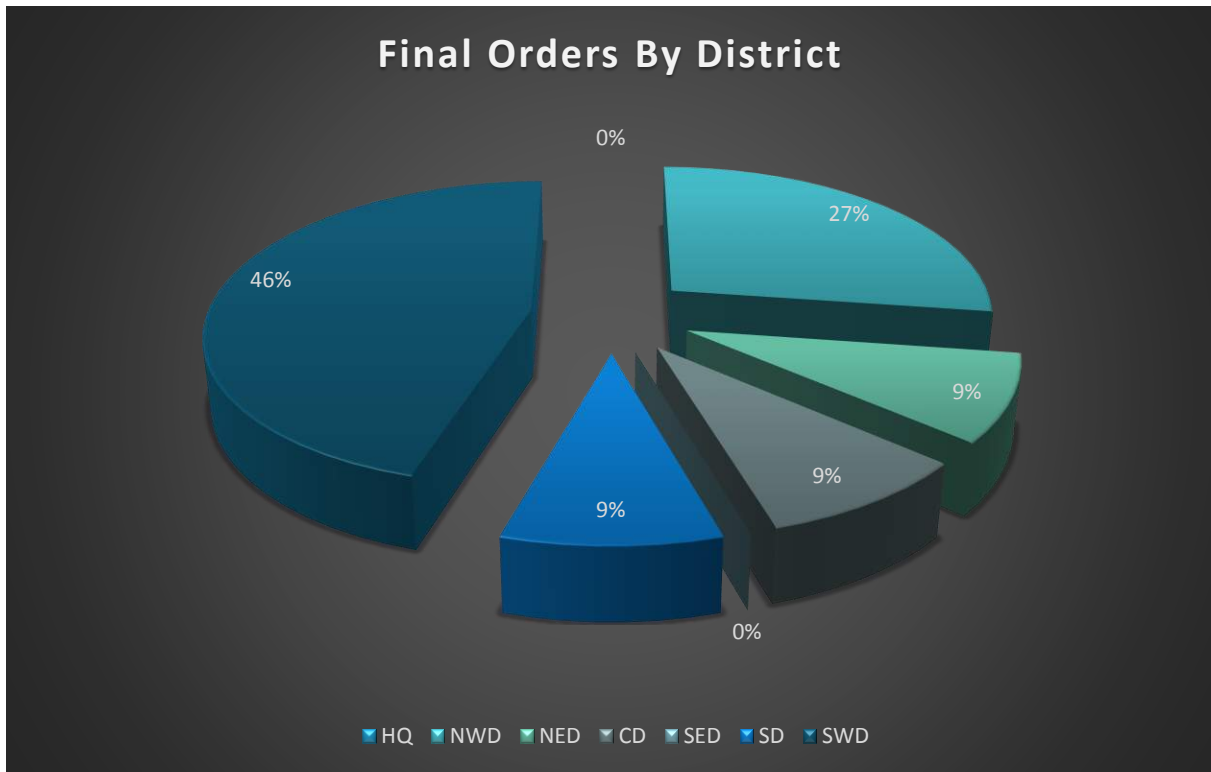
The Department's use of more aggressive enforcement, signaled by the use of case reports, has now reached the point of almost being an afterthought. 9 case reports were issued in 2017. **This is the fewest number of case reports in the Department's history.** On a percentage basis, case reports accounted for 4% of all enforcement in 2017, compared with 6% in 2016, and 10% in 2015. Except for the Southeast District, every district in the state saw declines. The Southeast District had one such report.

2. NOVs



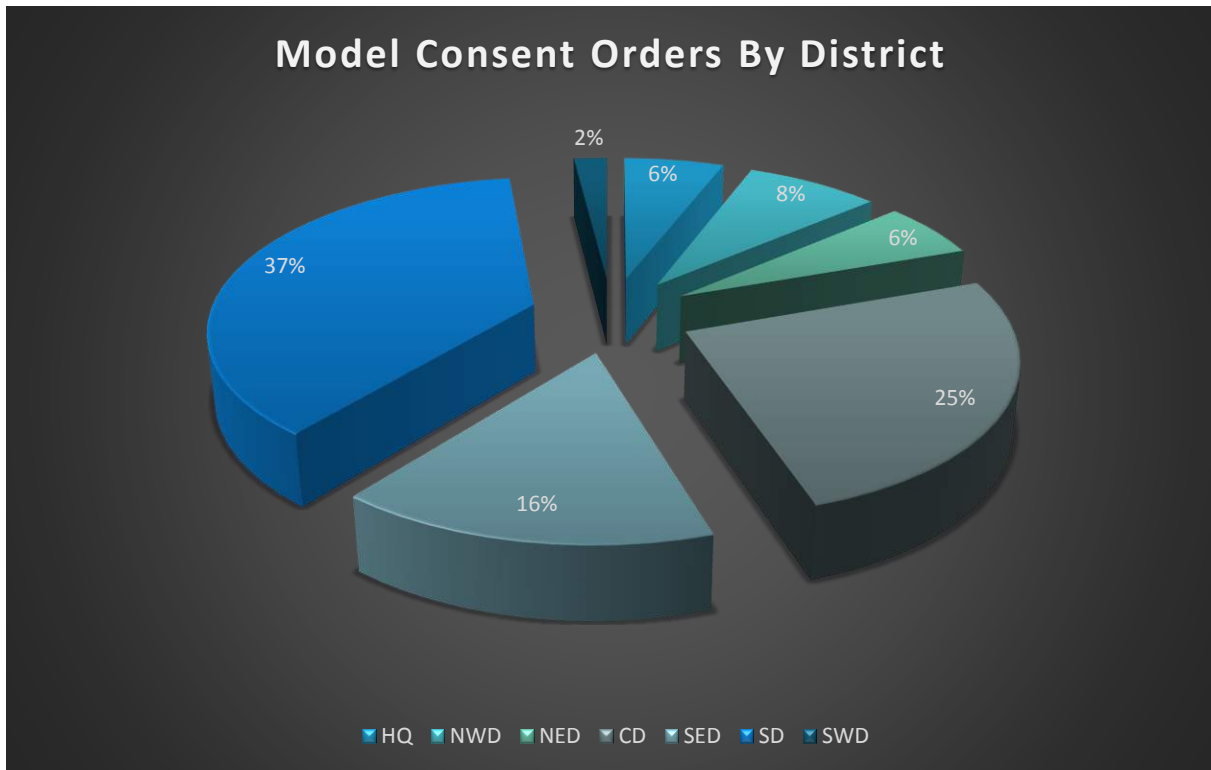
In 2017, the overall number of NOVs remained unchanged from 2016's results—24 NOVs were issued each year. The Northeast District issued the largest number (10). The Central and Southeast Districts issued no NOVs in 2017.

3. Final Orders



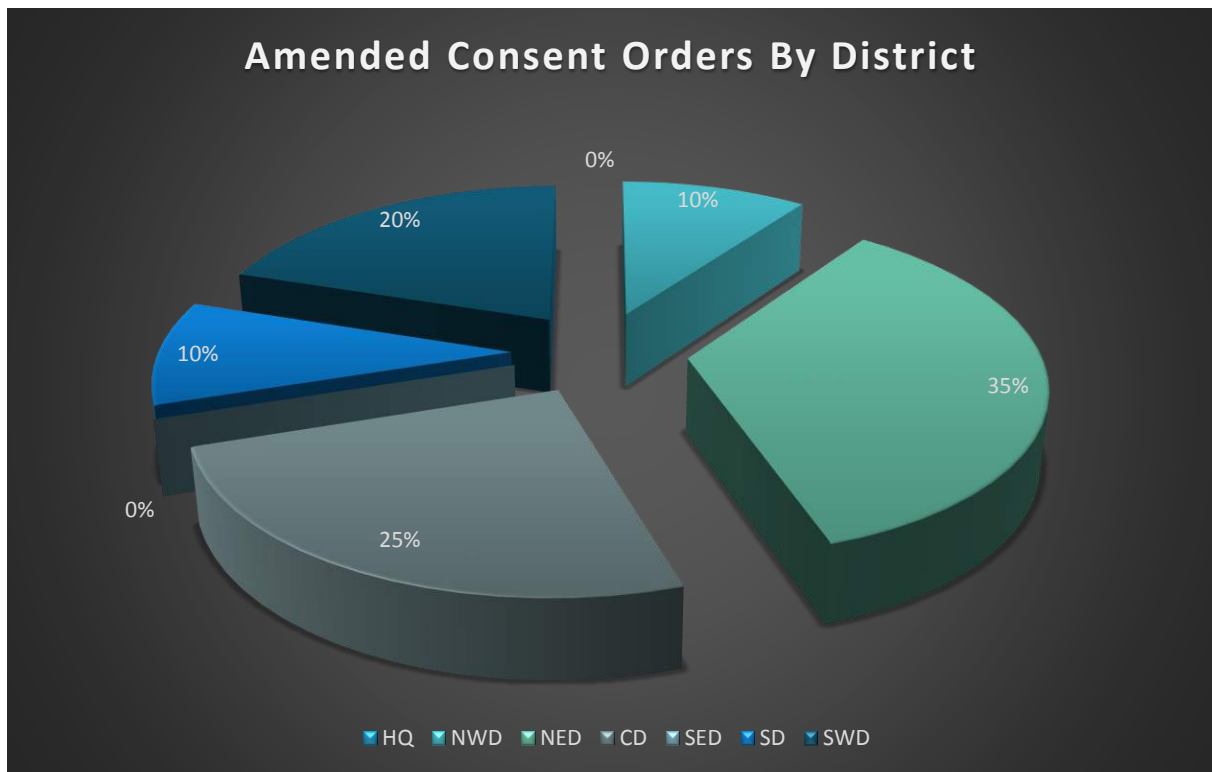
11 final orders were issued by the Department in 2017, which is 4 fewer than in the previous year. Three districts, the Northeast, Southeast and South, issued fewer orders in 2017.

4. Model Consent Orders



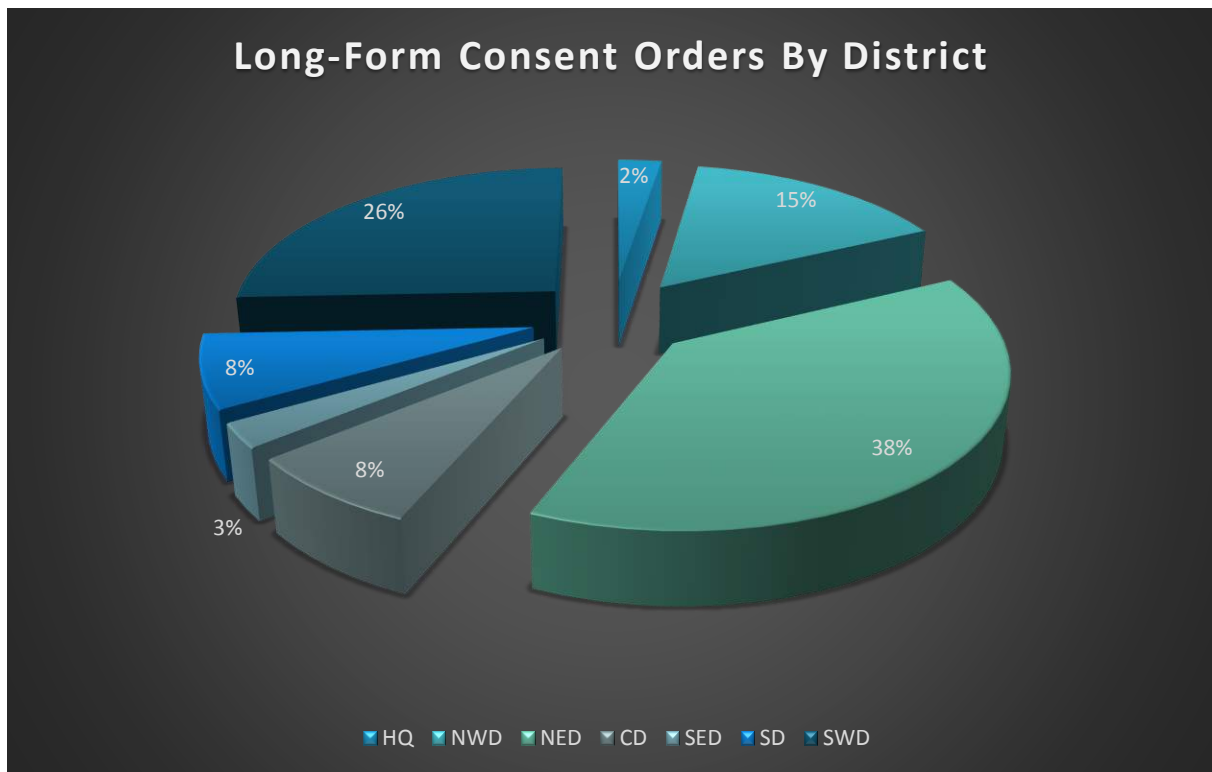
51 model consent orders were issued in 2017, a decrease of 7 from the 2016 results. Nevertheless, every district saw improvement, except for the South and Southwest Districts.

5. Amended Consent Orders



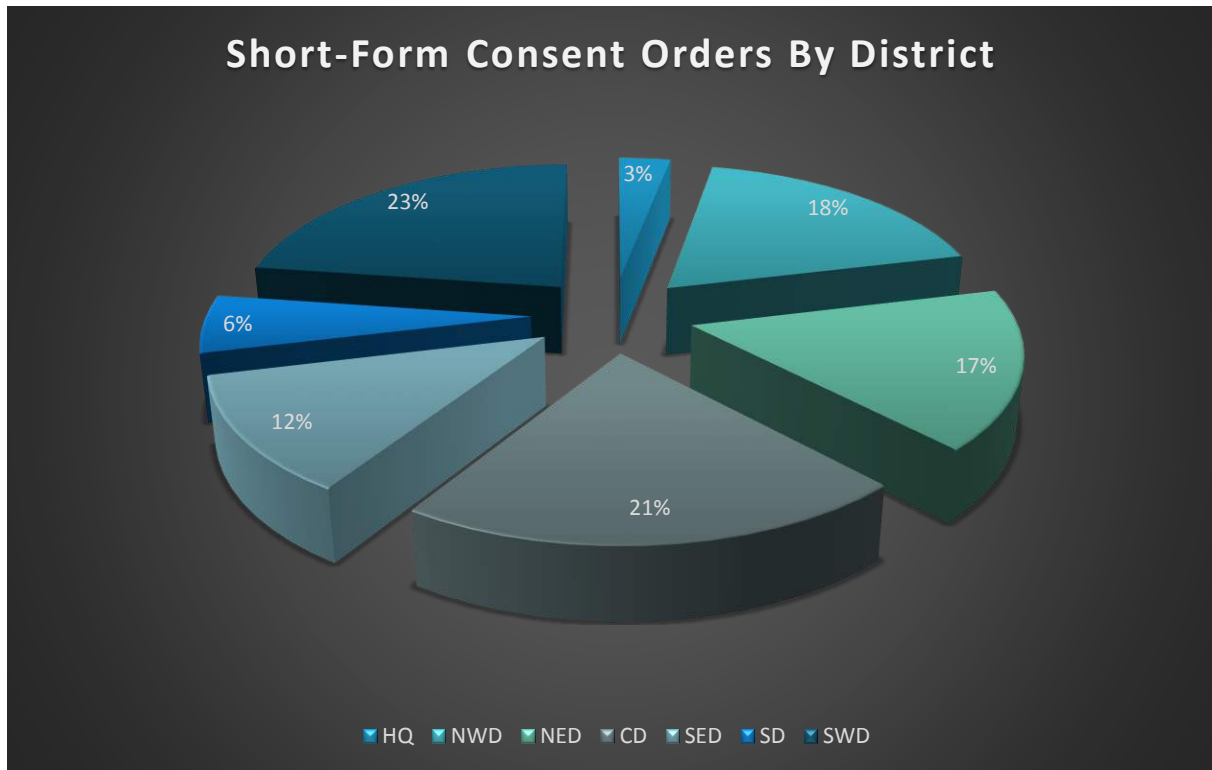
While there was an increase in the number of amended consent orders in 2017 it was only by 1. 20 were issued statewide, compared with 19 in 2016. Every district but the South and Northwest Districts saw increases in this category.

6. Long-Form Consent Orders



The gains realized in 2016 were entirely lost in 2017. 39 long-form consent orders were issued in 2017, compared to 85 in the previous year. **Historically, the 39 that were issued in 2017, represent the lowest statewide total since 1987, when the Department issued just 11.** With the exception of the Southeast District, every district issued fewer such orders in 2017. That said, the Southeast District only issued 1 long-form consent order in 2017, so the improvement was minimal. The Northeast District was the district that resolved the highest percentage of its enforcement cases with this enforcement mechanism, while the Southeast District (despite the “improvement”) used it the least.

7. Short-Form Consent Orders



The number of short-form consent orders also fell in 2017. 66 were issued, compared with the 89 that were issued in 2016. This is an enforcement mechanism that has fluctuated rather significantly over the past few years. There were 101 in 2015, 51 in 2014, 43 in 2013, 276 in 2012 and 531 in 2011. Regardless, the current results are significantly lower than the 725 that were issued in 2010, the year before Governor Scott took office.

Although, the number of short-form consent orders issued continued to decrease, the percentage of cases resolved by using short-form consent orders rose. The 66 short-form consent orders that were issued in 2017, represents 30% of all the cases settled by the Department in 2017. The latter result is 1% higher than in 2016. Still, the 30% rate of usage is the fifth lowest in the Department's history.

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

Year	% Short-Form Consent Orders
1988	0.00%
1989	0.00%
1990	24.13%

1991	38.74%
1992	36.32%
1993	46.84%
1994	47.73%
1995	52.60%
1996	49.39%
1997	48.29%
1998	50.05%
1999	48.90%
2000	54.77%
2001	56.38%
2002	55.67%
2003	58.46%
2004	55.23%
2005	60.20%
2006	60.41%
2007	62.23%
2008	58.13%
2009	54.03%
2010	45.68%
2011	46.29%
2012	41.63%
2013	20.48%
2014	21.79%
2015	34.01%
2016	28.99%
2017	30.00%

Three of the districts, the Northeast, South, and Southwest, increased the percentage of cases resolved via this mechanism. The following table, which compares the use of short-form consent orders to all other enforcement tools, gives the actual percentages for the current year.

<i>District</i>	<i>% Cases Settled Through SF COs</i>
<i>Central</i>	38.89%
<i>Northeast</i>	23.40%
<i>Multi-District</i>	28.57%
<i>Northwest</i>	36.36%
<i>Southeast</i>	44.44%
<i>South</i>	12.12%
<i>Southwest</i>	32.61%

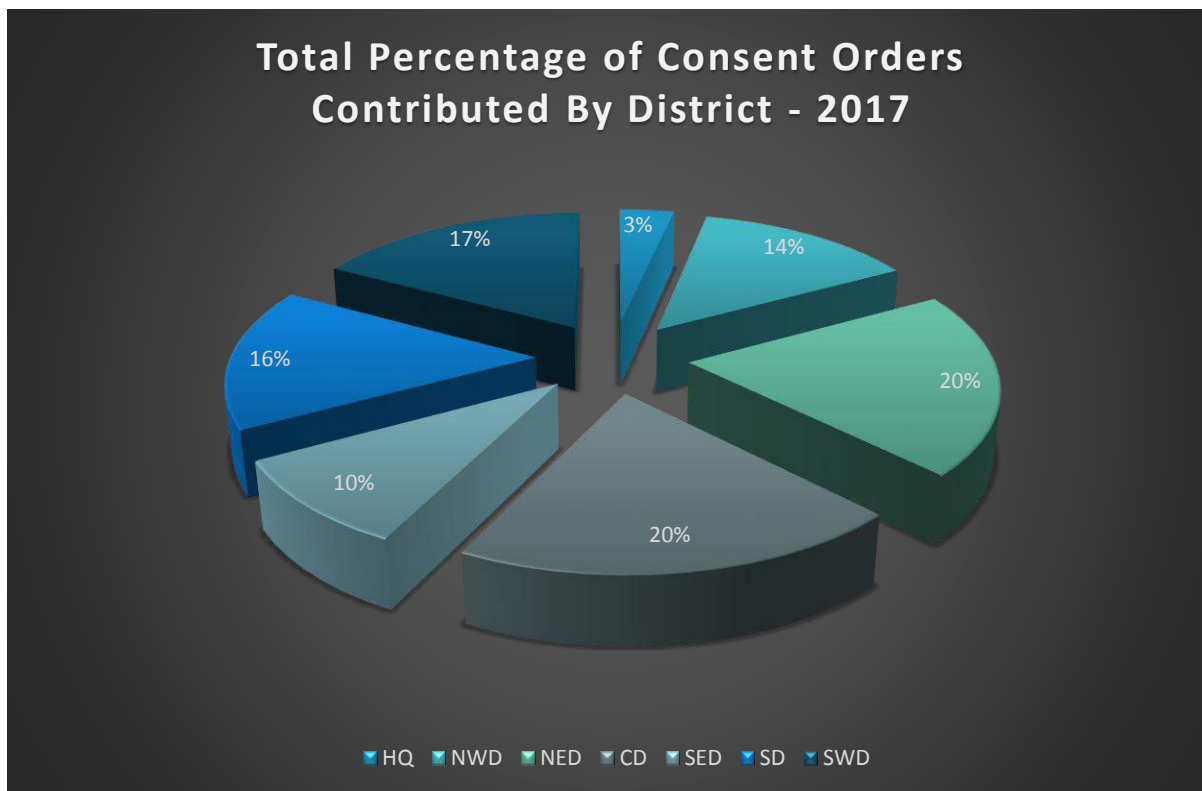
We also looked at the use of short-form consent orders solely as a part of the consent order enforcement tool. In other words, once the decision had been made to settle a case through a consent order, how likely was the resolution to be via a short-form consent order, as opposed to

a long-form or model consent order. Overall, the Department chose short-form consent orders in 37.50% of the cases in which a consent order was deemed the appropriate enforcement mechanism, a significant decrease from the previous year. The following results give further insight into how enforcement cases are handled in each district.

<i>District</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders--2014</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders--2015</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders--2016</i>	<i>% Cases Settled Through SF Consent Orders Compared to Other Consent Orders--2017</i>
<i>Central</i>	52.94%	58.33%	44.68%	40.00%
<i>Northeast</i>	26.67%	47.06%	34.69%	30.56%
<i>Multi-District</i>	54.17%	44.00%	26.09%	33.33%
<i>Northwest</i>	33.33%	37.04%	50.00%	50.00%
<i>Southeast</i>	30.00%	62.16%	63.16%	47.06%
<i>South</i>	18.18%	10.34%	14.29%	14.29%
<i>Southwest</i>	11.54%	45.95%	28.85%	50.00%

The trend of increasing reliance upon short-form consent orders continues to be present in the Northwest District, as well as the Southwest District. Meanwhile, their usage continues to decline in the Northeast District.

8. All Consent Orders Combined



The overall number of consent orders fell 30% in 2017, and the current performance is just 14% of that turned in by the Department in 2010. Performance fell in every district.

D. Program Area Performance

The number of enforcement cases⁴ brought in each key program area is as follows:

Program Area	Total No. of Enforceme nt Cases-- 2013	Total No. of Enforceme nt Cases-- 2014	Total No. of Enforceme nt Cases-- 2015	Total No. of Enforceme nt Cases-- 2016	Total No. of Enforceme nt Cases-- 2017
Asbestos	0	1	0	0	0

⁴ Defined as the sum of case reports, all consent orders, NOV's and final orders.
(Footnotes continued on next page)

Air (Excluding Asbestos)	7	11	18	17	9
Beaches/Coastal	10	8	7	4	4
Waste Cleanup	12	12	8	9	5
Dredge & Fill⁵	42	41	54	63	54
Domestic Waste	26	29	34	44	34
Hazardous Waste	20	21	43	35	19
Industrial Waste	10	7	7	11	12
Mangrove Alterations	3	3	11	8	12
Mining/Phospho-Gypsum	2	2	2	0	0
Potable Water	12	13	6	15	15
State Lands	24	23	29	16	7
Stormwater Discharge	5	20	22	23	14
Solid Waste	14	9	19	31	18
Tanks	14	20	25	11	15
Underground Injection Control	1	1	0	1	1

All the major programs in the Department opened fewer cases in 2017, with the sole exception of the industrial waste, mangrove alteration, and tanks programs (that combined to open nine (9) more cases than they did in 2016) and the beaches and coastal systems, potable water and underground injection programs (each of which held steady in 2017). The asbestos program has had only 1 case in the last five (5) years. The hazardous waste and state lands programs have had back to back years of declining enforcement.

The following table sets out the average number of cases initiated by the Department on an annual basis (the historical average) and then compares those averages to the performance in 2012 through 2017 with respect to the same key program areas listed above. The results are as follows:

Program Area	Historic Avg. ⁶	2012 Results	2013 Results	2014 Results	2015 Results	2016 Results	2017 Results	2017 Difference from Average
Asbestos	13	10	0	1	0	0	0	(13)
Air (Excluding Asbestos)	93	10	7	11	18	17	9	(84)
Beaches/Coastal	17	17	10	8	7	4	4	(13)
Waste Cleanup	4	14	12	12	8	9	5	1
Dredge & Fill	216	93	42	41	54	63	54	(162)
Domestic Waste	119	75	26	29	34	44	34	(85)
Hazardous Waste	132	52	20	21	43	35	19	(113)
Industrial Waste	47	39	10	7	7	11	12	(35)

⁵ This includes Environmental Resource Permitting.

⁶ The Historical Averages shown are for the period beginning in the year in which the individual programs had their first enforcement case, through 2007.

Mangrove Alteration	13	16	3	3	11	8	12	(1)
Mining/Phospho-Gypsum	3	1	2	2	2	0	0	(3)
Potable Water	112	76	12	13	6	15	15	(97)
State Lands	11	17	24	23	29	16	7	(4)
Stormwater Discharge	35	71	5	20	22	23	14	(21)
Solid Waste	39	22	14	9	19	31	18	(21)
Tanks	72	129	14	20	25	11		(61)
Underground Injection Control	5	1	1	1	0	1	1	(4)

As the above table indicates, every program, other than waste cleanup is now performing below the historical averages of past years.

E. Civil Penalty Assessments

The Department's modest improvements over the past few years have now been reversed by a 23% drop in assessments in 2017. Its 163 total assessments in 2017 represents a drop of 48 fewer cases compared to 2016, and it is the third lowest result of the seven (7) years under this administration. In delving deeper into this area, we found that in 2017, when we excluded in-kind and pollution prevention projects, there were only 148 penalty assessments, compared to 192 such assessments in 2016 and 175 in 2015. Once again, the 148 total was the third lowest in the last seven (7) years.

The drop in the number of assessments also resulted in a net decrease in the total dollar value of civil penalties levied in 2017. Considering only civil penalties (excluding in-kind and P2 projects), assessments totaled \$2,057,542.31 in 2017, compared to \$2,494,446.00 in penalties levied in 2016. Yet, 2017's result is higher than each of the calendar years of 2013 through 2015. The difference is due to three (3) penalty assessments in 2017, each of which exceeded \$100,000 and, when combined, total \$1,288,577.00. If those three (3) assessments are subtracted from 2017's total penalties, the new total becomes \$768,965.30, which is significantly lower than 2016's adjusted total of \$1,044,446.00. The tendency of the FDEP to essentially boost its annual assessment totals is one that we've noticed since the present administration took over. For example, in 2014, the Department recorded \$1,515,020.45 in civil penalties, but \$466,300.00 of that total was due to one domestic waste case against the *Miami-Dade Sewer Department*. In 2013, the Department's total penalty assessments were \$1,432,715.61, but of that, \$495,749.00 was due to just three (3) cases. The bottom line to this is that if the handful of large assessments is removed from the overall totals we see that the Department's efforts to assess civil penalties are essentially on life support. Indeed, the adjusted result in 2017 is the lowest overall result since 1987, when the new Department assessed \$34,380.00 in penalties.

Median assessments for the Department also fell significantly in 2017. The statewide median was \$2,000.00, compared to \$3,000.00 in 2016, and \$2,540.00 in 2015. 2017's results are the lowest statewide result since 2012 during which the medians were also \$2,000.00. The

following table shows the results (including all penalties, in-kind projects and P2 projects) for each program, according to year:⁷

Program Area	Historical Medians	2014 Medians	2015 Medians	2016 Medians	2017 Medians ⁸
Asbestos	\$2,000.00	\$0.00	\$0.00	\$0.00	\$0.00
Air (Excluding Asbestos)	\$1,699.50	\$3,750.00	\$4,000.00	\$4,125.00	\$3,000.00
Beaches/Coastal	\$500.00	\$500.00	\$1,000.00	\$750.00	\$875.00
Waste Cleanup	\$4,500.00	\$0.00	\$0.00	\$10,000.00 ⁹	\$1,000.00
Dredge & Fill	\$700.00	\$1,000.00	\$2,000.00	\$1,000.00	\$420.00
Domestic Waste	\$2,250.00	\$7,500.00	\$3,000.00	\$4,000.00	\$8,850.00
Hazardous Waste	\$4,100.00	\$4,250.00	\$3,275.00	\$6,500.00	\$6,529.50
Industrial Waste	\$4,500.00	\$9,500.00 ¹⁰	\$2,000.00 ¹¹	\$3,500.00	\$4,500.00
Mangrove Alteration	\$1,100.00	\$2,000.00	\$2,480.00	\$1,500.00	\$830.00
Mining/Phospho-Gypsum	\$5,500.00	\$10,000.00	\$4,250.00	\$0.00	\$0.00
Potable Water	\$500.00	\$1,650.00	\$6,000.00 ¹²	\$1,000.00	\$1,550.00
State Lands	\$1,250.00	\$1,420.00	\$1,100.00	\$1,550.00	\$3,000.00
Stormwater Discharge	\$600.00	\$370.00	\$518.00	\$370.00	\$3,500.00
Solid Waste	\$2,843.00	\$4,500.00	\$3,000.00	\$3,437.50	\$2,500.00
Tanks	\$2,712.00	\$10,000.00	\$19,000.00	\$5,000.00	\$7,500.00
Underground Injection Control	\$6,850.00	\$0.00	\$0.00	\$16,195.00 ¹³	\$4,038.56

6 of the 16 program areas shown above showed lower medians in 2017 than in the previous year. The decreases in those programs were each significant. This is the second straight year of declining medians in the dredge and fill and the mangrove alteration programs. **The median for the dredge and fill program, which oversees issues typically involving development and wetland destruction is easily the lowest in the Department's history. The next closest result was in 1998, which posted a median of \$500.00.**

The increased median in the domestic waste program is a significant increase that is largely due to 8 of the 31 assessments being at or above \$90,000.00. The larger median in the potable water program, while positive, is only based upon a total of 5 assessments, thus, it would be premature to suggest that it is a sign of a healthy functioning program.

Turning to the districts, we found that this is the second year in a row that the number of assessments has decreased in the Central District. In fact, the number of assessments has fallen in four of the past five years in that district. However, the Northeast and Southwest Districts also

⁷ Data in **red** represent declines from the performance in 2016. Data in **orange** represents performance in 2016 and previous years that represents declines from the immediately preceding year.

⁸ The results in the waste cleanup, state lands and underground injection control programs are each based upon only one (1) case.

⁹ This result is based upon 1 case statewide.

¹⁰ This result is based upon 1 case statewide. That case was in the Central District.

¹¹ This result is based on 3 cases statewide.

¹² This result is based on 2 cases statewide.

¹³ This result is based upon 1 case statewide.

saw significant reductions in the number of assessments, as did the Multi-District category. Four districts also saw the total dollar value of assessments drop in 2017, and the decline was significant in each of them. It is also noteworthy that the total dollars assessed has declined so much that the Southwest District was responsible for over 50% of all total dollars assessed even though it had 59% fewer assessments in 2017 than it did in the previous year. Overall, the Districts' performance in the area of penalty assessments (including in-kind and pollution prevention projects) was as follows:

DISTRICT	NO. OF ASSESSMENTS IN 2016	NO. OF ASSESSMENTS IN 2017	TOTAL \$ ASSESSED IN 2016	TOTAL \$ ASSESSED IN 2017	% OF STATE TOTAL
Multi-District	22	7	\$2,674,311.50	\$43,788.00	1.15%
NWD	23	24	\$189,344.00	\$98,925.00	2.59%
NED	53	34	\$621,588.00	\$400,181.00	10.47%
CEN District	32	24	\$159,350.00	\$127,323.00	3.33%
SED	15	20	\$71,895.00	\$1,056,584.56	27.63%
SD	27	28	\$76,496.00	\$56,436.00	1.48%
SWD	39	16	\$294,185.00	\$2,040,732.00	53.37%

For the Department as a whole the median assessment fell by 1/3 from \$3,000.00 in 2016 to \$2,000.00 in 2017. In looking at the results for all assessments, i.e. penalties, in-kind, and pollution prevention projects,¹⁴ the comparison of median assessments from 2015 to 2017 among the districts is as follows:

DISTRICT	2015 MEDIAN ASSESSMENTS	2016 MEDIAN ASSESSMENTS	2017 MEDIAN ASSESSMENTS
Multi-District	\$518.00	\$370.00	\$500.00
NWD	\$3,420.00	\$5,000.00	\$3,000.00
NED	\$3,000.00	\$3,200.00	\$1,310.00
CEN District	\$4,260.00	\$4,000.00	\$3,000.00
SED	\$2,440.00	\$1,727.00	\$6,104.75
SD	\$3,420.00	\$2,000.00	\$830.00
SWD	\$2,000.00	\$4,000.00	\$2,600.00

Only the Southeast District saw an increase in its median assessments in 2017 when compared to 2016. The Central District and South District have both seen steadily declining

¹⁴ In previous reports we have presented the medians of penalties only. Therefore, the results in this table will be slightly higher than reported in previous years.

medians since 2015. In general, in those districts in which medians have fallen, the 2017 decline was significant.

1. The Highest Assessments In The Department

The Department had three assessments that exceeded \$100,000 in 2017 (2016 had one), and they were all out of the Southeast and Southwest Districts. In addition, all were in the domestic waste program. In addition to the civil penalty assessments, there were in-kind or pollution prevention assessments in each of these cases. The pollution prevention assessment in the case against the *City of Gulfport* was in the amount of \$144,000.00. The case against the *City of Fort Lauderdale* was accompanied by an in-kind assessment of \$501,865.50. The case against the *City of St. Petersburg* was accompanied by a pollution prevention assessment of \$810,000.00.

District ¹⁵	Program	Polluter	Amount
6	DW	City of Gulfport	\$144,000.00
4	DW	City of Fort Lauderdale	\$334,577.00
6	DW	City of St. Petersburg	\$810,000.00

As for the other programs, the highest assessments were quite a bit lower. The following table lists each of the programs¹⁶ and provides the highest civil penalty assessment in the Department that was levied in each program:

¹⁵ District numbers correspond to the following districts: 0=Multi-District; 1=Northwest District, 2=Northeast District, 3=Central District, 4=Southeast District, 5=South District, 6=Southwest District.

¹⁶ The abbreviations are as follows: AB = Asbestos; AC = Air Construction; AF = Air Federal Enforcement Permit; AG = Air General Permit; AO = Air Operation Permit; AM = Air Resource Management; AS = Air Permitted Source; AV = Air Title 5; AW = Aquatic Weed; BS = Beaches and Shores; CC = Collections Case; CM—Coastal & Aquatic Managed Area; CR = Coral Reef ; CU = Waste Cleanup; CZ=Coastal Zone Management; DA = Disciplinary Action; DF = Dredge and Fill; DR= Dry Cleaners; DW = Domestic Waste; EP = Environmental Resource Permitting (Dredge & Fill); ES = ERP Stormwater; EW = ERP Wetlands / Surface Waters; HW = Hazardous Waste; IW = Industrial Waste; MA = Mangrove Alteration; MN = Mining Operations; MR= Marine Resources; OC = Operator Certification; OG = Oil & Gas; PG = Phospho-Gypsum; PW = Potable Water; RO = Stormwater Discharge; S1 = Untreated Domestic Waste Spills; S3 =Other Domestic Waste Spills; SL = State Lands; SW = Solid Waste; TK = Tanks; UIC = Underground Injection; WW = Water Well Contractors.

District	Program	OGC#	Polluter	Assessed Amount
6	AP	161500	Florida Power Development, LLC.	\$8,000.00
2	BS	170902	Black, Lonnye R.	\$2,500.00
6	CU	161439	Marshall, Thomas	\$1,000.00
4	DF	171051	Harbor Bay Marine Industries	\$5,000.00
4	DF	171069	131 st Way North, LLC.	\$5,000.00
6	DW	161280	City of St. Petersburg	\$810,000.00
6	ES	170019	Rivera, Joyce and Maria	\$1,000.00
2	EW	170026	Wright, Buise and Laveta, and Aveta and Timber Forest Trail Investments, LLC.	\$3,199.00
6	HW	150531	Envirofocus Technologies, LLC.	\$73,466.00
2	IW	161437	Pilgrim's Pride Corporation	\$49,082.00
4	MA	161415	City of Riviera Beach	\$4,599.00
5	PW	170904	Sun Communities, Inc.	\$2,000.00
1	RO	171047	Gulf Coast Utility Contractors, LLC.	\$15,000.00
6	SL	170912	Guthrie, Jr., Raymond	\$3,000.00
5	SW	161474	Atlantic Trash and Transfer, LLC and Lindback, Brian	\$5,000.00
2	TK	170046	First Coast Petroleum Investments, Inc.	\$10,000.00
4	UC	170217	City of Hialeah Department of Public Works	\$4,038.56
2	WW	171034	Georgia-Pacific Consumer Operations, LLC.	\$7,000.00

F. Civil Penalty Assessments By Program Area—District Comparison

This section addresses the performance of the major program areas. Our review of the FDEP's programs included the number of assessments in each program area, the total dollars assessed, and the median dollar value of the assessments in each program. Unless stated otherwise, the results that follow include in-kind and pollution prevention project data. We have included our findings below, as well as the data from previous years, so that the reader can appreciate the current trends in each program.

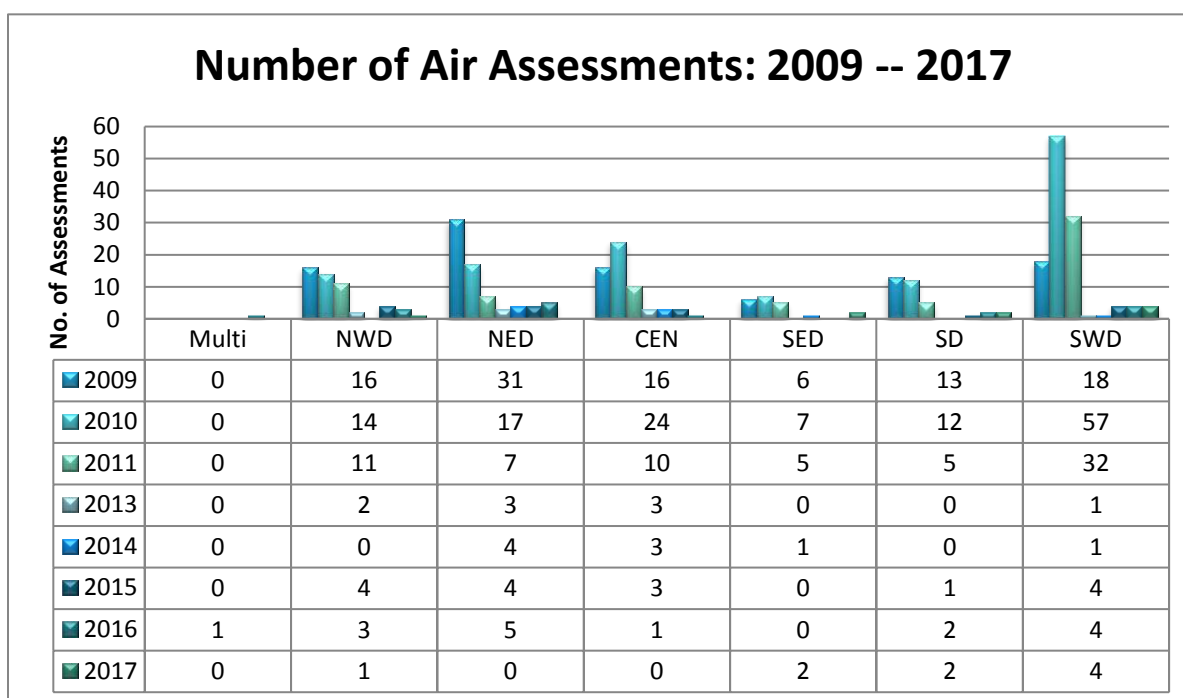
1. Air Program

The number of assessments in 2017 fell significantly. Statewide, there were 9 assessments, compared with 16 assessments in 2016. While neither year would be considered stellar, the 44% drop from an already low level is alarming and brings the program back to the earlier disastrous years of 2013 and 2014. The results are far below the Department's performance prior to 2011:

Year	Total Number of Air Assessments
2009	100
2010	131
2011	70
2012	15
2013	9
2014	9
2015	16
2016	16
2017	9

It appears at this point that the program has reached the bottom, i.e. it is doing just enough to justify the continued receipt of federal funding that pays for administration of the program.

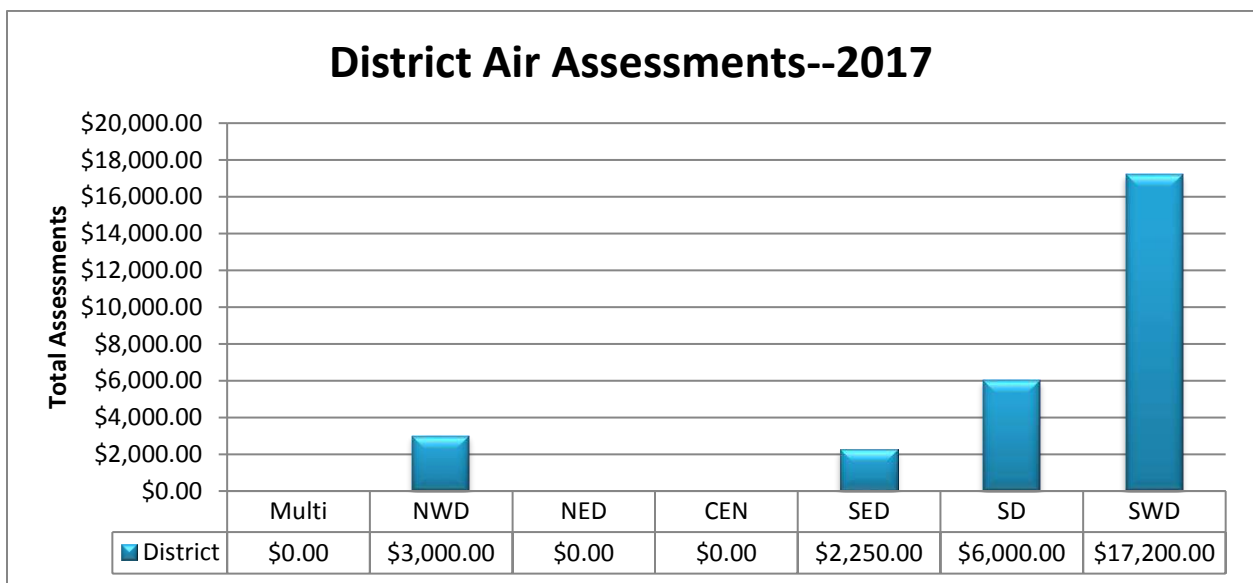
The following chart demonstrates that, while, from time to time there are instances of modest improvement, over the last five years there is a clear pattern of bringing fewer enforcement cases in the air program in every district. The Central, Northeast and Northwest Districts appear to have taken the biggest hit:



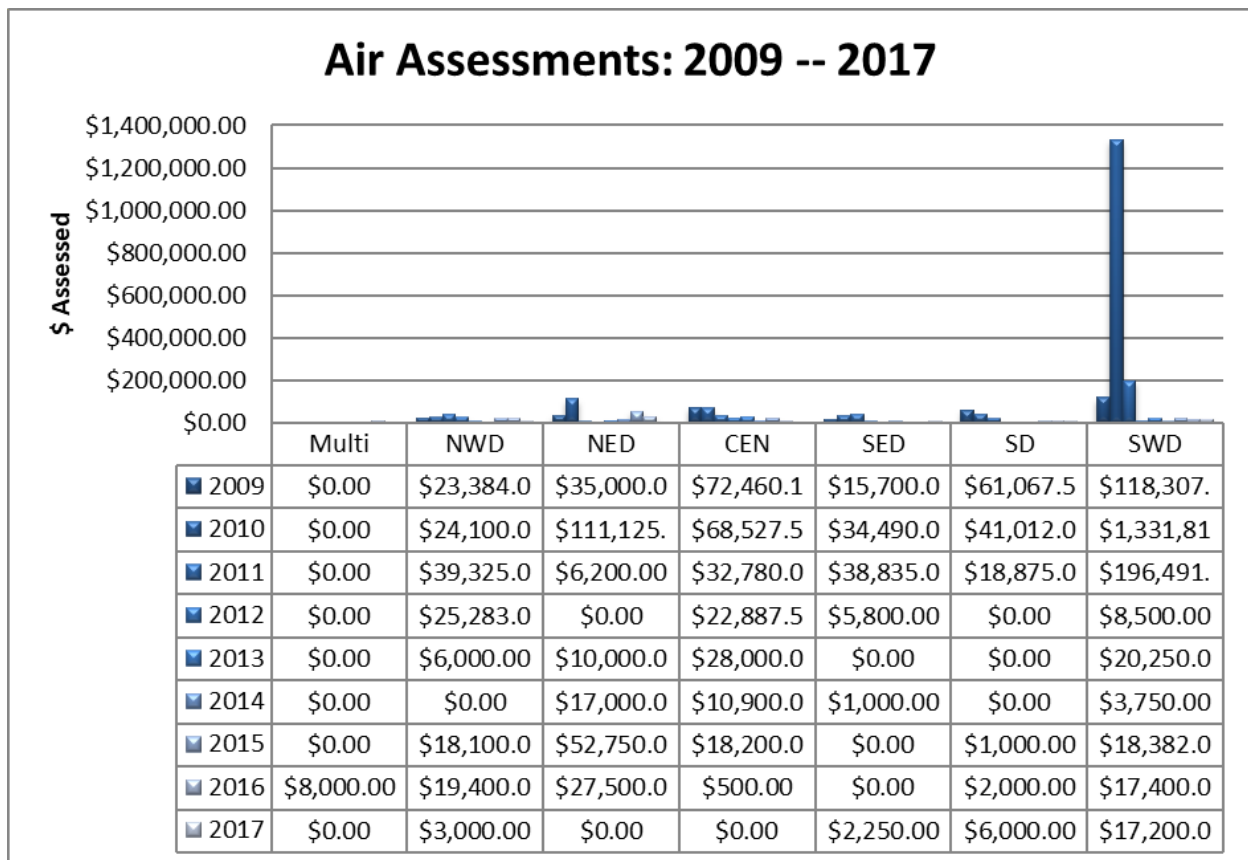
The decline in the number of assessments resulted in an expected decline in the penalty dollars assessed. The following table illustrates the decline in the dollar value of assessments for the Department as a whole:

Year	Total \$ Assessed
2009	\$325,918.66
2010	\$1,611,066.50
2011	\$332,506.00
2012	\$62,470.50
2013	\$64,250.00
2014	\$32,650.00
2015	\$108,432.00
2016	\$74,800.00
2017	\$28,450.00

The dollar value of assessments in 2017 was 62% lower than the year before. **Further, this is the lowest level in the program's history.** The result is due to declines in every district, except for the Southeast and South Districts. The overall results for each district are as follows:



When compared to the results in 2010 the Department's performance has now declined 98%. The chart below shows the recent history of each of the districts:

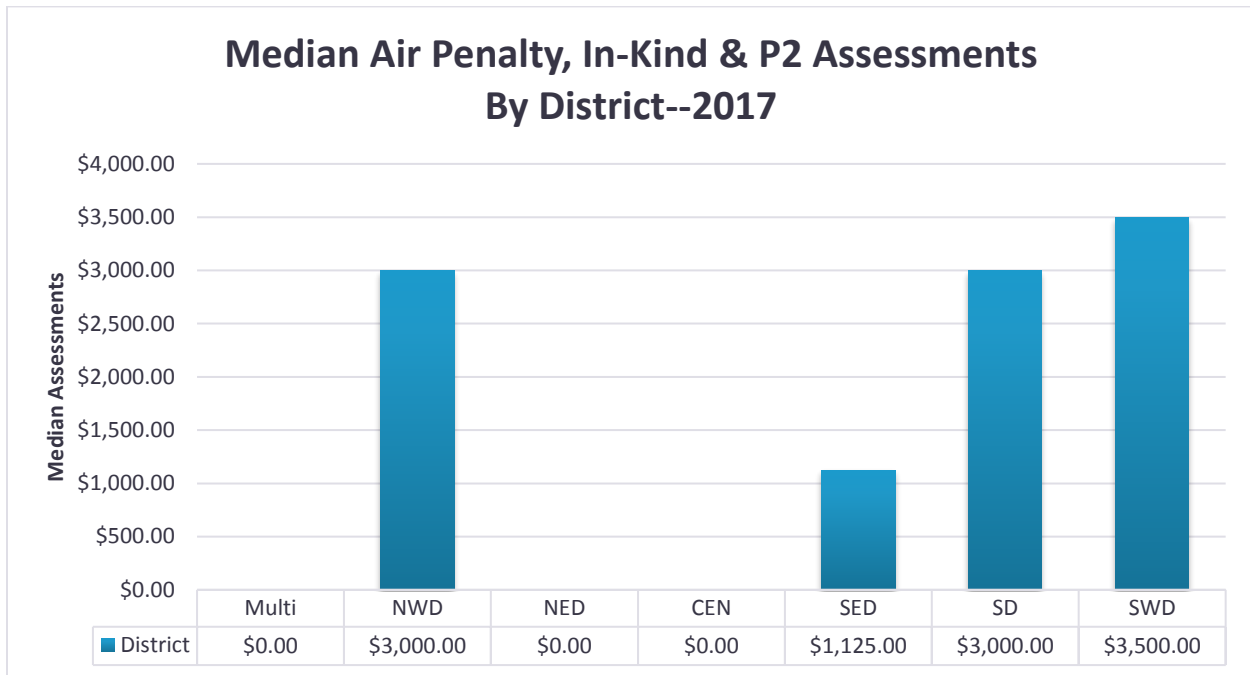


As can be seen from the above chart, gains made in 2016 have been essentially erased. The results in the Southeast and South Districts are based on a total of a combined 4 cases.

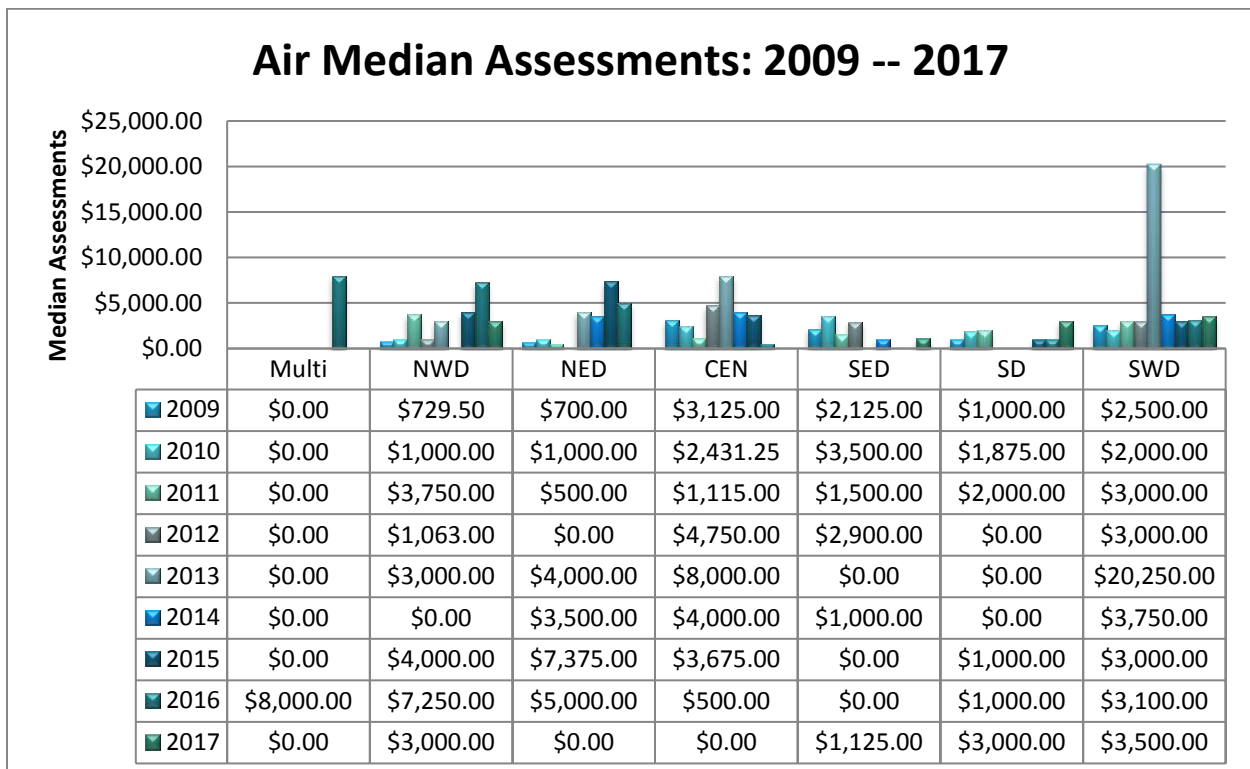
The decline in total dollar assessments was also seen in the median penalty assessments, which fell 27% compared to 2016. The current level is the lowest the program has seen since 2011. Nevertheless, the medians continue to be significantly higher than in 2010 and years previous to that.

Year	Median Air Assessments
2009	\$1,200.00
2010	\$2,000.00
2011	\$1,900.00
2012	\$4,387.50
2013	\$4,000.00
2014	\$3,750.00
2015	\$4,000.00
2016	\$4,125.00
2017	\$3,000.00

Given the low number of assessments, the medians for each district are not terribly instructive of each district's aggressiveness in assessing penalties. Nevertheless, median air assessments among the districts broke down as follows:



The nine-year history of medians for each district is shown below:



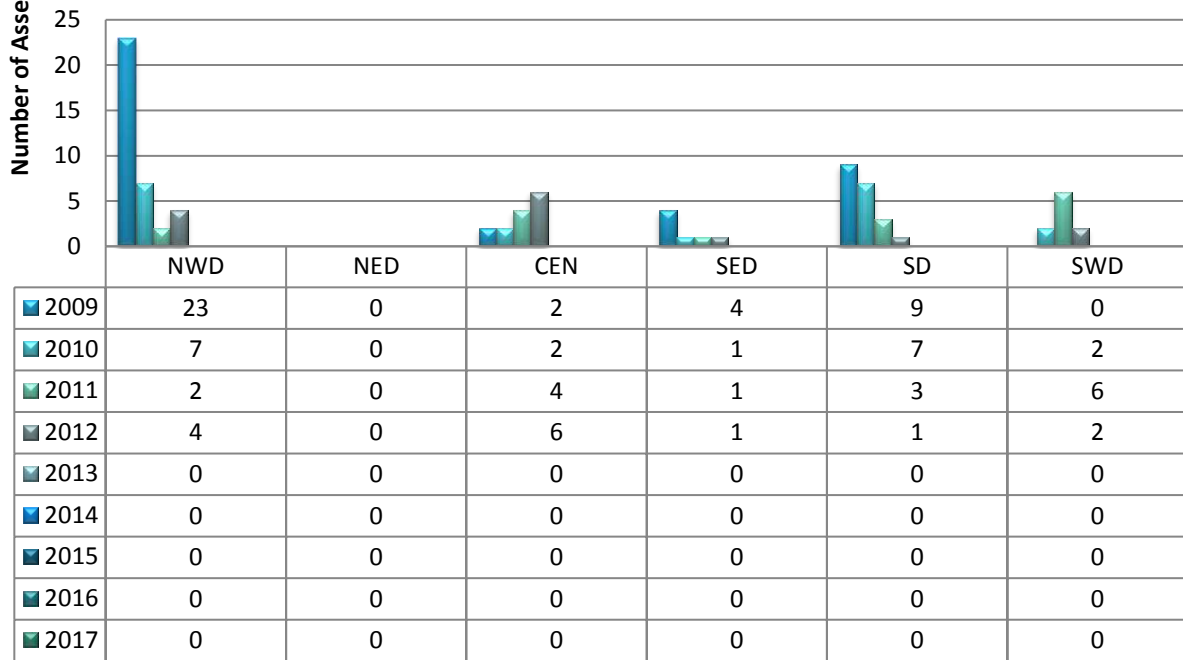
2. Asbestos Program

The FDEP's [website states](#) that “[a]sbestos is well recognized as a health hazard and is highly regulated. The United States Environmental Protection Agency (EPA) and the United States Occupational Safety Health Administration (OSHA) asbestos regulations are intertwined in this area.” The website goes on to state that “DEP administers an asbestos removal program under Chapter 62-257, Florida Administrative Code. The program's intent is to prevent the release of asbestos fibers to the outside air during demolition or renovation activities.” Yet, despite the assurances on this site, the number of asbestos assessments has declined **100%** Department-wide since 2010 and there have been **no** assessments for the last **five** years. In other words, there is no enforcement of this program at the state level. Any existing enforcement is occurring at the local level and not reported by the FDEP:

Year	Total Number of Asbestos Assessments
2009	38
2010	19
2011	16
2012	14
2013	0
2014	0
2015	0
2016	0
2017	0

The breakdown at the district level is as follows:

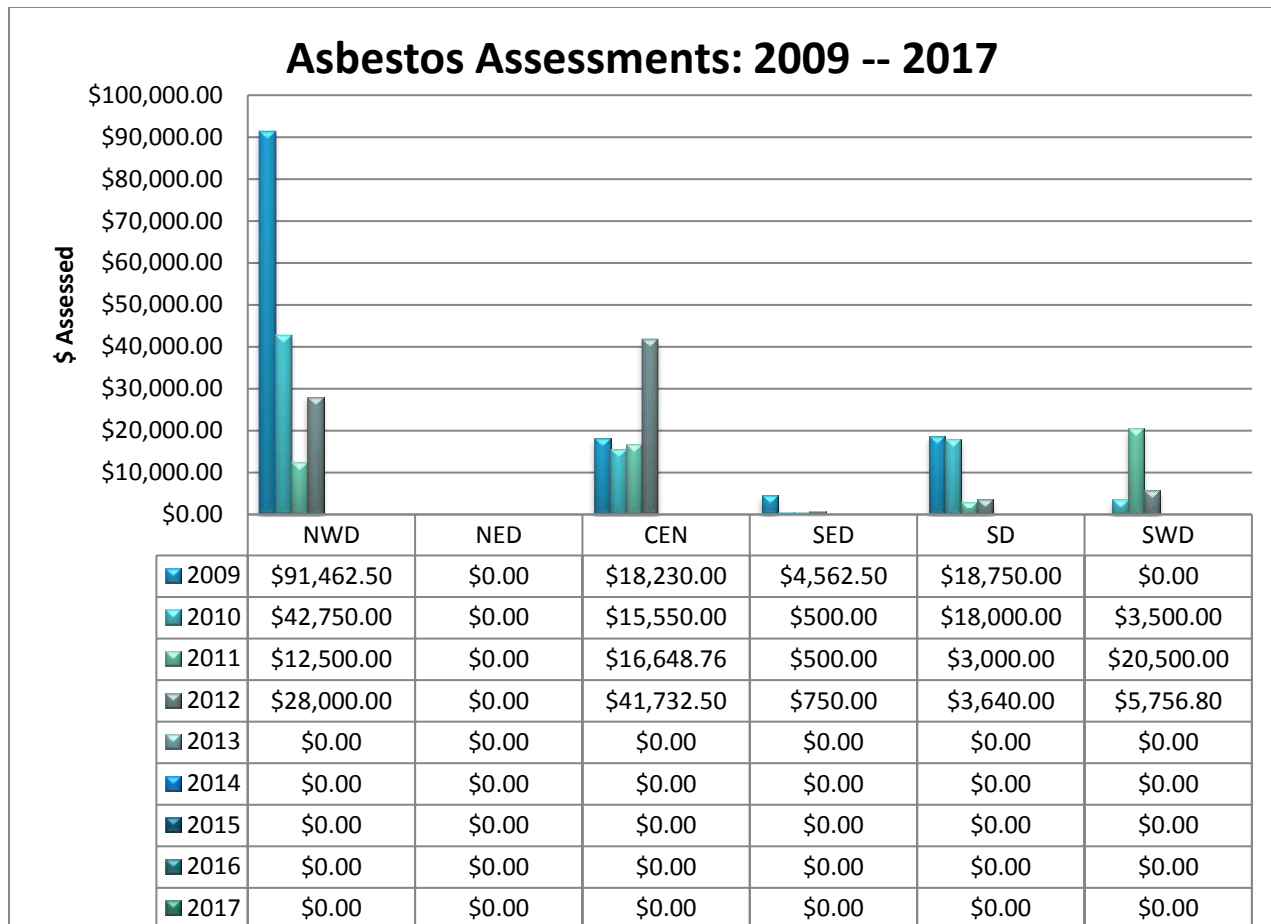
Number of Asbestos Assessments: 2009 -- 2017



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

Year	Total \$ Assessed—Asbestos
2009	\$133,005.00
2010	\$80,300.00
2011	\$53,148.76
2012	\$79,879.30
2013	\$0.00
2014	\$0.00
2015	\$0.00
2016	\$0.00
2017	\$0.00

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

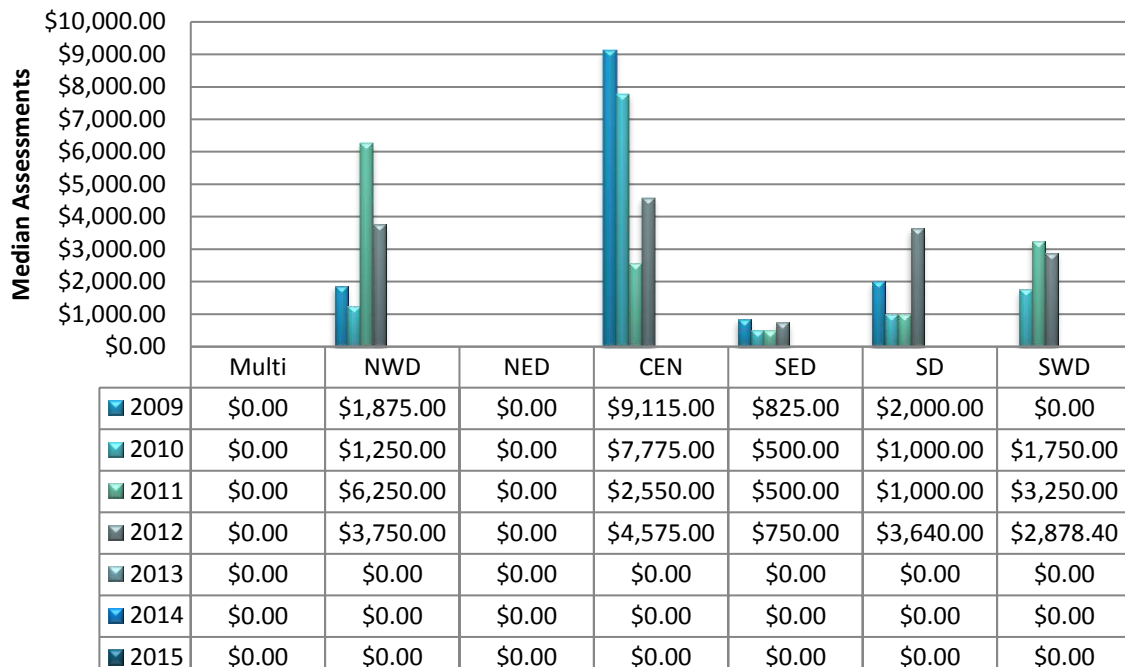


Median asbestos assessments for the Department as a whole have fallen from \$3,640.00 in 2012 to \$0.00 in 2013, 2014, 2015, 2016, and 2017:

Year	Median Asbestos Assessments
2009	\$1,937.50
2010	\$1,250.00
2011	\$2,000.00
2012	\$3,640.00
2013	\$0.00
2014	\$0.00
2015	\$0.00
2016	\$0.00
2017	\$0.00

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

Asbestos Medians: 2009 -- 2017



3. Beaches & Coastal Program

The Department's [website states](#) that the program exists, "[t]o protect, restore and manage Florida's coastal systems. The 825 miles of sandy coastline fronting the Atlantic Ocean, the Gulf of Mexico or the Straits of Florida are one of Florida's most valuable natural resources. Florida's beaches are deserving of this status because they serve several important functions, each being vital to maintaining the health of Florida's economy and environment." Under Florida's Beach and Shore Preservation Act¹⁷ the Department is charged with adopting and enforcing programs designed to protect this highly important aspect of Florida's environment.

The number of assessments levied by the Department has declined steadily since 2009, to the point that it generally fluctuates between low levels that, in the scheme of things, are insignificant:

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

¹⁷ Chapter 161, Florida Statutes

2011	20
2012	13
2013	8
2014	7
2015	4
2016	2
2017	4

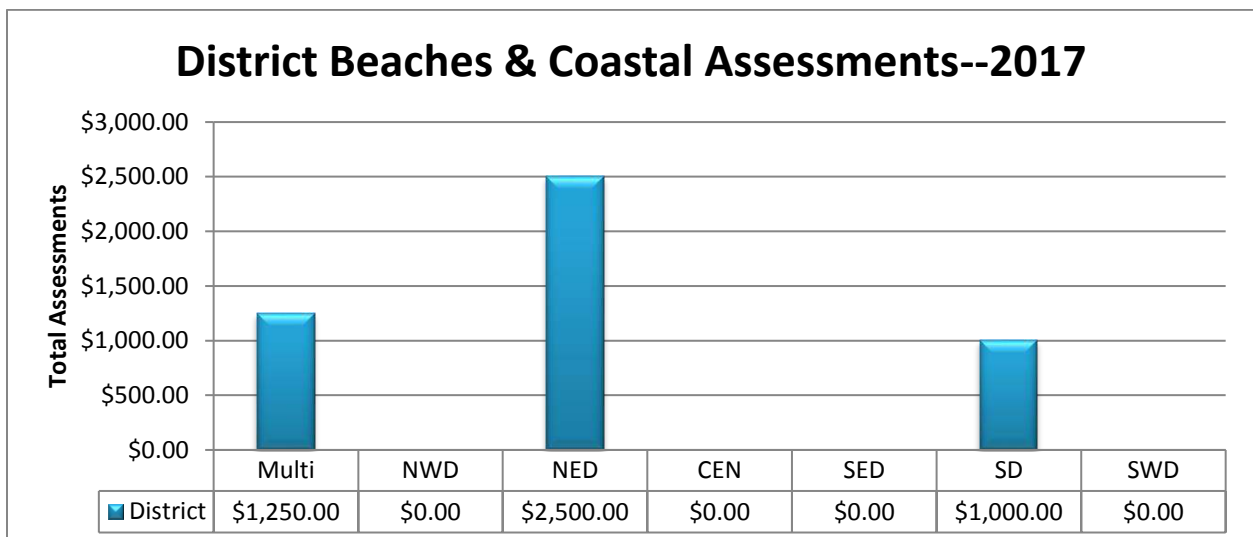
Historically, the Multi-District category has been the section to primarily administer this program. In 2017, however, enforcement was also taken by the Northeast and South Districts, each of which had one case. The remaining two cases were opened by the Multi-District category.

2017 did see a rise in the penalties assessed in this program. The results in 2017, though better than the previous year, are still not outstanding when compared with pre-2014 levels:

Year	Total \$ Assessed
2009	\$27,750.00
2010	\$11,750.00
2011	\$20,400.00
2012	\$18,000.00
2013	\$13,500.00
2014	\$6,250.00
2015	\$5,250.00
2016	\$1,500.00
2017	\$4,750.00

Assessments are now 60% lower than they were in 2010.

The breakdown by district is depicted below:



Median assessments for the Department rose 17% in 2017, though it bears repeating that there were only 4 assessments statewide for the year:

Year	Median Beaches & Coastal Assessments
2009	\$750.00
2010	\$875.00
2011	\$750.00
2012	\$1,000.00
2013	\$875.00
2014	\$500.00
2015	\$1,000.00
2016	\$750.00
2017	\$875.00

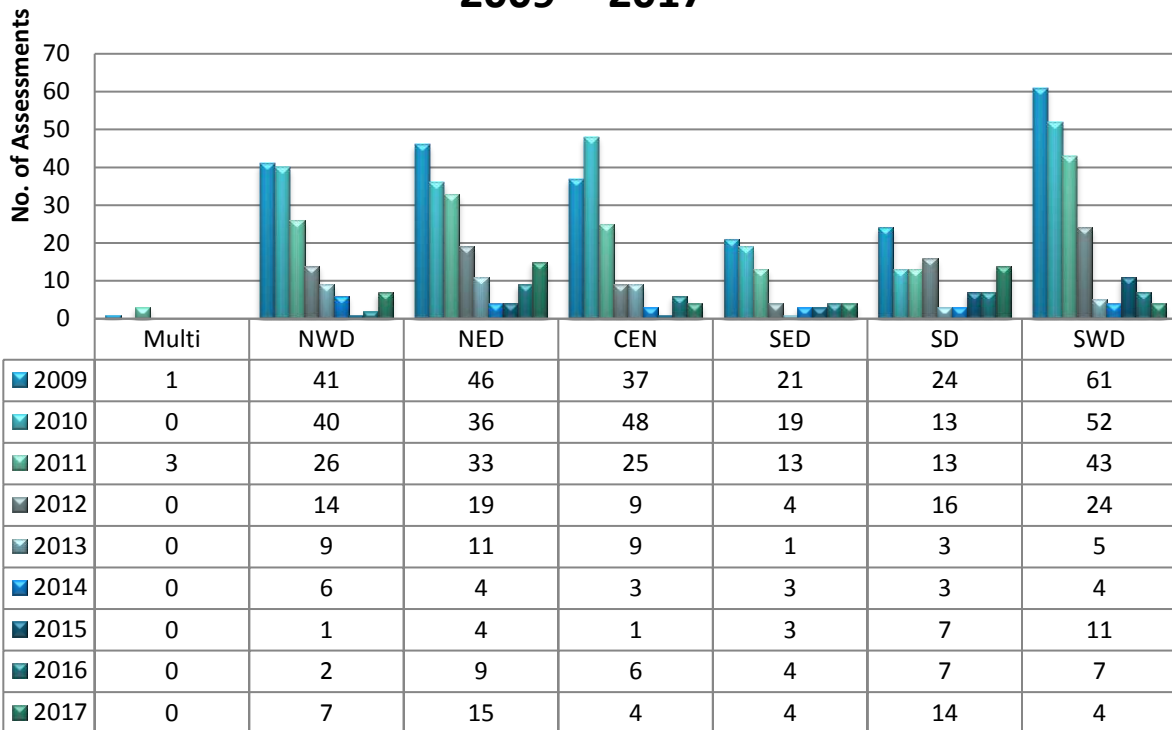
4. Dredge and Fill Program

The Department has continued to show modest improvement in the number of assessments each year. There were 13 more cases in 2017 than in the previous year, but the 48-case total is still far below the 208 case assessments that were made in 2010:

Year	Total Number of Assessments
2009	231
2010	208
2011	156
2012	86
2013	38
2014	23
2015	27
2016	35
2017	48

Increases in the number of assessments were seen in all but the Central and Southwest Districts. The Southeast District maintained its 2016 levels. The number of assessments has fallen in the Southwest District for each of the past two years:

Number of Dredge & Fill Assessments: 2009 -- 2017



Statewide, the dollar value of dredge & fill assessments fell 6% from the previous year. The statewide total was \$57,179.00 in 2017, making 2017 the third-worst year since 2010. It is also the fourth-worst statewide total dating back to 1987:

Year	Total \$ Assessed
2009	\$1,607,697.31
2010	\$1,309,603.40
2011	\$304,828.19
2012	\$251,762.00
2013	\$167,495.00
2014	\$59,330.00
2015	\$67,270.00
2016	\$60,829.00
2017	\$57,179.00

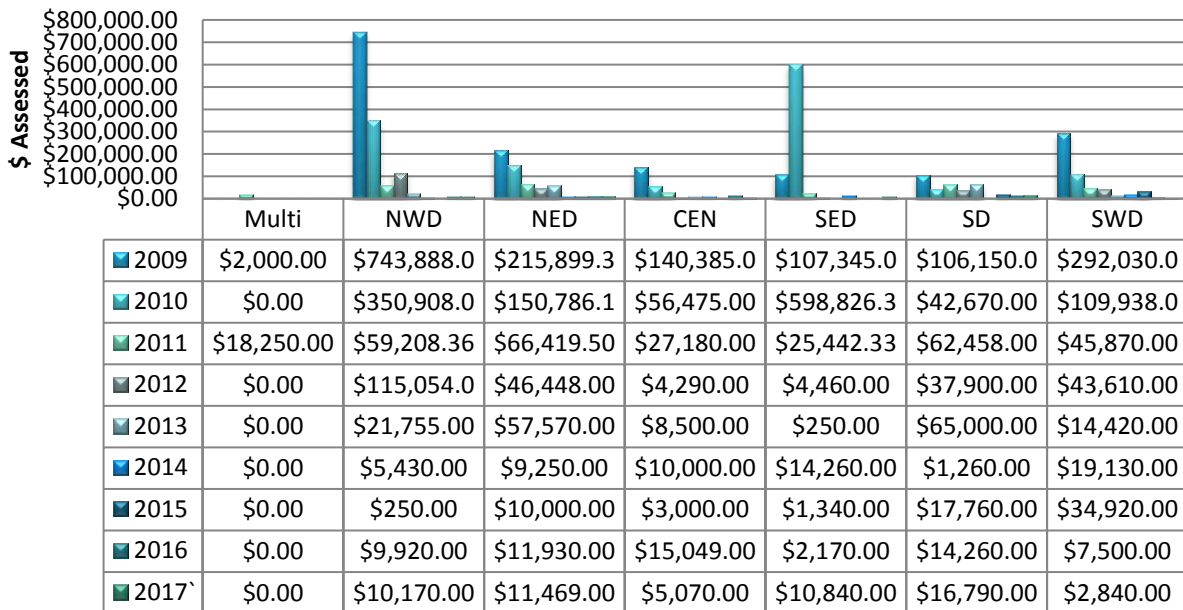
The decreases in total assessments came in the Northeast, Central, and Southwest Districts. The Southeast District had a 400% increase in its assessments, otherwise, the increases that did occur were modest:

District Dredge & Fill Assessments--2017



When looking at the 9-year history of the districts it is easy to see the cataclysmic results seen after 2010, when the current administration took office:

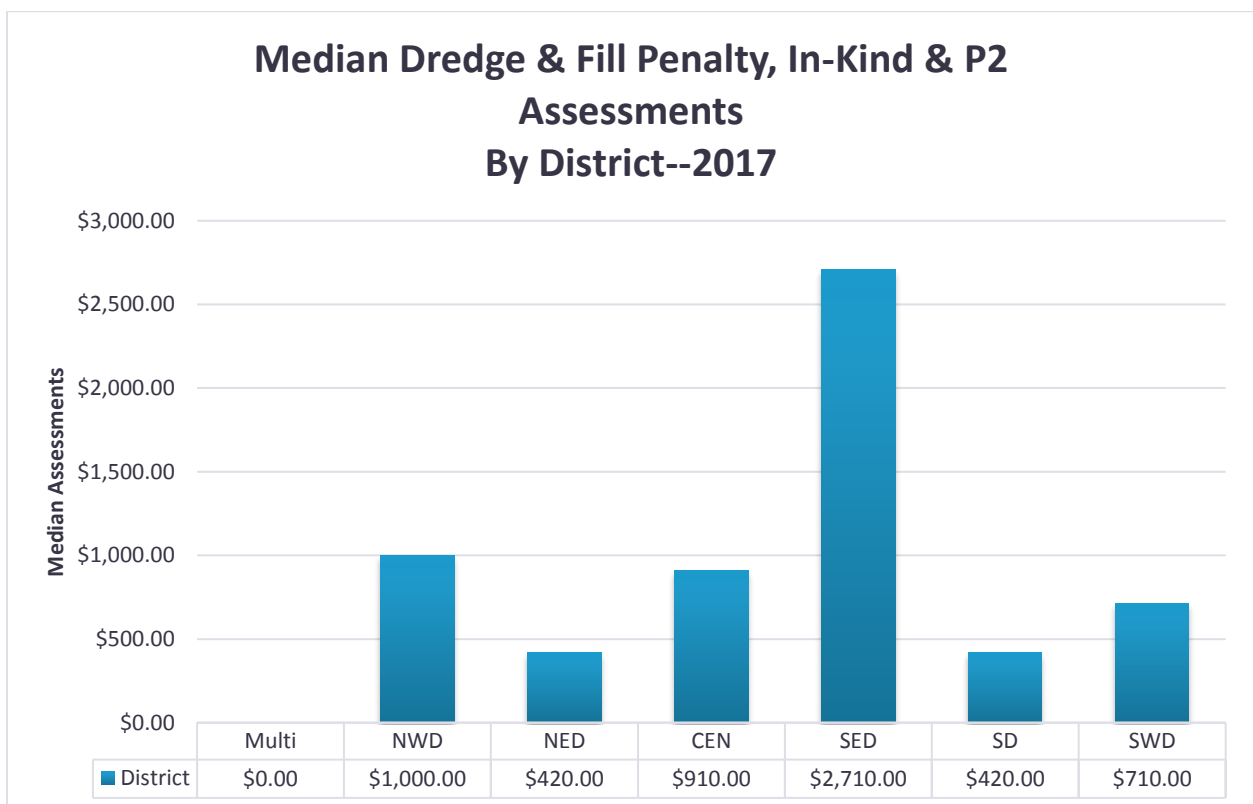
Dredge & Fill Assessments: 2009 -- 2017



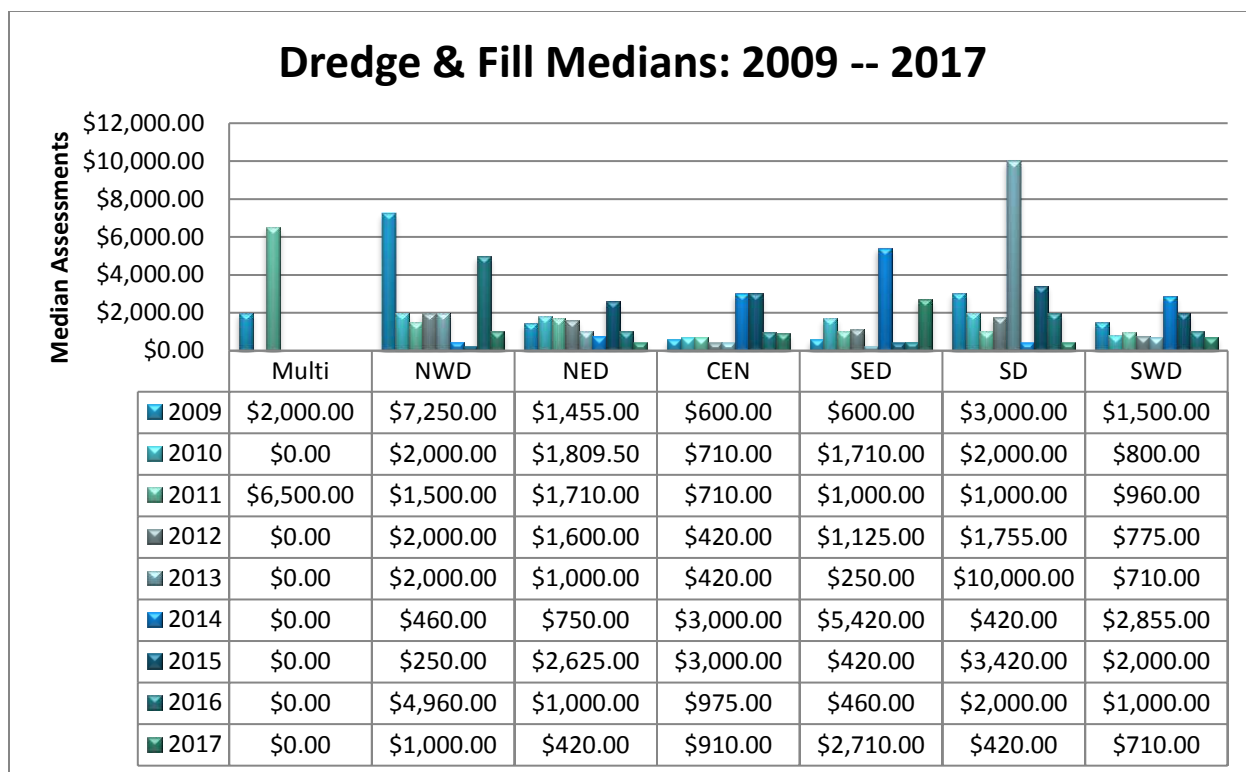
What is the most disturbing result in this program is that median assessments fell from \$1,000.00 in 2016, to just \$420.00 in 2017. **This is the lowest statewide median assessment for this program in the Department's history.** The next highest median was \$500.00 in 1998:

Year	Median DF Assessments
2009	\$1,500.00
2010	\$1,205.00
2011	\$1,000.00
2012	\$1,000.00
2013	\$1,000.00
2014	\$1,000.00
2015	\$2,000.00
2016	\$1,000.00
2017	\$420.00

The median assessments amongst the districts for 2017 were:



Except for the Southeast District, median assessments fell across the board. The largest declines were seen in the Northwest and South Districts, which fell 80% and 79% respectively. Clear downward trends since 2015, are now evident in the Northeast, Central, and South Districts, while the Southwest District's median has been steadily decreasing since 2014:



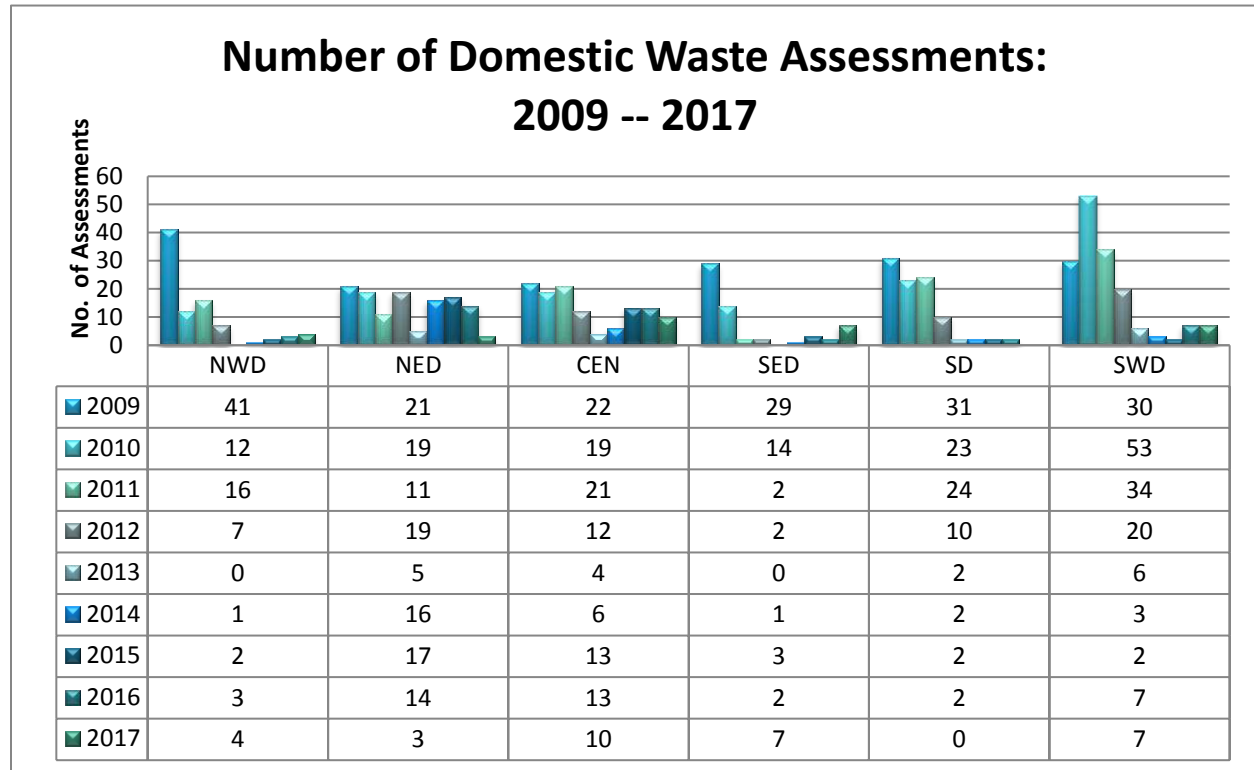
5. Domestic Waste Program

The Department assessed penalties in 31 cases in 2017, down 24% from 2016 and 78% from 2010. This is not the worst performance for the program under the current administration, but it does end what had been steady increases in the numbers from 2014 through 2016.

The results continue to be among the lowest in Department history. Excluding the years under the current administration, one would have to go back to 1987 to find a result this low. The results from 2009 to the present are provided below:

Year	Number of Civil Penalty Assessments
2009	174
2010	140
2011	108
2012	70
2013	17
2014	29
2015	39
2016	41
2017	31

Excluding the South District, which had **no** cases in 2017, the Northeast District saw the greatest decline—a 79% fall compared with 2016. The largest percentage increase was in the Southeast District, which had a total of 7 cases, compared with 2 in the year before. The historical numbers for each district are presented below:

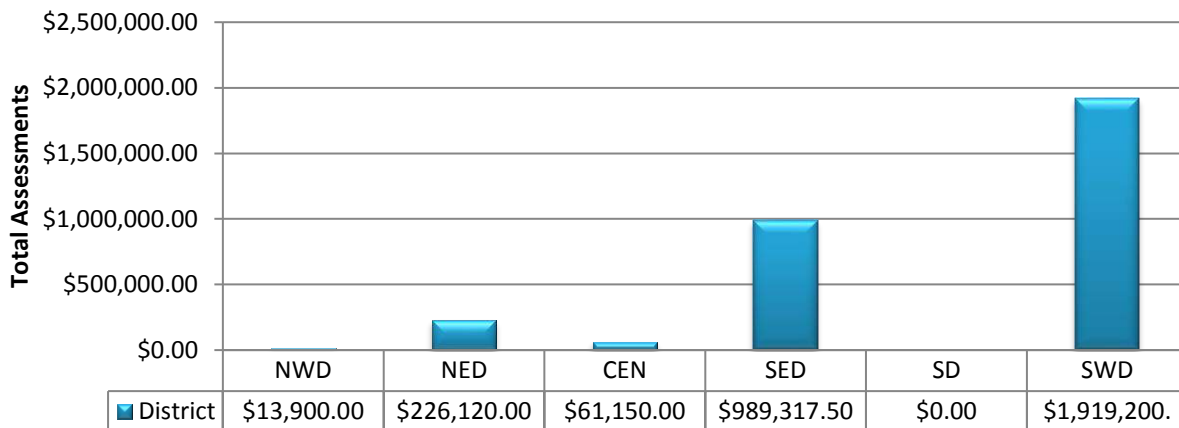


Penalty dollar assessments increased dramatically in 2017 to a new level of \$3,209,687.50 (an 813% increase from the previous year). The increase is due in large part to four cases, one of which was in the Northeast District, one in the Southeast District, and two in the Southwest District. Combined, these four cases account for \$2,969,442.50 of all the domestic waste assessments in 2017. Subtracting these four cases from the total leaves \$240,245.00 assessed statewide. The results for the past 9 years are as follows:

Year	Domestic Waste Assessments
2009	\$2,808,253.58
2010	\$2,439,599.07
2011	\$997,855.99
2012	\$1,097,055.56
2013	\$498,391.31
2014	\$871,625.00
2015	\$235,749.00
2016	\$351,592.00
2017	\$3,209,687.50

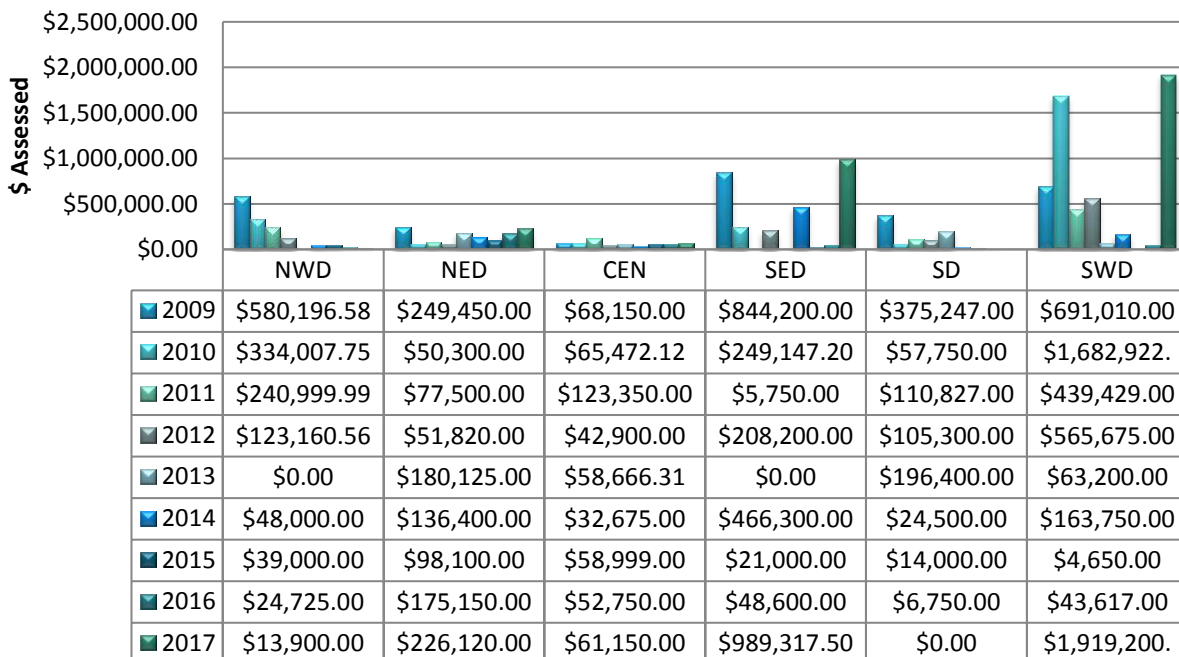
The dollars assessed were distributed among the districts as follows:

District Domestic Waste Assessments--2017



As noted above, the sizeable increase in assessments was not the result of across-the-board improvements in the districts. Rather, they were the result of significant gains in three of the districts. When looking at the data a bit closer we see that both the Northwest and South Districts have been in steady decline over the past years—since 2014 for the Northwest District and 2013 for the South District:

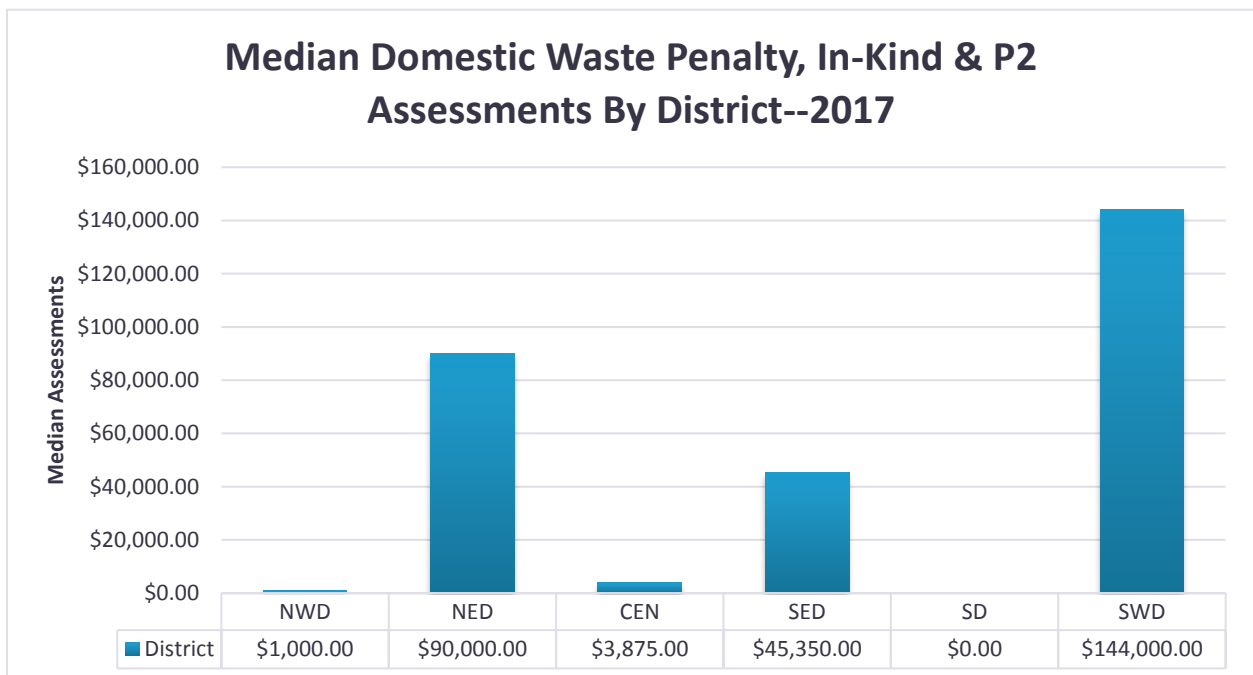
Domestic Waste Assessments: 2009 -- 2017



Medians for the Department as a whole also rose in 2017. The \$5,500.00 median represents a 38% jump over the previous year's performance:

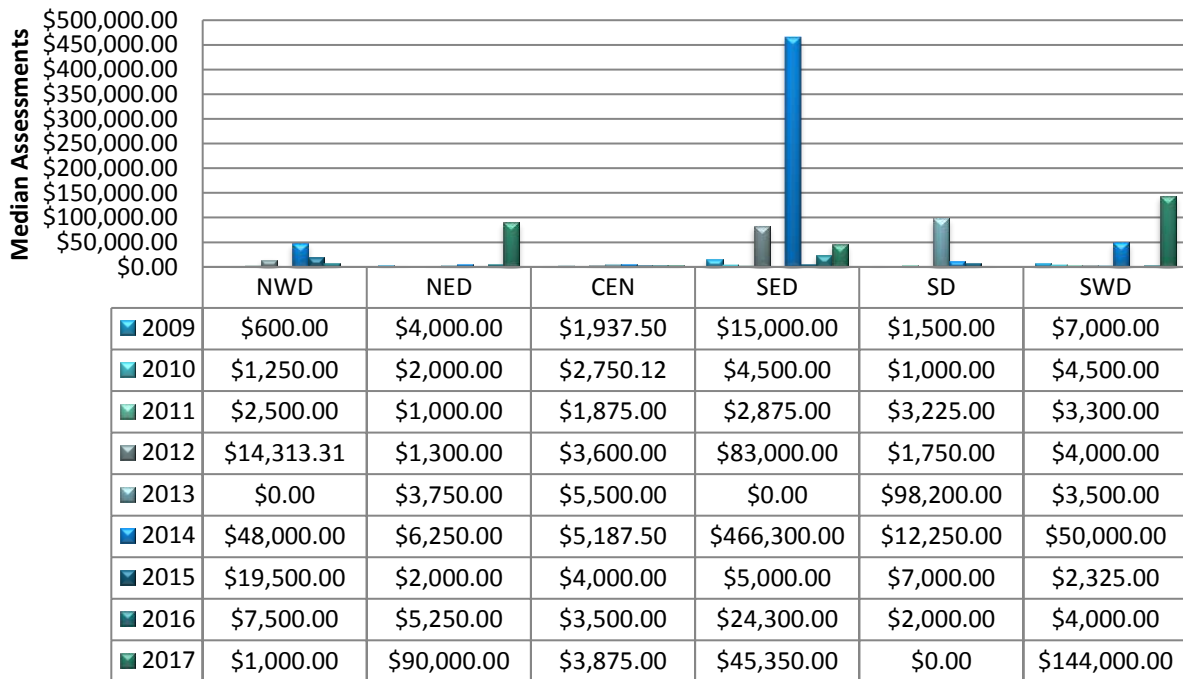
Year	Median Assessments—Domestic Waste
2009	\$2,275.00
2010	\$2,000.00
2011	\$3,000.00
2012	\$3,600.00
2013	\$5,250.00
2014	\$7,500.00
2015	\$3,000.00
2016	\$4,000.00
2017	\$8,850.00

The median in the Northwest District is based upon a total of 4 cases. The Northeast District only had 3. Consequently, the medians in those two districts are not terribly instructive in judging the overall program performance. The Central District, which had the most cases, actually increased its median by the smallest percentage of all of the districts that saw improvements. The medians for each district are shown below:



The historical trend for each district is shown below:

Domestic Waste Medians: 2009 -- 2017



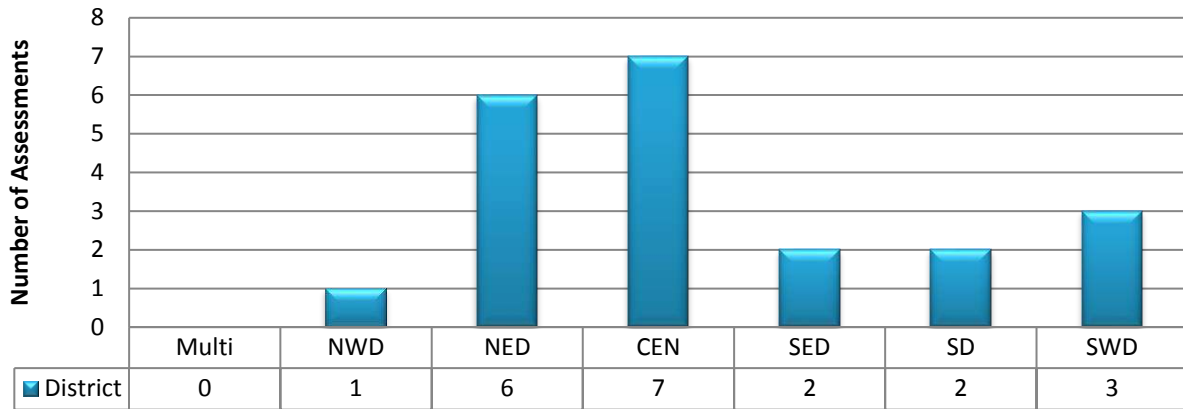
6. Hazardous Waste Program

The number of cases in which penalties were assessed in this important program fell 49% from 2016's results. This ends what had been a steady increase seen every year since 2013. The 21 assessments in 2017 also represents a 90% drop from the results in 2010:

Year	Number of Hazardous Waste Assessments
2009	198
2010	202
2011	125
2012	51
2013	14
2014	20
2015	34
2016	41
2017	21

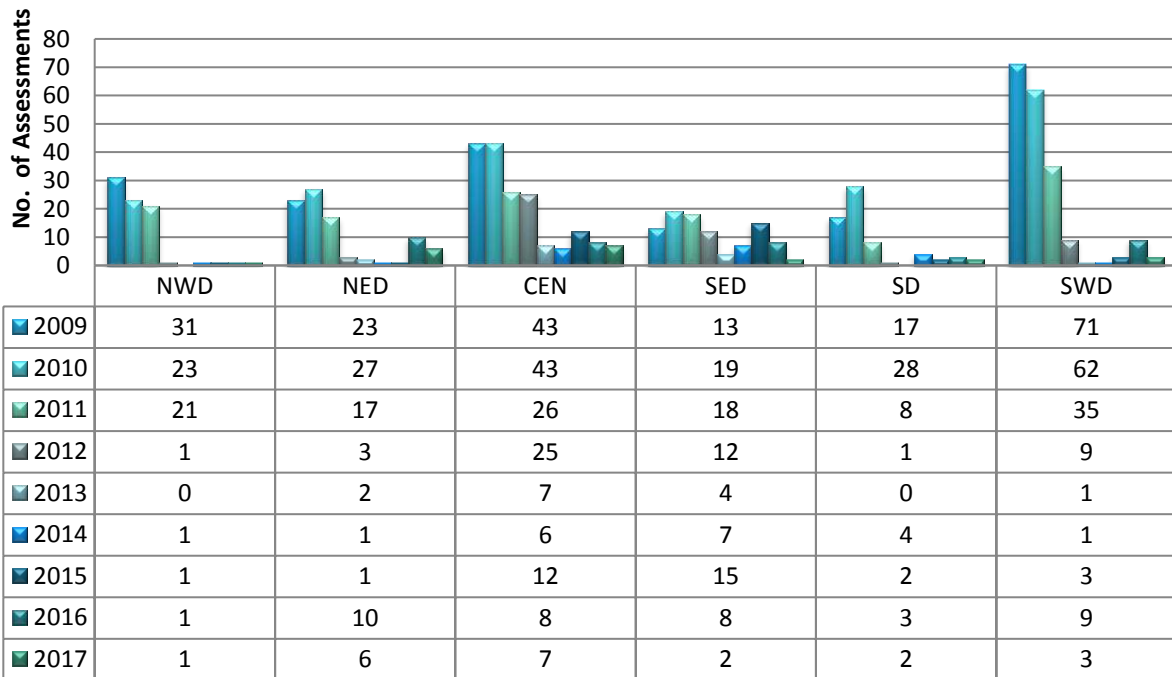
The number of assessments for each district in 2017 are shown below:

Number of Hazardous Waste Assessments By District--2017



The number of assessments fell in every district, with the sole exception being the Northwest District, which maintained its 2016 level by having 1 case for the year. **The Northwest District has now had a total of 4 assessments since January 1, 2012.** But, the largest decline was in the Southeast district, which fell 75% compared to 2016. The historical trends for all districts, excluding the Multi-District Category (which has only had 2 assessments over the same period) are shown in the following chart:

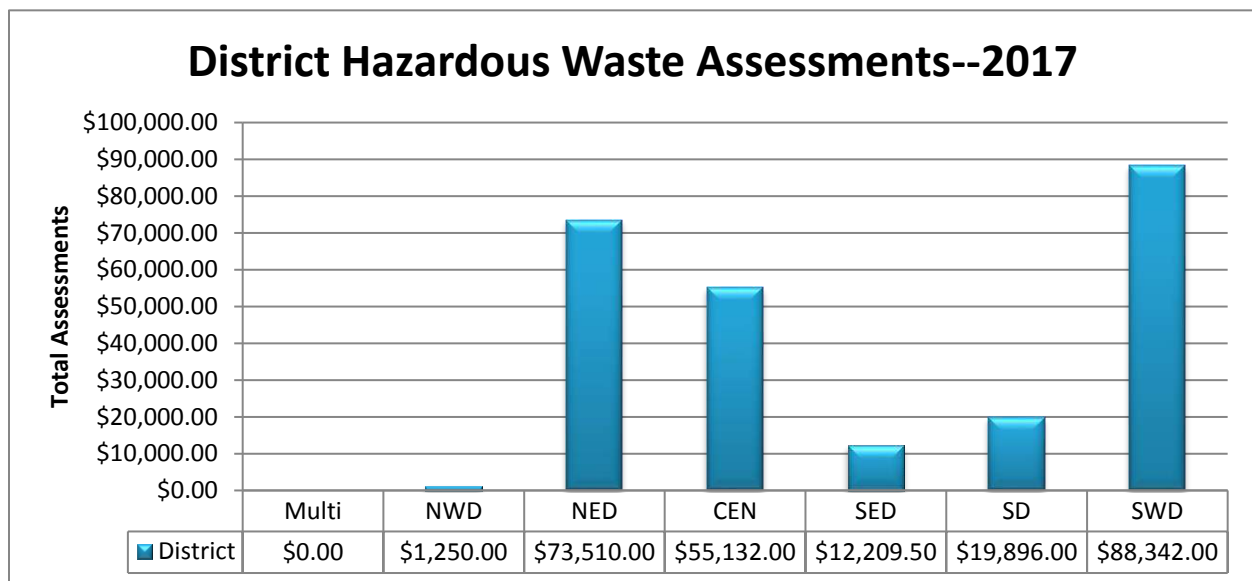
Number of Hazardous Waste Assessments: 2009 -- 2017



The dollar value of hazardous waste assessments also fell significantly in 2017. They were 92% lower than in 2016, and 91% lower than in 2010. **The \$250,339.50 that was assessed in 2017, was the second lowest result in the Department's history.** The results for the past 9 years are:

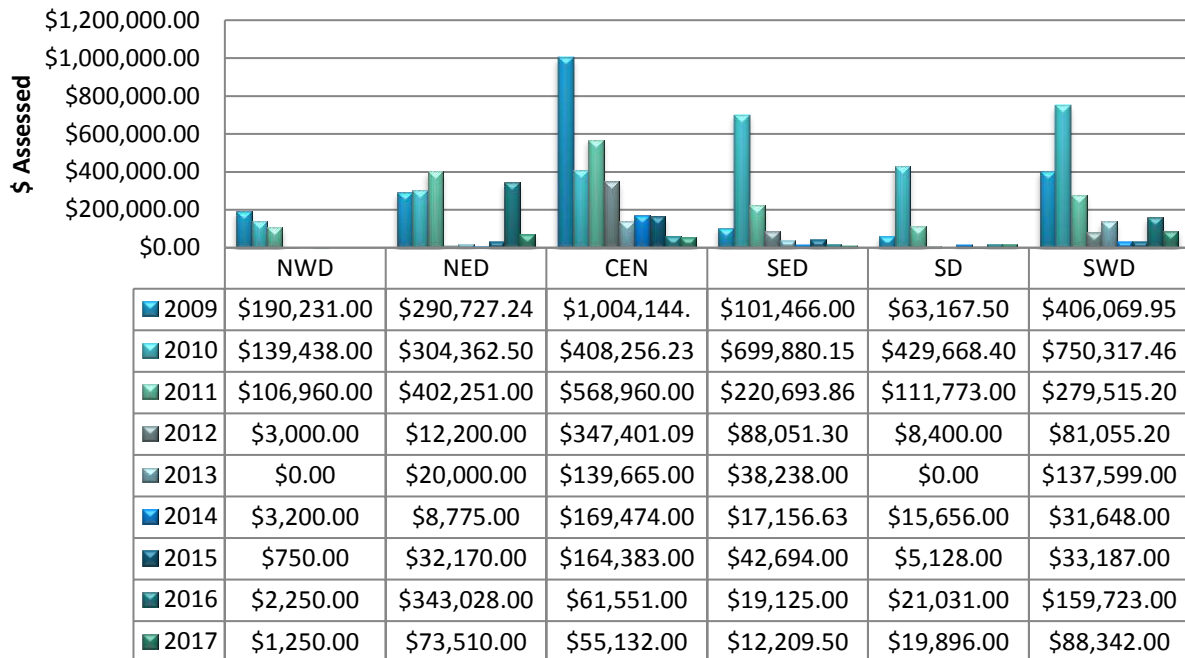
Year	Total Hazardous Waste Assessments
2009	\$2,055,805.69
2010	\$2,731,922.74
2011	\$1,690,153.06
2012	\$540,107.59
2013	\$137,599.00
2014	\$245,909.63
2015	\$278,312.00
2016	\$3,256,708.00
2017	\$250,339.50

The Department's assessments in 2017 were divided among the districts as follows:



None of the districts assessed more in penalties in 2017, than in the previous year. The largest decline was in the Northeast District, which fell 79%. The historical results for each of 6 districts is shown below:

Hazardous Waste Assessments: 2009 -- 2017

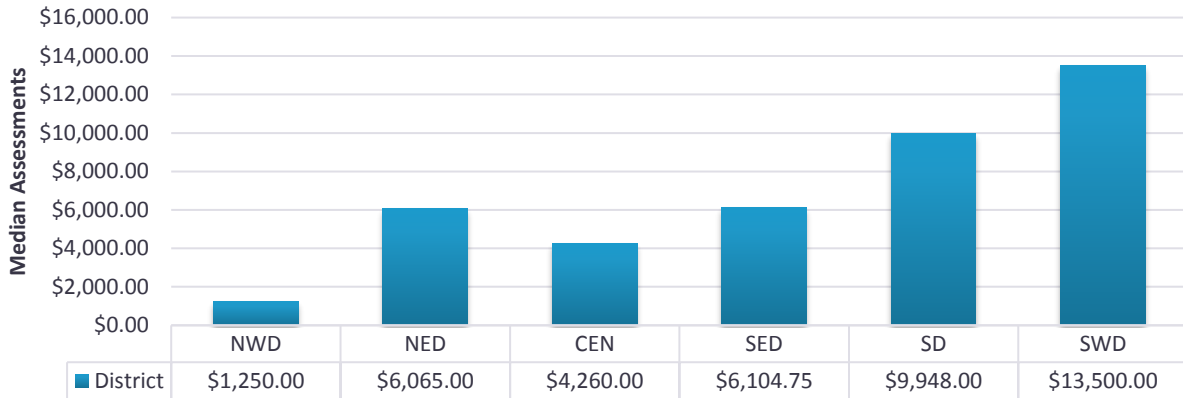


Median assessments for the Department as a whole fell 6% when compared with 2016:

Year	Median Hazardous Waste Assessments
2009	\$4178.25
2010	\$3868.50
2011	\$7,090.00
2012	\$4,104.00
2013	\$10,700.00
2014	\$4,250.00
2015	\$3,275.00
2016	\$6,500.00
2017	\$6,104.75

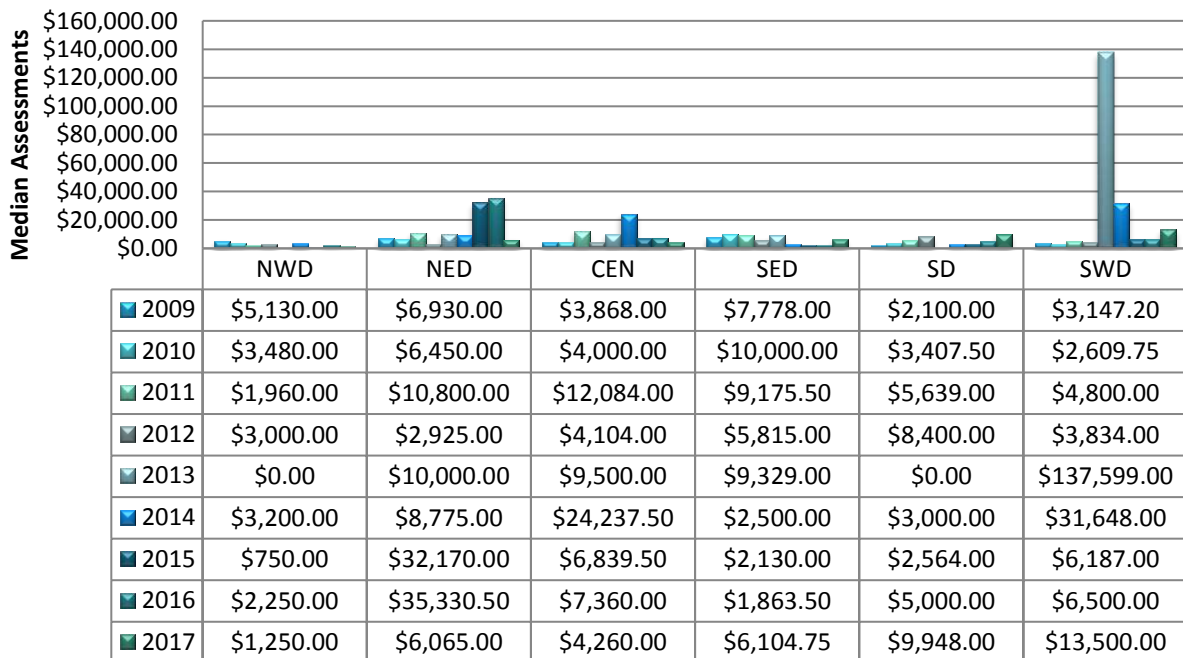
The median assessments for each of the districts in 2017 were:

Median Hazardous Waste Penalty, In-Kind & P2 Assessments By District--2017



The problem with this program's medians in 2017, is that in 4 districts the results are each based upon 3 or fewer assessments. Only the Northeast District (which had 6 assessments) and the Central District (which had 7 assessments) had more than 3 assessments. With that said, the results in the Northeast District are 83% lower than in 2016. The results in the Central District are 42% lower than in 2016. The overall trends are shown below:

Hazardous Waste Medians: 2009 -- 2017



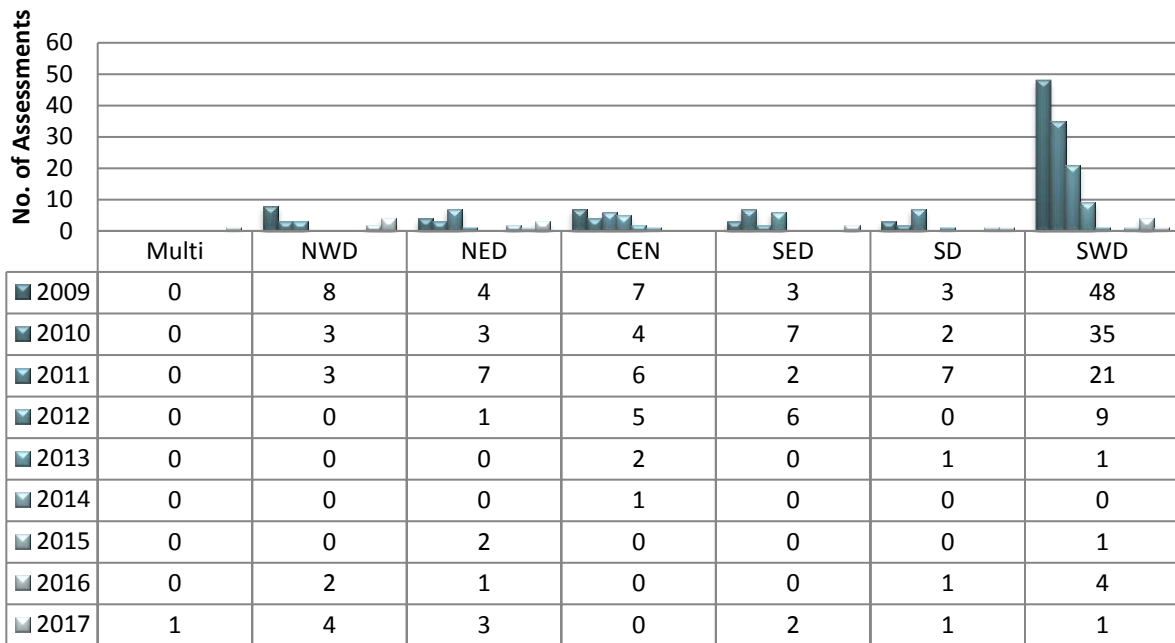
7. Industrial Waste Program

The industrial waste program has now seen three straight years of increasing assessments. There were 12 assessments in 2017, 8 in 2016, and 3 in 2015. As we pointed out last year, however, while the numbers are improving, the reality is that, even with the increase, this program is currently functioning at a level that is 78% lower than in 2010:

Year	Number of Industrial Waste Assessments
2009	73
2010	54
2011	46
2012	21
2013	4
2014	1
2015	3
2016	8
2017	12

The increased performance for the Department as a whole was the result of increases in the Southeast, Northwest and Northeast Districts. The Northeast District saw the greatest jump in its numbers, assessing penalties in 3 cases, compared with just 1 assessment in the previous year. The remaining districts saw no improvement at all. The Central District has failed to assess any penalties since the end of 2014. The Southwest District only had 1 assessment in 2017, compared with 4 in the previous year. The historical results for the districts are shown below:

Number of Industrial Waste Assessments: 2009 -- 2017

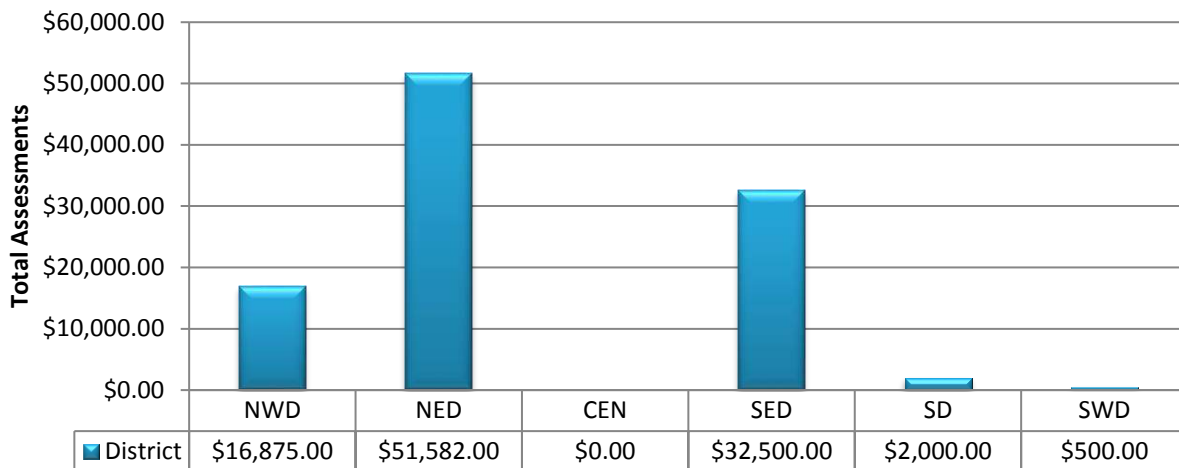


The dollar value of assessments in this program jumped 366% in 2017, when compared to 2016. Total assessments were \$144,457.00. This is a trend that began in 2015 and has steadily improved to the point that the results in 2017 were just 25% lower than they were in 2010:

Year	Total Industrial Waste Assessments
2009	\$915,380.60
2010	\$192,352.98
2011	\$202,145.45
2012	\$43,700.08
2013	\$13,687.50
2014	\$9,500.00
2015	\$10,500.00
2016	\$31,000.00
2017	\$144,457.00

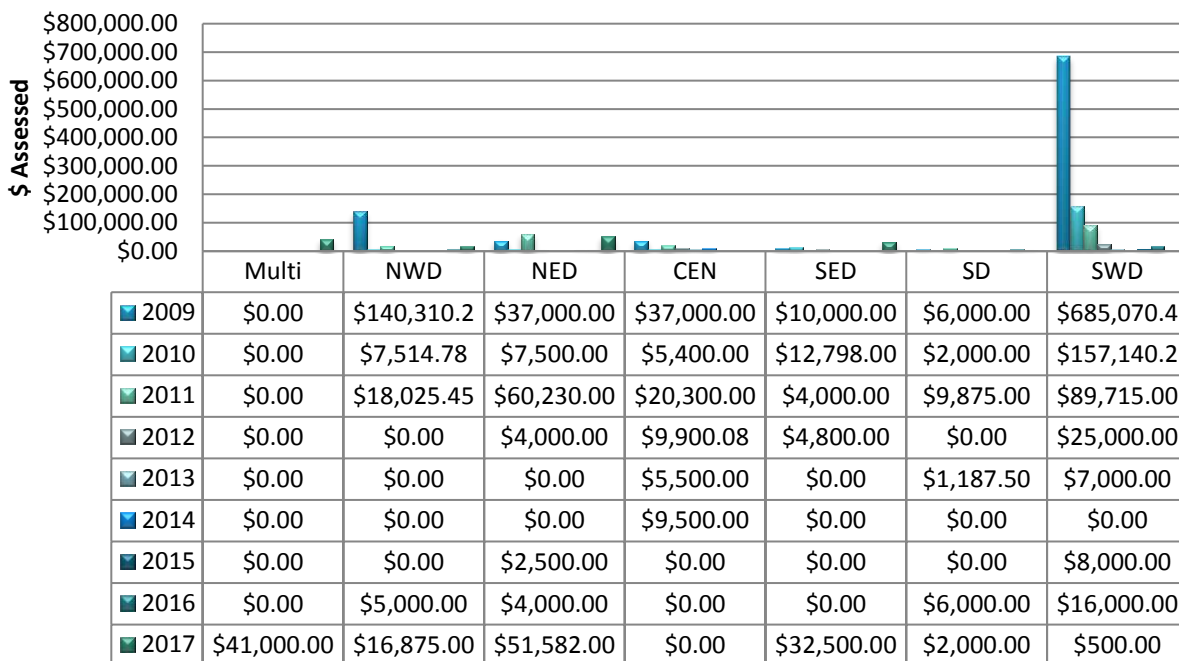
In 2017 the districts assessed penalties in this program as follows:

District Industrial Waste Assessments--2017



Increases in assessments were seen in the Northwest, Northeast, and Southeast Districts:

Industrial Waste Assessments: 2009 -- 2017

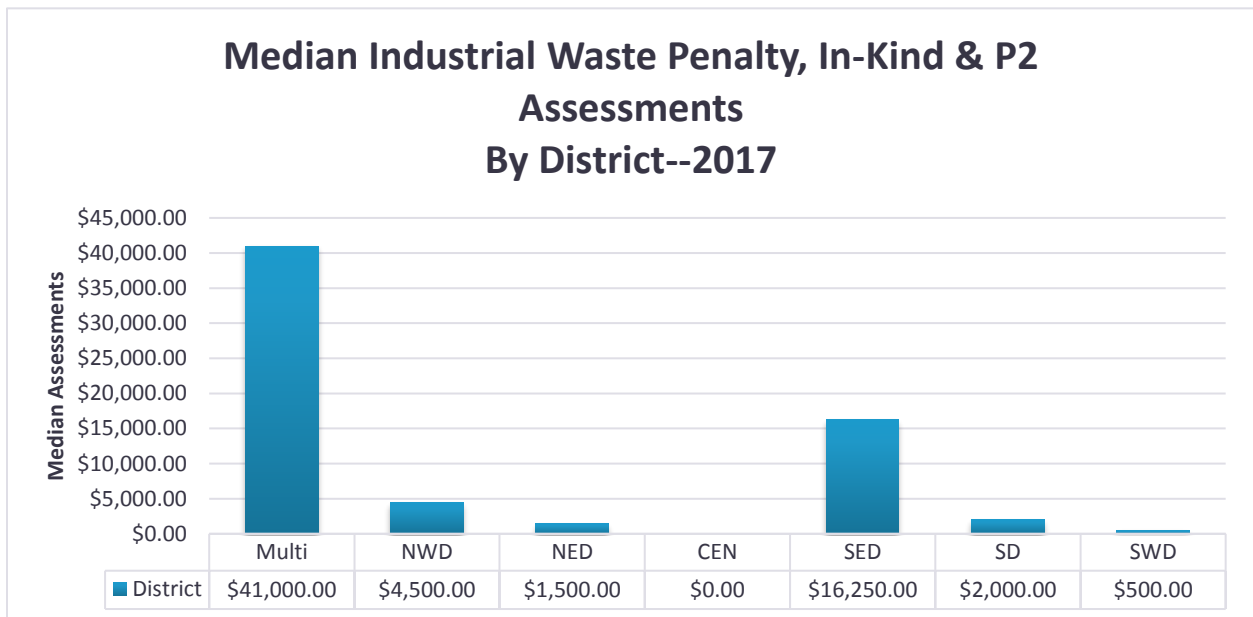


The high level of assessments in the Northeast District was largely due to one assessment against the *Pilgram's Pride Corporation* (OGC #161437), That assessment was in the amount of \$49,082.00, and was the largest assessment in the program.

Median penalties rose 29% in 2017 to a new level of \$4,500.00. This level is also 74% higher than the medians seen in 2010:

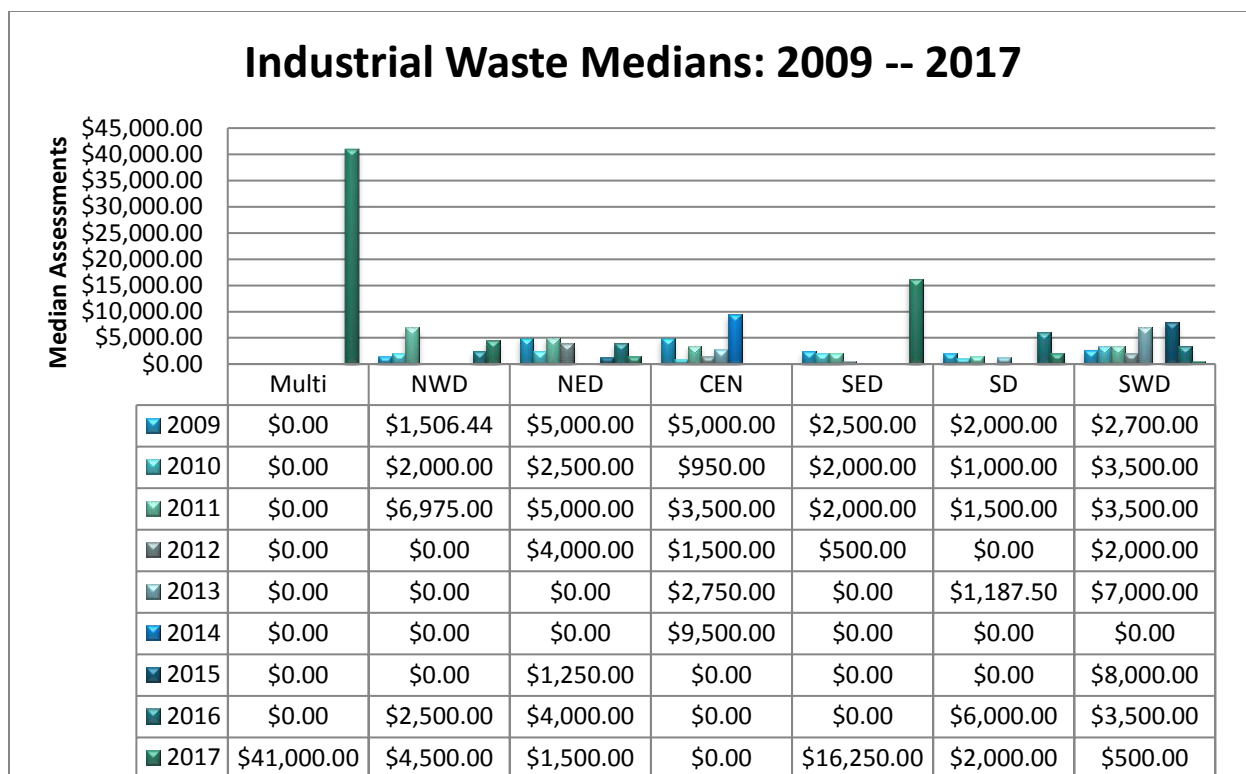
Year	Median Industrial Waste Assessments
2009	\$2,400.00
2010	\$2,590.10
2011	\$2,500.00
2012	\$1,500.00
2013	\$2,750.00
2014	\$9,500.00
2015	\$2,000.00
2016	\$3,500.00
2017	\$4,500.00

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



The reason for the high median in the Southeast District is due to there being only 2 assessments in that district in 2017. Actually, the two assessments arose out of the same case against the *Florida Power & Light Company* in OGC case number 170116.

Medians rose in the Northwest and Southeast Districts. They fell in every other district in 2017:



8. Mangrove Alteration Program

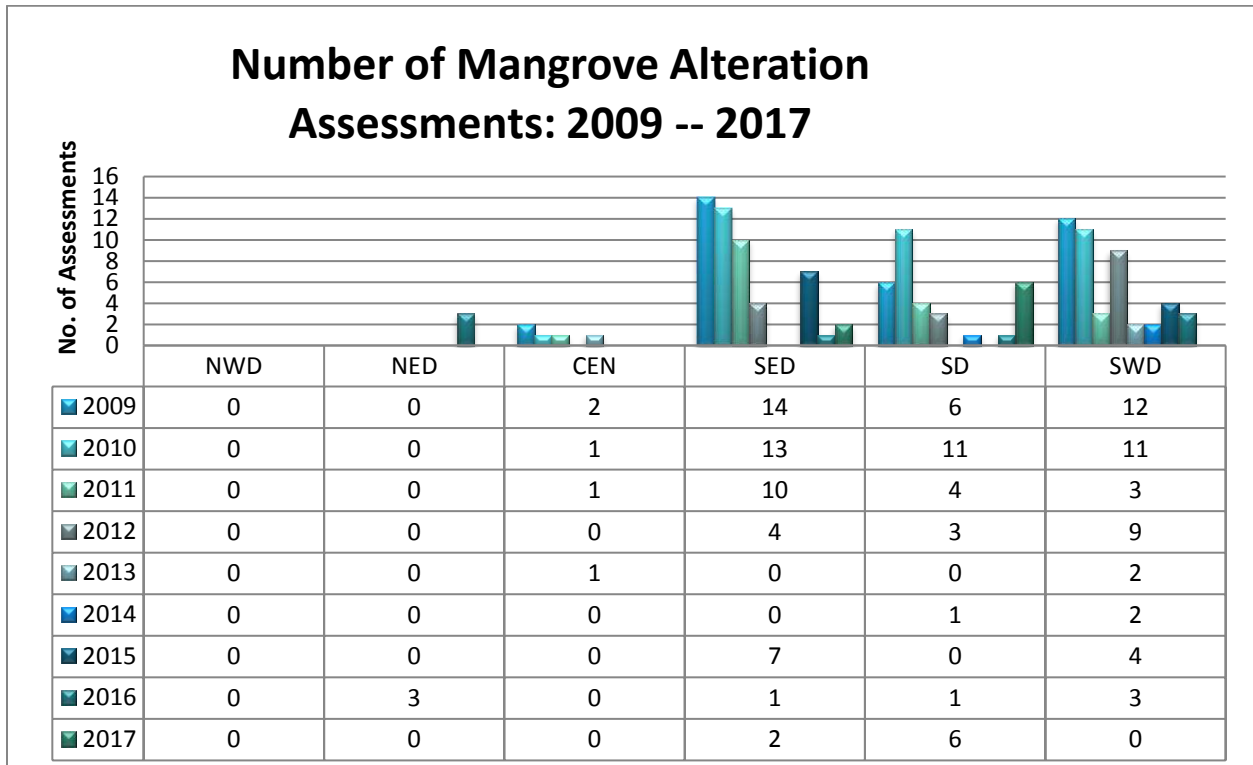
[According to the Department](#), “[m]angroves are important for many reasons, and mangrove trimming is regulated under Section 403.9321-403.9334, (F.S.) ‘Mangrove Act’. Mangroves serve as a key ecological component in several ecosystems, including serving as a nursery for many game and sport fisheries.” The Department [has delegated some of its administrative responsibilities](#) for this program to a handful of local governments. The program itself is one that has long been the bane of developers because of the impediments to construction that it poses.

As indicated below, there has been a modest improvement in the program’s performance over the past couple of years. In 2017, the performance remained stable. The Department’s efforts to protect mangroves over the years by means of enforcement of this program may be seen in the following table:

Year	Total Number of Mangrove Alteration Assessments
2009	34
2010	36
2011	18
2012	16
2013	3

2014	3
2015	11
2016	8
2017	8

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



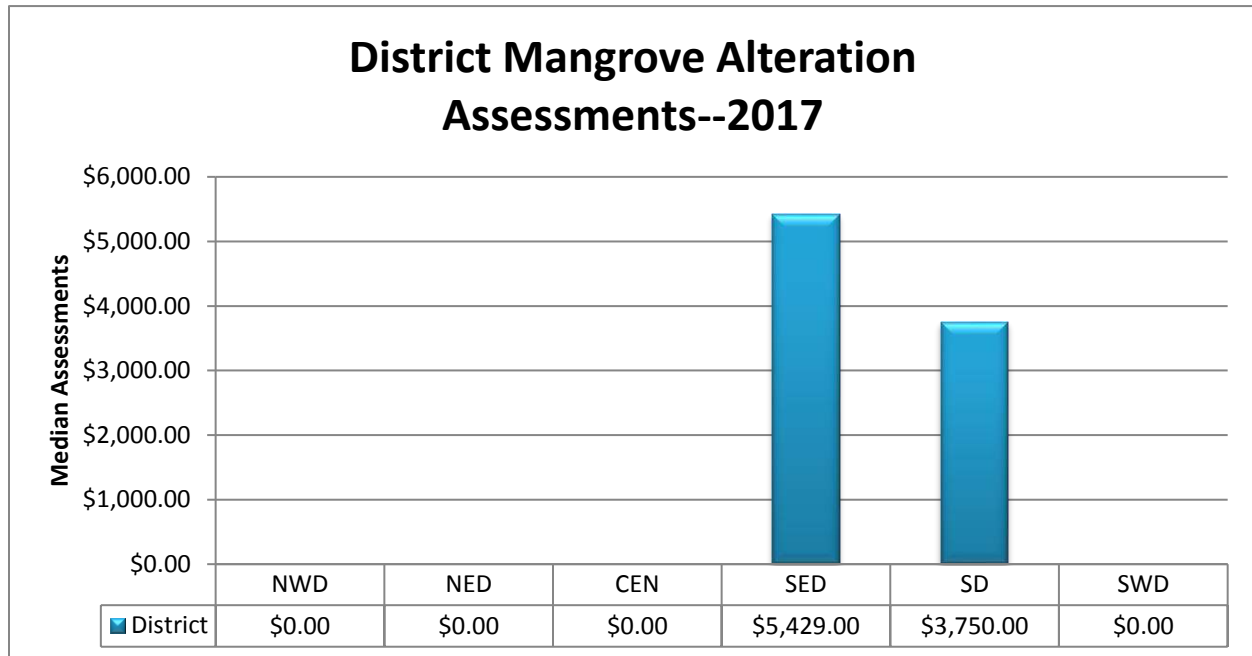
Although the number of cases brought by the Department remained steady, the dollar value of the assessments was cut in half. Yet, the performance was still better than the low point of 2013 in which there were only 3 assessments and little more than a third of the dollars assessed compared to 2017. While there has been a modest improvement in the numbers, the program is still far removed from the levels that it enjoyed 7 years ago:

Year	Total Mangrove Alteration Assessments
2009	\$97,030.00
2010	\$128,711.00
2011	\$147,216.00
2012	\$74,460.00
2013	\$3,330.00
2014	\$12,850.00
2015	\$30,973.18
2016	\$18,250.00

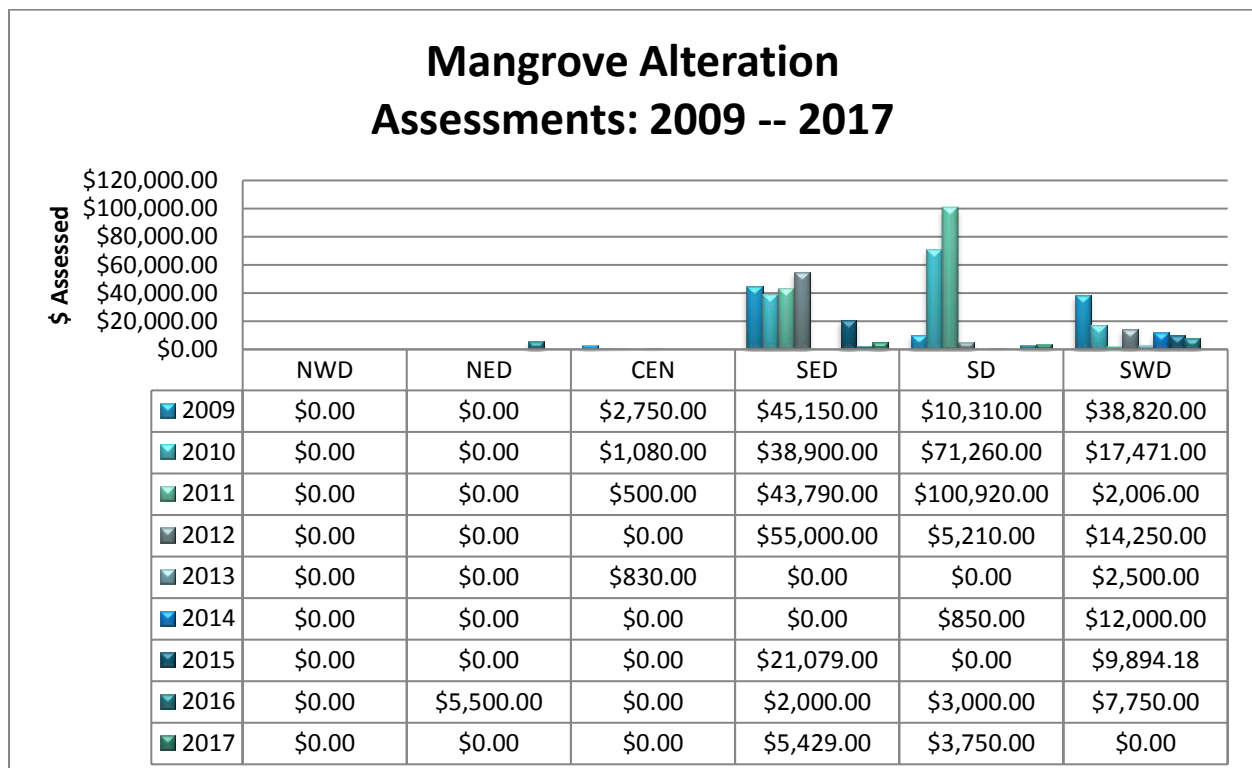
2017

\$9,179.00

In 2017, enforcement was distributed among the districts as follows:



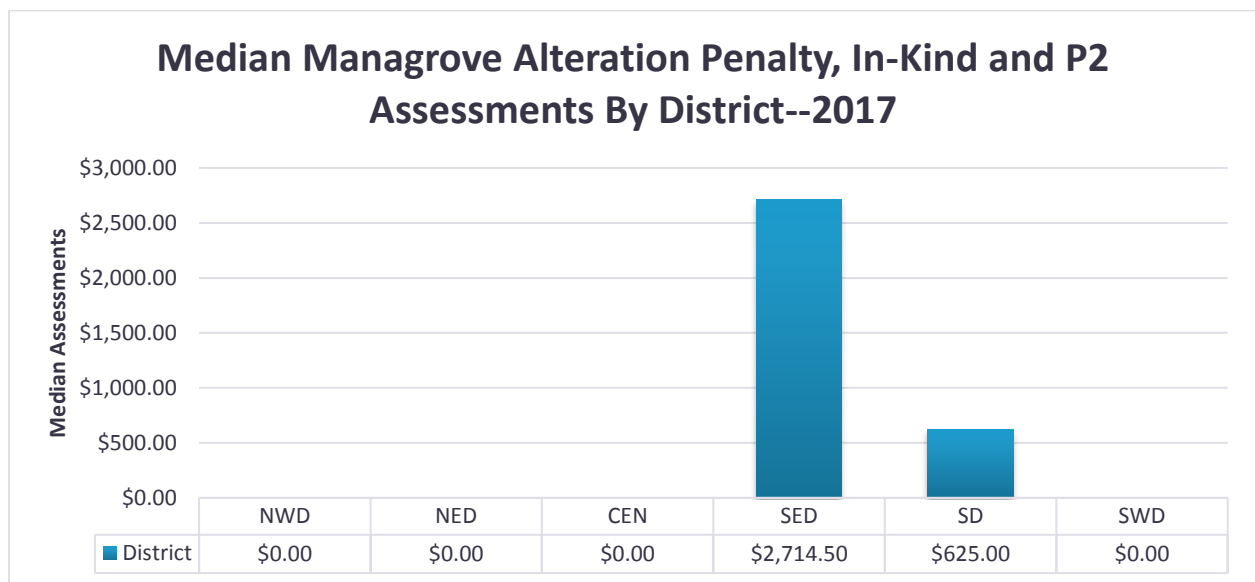
Although the Southeast and South Districts improved upon their 2016 performance, in general, the decline in enforcement has been across the board among the districts:



Median assessments over the years have generally been high, indicating the importance that Florida has placed upon maintaining these plants. However, any recent improvements that we saw in the medians were wiped out in 2017, which returned to the levels that we saw in 2011 and 2013:

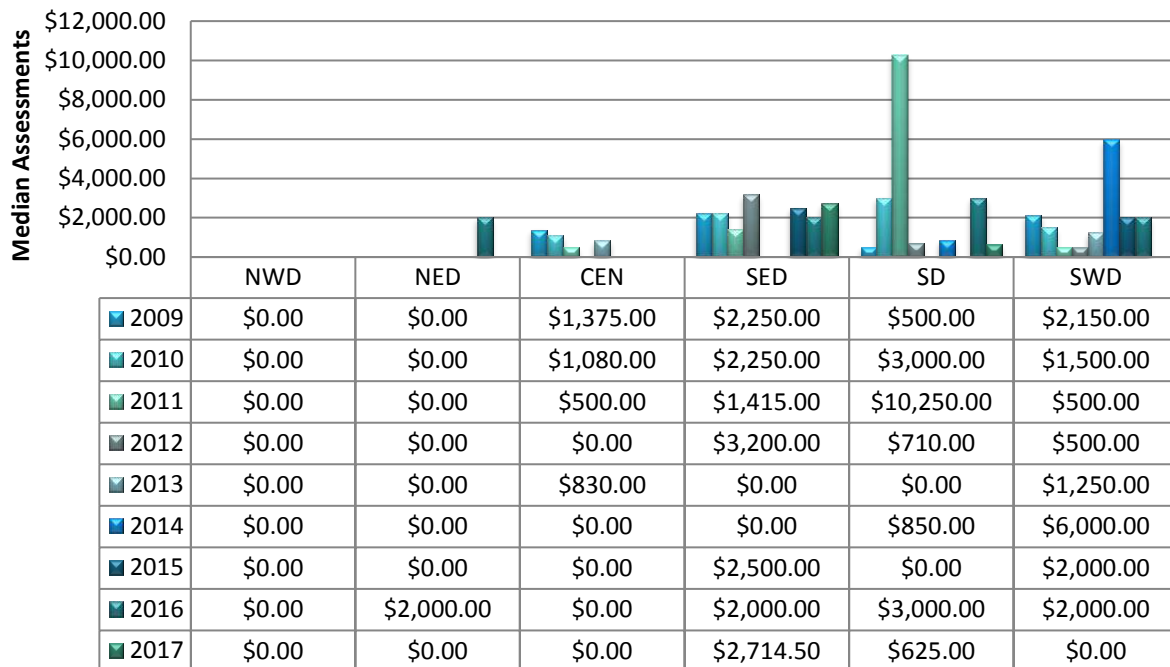
Year	Median Mangrove Alteration Assessments
2009	\$2,125.00
2010	\$1,710.00
2011	\$830.00
2012	\$1,000.00
2013	\$830.00
2014	\$2,000.00
2015	\$2,480.00
2016	\$1,500.00
2017	\$830.00

The district results for 2017 are:



There continues to be no discernable trend in the districts. The Southeast and Southwest Districts had remained fairly stable over the years, until 2017, when the Southwest District had no cases at all:

Mangrove Alteration Medians: 2009 -- 2017



9. Mining & Phosphogypsum Program

This is a program that administers the reclamation and wetland resource permitting programs, including mines, oil & gas, dams and phosphogypsum stack systems. It is a program that has historically never seen tremendous levels of enforcement. In fact, the most assessments in any given year is 18 and that was in 2005. Assessments have continued to decline since that time, to the point that there were no assessments in 2017. Given the fact that there has now been no activity in this area for two years in a row, we will only show the recent histories of the program. Therefore, the recent history for the number of assessments, the dollar value of those assessments, and the median assessments is shown below:

Year	Total Number of Mining & PG Assessments
2009	5
2010	3
2011	3
2012	1
2013	1
2014	1
2015	2
2016	0
2017	0

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

Year	Total \$ Assessed
2009	\$73,669.00
2010	\$17,200.00
2011	\$14,000.00
2012	\$2,000.00
2013	\$5,000.00
2014	\$10,000.00
2015	\$8,500.00
2016	\$0.00
2017	\$0.00

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

Year	Median Mining & PG Assessments
2009	\$5,000.00
2010	\$5,000.00
2011	\$3,000.00
2012	\$2,000.00
2013	\$5,000.00
2014	\$10,000.00
2015	\$4,250.00
2016	\$0.00
2017	\$0.00

10. Potable Water Program

The provision of clean potable water and the administration of the potable water program, both at the federal and state levels, continues to be of significant concern in this country. As was noted in a report by the National Resources Defense Council, and [reported](#) in the *Tampa Bay Times*, the water quality in Florida's schools is among the worst in the United States, particularly due to lead contamination. In Florida, the Department's potable water program administers the federal Safe Drinking Water Act and, in turn, oversees the provision of drinking water to Florida's families, businesses, schools, daycare centers etc. [The FDEP describes its responsibility on its website:](#)

“The Drinking Water Section located in the DEP headquarters in Tallahassee is responsible for writing rules, developing policy, managing funds, providing training and data

management, and managing special initiatives. Enforcement of rules and permitting new construction is handled by six district offices. In eight Florida counties, the department has delegated enforcement and permitting authority to local approved county health departments. Laboratory certification is the responsibility of the Department of Health Laboratory in Jacksonville.”

A public water system is one that provides water to 25 or more people for at least 60 days each year or serves 15 or more service connections. These public water systems may be publicly or privately owned and operated.”¹⁸

[According to its 2017 report to the Governor](#) (Page 7), “As of June 22, 2017, there were 5,216 active public water systems in Florida: 1,628 CWSs; 768 NTNCs; and 2,820 transient, non-community water systems (TNCs). The Department conducts activities to assist all of Florida’s public water systems in complying with rules and regulations. These activities include water system inspections, technical assistance by both the Department and the FRWA, and the EPA Region 4 Area-Wide Optimization Program.” The Department is more directly involved in public water systems. The Department’s website [notes](#) that public water systems are defined as those that provide “. . . water to 25 or more people for at least 60 days each year or serves 15 or more service connections. These public water systems may be publicly or privately owned and operated.”

The Department submits an annual report to the EPA assessing the status of its drinking water program. The latest available report is from 2015. The report provides the EPA with an overview of all regulated drinking water systems in Florida. While it remains ultimately responsible, the FDEP has for years delegated much of its administrative responsibilities to a few counties in Florida, particularly in South Florida. The drinking water program in the counties is, in turn, run in conjunction with the Florida, Department of Health (FDOH).

We described the findings in our report last year, but will restate them herein. The annual report submitted by the FDEP to the EPA contains data that is derived from all of these systems, not just those that are directly overseen by the FDEP. The annual report submitted by the FDEP in 2016 (for calendar year 2015) shows that there at that time there were a total of 5,275 public water systems in Florida and that 702 of them had at least one violation.¹⁹ The Department claims that there were a total of 1,839 violations in that year. (See, report, page 13) 2015’s report claimed that there were 1842 violations in that year. Of the 1839 violations in 2016, 153 (8%) were violations of maximum contaminate levels (MCLs). These are violations for things such as total coliform, organic and inorganic compounds, radionuclides and disinfection byproducts. (The 153 MCL violations represent a drop from the 295 MCL violations in 2015.) The remaining violations were monitoring and reporting (MNR) violations. During this same period, according to the FDEP’s own enforcement records, the Department had a total of 3 cases

¹⁸ <http://www.dep.state.fl.us/water/drinkingwater/index.htm>

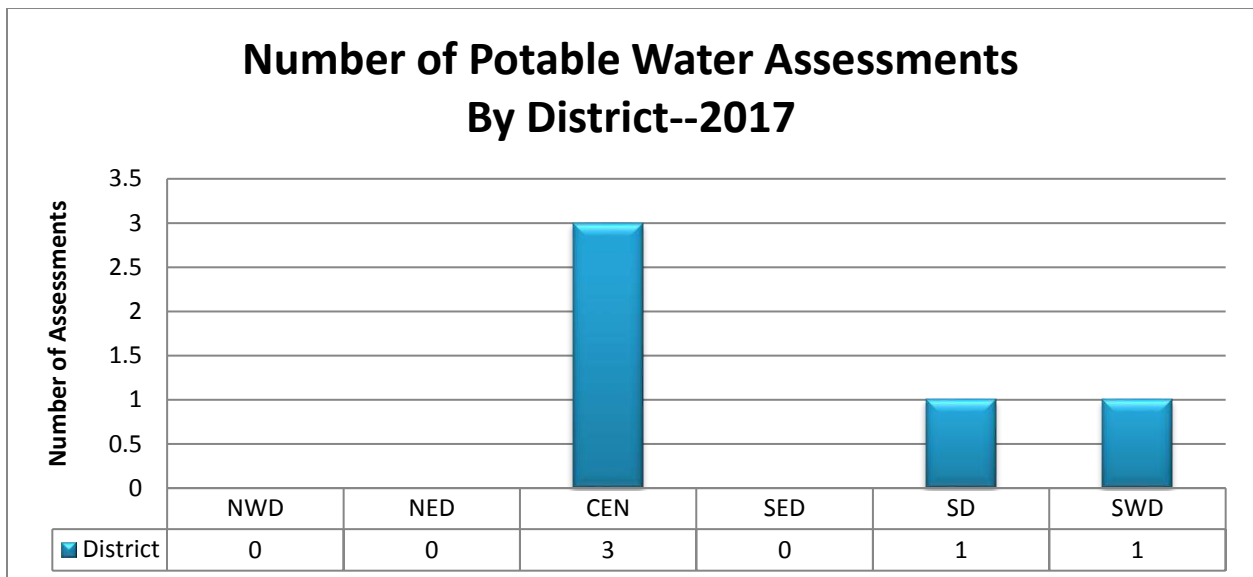
¹⁹ <https://floridadep.gov/sites/default/files/2015-ACR-Florida.pdf>

in the entire state of Florida. It is unknown exactly how many additional cases were initiated in the counties.

Notwithstanding the critical role that this program plays, there were only 5 assessments statewide in 2017. The number of potable water assessments may have risen by two cases in 2017, but overall it has declined steadily since 2010 to a point that it is all but nonexistent in Florida:

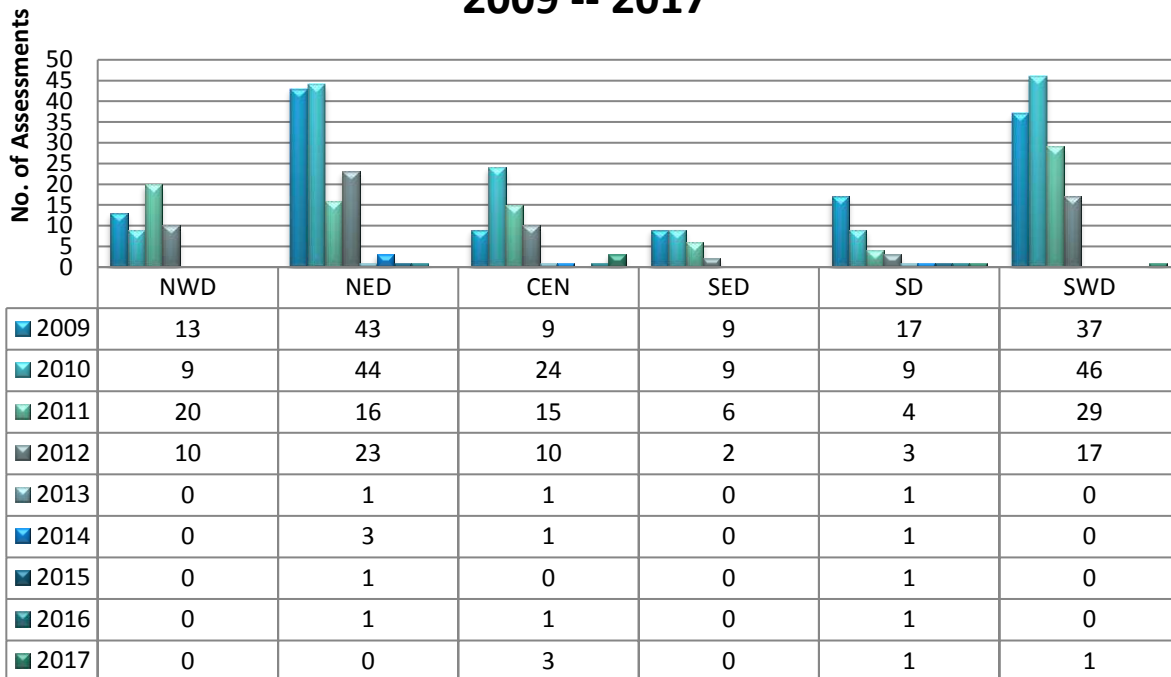
Year	Number of Assessments
2009	128
2010	141
2011	90
2012	65
2013	3
2014	5
2015	2
2016	3
2017	5

The number of potable water assessments in 2017 were distributed as follows:



To the extent that there was any improvement in 2017 it came in the Central and Southwest Districts which combined to generate 3 additional assessments. Otherwise, performance was flat across the board. The historical performance looks like this:

Number of Potable Water Assessments: 2009 -- 2017



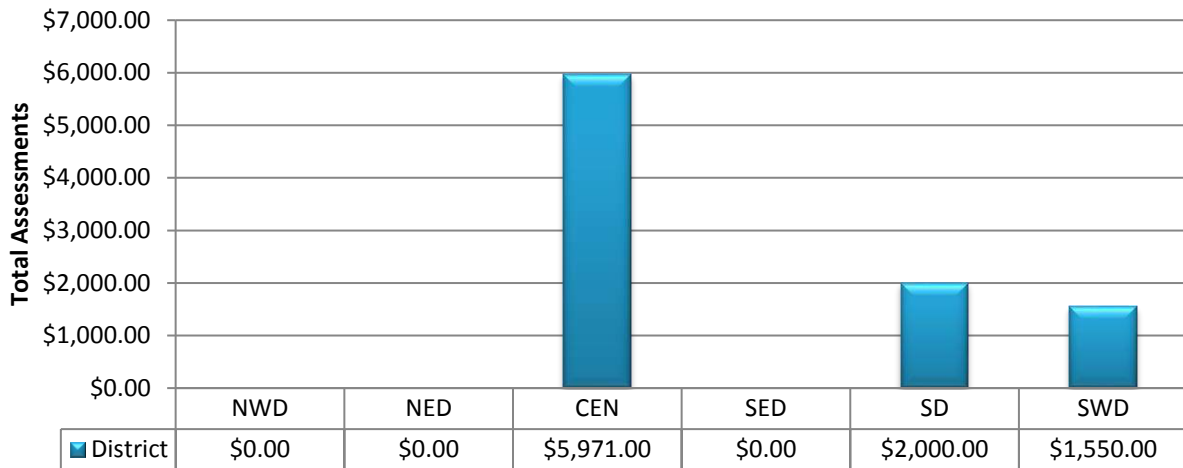
There continues to be a clear decline in the number of assessments in every district since 2011. **It should also be noted that there have been no assessments in the Northwest District since 2012.** There were none in the Northeast District in 2017, and only 6 since 2012. These two districts serve geographic areas that have no support from delegated local programs, i.e. none of the counties served by these two districts have delegated authority from the FDEP to administer the potable water program.

The increase in the number of assessments did result in an increase in the overall dollar value of statewide assessments. The results in 2017 are 94% better than those in the previous year. Yet, the current level is still 96% lower than in 2010:

Year	Total Potable Water Assessments
2009	\$233,762.16
2010	\$249,554.51
2011	\$149,936.75
2012	\$94,397.50
2013	\$32,100.00
2014	\$32,000.00
2015	\$12,000.00
2016	\$4,900.00
2017	\$9,521.00

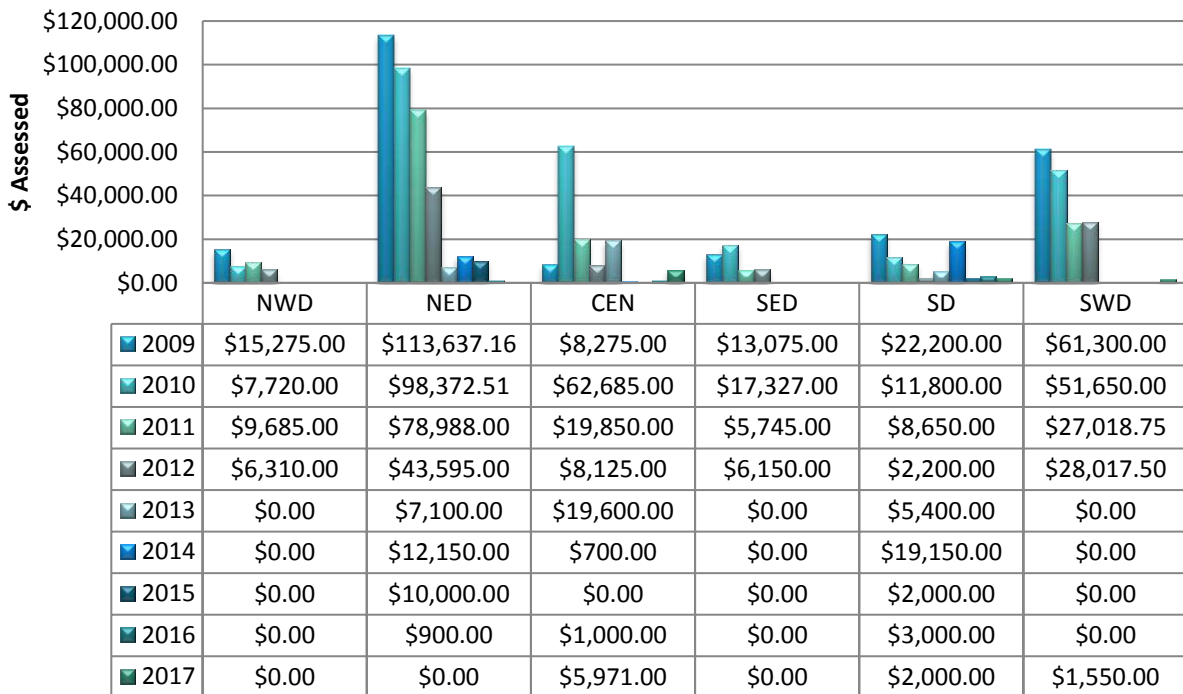
The fines were distributed amongst the districts in 2017 as follows:

District Potable Water Assessments--2017



As with the number of assessments, the only increases in dollar assessments came in the Central and Southwest Districts. The results in the Central District are 497% better than in 2016. Nevertheless, the performance in none of the districts could be described as stellar, particularly when compared to the performance in previous years up to 2013:

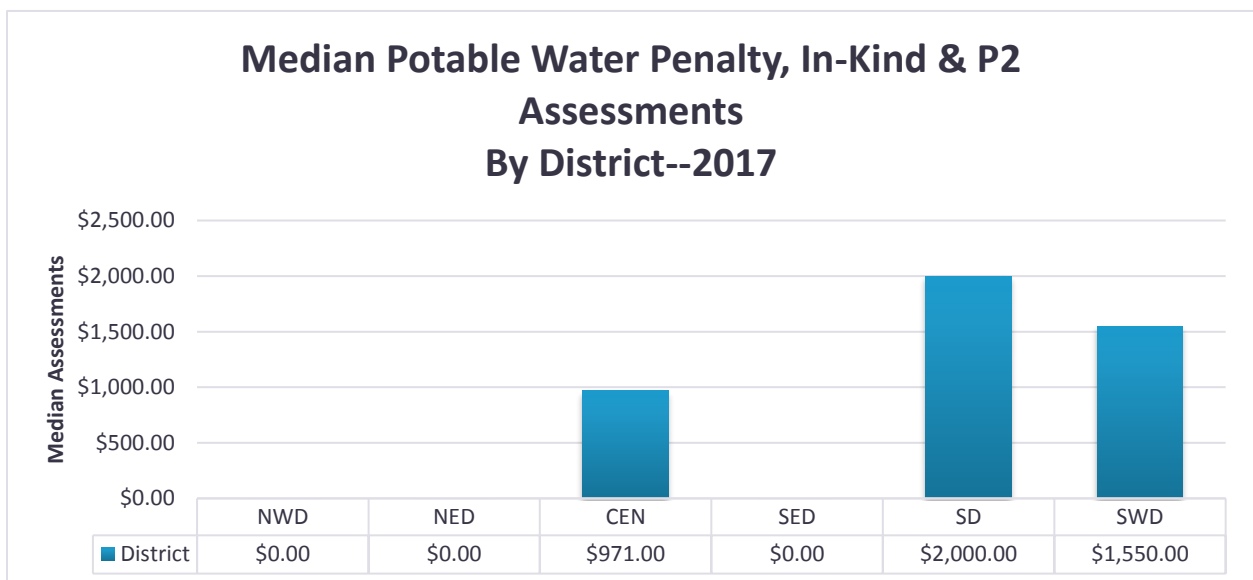
Potable Water Assessments: 2009 -- 2017



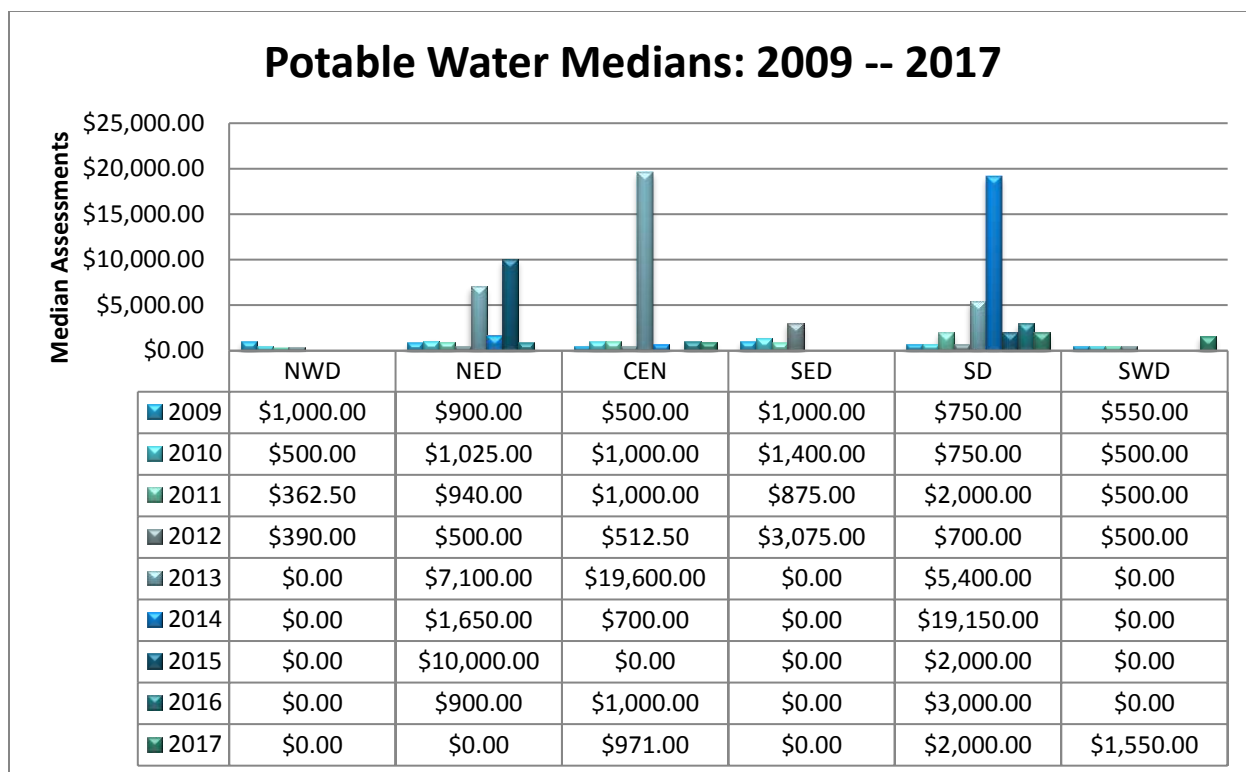
There are so few assessments in this program that the comparison of median assessments is almost meaningless. Nevertheless, median assessments for the 5 cases did rise 55% in 2017:

Year	Median Potable Water Assessments
2009	\$750.00
2010	\$875.00
2011	\$537.50
2012	\$500.00
2013	\$7,100.00
2014	\$1,650.00
2015	\$6,000.00
2016	\$1,000.00
2017	\$1,550.00

A comparison of the medians for the districts in 2017 is shown below:



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



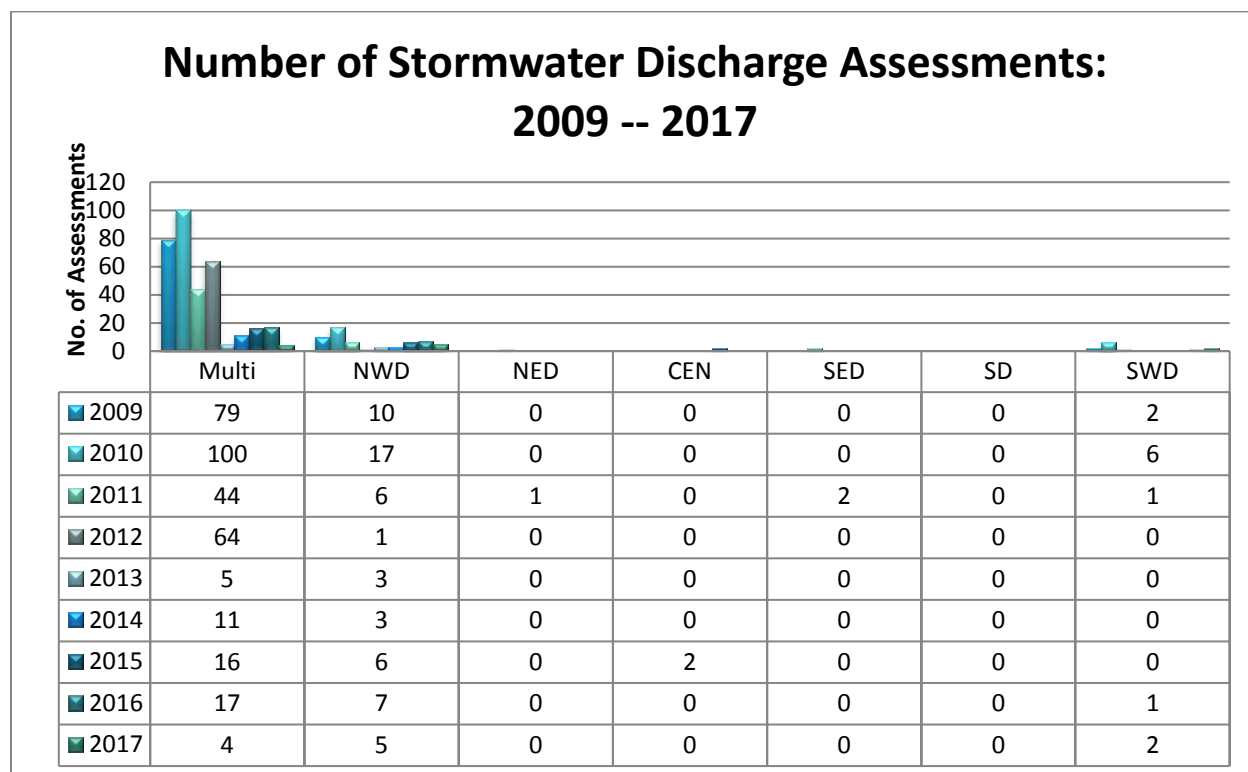
11. Stormwater Discharge Program

The stormwater discharge program continues to be mostly administered out of Tallahassee and to a lesser extent out of the districts. The program oversees the design and operation of stormwater discharge ponds/systems throughout Florida. These systems collect and treat stormwater that is generated by large residential and commercial complexes throughout the state. The state's rapid growth means that this program (and its enforcement) will continue to be vital to Florida's environmental health.

The number of assessments fell 56% in 2017. The current levels are 91% lower than those in 2010, immediately before this administration took over:

Year	Number of Assessments
2009	91
2010	123
2011	54
2012	65
2013	8
2014	14
2015	24
2016	25
2017	11

For the first time since 2009, the Southwest District increased its number of assessments (from 1 to 2). Otherwise, the results were uniformly worse than in 2016:

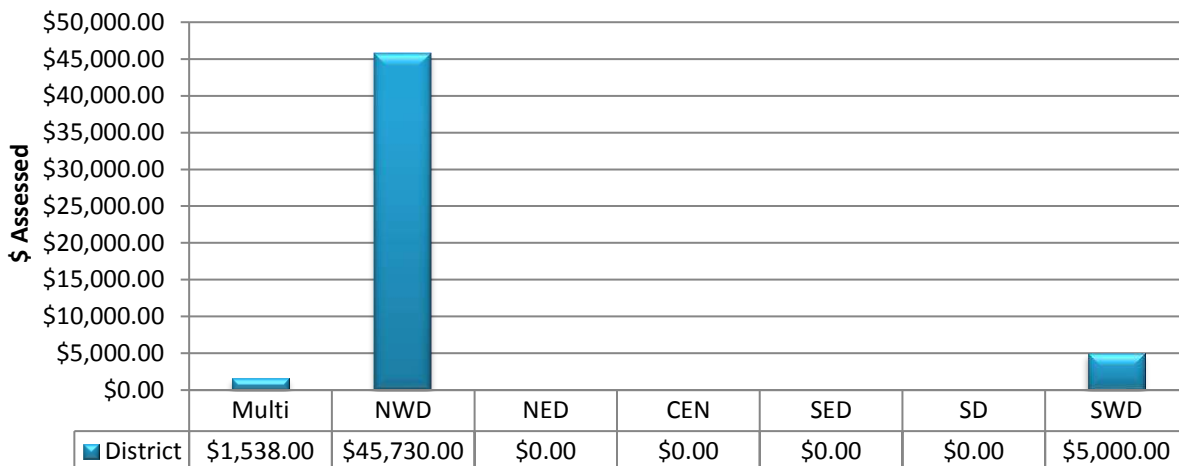


The dollar value of the assessments that were imposed also fell in 2017. The current performance is 6% weaker than in 2016, and 98% below that in 2010:

Year	Total Stormwater Discharge Assessments
2009	\$169,737.75
2010	\$2,503,620.00
2011	\$182,953.02
2012	\$181,647.25
2013	\$22,209.25
2014	\$31,992.00
2015	\$66,972.00
2016	\$55,711.50
2017	\$52,268.00

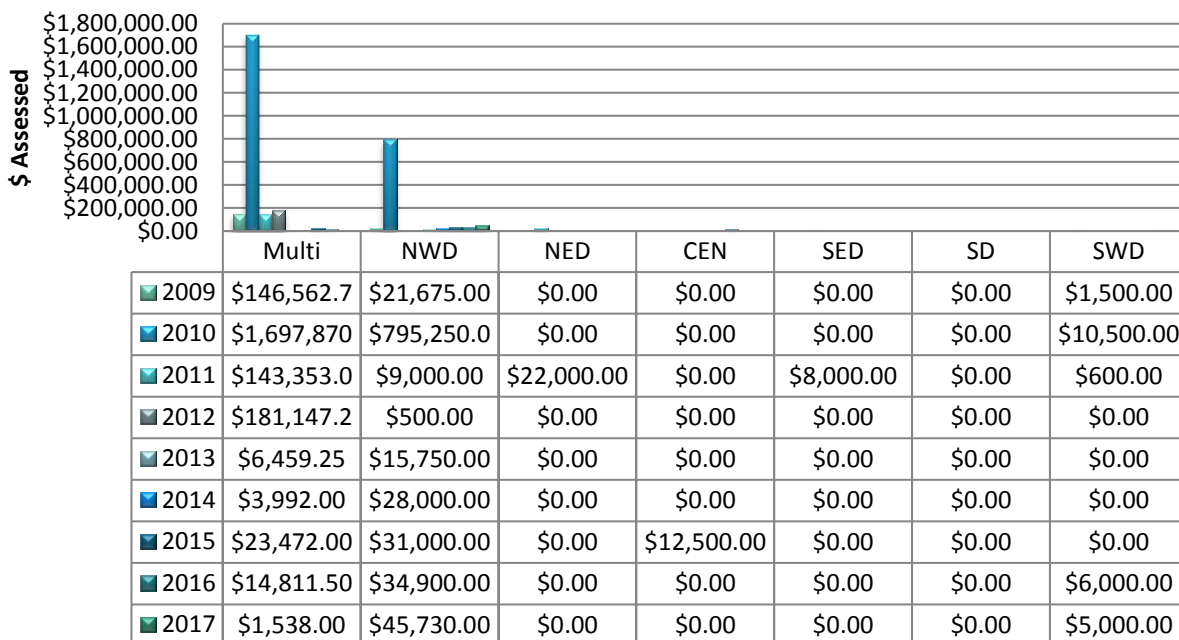
These penalties were assessed across the state accordingly:

District Stormwater Assessments--2017



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

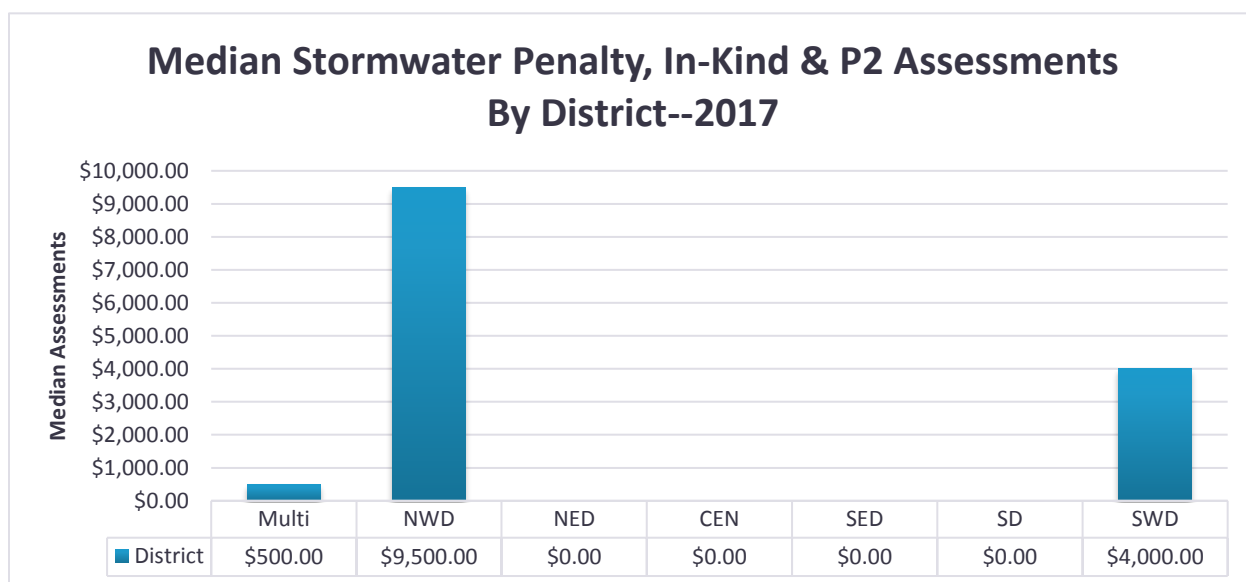
Stormwater Discharge Assessments: 2009 -- 2017



Median assessments did rise significantly in 2017. They are now 914% higher than those in 2016, and 7% higher than those in 2010:

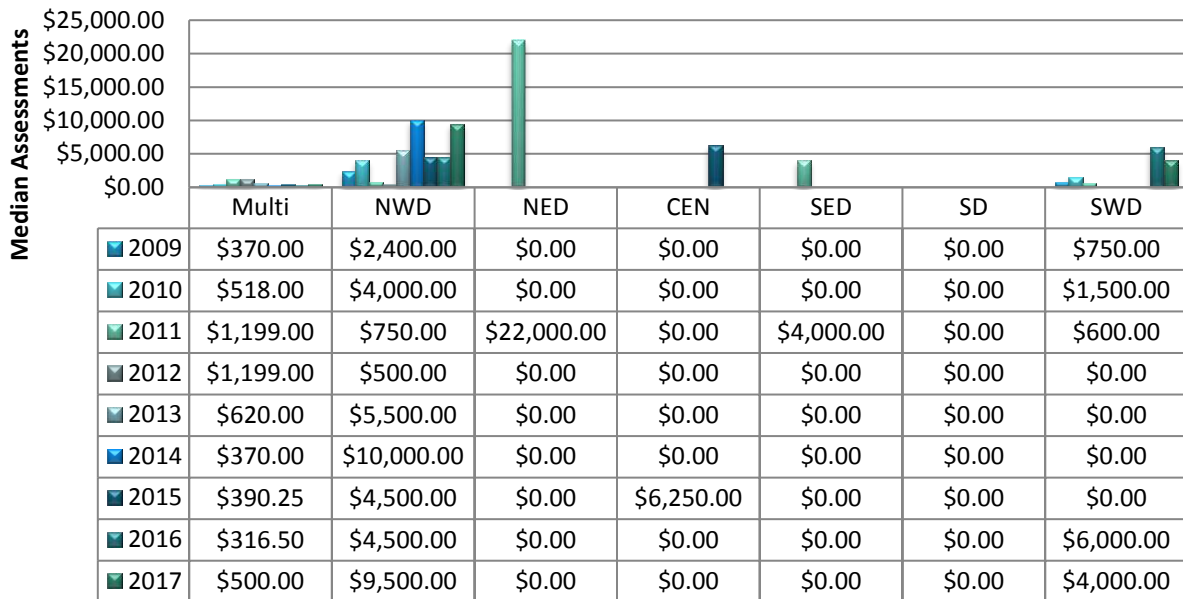
Year	Median Stormwater Discharge Assessments
2009	\$500.00
2010	\$3,500.00
2011	\$1,199.00
2012	\$1,199.00
2013	\$1,250.00
2014	\$370.00
2015	\$518.00
2016	\$370.00
2017	\$3,750.00

Medians were highest in the Northwest District:



While medians fell 33% in the Southwest District (a result based upon only 2 assessments), they increased 58% in the Multi-District category, and 111% in the Northwest District:

Stormwater Discharge Medians: 2009 -- 2017



12. State Lands Program

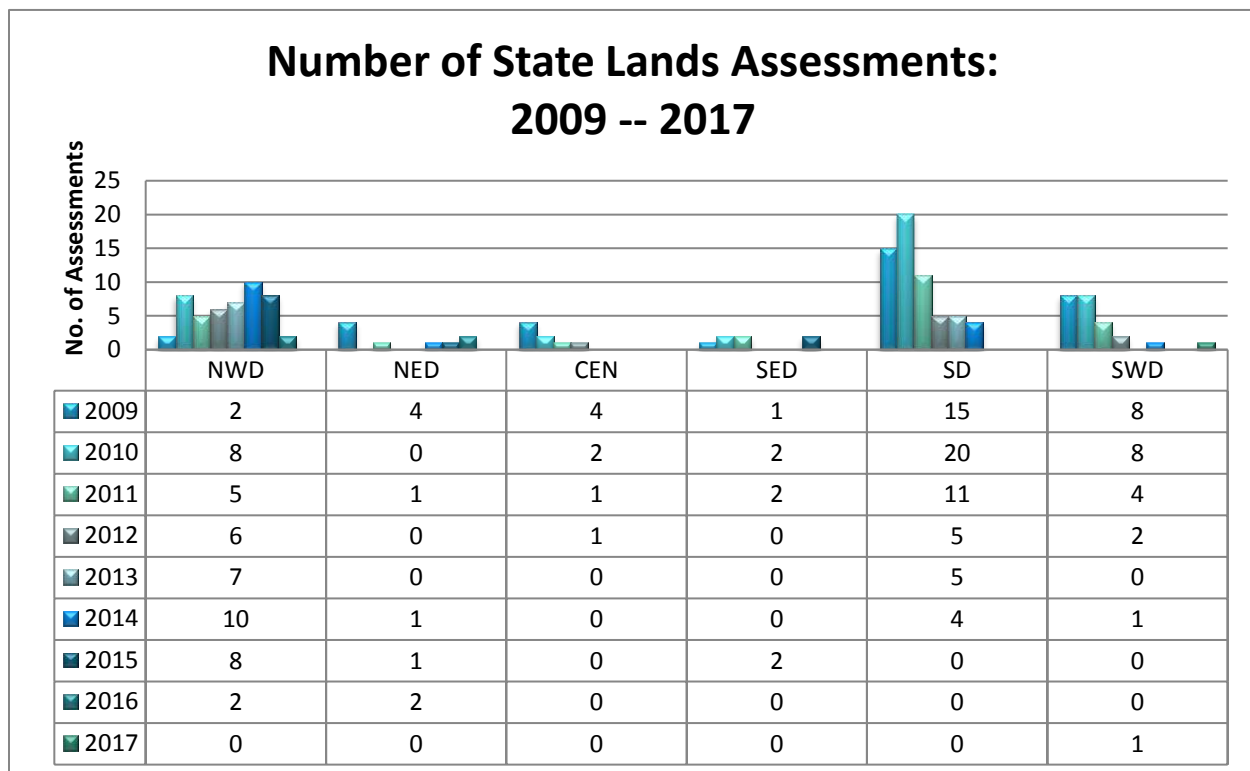
[On its website](#), the FDEP describes the State Lands Program in these terms:

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

One of former Secretary Stevenson’s [top priorities](#) was placing an increased emphasis on this program. Part of that emphasis was in making Florida’s state parks more self-sufficient, while also protecting them for the public to enjoy. What was the impact of his new policies? In 2017, the Department only assessed penalties in **1** case, a 75% drop from the previous year. **This is the worst result in the Department’s history.** The following are the results from 2009 through 2017:

Year	Number of State Lands Assessments
2009	34
2010	40
2011	24
2012	14
2013	12
2014	16
2015	11
2016	4
2017	1

The one case in which the Department assessed penalties originated in the Southwest District. The South District, which used to have a considerable number of cases each year, has not had an assessment since 2014, and the Central District has not had any assessments since 2012:

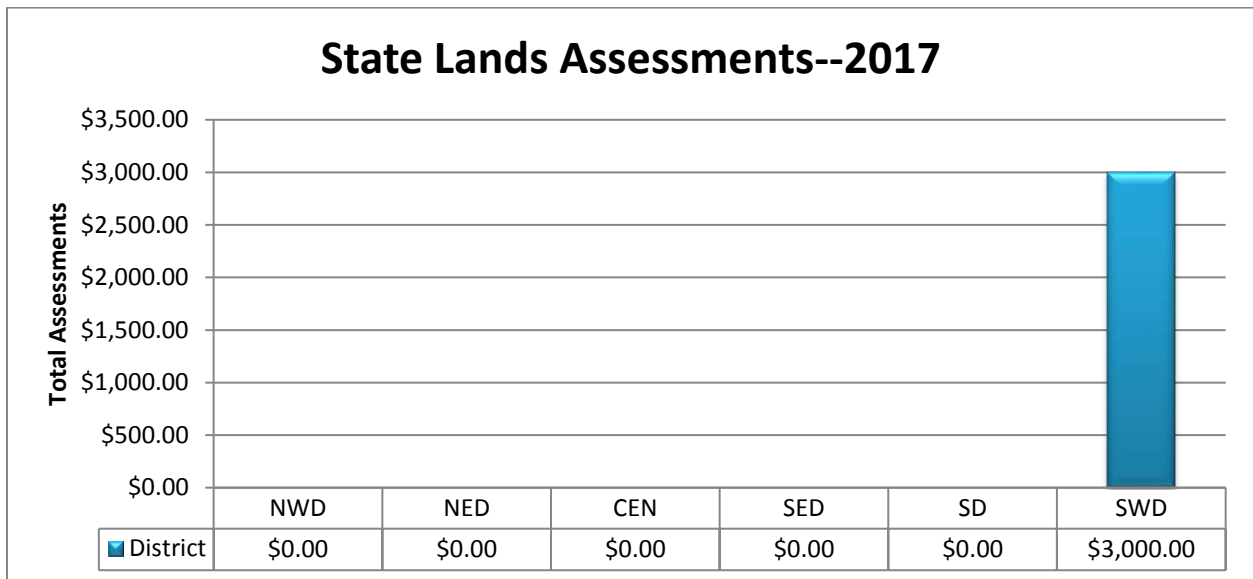


Not surprisingly, penalty assessments fell significantly (58%) in 2017, for the third year in a row. This is also the worst result since 1999:

Year	Total State Lands Assessments
2009	\$63,830.00
2010	\$95,010.00
2011	\$44,929.00
2012	\$25,319.00

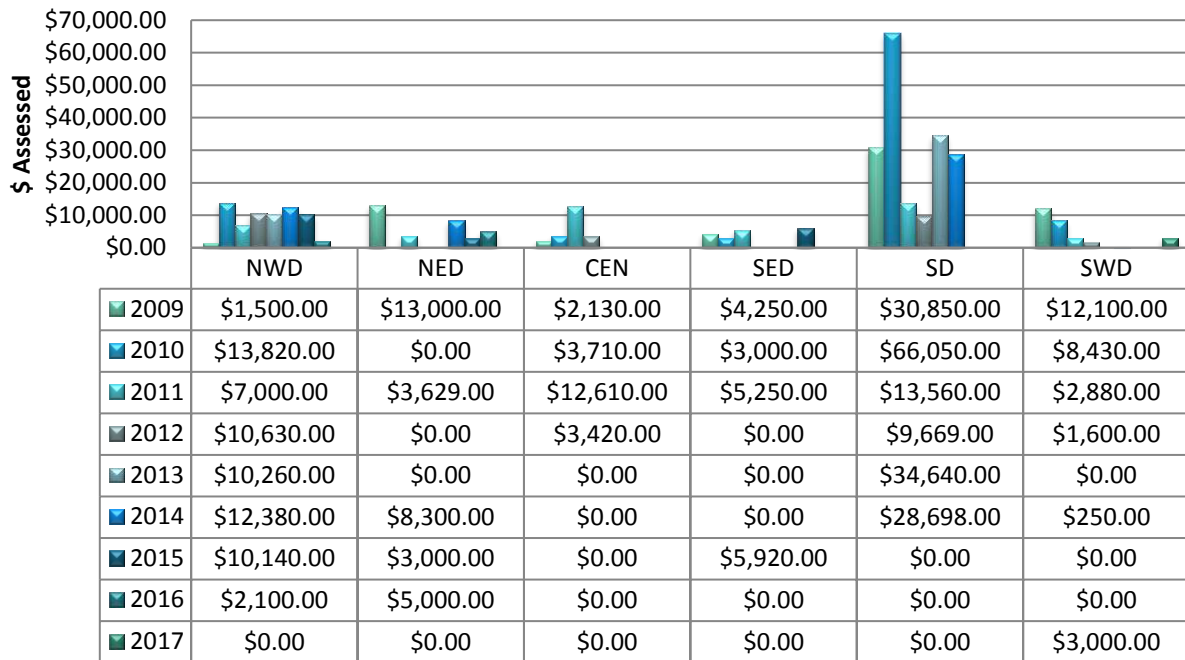
2013	\$44,900.00
2014	\$49,628.00
2015	\$19,060.00
2016	\$7,100.00
2017	\$3,000.00

Assessments were distributed among the districts as follows:



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

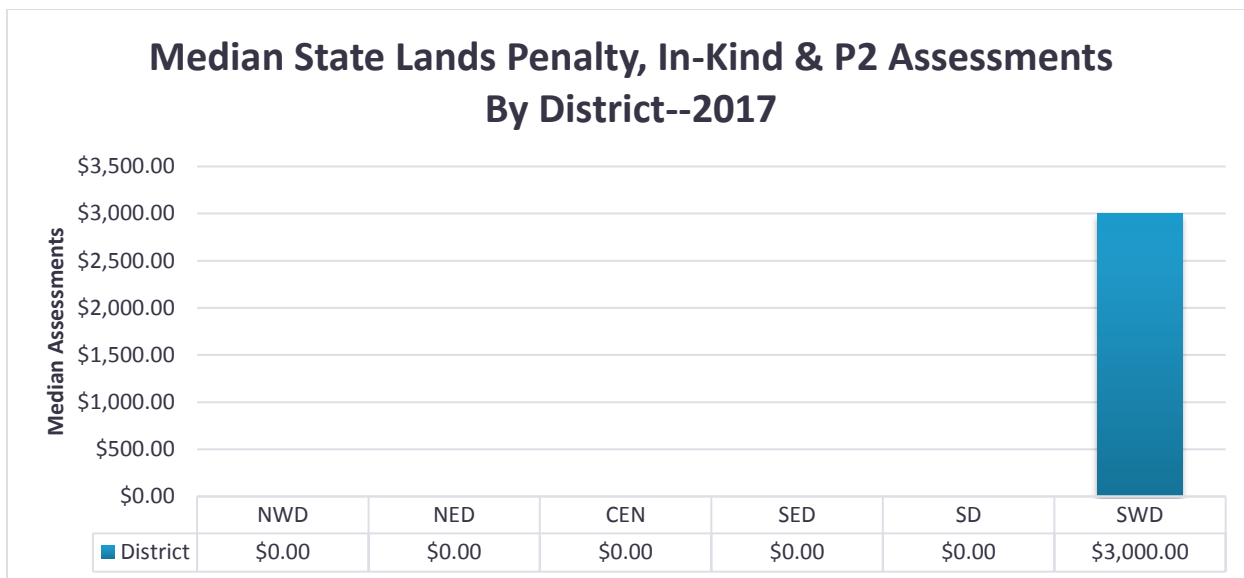
State Lands Assessments: 2009 -- 2017



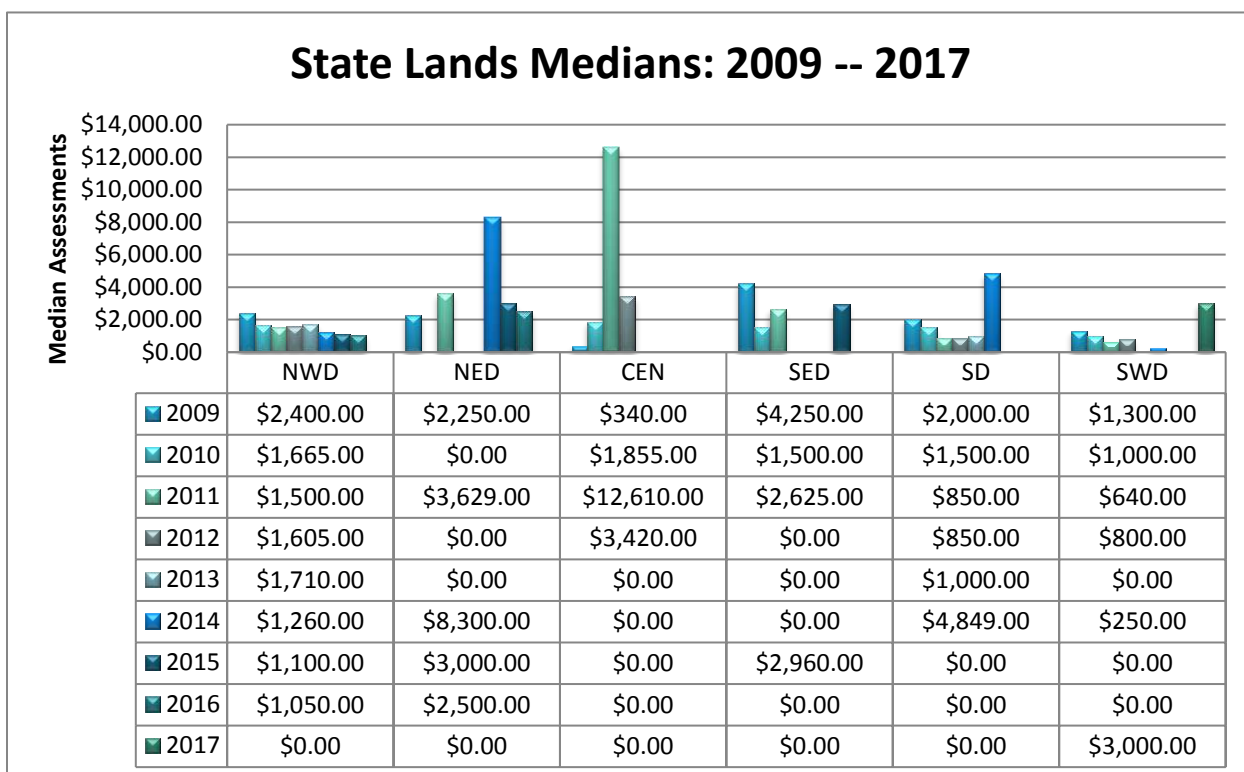
Given that there was only one case in all of 2017, the statewide median, as a statistic, is rather meaningless. But it is higher than 2016:

Year	Median Assessments
2009	\$1,125.00
2010	\$1,250.00
2011	\$1,000.00
2012	\$1,500.00
2013	\$1,710.00
2014	\$1,420.00
2015	\$1,100.00
2016	\$1,550.00
2017	\$3,000.00

The medians for each district are shown below:



The historical results for all 6 districts are shown below:



13. Solid Waste Program

This program oversees the handling of Florida's solid waste, including hazardous waste (although its results are reported separately), most of which is deposited into landfills across the

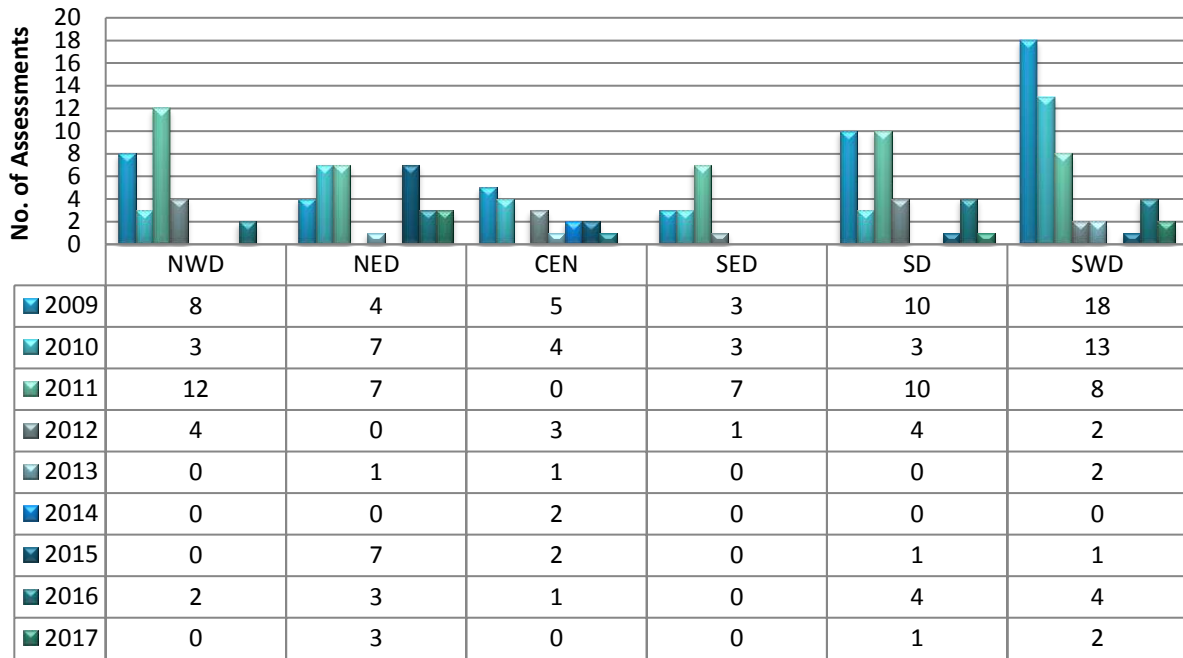
state. In keeping with the results of most of the other programs in the Department in 2017, the solid waste program turned in results that are worse than those of the previous year.

There were only 6 assessments in 2017, a 57% decline from 2016. The current enforcement level is 82% below the level in 2010. **In general, the level of assessments since the Scott administration took office continue to be lower than any year since 1988 when the program was in its infancy.** The results for the last 9 years are as follows:

Year	Number of Solid Waste Assessments
2009	48
2010	33
2011	44
2012	14
2013	4
2014	2
2015	11
2016	14
2017	6

Except for the Northeast District (which was unchanged), every district in the Department saw fewer assessments in this program when compared with the results of 2016. The biggest decline was in the Southwest District, which had half as many assessments as in the year before. **The Southeast District has had no assessments since 2012, and the Northwest District has only had two.** The general trends for each district are shown below:

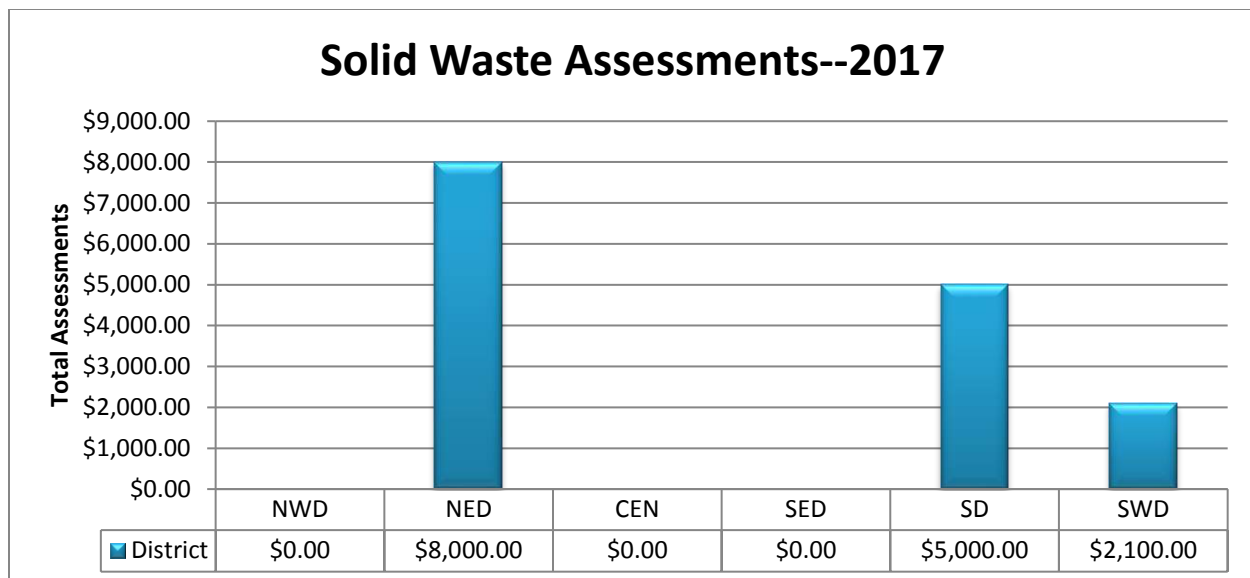
Number of Solid Waste Assessments: 2009 -- 2017



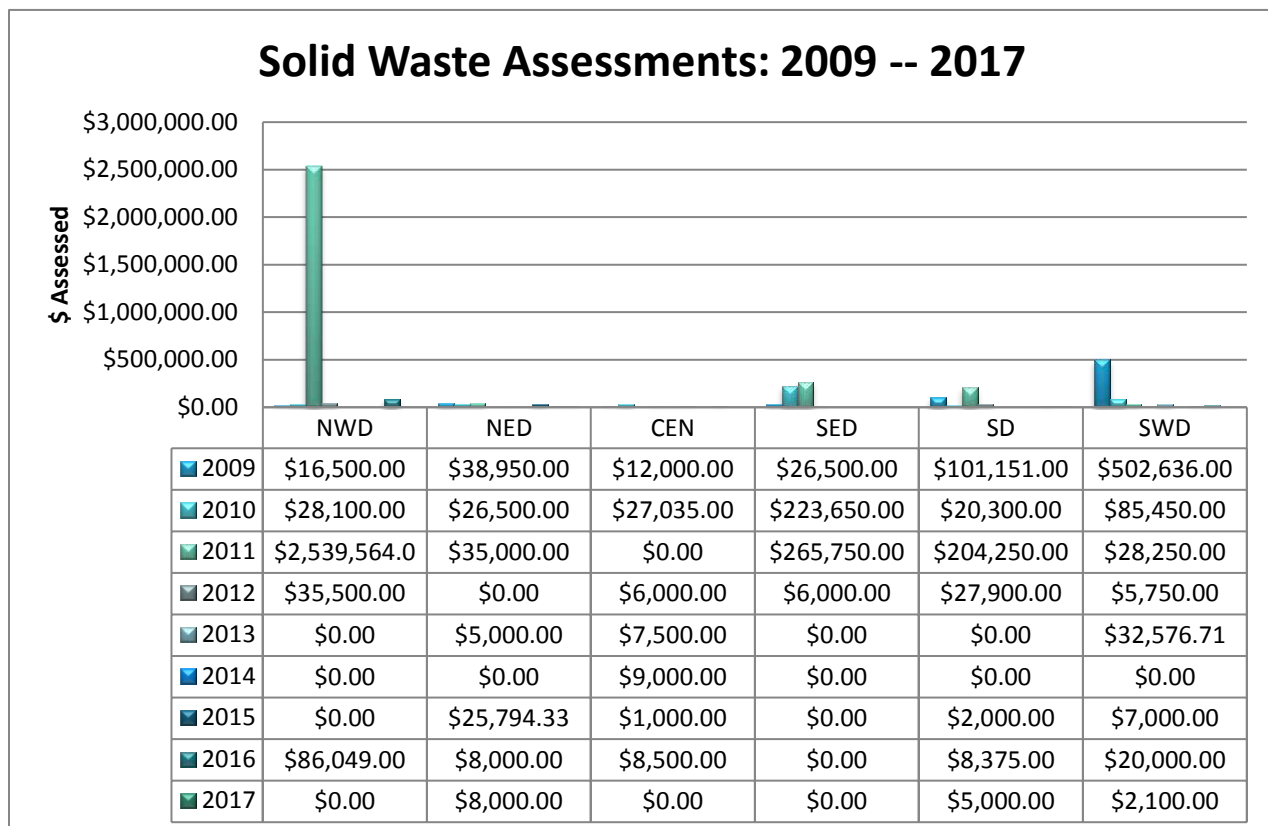
Penalty assessments fell 88% in 2017, making this the second-worst year since 1989, when the program first became fully functioning. The results for the past 9 years follow:

Year	Total Solid Waste Assessments
2009	\$697,737.00
2010	\$411,035.00
2011	\$3,072,814.00
2012	\$81,150.00
2013	\$45,076.71
2014	\$9,000.00
2015	\$35,794.33
2016	\$130,924.00
2017	\$15,100.00

Even though the Northeast District had the highest total dollar assessments, there was a comparatively large result in the South District (but it is based upon only 1 case):



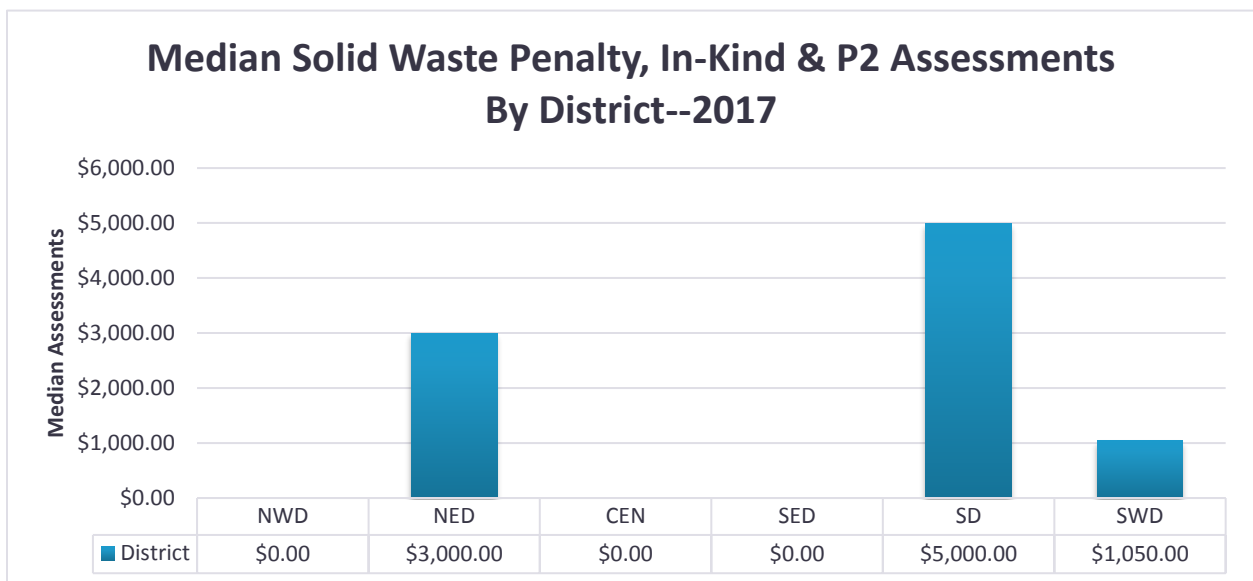
The dollar value of assessments declined in every district but the Northeast District in 2017. The historical performance of each of the districts is shown below:



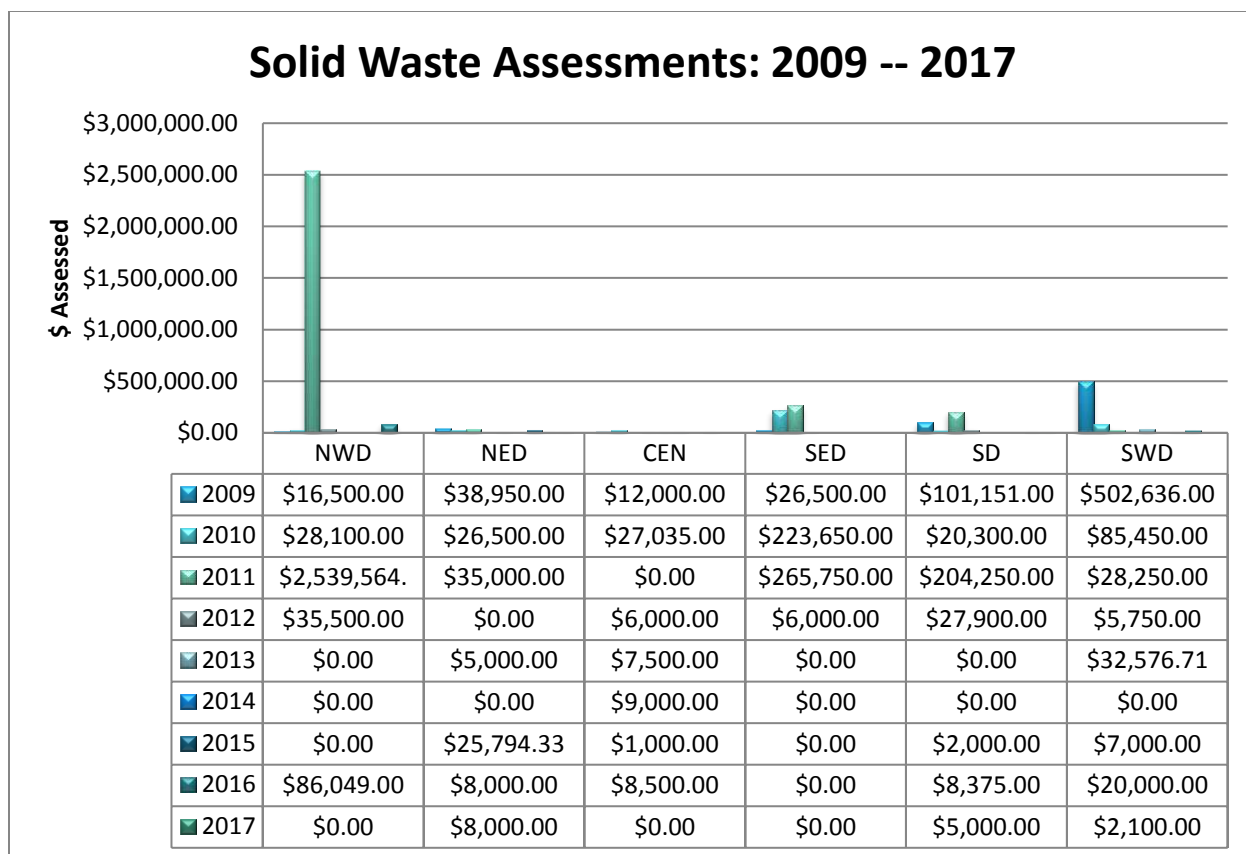
Medians also fell in 2017, this time by 27%:

Year	Median Assessments
2009	\$3,000.00
2010	\$3,000.00
2011	\$3,000.00
2012	\$3,375.00
2013	\$6,250.00
2014	\$4,500.00
2015	\$3,000.00
2016	\$3,437.50
2017	\$2,500.00

The medians for each district are shown below:



The fact is that the medians in the districts are hardly statistically significant, because none of the districts had a significant number of assessments. The historical results for all 6 districts are shown below:



14. Tanks Program

The tanks program is part of the Division of Waste management. It regulates the use and cleanup of underground storage tanks throughout Florida. These tanks are used for multiple purposes, including the storage of gasoline at service stations. Many of those tanks are old and subject to leaking dangerous petroleum products into the soil and groundwater. In describing its program, the Department [states on its website](#) that:

“The Storage Tank Compliance Section is part of the Permitting and Compliance Assistance Program in the Florida Department of Environmental Protection's Division of Waste Management. In 1983, Florida was one of the first states in the union to pass legislation and adopt rules for underground and aboveground storage tank systems (USTs and ASTs). There are over 22,000 storage tank facilities across the state of Florida, and in 2017 the Storage Tank Compliance Section conducted more than 13,000 inspections. Florida relies on groundwater for about 92 percent of its drinking water needs and has some of the most stringent rules in the country.”

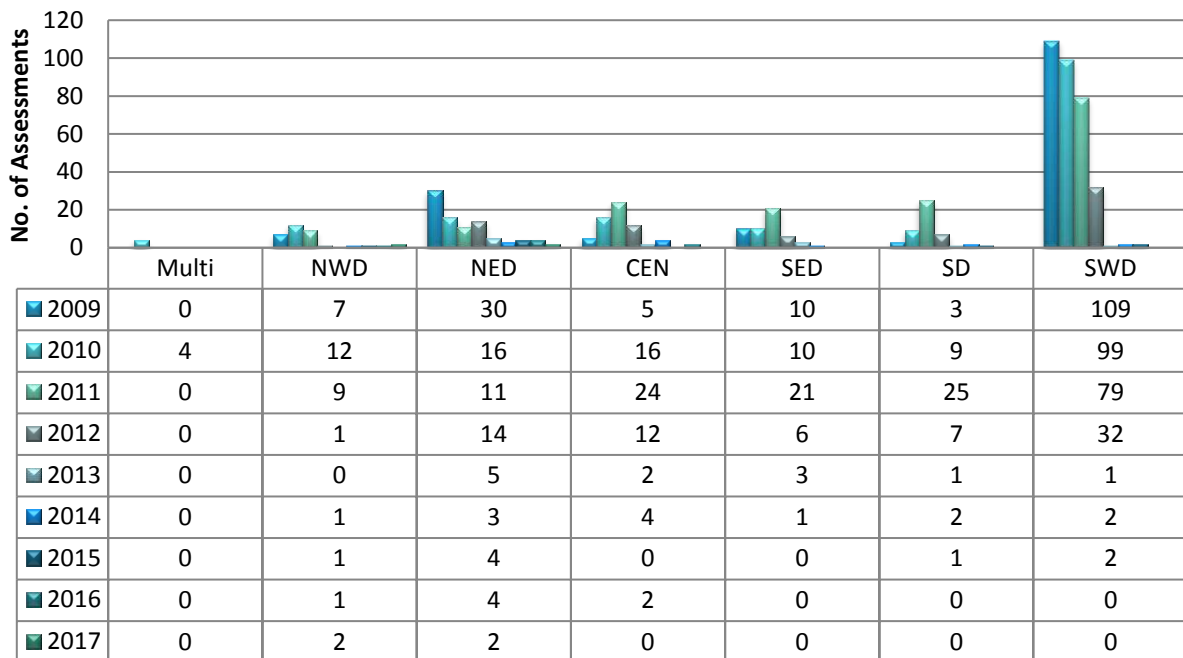
In 2017, we issued several reports on this program. In our [first report](#) we noted that there are over 19,000 contaminated sites known to exist in Florida. And yet, as we stated in our last enforcement report, “[t]his is a program that in the past has been relatively robust, but that began to change in 2012. It has declined markedly since that time.” Unfortunately, that decline has continued. Frankly, Florida can have “some of the most stringent rules in the country,” but they become anemic if they are not enforced.

Statewide the number of tanks assessments has continued to fall each year since 2014. With a 43% decline from 2016, 2017 has now set the new historical low for the Department. The results for the previous 9 years are shown below:

Year	Number of Tanks Assessments
2009	164
2010	166
2011	169
2012	72
2013	12
2014	13
2015	8
2016	7
2017	4

The Southeast District has had no assessments since 2014, and the South and Southwest Districts have seen no enforcement since 2015. The Northwest District (which had a total of 2 cases) was the only district to register any improvement since 2016. This recent history for each district is shown below:

Number of Tanks Assessments: 2009 -- 2017



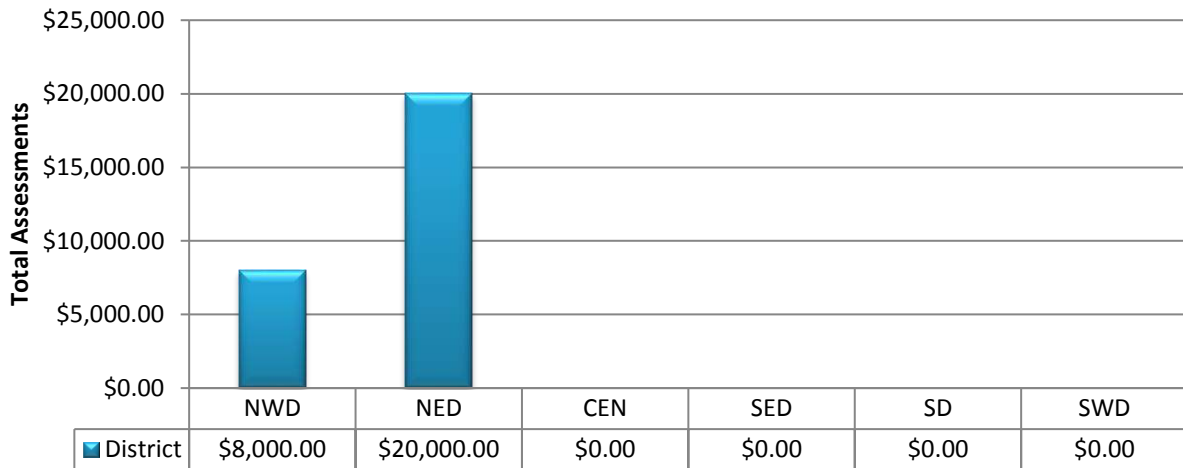
The decline in the number of assessments was accompanied by a 46% decline in the total penalty dollars assessed. **This is the lowest total since 1989.** These results, when juxtaposed with our findings in the [report](#) that we issued in January 2018, shed yet more light on the extent to which the Department is loath to penalize polluters for their violations. In that report we pointed out just how much the FDEP (at taxpayer's expense) treats major oil companies with kid gloves when it comes to requiring them to clean up the contamination that they have caused.

The following chart shows the results for the past 9 years:

Year	Total Tanks Assessments
2009	\$1,505,376.25
2010	\$1,207,823.56
2011	\$1,537,209.03
2012	\$728,232.83
2013	\$187,273.84
2014	\$124,285.82
2015	\$137,862.28
2016	\$51,500.00
2017	\$28,000.00

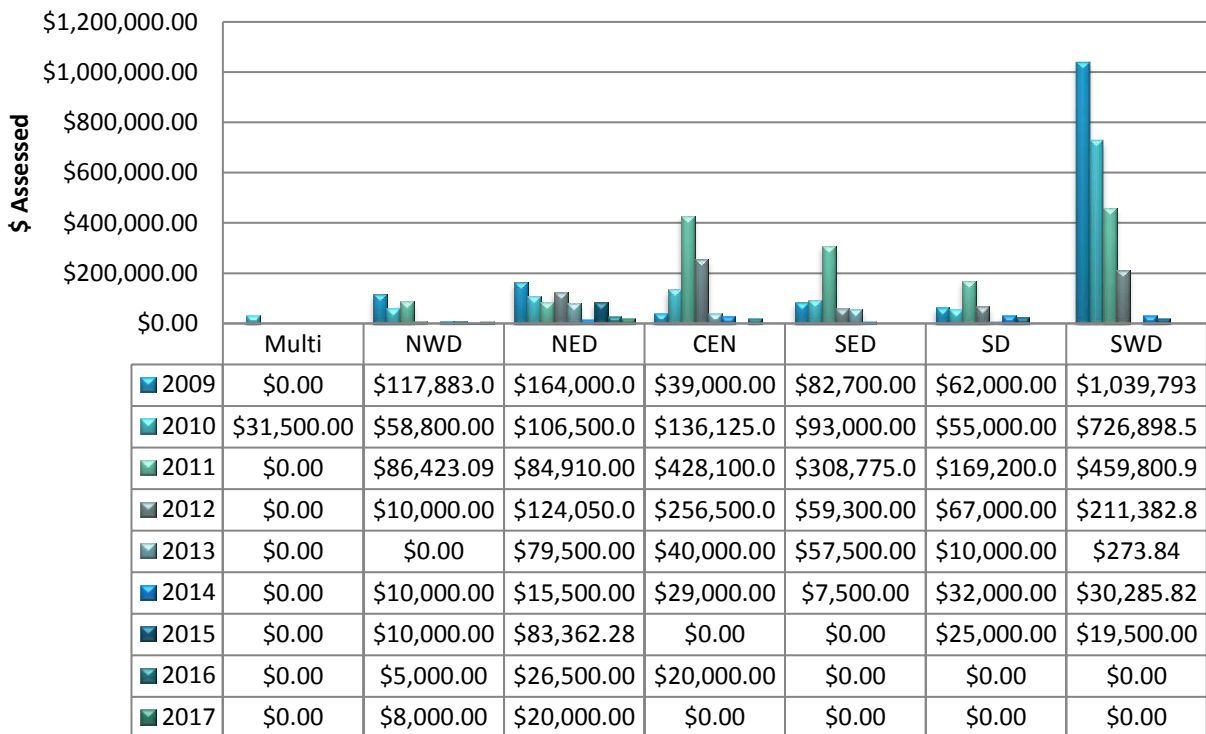
Each district contributed to the overall results as shown in the following chart:

Tanks Assessments--2017



As can be seen below, the Northwest District was the only district to record an increase in the dollars assessed compared with 2016. The Northeast District performed worse, and the remaining districts simply had no enforcement for the entire year:

Tanks Assessments: 2009 -- 2017

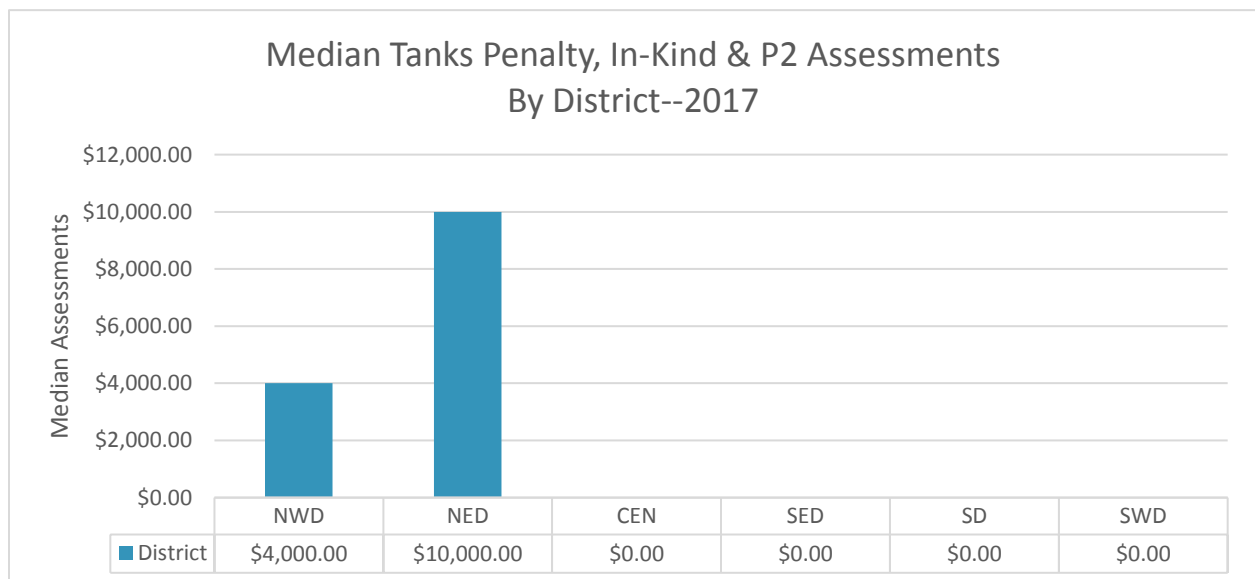


The drastic declines in the number and dollar value of assessments were only tempered by a 50% increase in the median value of the assessments. However, even this is largely

insignificant, since it is only based upon 4 cases. The historical results for the Department as a whole are shown below:

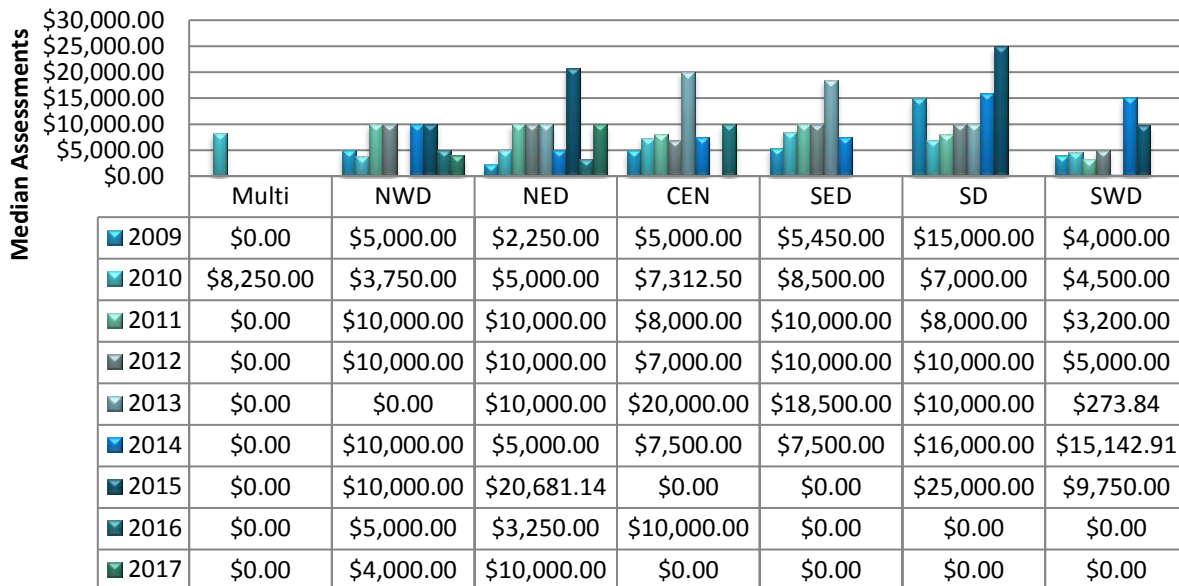
Year	Median Assessments
2009	\$4,100.00
2010	\$5,149.50
2011	\$5,100.00
2012	\$10,000.00
2013	\$10,000.00
2014	\$10,000.00
2015	\$19,000.00
2016	\$5,000.00
2017	\$7,500.00

In 2017 the median assessments in the districts were:



Each of the results in the Northwest and Northeast District is based upon only 2 cases. The history of each district over the course of the past 9 years is shown below:

Tanks Medians : 2009 -- 2017



15. Underground Injection Program

The FDEP [describes this program](#) as follows:

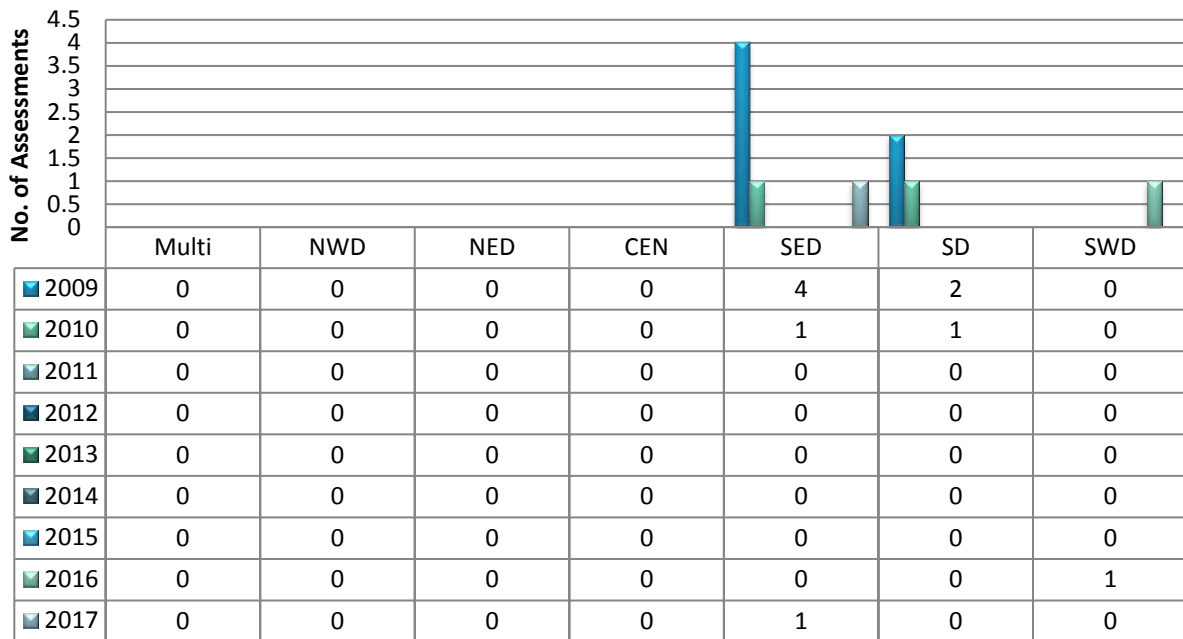
“DEP’s Aquifer Protection Program (APP) consists of a team of dedicated employees, including geologists and engineers, who implement the federal Underground Injection Control (UIC) program in Florida. Subsurface injection, the practice of emplacing fluids in a permeable underground aquifer by gravity flow or under pressure through an injection well, is one of a variety of wastewater disposal or reuse methods used in Florida. The APP/UIC program permits the lawful option of disposal of appropriately treated fluids via underground injection wells, while protecting Florida’s underground sources of drinking water (USDWs). A USDW is an aquifer that supplies drinking water for human consumption; it has a total dissolved solids concentration of less than 10,000 milligrams per liter. The construction, operation, permitting, and closure activities for injection wells are administered in accordance with Chapter 62-528, Florida Administrative Code (F.A.C.). Chapter 62-528, F.A.C., contains stringent requirements to prevent the degradation of the existing water quality of the aquifers adjacent to the injection zone.”

Notwithstanding the flowery language on the website, this is a program that has seen very little enforcement of late. In fact, as the table below indicates, it's first assessment since 2010 occurred in 2016. 2017 saw one additional assessment:

Year	Number of UIC Assessments
2009	6
2010	2
2011	0
2012	0
2013	0
2014	0
2015	0
2016	1
2017	1

The above results should not be taken lightly. As a [2012 report](#) by ProPublica noted, significant problems can occur if even a single well malfunctions. It stated that “[i]n South Florida, 20 of the nation's most stringently regulated disposal wells failed in the early 1990s, releasing partly treated sewage into aquifers that may one day be needed to supply Miami's drinking water.” The report also [referenced](#) findings that, as of 2010, there were over 55,000 wells in Florida alone. And Florida has [no political will](#) to ban such activities as fracking. Yet, even though the risks associated with failing wells is known, the Department has shown no appetite for enforcing existing rules associated with underground injection activities. It should come as no surprise that among the districts there has been little to no activity across the state:

Number of Underground Injection Assessments: 2009 -- 2017

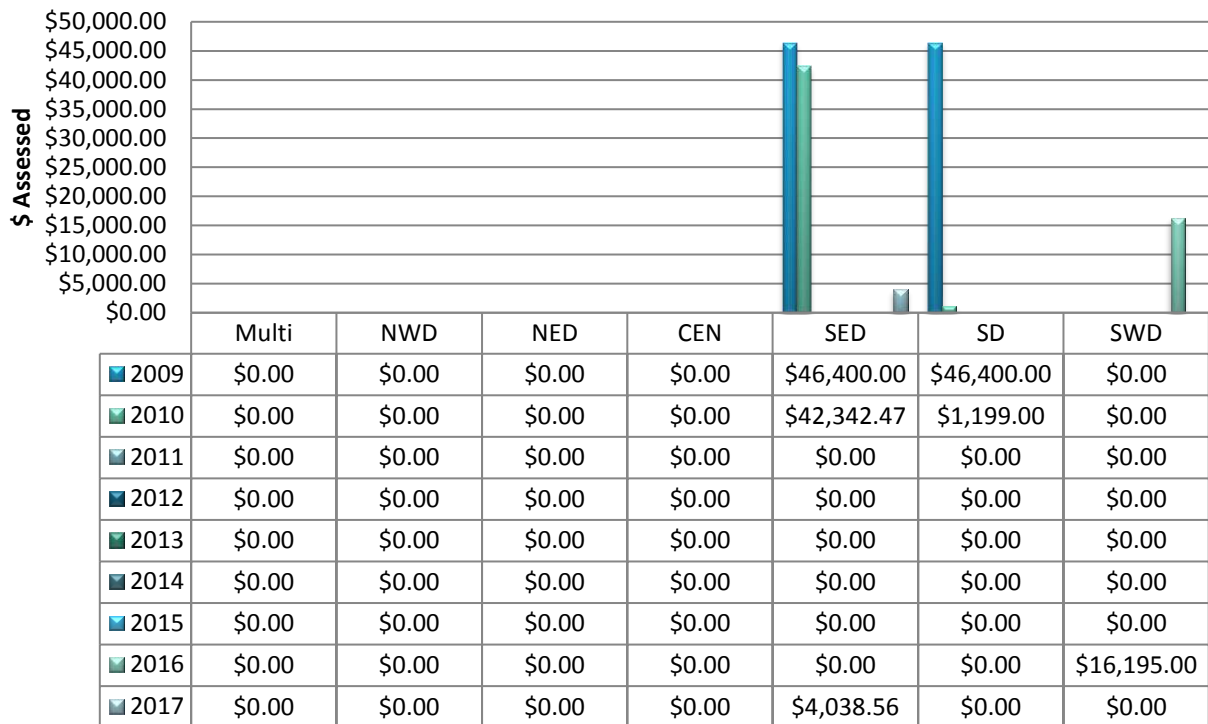


The same result is found in the overall dollar value of assessments in this program:

Year	Total UIC Assessments
2009	\$92,800.00
2010	\$43,541.47
2011	\$0.00
2012	\$0.00
2013	\$0.00
2014	\$0.00
2015	\$0.00
2016	\$16,195.00
2017	\$4,038.56

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

Underground Injection Assessments: 2009 -- 2017

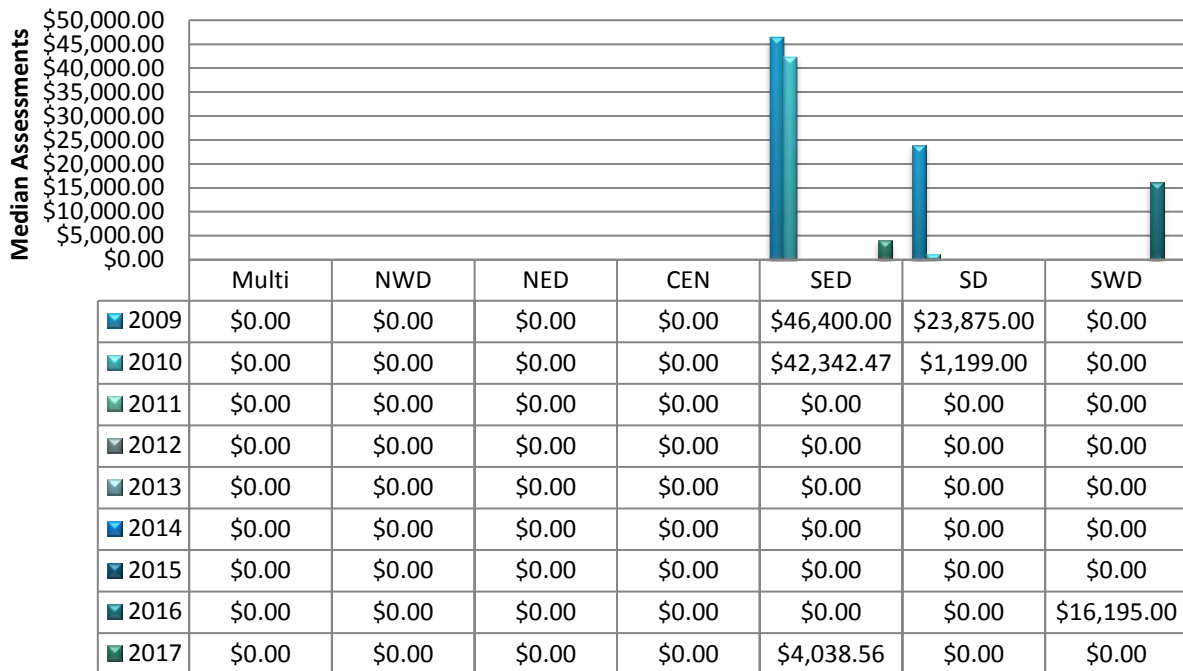


The medians are not a particularly useful indicator for this program because of the paucity of cases across the state over the past number of years. The results in 2009 were based upon 6 cases, while the 2010 results were the product of only 2. 2017, like 2016 is based upon only 1 case:

Year	Median UIC Assessments
2009	\$14,250.00
2010	\$21,770.74
2011	\$0.00
2012	\$0.00
2013	\$0.00
2014	\$0.00
2015	\$0.00
2016	\$16,195.00
2017	\$4,038.56

Identifying a trend in the districts is all but impossible given the lack of cases:

Underground Injection Medians : 2009 -- 2017



G. Civil Penalty Collections By Program Area—District Comparison

A statewide total of \$705,891.90 in civil penalties was collected by the Department in 2017. This is down 68% from the \$2,211,826.55 that was collected by the Department in 2016, and 90% lower than the collections in 2010. 2017's performance is the worst since 2013, and the second-worst in the Department's history.

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 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.

Looking at the percentage of civil penalties collected each year we see that there has also been a significant decrease in the percentage of penalties collected in 2017. The 34% of civil penalties that were collected is the lowest collection rate in the past 10 years. The following table shows the percentage of penalty assessments (absent in-kind and pollution prevention projects) that were collected each year from 2007 to the present:

Year	Assessments	Collections	% Assessments Collected
2007	\$9,079,363.10	\$6,083,693.04	67%
2008	\$7,597,011.98	\$5,484,480.00	72%
2009	\$8,370,981.04	\$4,842,642.95	58%
2010	\$10,310,833.83	\$7,077,687.19	69%
2011	\$8,333,933.39	\$3,037,727.79	36%
2012	\$2,796,447.01	\$1,589,724.69	57%
2013	\$1,017,405.30	\$687,777.69	68%
2014	\$1,515,020.45	\$932,998.94	62%
2015	\$1,016,674.79	\$792,914.23	78%
2016	\$2,496,366.00	\$2,211,826.55	89%
2017	\$2,057,542.31	\$705,891.90	34%

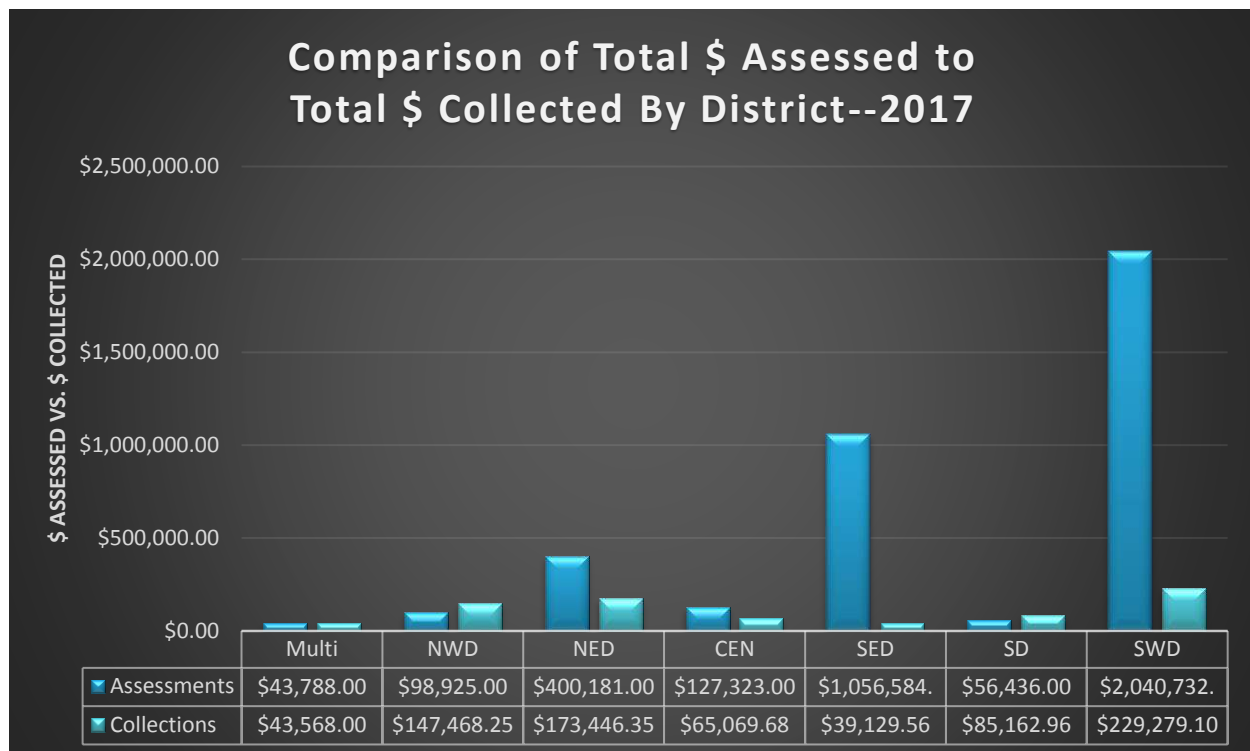
The Department also recorded in-kind and pollution prevention project fulfillments valued at \$77,232.00, down significantly from the \$1,029,139.25 that was collected in 2016. Adding these to the penalty dollars that were collected gives us a total collection result in 2017 of \$783,123.90, a substantially lower amount than the \$3,240,965.80 that was collected in 2016.

The following chart shows the highest individual civil penalty collections for every program area that collected civil penalties in 2017, sorted by program area:

District	Program	OGC#	Highest Collection	Amount of Highest Collection
6	AP	161500	<i>Florida Power Development, LLC</i>	\$8,000.00
2	BS	170902	<i>Black, Lonnye R.</i>	\$2,500.00
4	DF	171051	<i>Harbor Bay Marine Industries, Inc.</i>	\$5,000.00

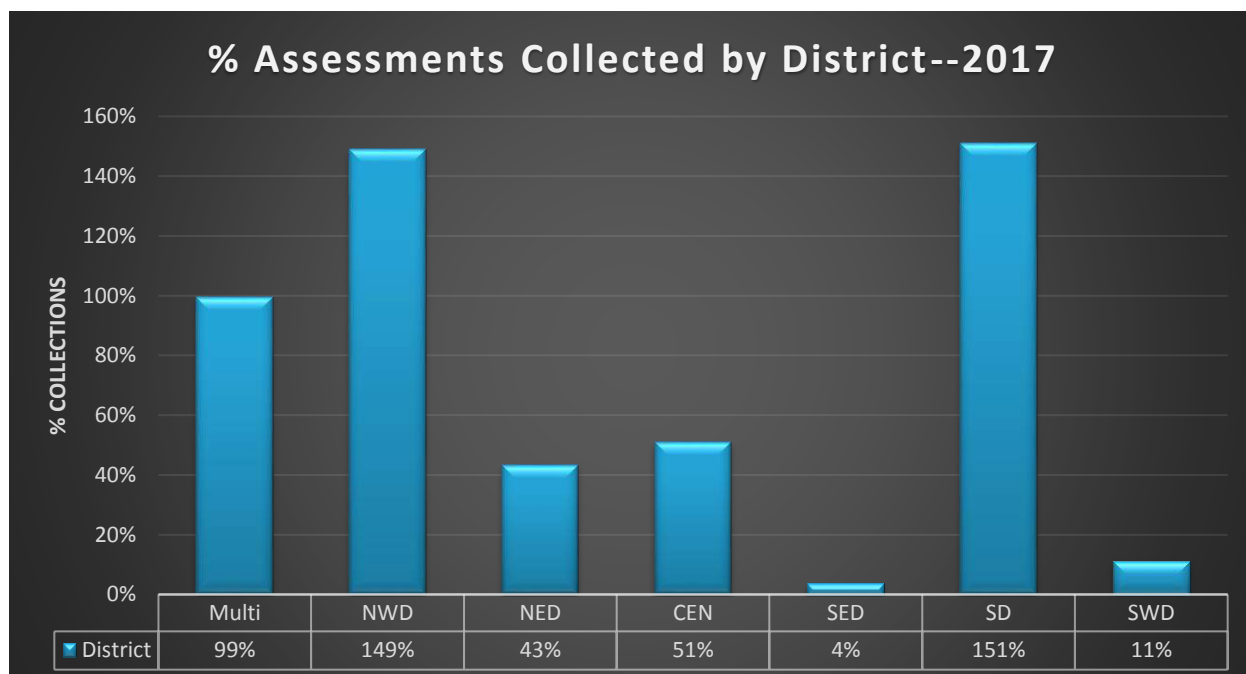
3	DW	170033	<i>Central Florida Disposal Interests, LLC</i>	\$20,700.00
5	EP	090905	<i>Dr. Goodroof, Inc. & McLellan, Ian</i>	\$21,976.65
2	EW	161321	<i>Jax Dirtworks, Inc.</i>	\$5,000.00
6	HW	150531	<i>Envirofocus Technologies, LLC</i>	\$73,466.00
0	IW	992030	<i>Coronet Industries, Inc., Hexion, Inc. & Cemex Construction Materials</i>	\$41,000.00
4	MA	161415	<i>Riviera Beach, City of</i>	\$4,599.00
2	PW	093916	<i>Ashdji, Farid & Shady Oaks Mobile Home Park, LLC, Et Al.</i>	\$4,500.00
1	RO	171047	<i>Gulf Coast Utility Contractors, LLC</i>	\$15,000.00
5	SW	161474	<i>Atlantic Trash and Transfer, LLC & Brian Lindback</i>	\$5,000.00
6	TK	071300	<i>Stefanovic, Slavoljub & Ljubica</i>	\$85,593.00
4	UC	170217	<i>Hialeah, City of, Department of Public Works</i>	\$4,038.56
2	WW	171034	<i>Georgia-Pacific Consumer Operations, LLC</i>	\$7,000.00

The following chart shows each district and compares the dollars assessed by each district in 2017 with the dollars actually collected, including dollar equivalents for in-kind and pollution prevention projects. The Northwest and South Districts were the only two districts to collect more money in 2017 than they assessed, while the remaining districts failed to collect 100% of the money that they assessed:



As noted above, the Northwest and South Districts collected over 100% of the assessments (including in-kind and P2 assessments) for 2017, meaning that, in terms of pure dollars, they collected monies that were also owed to them from prior years. On the other hand, the Southeast District collected a mere 4 percent of its assessments and the Southwest District was only able to collect 11 percent.²⁰

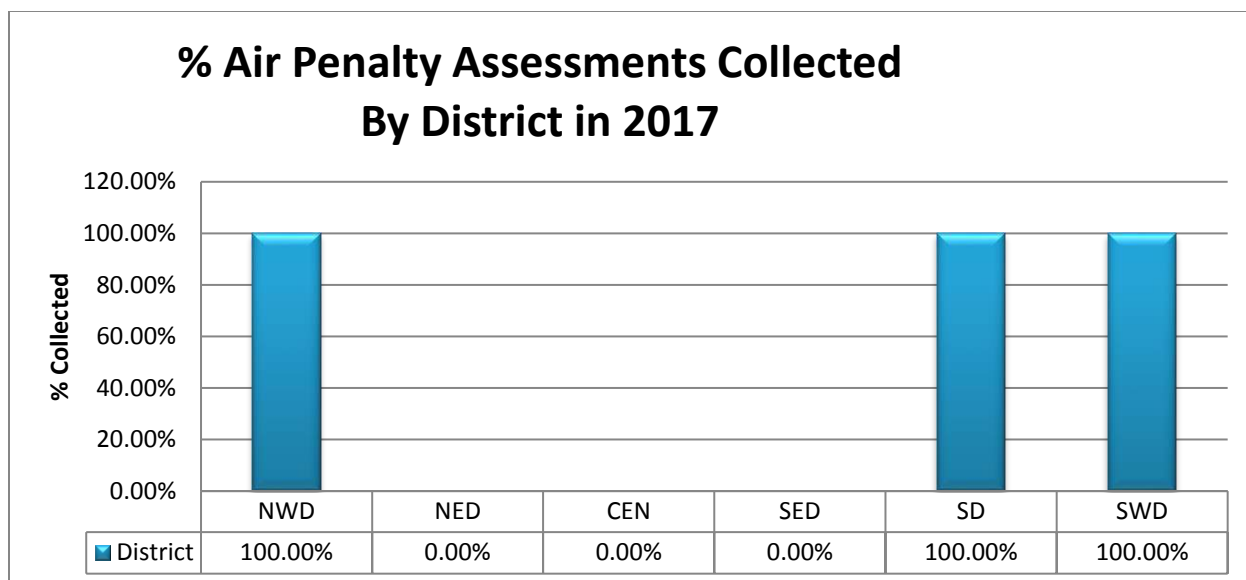
²⁰ The data shows that more than 100% of the assessed fines were collected in some districts. This is because the districts are also collecting assessments that were made in previous years. Since 100% of the assessments in any given year are seldom, if ever collected, it follows that in some instances the collection rate may exceed the dollars assessed in any given year.



We now turn to the collection results in each program. In this section we provide the percentages of pure civil penalty assessments, i.e. not counting in-kind and P2 assessments, collected by each program:

1. Air Program

The Department collected 43% fewer civil penalties in 2017 than it did in the year before. The Southeast and South Districts were the only two districts to improve upon their performance in 2016. The Central District collected no penalty dollars in 2017, and only \$500 in 2016. The performance of the individual districts follows:



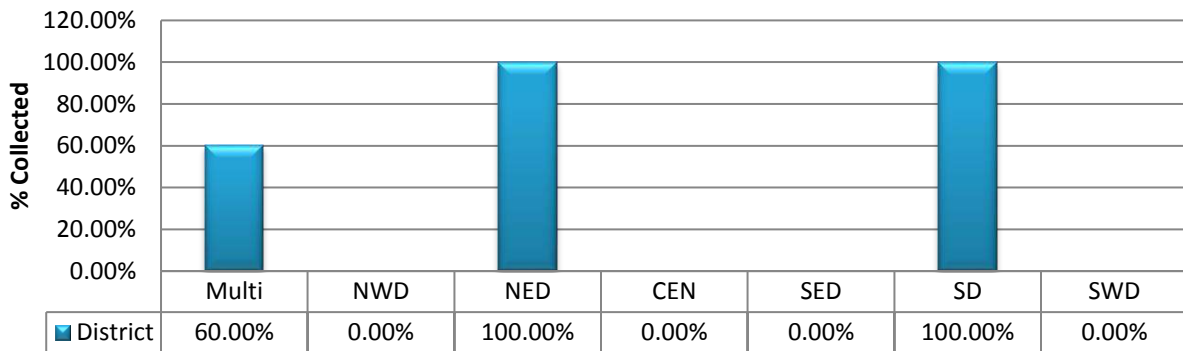
2. Asbestos Program

It has now been 5 years since the Department assessed any penalties in this program. Therefore, there were no penalty dollars collected in 2017 by the Department in Florida.

3. Beaches & Coastal Program

As a whole, the Department collected 183% more in civil penalties in 2017 than it did in 2016, but the total was still only \$4,250.00. The collections were spread across the Multi-District, Northeast and South Districts, as the following chart shows:

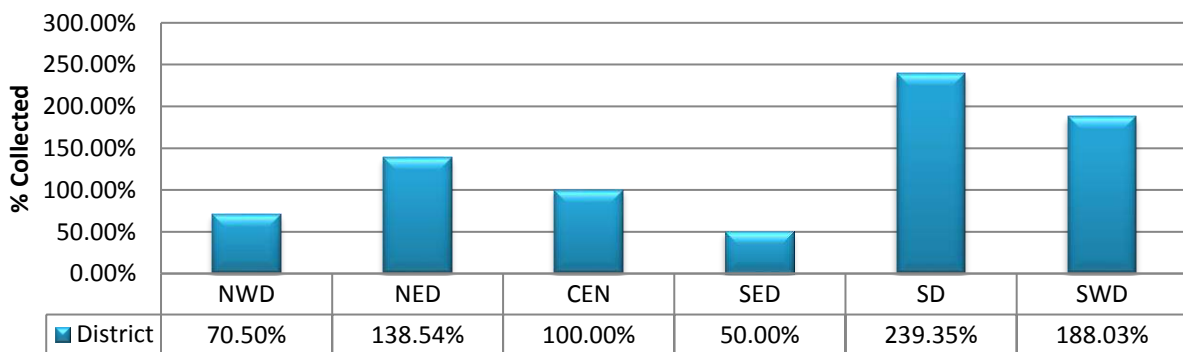
% Beaches & Coastal Programs Penalty Assessments Collected By District in 2017



4. Dredge and Fill Program

Collections in this program increased 57% from 2016's results. A total of \$79,075.96 was collected statewide, the bulk of which (\$40,186.96) was collected in the South District. Except for the Northwest and Southeast Districts, all the Districts collected at least 100% of the dollar value of their 2017 assessments:

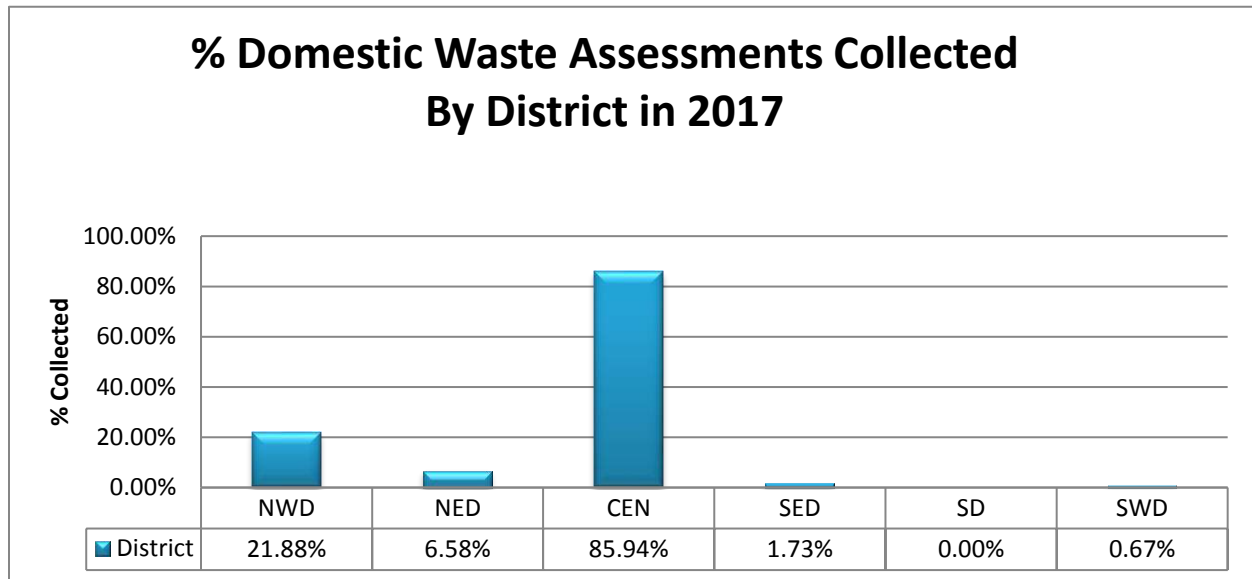
% Dredge & Fill Assessments Collected By District in 2017



5. Domestic Waste Program

The Department collected 40% fewer dollars in civil penalties in 2017 than it did in the previous year. None of the districts collected 100% of their assessments. The South District had no assessments, and it collected none. The Southeast District, which had \$404,427.00 in penalty assessments, collected just \$7,000.00.

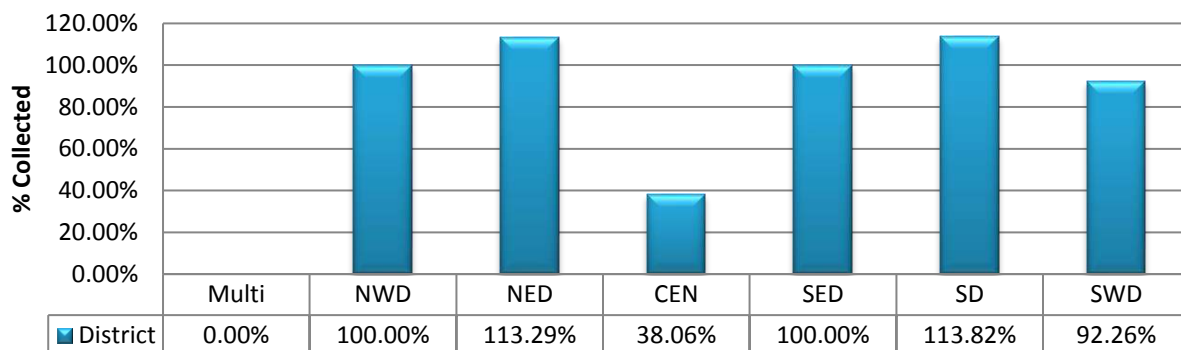
The results for 2017 are:



6. Hazardous Waste

Hazardous waste collections also fell in 2017. The \$183,308.60 that was collected statewide was 90% lower than in 2016. The South District was the only district to increase its collections in 2017. It collected \$22,646.00, up from \$18,999.75 in 2016. By comparison, collections in the Central District fell 88%. The performance for each district follows:

% Hazardous Waste Assessments Collected By District in 2017

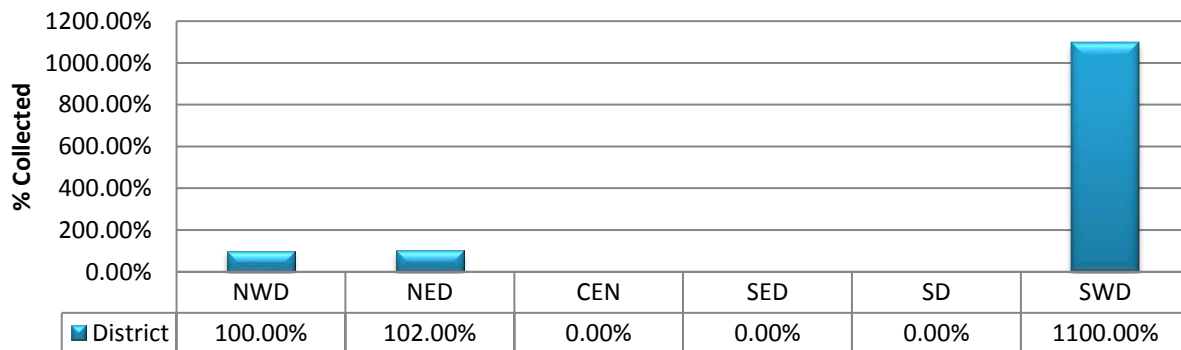


7. Industrial Waste

The Department collected 92.71% of its 10 assessments in this program in 2017. Those collections totaled \$114,457.00, and this represents a 398% improvement over 2016. Three of the districts, the Central, Southeast and South, had no collections, while the Northeast District collected the most money, i.e. \$51,082.00.

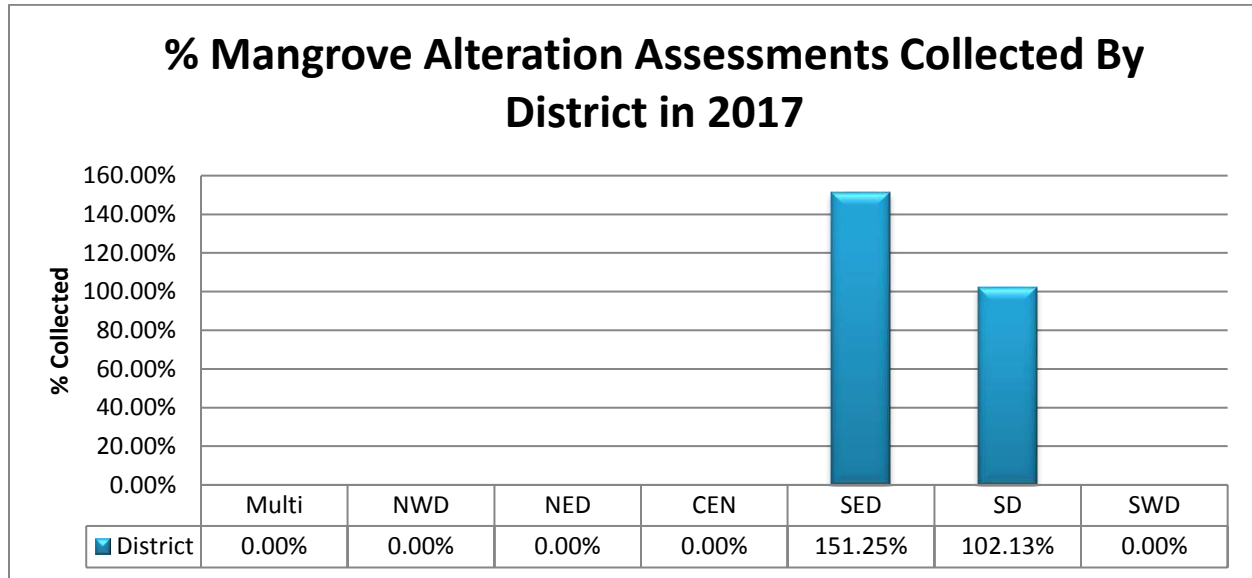
The districts performed as follows:

% Industrial Waste Assessments Collected By District in 2017



8. Mangrove Alteration Program

Collections in this program were 47% lower than in 2016; however, the program did collect 131.19% of its assessments. Both districts that collected penalties collected them at rates exceeding 100%:

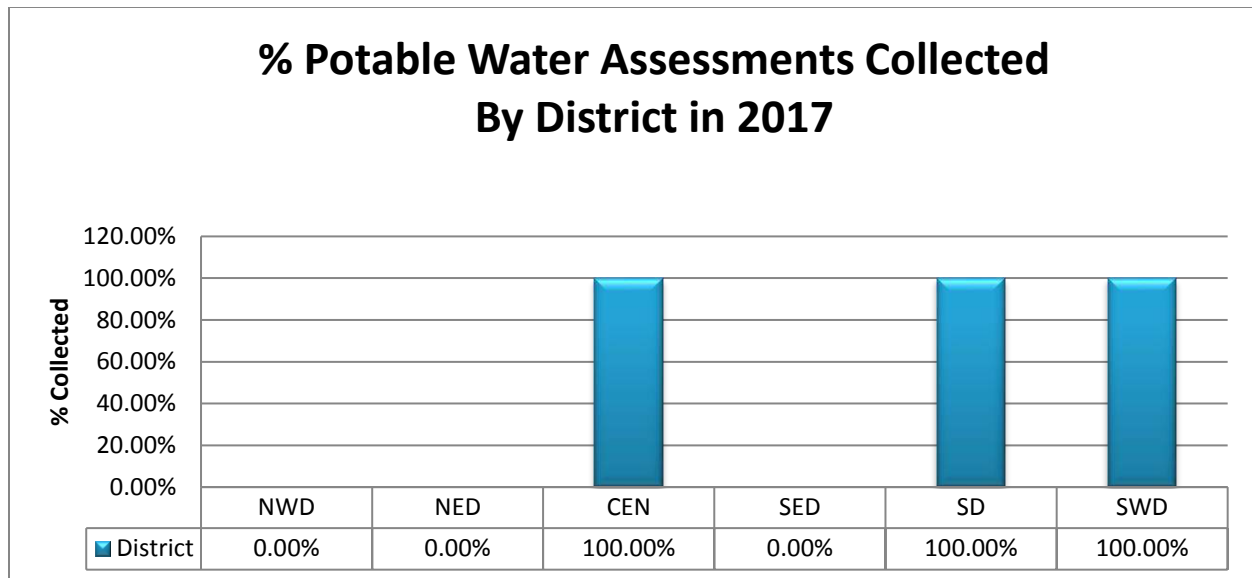


9. Mining & Phosphogypsum Program

There were no collections in this program in 2017.

10. Potable Water Program

The Department collected 189.62% of its assessments in 2017, for a total of \$9,521.00. This was 34% fewer penalties than were collected in 2016. The Northeast District had no assessments in 2017, but it did collect \$4,500 in one case from a previous year. The three districts that did collect penalties from assessments levied in 2017 each collected 100% of the assessments:



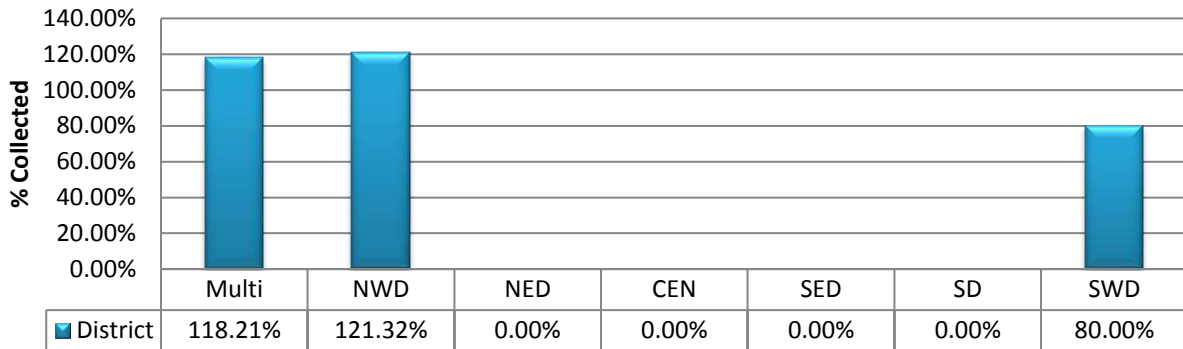
11. State Lands Program

The Department collected no penalty assessments in 2017, either from assessments levied in 2017 or in previous years. This is the first time that this has occurred since the Department first began assessing penalties in this program in 1997.

12. Stormwater Discharge Program

Civil penalty collections rose in this program from 73.92% in 2016 to 117.28% in 2017. A total of \$61,298.00 was collected statewide, in addition to \$51,293.25 in in/kind or pollution prevention projects that were completed. The majority of the collections occurred in the Northwest District:

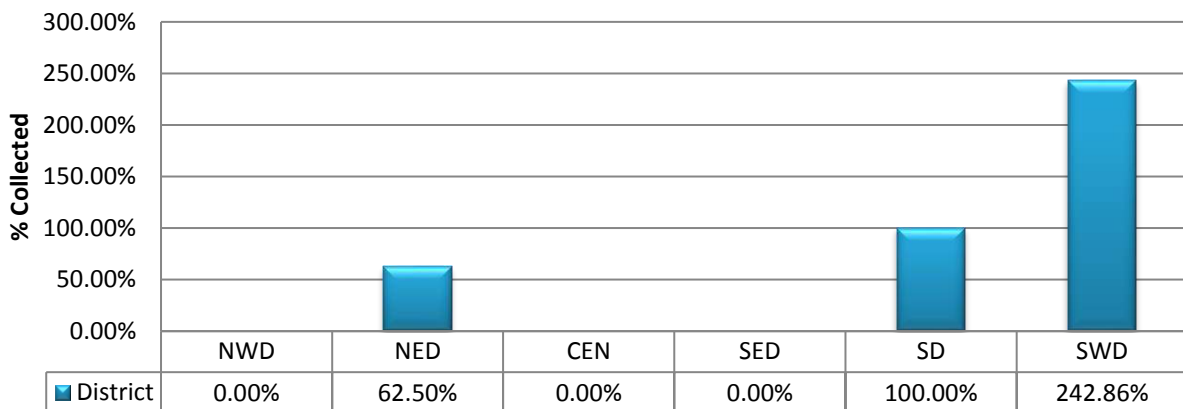
% Stormwater Runoff Assessments Collected By District in 2017



13. Solid Waste Program

The Department collected 100% of its assessments in 2017, up significantly from the 24.35% of its assessments that were collected in 2016. A total of \$15,100.00 was collected by the Department in 2017. The Southwest District collected both the largest number of cases (5) and the largest dollars in the state (\$5,100.00). The percentage of recoveries is seen below:

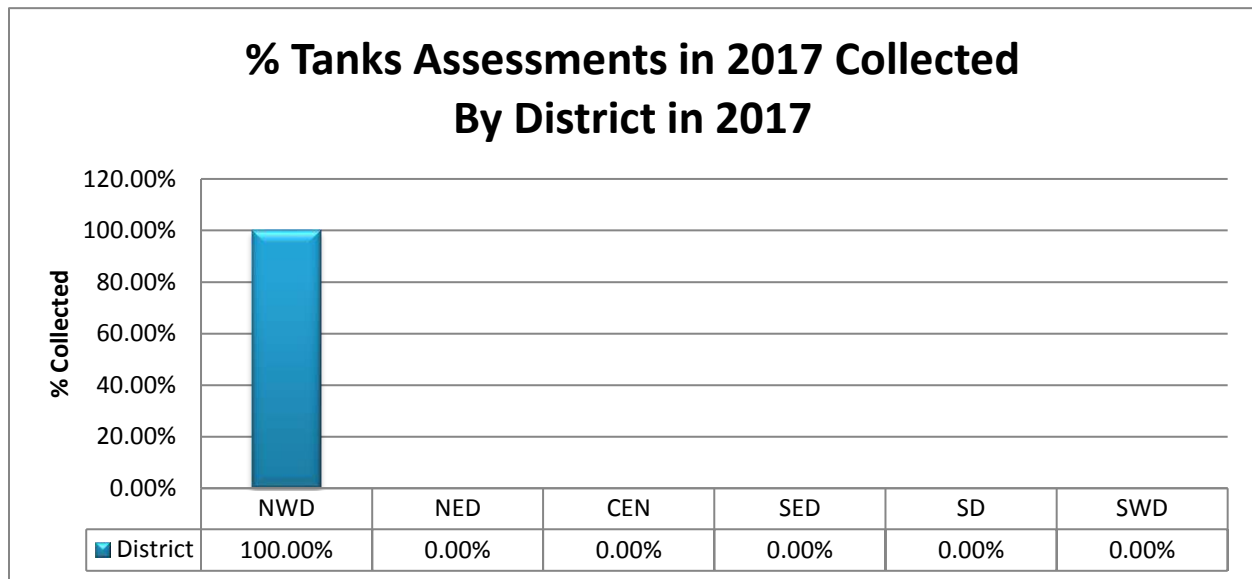
% Solid Waste Assessments Collected By District in 2017



14. Tanks Program

The Department collected 29% more in actual penalty dollars in 2017 than it did in the previous year. The \$115,139.60 that was collected in 2017 represents a rate of 411.21% of all penalty assessments for 2017, a percentage that obviously includes receipts from previous year assessments. The Northeast District assessed \$20,000.00 in penalty dollars and collected none of the assessments. The South and Southwest Districts assessed no penalties in 2017, yet they collected \$4,500.00 and \$102,639.60 respectively.

The performance by each district vis-à-vis the collection of penalties assessed in 2017 was as follows:



15. Underground Injection Control Program

The Southeast District was the only district to have any activity in this program. It had one case and it collected 100% of the \$4,038.56 that it assessed in 2017.

H. A Quick Look At Statewide Results

The following is a summary of the overall enforcement picture for 2017:

Enforcement Area	Performance Compared with 2015	Performance Compared with 2016
Total Number of Cases	Down 26%	Down 28%
Case Reports	Down 70%	Down 47%

NOVs	Up 9%	Unchanged
Final Orders	Down 45%	Down 27%
Consent Orders—Total	Down 22%	Down 30%
Consent Orders—Long-Form	Down 28%	Down 54%
Consent Orders—Model	Down 4%	Down 12%
Consent Orders—Short-Form	Down 35%	Down 26%

In the following table we provide comparisons of the assessments in 2017 with those in 2015 and 2016. The percentage comparisons are based upon assessments that include in-kind and P2 project completions. The results are as follows:

Assessment/Program Area	Performance Compared with 2015	Performance Compared with 2016
Total Number of Assessments	Down 15%	Down 23%
Total Dollars Assessed in Penalties, In-Kind & P2	Up 276%	Down 6%
Total Medians	Down 21%	Down 33%
Air Program—Number of Assessments	Down 44%	Down 44%
Air Program—Dollars Assessed	Down 74%	Down 62%
Air Program—Median	Down 25%	Down 27%
Asbestos Program—Number of Assessments	Unchanged	Unchanged
Asbestos Program—Dollars Assessed	Unchanged	Unchanged
Asbestos—Median	Unchanged	Unchanged
Beaches & Coastal—Number of Assessments	Unchanged	Up 100%
Beaches & Coastal—Dollars Assessed	Down 10%	Up 217%
Beaches & Coastal—Median	Down 12%	Up 17%
Dredge & Fill—Number of Assessments	Up 78%	Up 37%
Dredge & Fill—Dollars Assessed	Down 15%	Down 6%
Dredge & Fill—Median	Down 79%	Down 58%
Domestic Waste—Number of Assessments	Down 21%	Down 24%
Domestic Waste—Dollars Assessed	Up 1,261%	Up 813%
Domestic Waste—Median	Up 195%	Up 121%
Hazardous Waste—Number of Assessments	Down 38%	Down 49%
Hazardous Waste—Dollars Assessed	Down 10%	Down 92%
Hazardous Waste—Median	Up 86%	Down 6%

Industrial Waste—Number of Assessments	Up 300%	Up 50%
Industrial Waste—Dollars Assessed	Up 1,276%	Up 366%
Industrial Waste—Median	Up 125%	Up 29%
Mangrove Alterations—Number of Assessments	Down 27%	Unchanged
Mangrove Alterations—Dollars Assessed	Down 70%	Down 50%
Mangrove Alterations--Median	Down 67%	Down 45%
MN & PG—Number of Assessments	Down 100%	Unchanged
MN & PG—Dollars Assessed	Down 100%	Unchanged
MN & PG--Median	Down 100%	Unchanged
Potable Water—Number of Assessments	Up 150%	Up 67%
Potable Water—Dollars Assessed	Down 21%	Up 94%
Potable Water—Median	Down 73%	Up 55%
State Lands—Number of Assessments	Down 91%	Down 75%
State Lands—Dollars Assessed	Down 84%	Down 58%
State Lands--Median	Up 173%	Up 94%
Stormwater Discharge—Number of Assessments	Down 54%	Down 56%
Stormwater Discharge—Dollars Assessed	Down 22%	Down 6%
Stormwater Discharge—Median	Up 624%	Up 914%
Solid Waste—Number of Assessments	Down 45%	Down 57%
Solid Waste—Dollars Assessed	Down 58%	Down 88%
Solid Waste—Median	Down 17%	Down 27%
Tanks—Number of Assessments	Down 50%	Down 43%
Tanks—Dollars Assessed	Down 80%	Down 46%
Tanks—Median	Down 61%	Up 50%
UIC—Number of Assessments	Up 100%	Unchanged
UIC—Dollars Assessed	Up 100%	Down 75%
UIC--Medians	Up 100%	Down 75%

A comparison of collections of penalty assessments (excluding in-kind and pollution prevention project closures) for 2017 and the two previous years are:

Collections/Program Area	Performance Compared with 2015	Performance Compared with 2016
Total \$ Collected in Penalties	Down 11%	Down 55%
Air—Penalties Only Collected	Down 58%	Down 43%

Asbestos—Penalties Collected	Unchanged	Unchanged
Beaches & Coastal—Penalties Collected	Down 19%	Up 183%
Dredge& Fill—Penalties Collected	Up 28%	Up 57%
Domestic Waste—Penalties Collected	Down 30%	Up 40%
Hazardous Waste—Penalties Collected	Down 29%	Down 90%
Industrial Waste—Penalties Collected	Up 227%	Up 398%
Mangrove Alterations-Penalties Collected	Down 58%	Down 47%
MN & PG—Penalties Collected	Down 100%	Unchanged
Potable Water—Penalties Collected	Up 376%	Down 36%
State Lands—Penalties Collected	Down 100%	Down 100%
Stormwater Discharge—Penalties Collected	Up 17%	Up 49%
Solid Waste—Penalties Collected	Down 18%	Down 53%
Tanks—Penalties Collected	Down 26%	Down 71%
UIC—Penalties Collected	Up 100%	Down 75%

DISTRICT ENFORCEMENT RESULTS

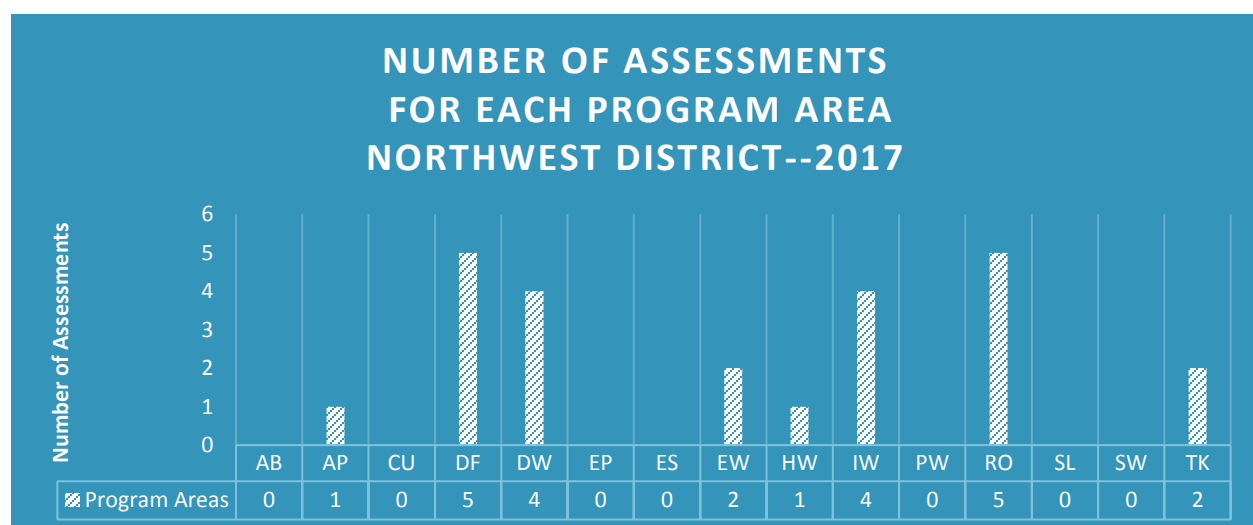
A. Northwest District

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

The Northwest District initiated enforcement in 33 cases in 2017, which is 1 more case than it had in 2016. This also stems the previous streak of 3 straight years of decreasing numbers. 15% of all the enforcement cases opened by the Department came out of this district. It issued 1 case report, the same as in 2016; however, it issued 2 in 2015 and 5 in 2014. It issued 5 NOVs, which is 2, more than in 2016. There were 3 final orders, 1 more than in 2016. The district issued 24 consent orders in 2017, a drop of 2 compared with the previous year. Long-form consent orders fell by 1, with a total of 6 in 2017, while the 12 short-form consent orders that were issued were also 1 less than in 2016. The district issued 18% of all short-form consent orders issued by the Department, a significant decrease from last year's results. 36% of all cases initiated by the Northwest District in 2017 were resolved with short-form consent orders, a 4% decrease from the previous year.

2. Program Area Enforcement

The Northwest District's modest increase in the number of cases was also seen in the number of assessments that were levied. There were 24 assessments versus 23 in 2016. The largest increase in the number of assessments came in the dredge and fill program (4), while any increases in other programs were by no more than 1 case. ***It has now been 5 years since this district had any potable water cases.*** The air, stormwater, state lands, and solid waste programs each had 2 fewer cases in 2017 than in 2016. The following chart provides a breakdown²¹ of how all assessments (including in-kind and pollution prevention projects) were distributed among the program areas:



3. Civil Penalty Assessments

The Northwest District assessed \$98,925.00 in civil penalties (including in-kind and P2 projects) in 2017, compared with \$189,344.00 that was assessed in 2016. This ends what had been three straight year of increases in this parameter. The district's total assessments made up just 2.59% all assessments levied by the Department in 2017, down from 4% in 2016. The median value of penalty assessments also fell, this time to \$3,000.00 (from \$5,000 in 2016), bringing yet another end to three straight years of increases.

²¹ Only program areas with actual assessments in the past are shown. The same is true for the remaining districts that will be discussed.

(Footnotes continued on next page)

Program area assessments for the Northwest District broke down as follows:²²²³

Program Area	Total \$ Assessed in 2017	Total \$ Assessed in 2016	2017 Medians	2016 Medians
AP	\$3,000.00	\$19,400.00	\$3,000.00	\$7,250.00
DF	\$7,170.00	\$4,000.00	\$1,000.00	\$4,000.00
DW	\$13,900.00	\$24,725.00	\$3,000.00	\$7,500.00
EW	\$3,000.00	\$5,920.00	\$1,500.00	\$5,920.00
HW	\$1,250.00	\$2,250.00	\$1,250.00	\$2,250.00
IW	\$16,875.00	\$5,000.00	\$4,500.00	\$2,500.00
RO	\$45,730.00	\$34,900.00	\$9,500.00	\$4,500.00
SL	\$0.00	\$2,100.00	\$0.00	\$1,050.00
SW	\$0.00	\$86,049.00	\$0.00	\$43,024.50
TK	\$8,000.00	\$5,000.00	\$4,000.00	\$5,000.00

Both the dollar value of assessments and medians fell in the air, domestic waste, ERP wetlands, hazardous waste, state lands, and solid waste programs. Domestic waste and state lands medians have fallen in back-to-back years. While the dredge and fill assessment rose, the median assessments in that program fell significantly. Both the industrial waste and stormwater discharge programs had healthy increases this year.

4. Civil Penalty Collections

The Northwest District collected \$93,175.00 in civil penalties in 2017, up significantly from the \$66,549.36 collected in 2016.²⁴ The Northwest District collected 11% of all collections by the Department in calendar year 2017, a 4% increase from the previous year.

²² Numbers in red represent results that were declines from the previous year's performance. The same format is used for the remaining districts. Only program areas with current assessments or assessments in the immediate past are listed.

²³ Assessments provided in this table include penalty assessments, in-kind assessments and pollution prevention project assessments. This includes the medians for each program. Consequently, we have adjusted the medians for 2016 to show the medians including penalties, in-kind and P2 projects. The same is the case in subsequent tables provided for each district.

²⁴ The civil penalty collections reported for each district do not include in-kind projects. Unless stated otherwise, the same is true for all subsequent district results.

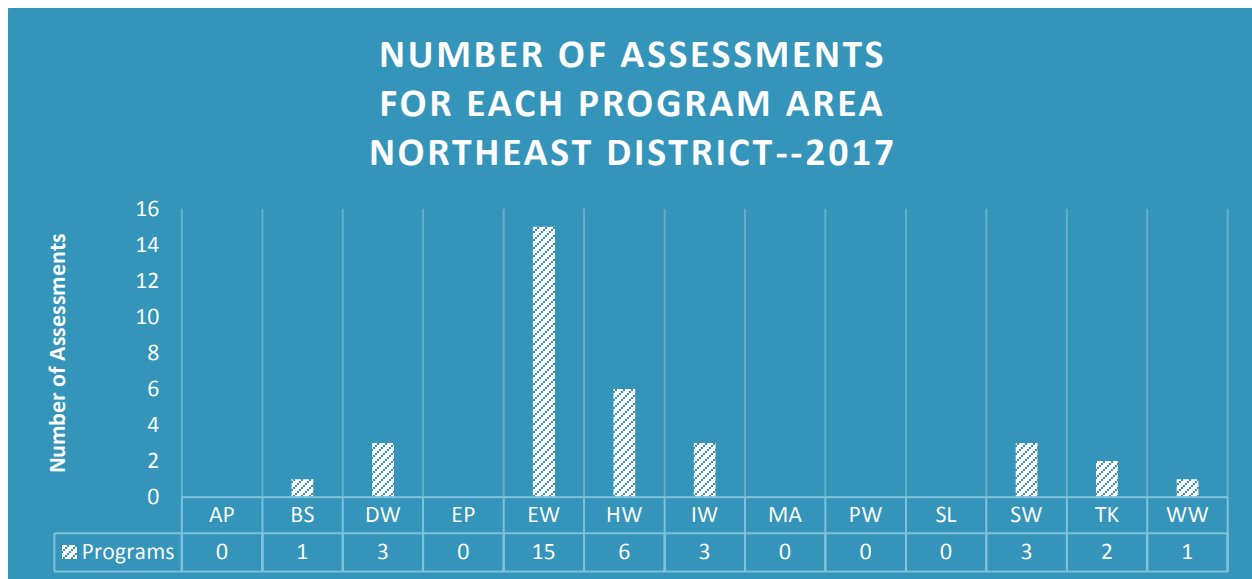
B. Northeast District

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

The Northeast District initiated enforcement in 47 cases in 2017, ending a 3-year period of increasing enforcement. The same district opened 62 cases in 2016. In 2017, the Northeast District accounted for 21% of all enforcement cases statewide, essentially the same as last year. It issued no case reports (a decrease of 2), 10 NOVs (an increase of 5) and 1 final order (a decrease of 5). The overall decrease in enforcement is largely attributable to a decrease in the number of consent orders. Whereas there were 49 in 2016, the number fell to 36 in 2017. The number of long-form consent orders fell from 24 to 15 and the number of short-form consent orders fell by 5, to 11. 23% of all cases initiated by the Northeast District in 2017 were resolved with short-form consent orders, a slight decline compared with 2016. 17% of all short-form consent orders issued by the Department came out of this district.

2. Program Area Enforcement

The Northeast District assessed civil penalties in 34 cases in 2017, compared with 53 cases in 2016. The 36% decline reverses what had been a trend of increasing assessments. The breakdown of assessments by program area (including in-kind and pollution prevention projects) follows:



With the exception of ERP permitting, industrial waste, and solid waste, every program performed worse in 2017 than it did in the previous year. The largest improvement (in terms of volume of cases) was in ERP permitting, which more than doubled 2016's performance.

3. Civil Penalty Assessments

Total assessments fell to \$400,181.00 in 2017. They were \$621,588.00 the year before; however, the 2017 result was still better than the \$236,926.61 assessed in 2015. This district's performance represented 10% of all assessments by the Department in 2017. It was the third-biggest contributor of all the districts. The median value of its assessments fell significantly, from \$3,000.00 in 2016, to a current level of just \$1,310.00.

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

Program	Total \$ Assessed in 2017	Total \$ Assessed in 2016	2017 Median	2016 Median
AP	\$0.00	\$27,500.00	\$0.00	\$5,000.00
BS	\$2,500.00	\$0.00	\$2,500.00	\$0.00
DW	\$226,120.00	\$175,150.00	\$90,000.00	\$3,000.00
EW	\$11,469.00	\$10,010.00	\$420.00	\$1,000.00
HW	\$73,510.00	\$343,028.00	\$6,065.00	\$35,330.50
IW	\$51,582.00	\$4,000.00	\$1,500.00	\$4,000.00
MA	\$0.00	\$5,500.00	\$0.00	\$2,000.00
PW	\$0.00	\$900.00	\$0.00	\$900.00
SL	\$0.00	\$5,000.00	\$0.00	\$2,500.00
SW	\$8,000.00	\$8,000.00	\$3,000.00	\$3,000.00
TK	\$20,000.00	\$26,500.00	\$10,000.00	\$3,250.00
WW	\$7,000.00	\$16,000.00	\$7,000.00	\$6,000.00

Total assessments and medians fell in the air, hazardous waste, mangrove alteration, potable water, and state lands programs. 2017 marks 3 straight years of declining medians in the state lands program.

4. Civil Penalty Collections

The Northeast District collected \$153,507.60 in civil penalties in 2017, up \$23,957.40 from the \$129,550.20 that was collected in 2016. The district collected \$150,729.65 in 2015. The district collected 14% of all collections by the Department in calendar year 2017.

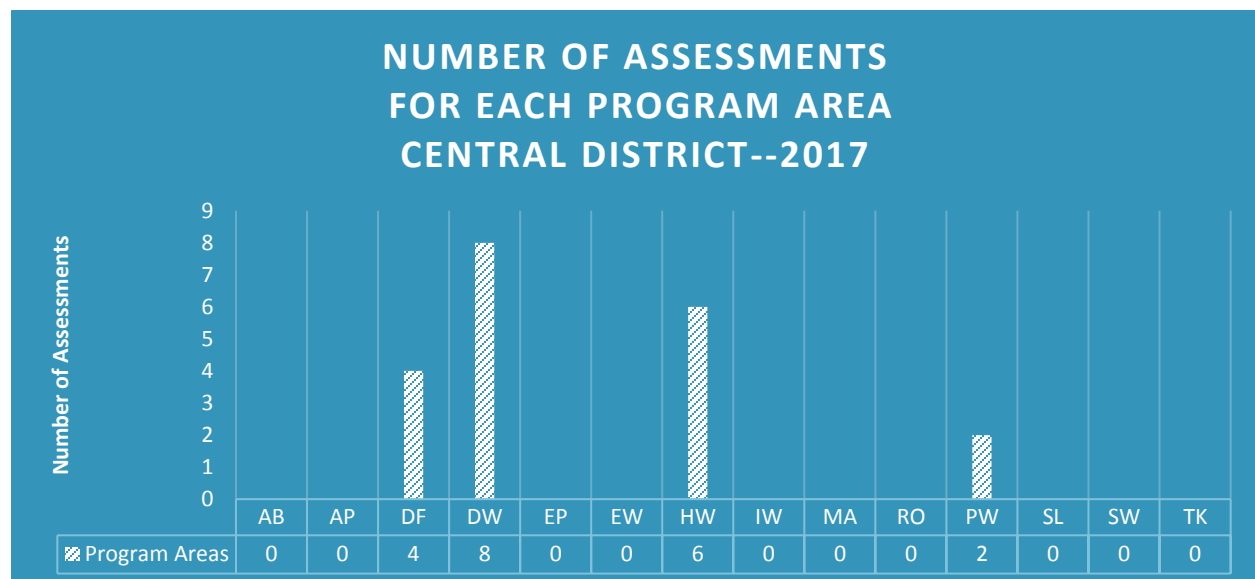
C. Central District

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

The Central District opened 36 enforcement cases in 2017, down 16 from the 52 cases that were opened 2016. It submitted no case reports to OGC in 2017, a decrease. It also issued no NOVs, another decrease. It did issue a final order, however. The balance of the enforcement is found in the 35 consent orders that it issued, which is down 26% from the 47 consent orders that it issued in 2016. Of the 35 consent orders, 3 (8%) were long-form consent orders and 14 (40%) were the short-form variety. Of all its cases 40% were resolved via short-form consent orders, and 8% were resolved with long-form consent orders (a 17% decrease from 2016).

2. Program Area Enforcement

The following chart provides the number of cases in which civil penalties were assessed by the Central District by program area in 2017:



The Central District assessed penalties in 20 cases in 2017, 8 fewer than the year before. The main decline was in the wastewater program, while the potable water's assessments in 2 cases is actually an improvement over 2016. Except for the hazardous waste program, which remained steady at 6 cases, every other program that had any activity in 2016 fell in 2017.

3. Civil Penalty Assessments

The Central District levied \$127,323.00 in civil penalties, in-kind assessments and P2 projects in 2017. This compares to \$159,350.00 in assessments in 2016, and \$219,397.00 levied in 2015. It also continues the significant decline from the \$271,249.00 assessed in 2014 and the \$359,295.00 assessed in 2013. **The district now has six straight years of declining assessments.** The district assessed 3.3% of all penalties in 2017, an indicator of its ineffectiveness. Medians also continue to decline. They were \$3,000.00 in 2017, \$3,750.00 in 2016, and \$4,260.00 in 2015.

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

Program	Total \$ Assessed in 2017	Total \$ Assessed in 2016	2017 Medians	2016 Medians
AP	\$0.00	\$500.00	\$0.00	\$500.00
DF	\$5,070.00	\$7,049.00	\$910.00	\$450.00
DW	\$61,150.00	\$52,750.00	\$3,875.00	\$3,500.00
EP	\$0.00	\$0.00	\$0.00	\$0.00
EW	\$0.00	\$8,000.00	\$0.00	\$8,000.00
HW	\$55,132.00	\$61,551.00	\$4,260.00	\$7,360.00
IW	\$0.00	\$0.00	\$0.00	\$0.00
RO	\$0.00	\$0.00	\$0.00	\$0.00
PW	\$5,971.00	\$1,000.00	\$971.00	\$1,000.00
SL	\$0.00	\$0.00	\$0.00	\$0.00
SW	\$0.00	\$8,500.00	\$0.00	\$8,500.00
TK	\$0.00	\$20,000.00	\$0.00	\$10,000.00

As has been the case recently, this district continues to perform under expectations in most of the programs. Total assessments fell in all but the domestic waste and potable water programs. They have fallen for 4 straight years in the hazardous waste program alone. Medians have fallen for 3 straight years in the air program. They rose only in the dredge and fill and domestic waste programs. There continue to be no state lands assessments coming out of this district. The potable water program has now had a total of 5 cases over the past 5 years.

4. Civil Penalty Collections

The continual decline in assessments has now resulted in significant declines in the collection of civil penalties. The district collected \$62,069.68 in civil penalties in 2017, compared to \$181,441.36 collected in 2016 and \$136,671.00 that was collected in 2015. Collections for 2014 were \$103,558.96, and in 2013 they were \$74,070.36. 2017's performance represented 12% of all of the penalties collected department-wide.

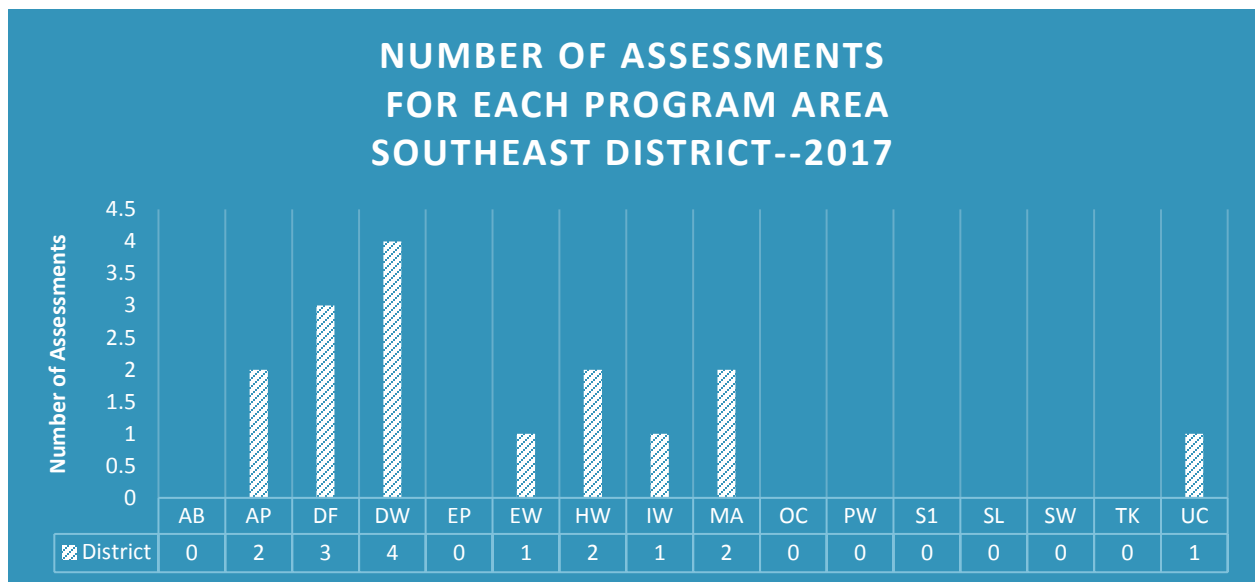
D. Southeast District

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

The Southeast District initiated enforcement in 18 cases in 2017, 4 less than it did in the previous year, and significantly lower than the 38 cases opened in 2015. This district continues to account for the fewest (8%) percentage of enforcement cases of all the districts. It issued no NOV's or final orders, and just 1 case report. It issued only 1 long-form consent order and 8 short-form consent orders, the latter mechanism accounting for 47% of all its consent orders and 44% of all its enforcement cases.

2. Program Area Enforcement

The Southeast District assessed penalties in one more case in 2017, than it did in the previous year. It assessed penalties in 16 of the 18 cases (a rate of 89%) in which it took formal enforcement. The following chart provides the number of civil penalty assessments made by the Southeast District by program area in 2017:



Increased assessment occurred in the air, domestic waste, industrial waste, mangrove alteration, and underground storage programs, while a significant decrease (from 8 down to 2 assessments) was seen in the hazardous waste program. **Additionally, it should be noted that, for 3 years now there have been no potable water, solid waste or tanks cases.**

3. Civil Penalty Assessments

This is a district that historically seems to turn in at least one major assessment in each calendar year. Such was the case in 2017. The dollar value of the 16 penalty assessments levied by the district in 2017 was significant--\$452,194.06. This represents a significant increase over the \$71,895.00 that was assessed the year before. However, \$334,577.00 of this total is due to one domestic waste case against the *City of Fort Lauderdale*. (In addition to this penalty assessment, the district imposed an in-kind penalty in the same case in the amount of \$501,865.50. Because of the large penalty assessment against the *City of Fort Lauderdale*, the district accounted for 27.63% of all of the assessments levied by the State of Florida in 2017. Median assessments also increased from \$1,727.00 (including in-kind and P2 projects) in 2016 to \$6,104.75 in 2017.

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

Program	Total \$ Assessed in 2017	Total \$ Assessed in 2016	2017 Medians	2016 Medians
AP	\$2,250.00	\$0.00	\$1,125.00	\$0.00
DF	\$10,420.00	\$1,670.00	\$5,000.00	\$420.00
DW	\$989,317.50	\$48,600.00	\$45,350.00	\$24,300.00
EW	\$420.00	\$500.00	\$420.00	\$500.00
HW	\$12,209.50	\$19,125.00	\$6,104.75	\$1,863.50
IW	\$32,500.00	\$0.00	\$16,250.00	\$0.00
MA	\$5,429.00	\$2,000.00	\$2,714.50	\$2,000.00
SL	\$0.00	\$0.00	\$0.00	\$0.00
TK	\$0.00	\$0.00	\$0.00	\$0.00
UC	\$4,038.56	\$0.00	\$4,038.56	\$0.00

The domestic waste program continues to be the program that accounts for the most assessments out of this district. As can be seen above, apart from the ERP program, all programs improved in the dollar value of penalty assessments in 2017. The same applies to the medians in 2017. It should be remembered, however, that the above results are based upon a total of only 18 assessments for the entire year. Consequently, it fair to say that the district's enforcement program is hardly a program that should be seen by polluters as an impediment to violation of the state's environmental laws.

4. Civil Penalty Collections

Despite the substantial dollar value of assessments in 2017, the Southeast District collected just \$39,129.56 in civil penalties. This is a decline from the \$42,042.00 in civil penalties that was collected in 2016, and sharply below the \$118,737.01 collected in 2015. Consequently, this

district accounted for just 10% of all dollars collected by the Department in civil penalties in 2017.

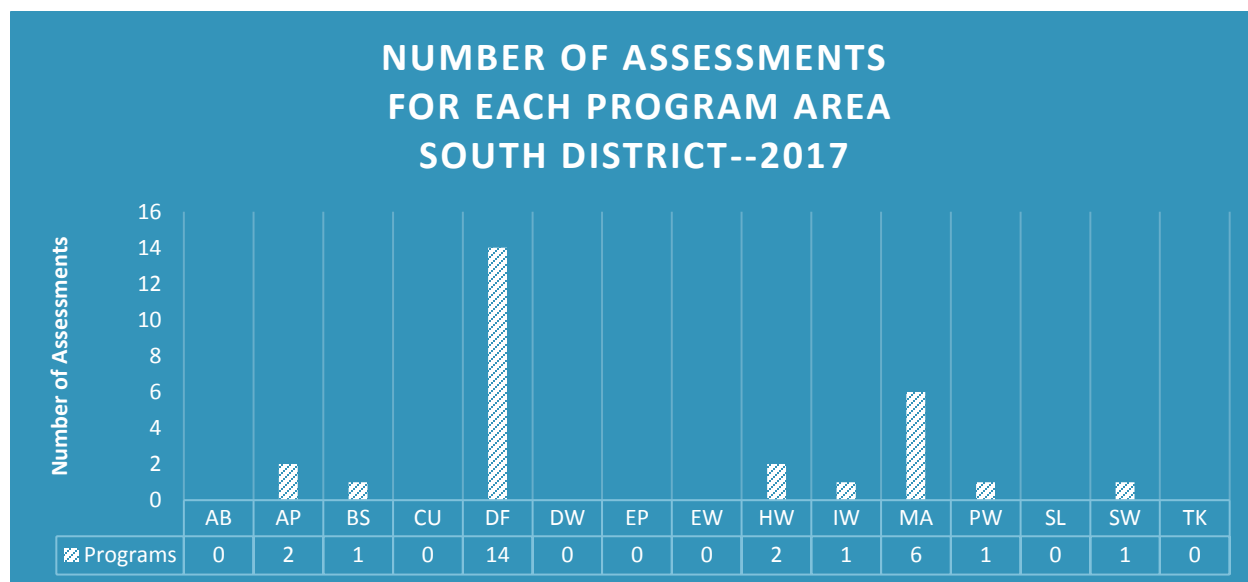
E. South District

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

The South District initiated enforcement in just 33 cases in 2017, 14 fewer than in 2016, but still 15% of all of the cases opened by the FDEP in 2017. The district issued 2 NOVs and 1 final order in 2017. Whereas, it sent 7 case reports to OGC in 2016, it sent only 2 in 2017. The number of consent orders also fell. It issued 28 consent orders in 2017, compared to 35 in the previous year. 3 of the consent orders were long-form (compared with 6 in 2016) and 4 short-form (compared with 5 in the previous year). This district typically relies heavily upon model consent orders, and in 2017 there were 19 model consent orders issued. Although 12% of its cases were settled by using short-form consent orders, this district continues to use this enforcement mechanism far less than the other districts.

2. Program Area Enforcement

The following chart provides the number of civil penalty assessments issued by the South District by program area in 2017:



The South District assessed penalties in 28 cases in 2017, 1 more than in 2016. Thus, the district assessed penalties in 85% of the cases in which it took formal enforcement, significantly better than in 2016. Essentially, the only significant changes were in the decline in the number of cases in the domestic waste and hazardous waste programs in 2017.

3. Civil Penalty Assessments

The drop in the number of enforcement cases translated to a decline in the dollar value of penalty assessments. The South District levied penalties in 28 of its 33 cases in 2017 and those assessments totaled \$56,436.00. This is a significant reduction from the \$76,496.00 in penalties that was assessed in 2016, and the \$92,033.00 assessed in 2015. This makes 4 straight years of declining numbers since 2013, when the district assessed \$312,627.50 in fines. The district provided just 1.5% of all assessments levied by the FDEP in 2017, making this the worst performing district in the state. Median assessments also fell for the fourth year in a row since 2013. In 2017, they were \$830.00, compared to \$2,000.00 in 2016, \$3,420.00 in 2015, and \$4,500.00 in 2014. (The median was \$7,000.00 in 2013.) For the past 3 years there have been no assessments in which in-kind or pollution prevention projects were used as mechanisms for resolving the enforcement case.

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

Program	Total \$ Assessed in 2017	Total \$ Assessed in 2016	2017 Medians	2016 Medians
AP	\$6,000.00	\$2,000.00	\$3,000.00	\$1,000.00
BS	\$1,000.00	\$0.00	\$1,000.00	\$0.00
CU	\$0.00	\$10,000.00	\$0.00	\$10,000.00
DF	\$16,790.00	\$14,260.00	\$420.00	\$2,000.00
DW	\$0.00	\$6,750.00	\$0.00	\$2,000.00
HW	\$19,896.00	\$21,031.00	\$9,948.00	\$5,000.00
IW	\$2,000.00	\$6,000.00	\$2,000.00	\$6,000.00
MA	\$3,750.00	\$5,080.00	\$625.00	\$665.00
PW	\$2,000.00	\$3,000.00	\$2,000.00	\$3,000.00
SL	\$0.00	\$0.00	\$0.00	\$0.00
SW	\$5,000.00	\$8,375.00	\$5,000.00	\$2,000.00
TK	\$0.00	\$0.00	\$0.00	\$0.00

While there were improvements in 3 of the programs in terms of the dollars assessed, what is striking is that in every other program there was either no assessment at all, or the amount of penalties levied fell. This was true for all but the air, beaches and shores and dredge and fill programs. Medians also tended to be lower, however, significant increases were seen in the air, hazardous waste and solid waste programs, however, all three of those programs combined accounted for only 5 assessments.

4. Civil Penalty Collections

Collections rose in 2017. The district collected \$85,162.96 in civil penalty assessments, compared to \$55,044.75 in civil penalties collected in 2016. \$91,131.00 was collected the year before. The performance in 2017, accounts for 14% of all dollars collected by the Department in civil penalties in 2017.

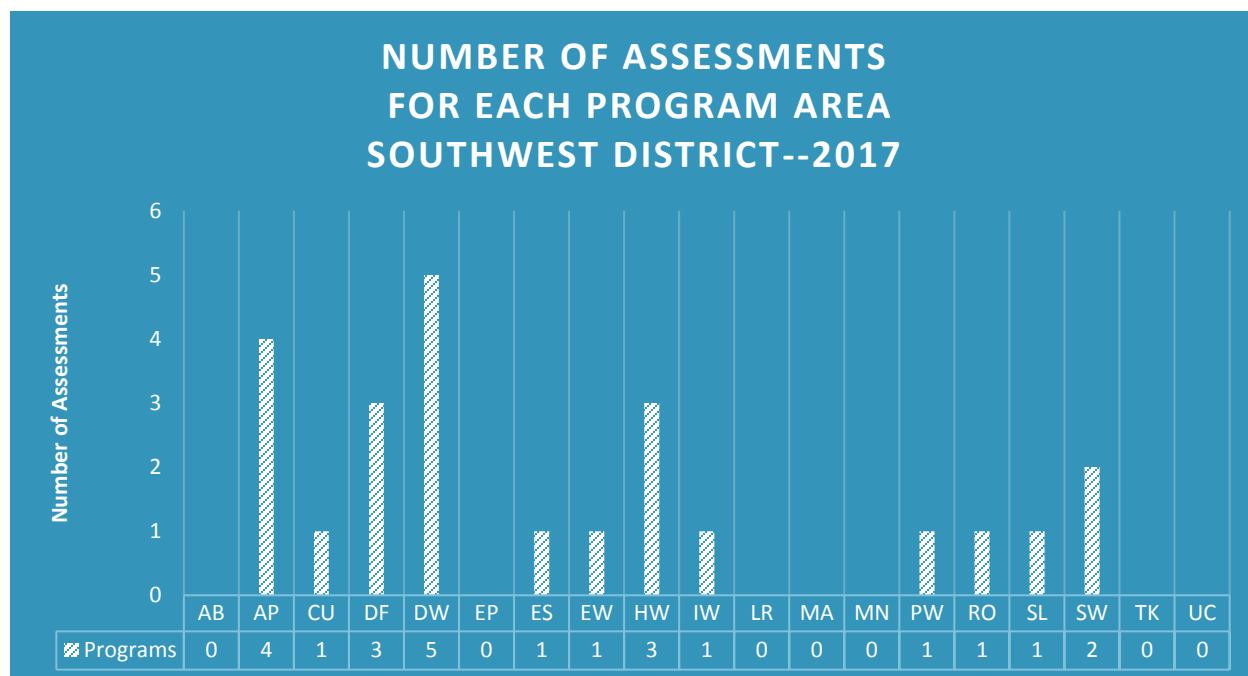
F. Southwest District

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

The number of cases opened by the Southwest District followed the majority trend and declined in 2017. The district opened 46 cases in 2017, compared with 63 in 2016 and 52 cases opened in 2015. In 2017, this district continued to account for 21% of all enforcement taken by the Department. It sent 4 case reports to the OGC, 3 more than in 2016, and NOVs held steady at 7. Final orders improved slightly, from 3 in 2016 to 5 in 2017. In 2017, the district issued 30 consent orders, down 22 from 2016. The same district issued 117 consent orders in 2012. In 2017, 20% of all consent orders were issued out of the Southwest District, and 50% of those consent orders were short-form consent orders. 33% of the consent orders were long-form consent orders.

2. Program Area Enforcement

The following chart provides the number of enforcement cases in which civil penalties were assessed by the Southwest District by program area in 2017:



With the exception of the potable water and state lands programs, all of the programs in this district saw performance declines in terms of the number of assessments levied. And while the potable water and state lands programs saw improvements, it was by the slimmest of margins, with each program assessing penalties in 1 case during the entire year. The “improvement” in the potable water program comes after 3 straight years in which there were no assessments.

3. Civil Penalty Assessments

Civil penalty assessments rose in 2017. The total of penalties, in-kind and P2 projects initiated was \$2,040,732.00, compared to \$294,185.00 the year before. However, \$1,919,200.00 of the \$2,040,732.00 in assessments was due to 1 case, a domestic waste case against the *City of St. Petersburg*. All the remaining assessments totaled just \$121,532.00 for the entire year. Overall, the district contributed 53% of all penalty assessments levied by the Department in 2017, by far the largest percentage contributor of all the districts. The Southwest District accounted for just 7% of all assessments in 2016, so the 2017 result is a significant improvement.

Median assessments, on the other hand, fell from \$4,000 to \$2,600 in 2017. This parameter continues to fluctuate, inasmuch as they were \$2,000.00 in 2015, \$5,000.00 in 2014 and \$2,500.00 in 2013.

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

Program	Total \$ Assessed in 2017	Total \$ Assessed in 2016	2017 Medians	2016 Medians
AP	\$17,200.00	\$17,400.00	\$3,500.00	\$3,100.00
CU	\$1,000.00	\$0.00	\$1,000.00	\$0.00
DF	\$1,840.00	\$3,500.00	\$420.00	\$875.00
DW	\$1,919,200.00	\$43,617.00	\$144,000.00	\$4,000.00
EP	\$0.00	\$0.00	\$0.00	\$0.00
EW	\$1,000.00	\$4,000.00	\$1,000.00	\$1,500.00
HW	\$88,342.00	\$159,723.00	\$13,500.00	\$6,500.00
IW	\$500.00	\$16,000.00	\$500.00	\$3,500.00
MA	\$0.00	\$7,750.00	\$0.00	\$2,000.00
PW	\$1,550.00	\$0.00	\$1,550.00	\$0.00
RO	\$4,000.00	\$6,000.00	\$4,000.00	\$6,000.00
SL	\$3,000.00	\$0.00	\$3,000.00	\$0.00
SW	\$2,100.00	\$20,000.00	\$1,050.00	\$5,250.00
TK	\$0.00	\$0.00	\$0.00	\$0.00
UC	\$0.00	\$16,195.00	\$0.00	\$16,195.00

The total dollar value of assessments has declined for 3 straight years in the mangrove alteration program, and for 2 straight years in the air and dredge and fill programs. The sizeable increase in the domestic wastewater program is due to 1 assessment against the *City of St. Petersburg* (OGC # 161280) that, when penalties and P2 projects are combined, totaled \$1,620,000.00. The waste cleanup, ERP, industrial wastewater, potable water, stormwater discharge, state lands, and underground storage tanks program results are each based upon 1 case. Medians have now fallen for 2 straight years in the dredge and fill, ERP, industrial wastewater, and solid waste programs.

4. Civil Penalty Collections

The Southwest District collected \$229,279.10 in civil penalties in 2017, an amount that is 13% lower than the \$263,167.38 in civil penalties that the district collected in 2016. The decrease is unexpected given the increase in assessments over the same period. Even with the overall decrease in collections, this district accounted for 35% of all the monies collected by the Department across the state, a 1% decrease from the 2016 results.

G. All Other Enforcement

The Department's headquarters in Tallahassee handles some cases, most of them being stormwater discharge cases associated with the National Pollutant Discharge Elimination

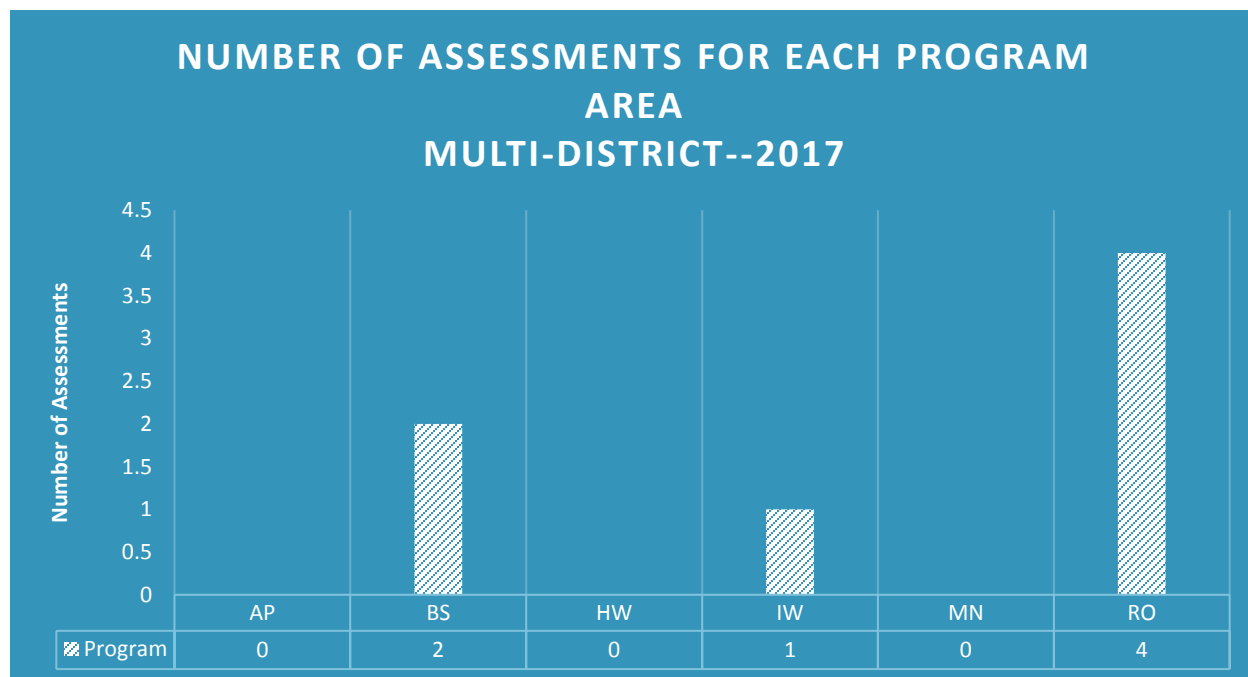
Program (NPDES), a federally delegated program. Other types of cases, such as the beaches and coastal systems program and mining cases are also typically handled out of Tallahassee. The cases that are not handled directly by the districts are cumulatively referred to as the “Multi-District” or “remaining categories.”

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

The remaining categories initiated 7 enforcement actions in 2017, 22 less than the year before. The performance in 2017 equaled 3% of all cases opened by the Department, down 6% from 2016. They sent 1 case report to the OGC in 2017, 0 NOVs, 0 final orders, and 6 consent orders, the latter being 17 less than in 2016. The remaining categories accounted for 11% of all case reports and 3% of all consent orders.

2. Program Area Enforcement

The following chart provides the number assessments issued by program area in 2017:



All the 7 enforcement actions resulted in civil penalties being assessed in 2017. An overwhelming number of the assessments were levied in the stormwater discharge program, as in years past.

3. Civil Penalty Assessments

Civil penalty assessments fell substantially in 2017. The total dollar value of assessments was \$43,788.00, compared to \$2,674,311.50 in 2016. Medians rose from \$370.00 in 2016 to \$500.00 in 2017, although the 2017 results are based upon just 7 cases.

Assessments broke down as follows:

Program	Total \$ Assessed in 2016	Total \$ Assessed in 2016	2017 Medians	2016 Medians
AP	\$0.00	\$8,000.00	\$0.00	\$8,000.00
BS	\$1,250.00	\$1,500.00	\$625.00	\$750.00
HW	\$0.00	\$2,650,000.00	\$0.00	\$1,325,000.00
IW	\$41,000.00	\$0.00	\$41,000.00	\$0.00
MN	\$0.00	\$0.00	\$0.00	\$0.00
OG	\$0.00	\$0.00	\$0.00	\$0.00
RO	\$1,538.00	\$14,811.50	\$370.00	\$316.50

Assessments in the beaches and shores have fallen for 3 straight years. Overall, the top 2 programs continue to be beaches and shores and stormwater discharge, both of whom saw the dollar value of assessments fall.

4. Civil Penalty Collections

The remaining categories collected \$43,568.00 in civil penalty assessments in 2017, down sharply from the \$1,474,031.50 in civil penalty assessments that was collected in 2016. The 2017 performance represents 4% of all dollars collected by the Department in civil penalties that year.

H. A Quick Look At District Results

Overall Number of Enforcement Cases:

District	Performance Compared with 2015	Performance Compared with 2016
Northwest	Down 6%	Up 3%
Northeast	Down 13%	Down 24%
Central	Down 18%	Down 31%
Southeast	Down 53%	Down 18%

South	Down 28%	Down 30%
Southwest	Down 12%	Down 27%
Multi-District	Down 75%	Down 76%

Number of Assessments:

District	Performance Compared with 2015	Performance Compared with 2016
Northwest	Up 4%	Up 4%
Northeast	Down 17%	Down 36%
Central	Down 27%	Down 25%
Southeast	Down 33%	Up 33%
South	Up 87%	Up 4%
Southwest	Down 7%	Down 33%
Multi-District	Down 68%	Down 68%

Dollars Assessed:

District	Performance Compared with 2015	Performance Compared with 2016
Northwest	Down 9%	Down 48%
Northeast	Up 26%	Down 36%
Central	Down 51%	Down 20%
Southeast	Up 1,048%	Up 1,370%
South	Down 16%	Down 26%
Southwest	Up 1,406%	Up 594%
Multi-District	Up 18%	Down 98%

Medians By District:

District	Performance Compared with 2015	Performance Compared with 2016
Northwest	Up 50%	Down 40%
Northeast	Down 34%	Down 56%
Central	Up 50%	Down 20%
Southeast	Up 74%	Up 274%
South	Down 51%	Down 58%
Southwest	Up 27%	Down 35%
Multi-District	Down 3%	Up 35%

Overall civil penalty collections by district:

District	Performance Compared with 2015	Performance Compared with 2016
Northwest	Up 36%	Up 40%
Northeast	Up 2%	Up 18%
Central	Down 55%	Down 66%
Southeast	Down 67%	Down 7%
South	Down 7%	Up 55%
Southwest	Up 22%	Down 13%
Multi-District	Up 12%	Down 97%

CONCLUSION

After issuing our report covering the FDEP's enforcement in 2016, we were cautiously optimistic that 2017 would accelerate what had, to that point, been incremental improvements in the system. We nevertheless closed our report for 2016 by stating that "[w]e see nothing in the numbers to suggest that there will be any significant improvement so long as the FDEP is controlled by people who are associated with the present administration." Unfortunately, our concerns proved to be valid. Instead of moving forward, the Department took a giant step backwards in 2017, turning in results that were the second-worst in the past seven years. Consequently, we see little hard evidence to suggest that meaningful improvements will be forthcoming until there has been a complete change in management at the FDEP.

The FDEP, like most state and federal environmental agencies uses administrative orders, often called consent orders, to resolve cases against polluters. In 2017, the number of consent orders issued by the FDEP fell 30% compared to 2016. At the current level, the number of consent orders is 86% lower than was the case in 2010. Meanwhile, the number of long-form consent orders, which are the lengthy orders that provide more oversight of polluters in order to fully resolve environmental violations, fell 54% compared to 2016 and are now at a level that is 86% lower than in 2010. In other words, the FDEP has significantly and substantially pulled back from a hands-on approach to environmental oversight.

It is true that there were 3 sizeable enforcement actions taken by the Department in 2017. All 3 of them were in the domestic waste program. Those 3 assessments alone totaled \$1,288,577.00. The problem is, however, that when those 3 assessments are subtracted from the total, the results for 2017 dwindle to \$768,965.30 for the entire state. This, in a state that, as late as 2010 was assessing penalties on the order of \$13,051,374.23. In other words, the results are 95% lower than they were in 2010. Thus, while there were 3 large cases brought by the Department in 2017, it appears that, in reality, they were brought solely for the purpose of giving the administration the ability to showcase for the public its "get tough" attitude towards polluters, while simultaneously engaging in a program to dismantle the very environmental programs that it is supposed to be strengthening. Unfortunately, it is the public and the environment that will ultimately pay the price for this misguided management of Florida's resources.

The extent of decline in the FDEP is seen in the individual programs. The number of assessments, the dollars assessed and the median penalty assessments all fell by at least 27% in the air and solid waste programs. All three parameters also fell in the hazardous waste program as well, which saw the number of assessments cut by 49% and the penalty dollars assessed reduced by 92%. There have been no asbestos or mining cases in years, and the potable water program is on life-support. And while there were more assessments in the dredge and fill program, the actual penalty dollars assessed fell 6% and the median assessments fell 58%-- meaning that penalty assessments were miniscule when compared to previous years. Meanwhile, the actual collection of penalty dollars fell 55% across the state.

In the final analysis, it continues to be the case that polluters have little to fear by breaking Florida's environmental laws. It is the rare case that is prosecuted nowadays, and most polluters can unfortunately be assured that they will not be penalized, unless they happen to have

a token case that can be used by the Department as an example of their “tough on polluters” policy. Therefore, there is simply no reason to believe that positive changes will come to the Department unless there is a complete change in management, or the EPA decides to exercise its oversight responsibilities and require the FDEP to begin enforcing Florida’s environmental laws.

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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.