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REPORT ON ENFORCEMENT EFFORTS

BY THE FLORIDA, DEPARTMENT OF

ENVIRONMENTAL PROTECTION

CALENDAR YEAR 2014

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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 2014. 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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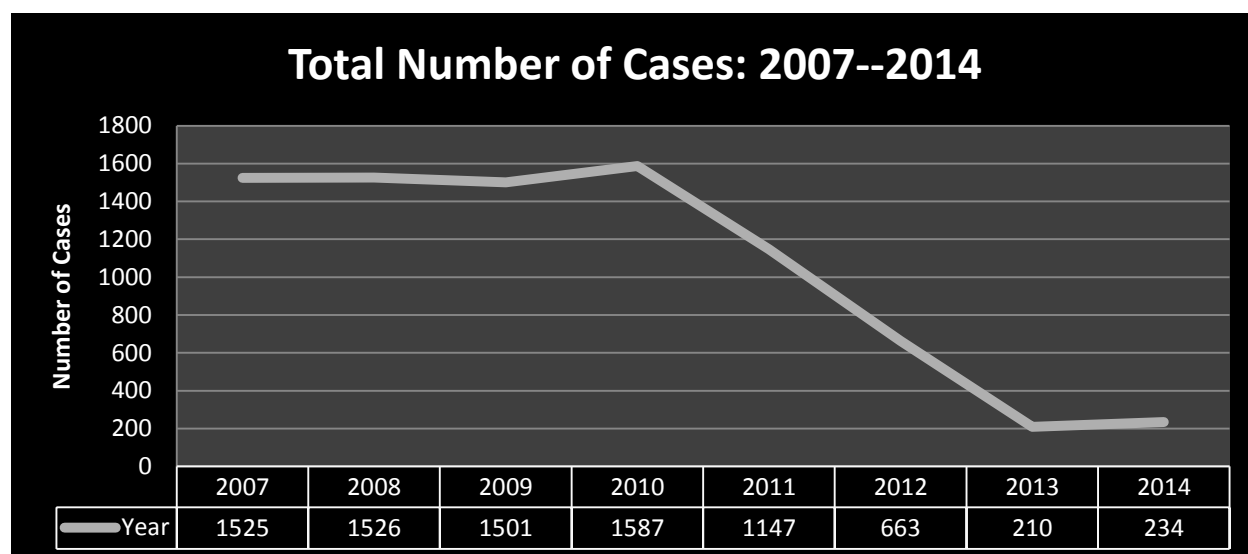
EXECUTIVE SUMMARY

A. Statewide Results

Some of the data that *Florida* PEER obtained from the Department suggests that the dismal results of 2013 have not continued into 2014. Indeed, there were a few more cases, more assessments and more collections for the Department as a whole. However, the increases were minimal overall and once the data was reviewed in detail it is apparent that the results are not indicative of a change of course; but rather, the draconian policies have continued with some programs still in a state of flux. When the results are compared with the Department's performance just five years ago it is obvious that much work needs to be done if the ship is to be put back on a workable course. As we have in the past, we have included a [Quick Look](#) section to provide the reader with bottom line results for a host of categories at the state level.

The Department opened 234 cases in 2014, an 11% increase from the results in 2013. But the results are still 85% lower than those posted for calendar year 2010. The total number of cases fell in the Northeast and Central districts, more so in the Central District. Statewide, most subcategories held their own and consent orders, the most used enforcement tool, rose slightly. But there were declines in the number of final orders and amended consent orders.

In spite of the modest improvement in 2014, the overall picture remains bleak. Over the past 8 years the Department's performance, vis-à-vis the total number of cases per year has fallen precipitously:



The Office of General Counsel received 30 case reports in 2014, compared with 28 case reports in 2013. The Number of NOV's more than doubled, from 11 in 2013 to 28 in 2014, but this is still down from 114 in 2010.

163 consent orders were issued in 2014, 10 more than in 2013. In 2012 the Department issued 482, in 2011 there were 844 and in 2010, just five years ago, 1249 were issued. **There were a combined 96 long-form consent orders and model consent orders issued in 2014, 10 more than last year, 2013 being the lowest in the Department's history.** 51 short-form consent orders were issued in 2014, an increase from the 43 in 2013. The Department issued 276 short-form consent orders in 2012, 531 in 2011 and 725 in 2010. As a percentage of all consent orders, short-form consent orders rose 4% from 2013.

In terms of the number of cases opened in each program the situation continues to be bleak. Declines of over 70% of the historical average were seen in the major programs such as air, dredge and fill, domestic waste, hazardous waste, industrial waste, potable water, solid waste and tanks. The potable water program alone, which oversees the quality of drinking water, fell 88%, as did the air program. The number of assessments has now dropped for 3 years in a row in the beaches and coastal systems, dredge and fill, industrial waste and solid waste programs.

The number of actual assessments is lower than the number of cases opened. Even though the Department opened 234 cases in 2014 it assessed civil penalties in only 144 (62%) of those cases. It assessed penalties in 130 (also 62%) cases in 2013. The increase in the number of assessments is a slight improvement that ends 7 straight years of declining numbers, but it is still markedly lower than previous years. For example, it levied assessments in 528 cases in 2012, 949 in 2011 and 1318 in 2010. The number of assessments dropped in the Central and Southwest Districts and rose in the other districts—but in no district was the increase in the number of assessments greater than single digits.

The Department assessed \$1,515,020.45 in civil penalties in 2014, up \$82,304.84 from the \$1,432,715.61 in civil penalties that were assessed in 2013. Overall, the 2014 result represents an 88% drop from the dollar value of penalties assessed in 2010 and it is the second lowest value (2013 was the lowest) the Department has amassed since 1988 (\$1,013,302.16 was assessed in 1988). 1988 was the first full year for which data is available for the then Department of Environmental Regulation.

In terms of actual dollars, total penalties assessed dropped in all but the domestic waste, hazardous waste, potable water and stormwater discharge programs. The overall increase in assessment dollars is attributable to one very large domestic waste assessment out of the Southeast District in the amount of \$466,300.00 against the *Miami-Dade Water & Sewer Department*. Without this one assessment the total dollars assessed would have been significantly lower than 2013's disastrous results. The asbestos program has had no cases for the past two years.

Statewide there were 2 cases in which the Department assessed a civil penalty of \$100,000 or more. In 2013 there were 3 cases. Both of the cases in 2014 were against local governments. The single highest assessment was the domestic waste case brought by the Southeast District against the *Miami-Dade Water & Sewer Department*. The penalty assessment

was in the amount of \$466,300.00. The other assessment was levied by the Southwest District against the *City of Largo* in the amount of \$108,750.00 and most of that assessment was in the form of an in-kind project.

Median assessments rose 2% in 2014. They are 50% higher than they were in 2009, 2010, 2011 and 2012—years in which the medians remained rather flat. However, they actually fell in every district but the Northeast and Southwest, the latter district doubling its median. And the medians in the remaining districts fell significantly. The largest single decline was in the Southeast District which fell from \$10,450.00 to \$3,000.00.

Medians improved 43% in the domestic waste program, but they fell 6% in the air program, 60% in hazardous waste, 77% in potable water, 70% in stormwater discharge and 28% in solid waste. Medians in the remaining program areas were unchanged. The decline in the hazardous waste program continues to be very troubling given the revised penalty policy under former Secretary Sole, which was aimed at significantly increasing medians in this program. The other troubling aspect of the multi-program decline is that with the minimal number of assessments that are actually levied one would expect the assessments to be higher, because the Department now claims to be bringing enforcement only against those polluters for which diversion programs have not worked, i.e. the worst of the worst. **The lower medians thus suggest that enforcement is lax even in those situations.**

A statewide total of \$932,998.94 was collected by the Department in 2014, an increase of \$245,221.25 from the \$687,777.69 that the Department collected in civil penalties in 2013. This is the first time since 2010 that collections actually increased. As a percentage of assessments, however, the Department collected 62% of the penalty assessments in 2014 compared to a 68% collection rate in 2013. The Department also recorded in-kind and penalty prevention project fulfillments valued at \$1,094,303.00 for a total collection result in 2014 of \$2,027,301.94. This cumulative total is actually less than the cumulative total in 2013 which was \$3,232,525.69.

For the fourth year in a row cumulative collections, i.e. collections of penalty assessments coupled with in-kind project completions, were down in every district. In 2014 the decreases ranged from a minimum of 81% in the Southeast District up to 100% in the Northwest, Northeast and South Districts. We also looked at the percentages of assessments that were collected, and when compared with 2013's results, every district but the South District collected a smaller percentage of those assessments. Only the domestic waste and solid waste programs increased their percentage of collections in 2014, both doing so for the second year in a row.

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.

In the section entitled *The Architects of the Department's Enforcement Policies* we discuss the senior management responsible for the dismantling of the Florida, Department of Environmental Protection's decline as a responsible environmental regulatory agency.

B. District Results

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

1. Northwest District

In 2014 the Northwest District opened the same number of cases as in the year before, thus stemming a five-year decline. While NOVs, final orders and case reports saw minimal improvement, the number of consent orders fell by 23%. The use of short-form consent orders rose 8% in 2014. Penalty assessments rose by one case in 2014, but the district only assessed penalties in 59% of its cases. The number of assessments fell in the air and in the dredge and fill programs. This is the second year in a row that there have been no potable water assessments in this district. Total penalties assessed increased in 2014, but 45% of those penalty dollars came from one case without which there would have been only minimal improvement. Median assessments fell. Collections declined 39% compared with 2013, making this the fourth straight year in which collections have declined.

2. Northeast District

The number of enforcement cases declined for the fifth straight year in 2014. It took enforcement in 39 cases in 2014, 41 cases in 2013, 116 cases in 2012, 133 in 2011 and 230 in 2010. The number of NOVs and final orders increased, but case reports and consent orders fell. 82% of the cases it opened in 2014 culminated with penalty assessments. And it assessed penalties in 28% more cases in 2014 than it did the year before. At the same time, however, the Northeast District assessed civil penalties totaling \$207,375.00 in 2014 a level that is 42% lower than in 2013. Medians did rise, however. Collections fell for the fifth year in a row.

3. Central District

The Central District took enforcement in only 26 cases in 2014, the fewest number of cases than any other district in the state. The district's performance was worse than 2013 and represents the fourth straight year of declining numbers. Except for case reports every major enforcement mechanism (including consent orders) fell when compared with 2013. The number of penalty assessments fell for the fourth straight year, but in 2014 penalties were assessed in all 26 cases. The number of assessments improved slightly in most major program areas, including hazardous waste. The Central District levied \$271,249.00 in 2014. The previous year it assessed \$359,295.00. The district now has three straight years of declining dollar value of assessments. Nevertheless, on a percentage basis the district assessed the most penalty dollars of all of the

districts. Medians rose in every major program area and this contributed to the overall increase from \$3,875.00 in 2013 to \$5,500.00 in 2014. Collections rose 40% compared with 2013.

4. Southeast District

The Southeast District initiated enforcement in 28 cases in 2014, second only to the Central District as having the fewest number of cases. But it is still 10 more than the Southeast District had in the previous year. The number of NOV's and consent orders both increased compared to 2013. Both long-form and short-form consent order usage increased. The number of assessments also rose (from 8 in 2013 to 13 in 2014); however, the district actually assessed civil penalties in only 46% of its cases. The increase in the number of assessments translated to an increase in the dollar value of those assessments. The district levied penalties totaling \$506,216.63 in 2014 compared to \$95,988.00 in 2013. While at first blush this would be an impressive turnaround the reality is that \$466,300.00 of the penalties levied in 2014 were from one case, a domestic waste case against the *Miami-Dade Water and Sewer Department*. If this assessment is removed from the total it leaves the entire district assessing only \$39,916.63, a significant decline from the pathetic results in 2013. Hazardous waste assessments declined for the fifth year in a row. Therefore, the fact that the Southeast District accounted for 33% of all Department assessments in 2014 (the highest percentage of all districts) is deceiving. The district's median assessments across all programs fell to \$3,000.00 from \$10,450.00 in 2013. Collections rose dramatically due to the domestic waste case mentioned above, making the Southeast District responsible for 55% of all collections department-wide.

5. South District

The South District took enforcement in 38 cases in 2014, a 15% increase from 2013's performance, but 45% fewer than in 2012. Higher enforcement numbers were seen in every enforcement tool, except for final orders. The South District assessed civil penalties in only 45% of its cases in 2014. It assessed penalties in 17 cases, a 32% decline from the 25 assessments in 2013. 50 assessments were made in 2012 and 114 in 2011 making this the sixth straight year of declining results. There were no air cases in 2014, making this 3 years in a row with no assessments in this critical program. There have been no assessments in the solid waste program for 2 years in a row. The dollar value of assessments dropped 61% in 2014 to \$122,114.00. The median assessment for all programs combined dropped from \$7,000.00 in 2013 to \$4,500.00 in 2014, due in large part to significant declines in the dredge and fill and domestic waste programs. Collections increased from \$37,717.42 in 2013 to \$122,114.00 in 2014.

6. Southwest District

The Southwest District initiated 38 enforcement cases in 2014, an increase of 4 cases from 2013. But just two years earlier, in 2012, the district opened 164 enforcement cases. This district accounted for 16% of all enforcement taken by the Department in 2014, the same as in 2013. Only NOVs and final orders actually increased in number. Case reports and consent orders held their own. The usage of short-form consent orders dropped 7% in 2014, while the usage of long-form consent orders increased 13%. For the fourth year in a row the number of assessments declined, this time from 19 to 14. **This also means that the Southwest District assessed penalties in only 37% of its enforcement actions—the lowest of all of the districts.** There were 50% fewer domestic waste assessments in 2014 than in 2013. Civil penalty assessments fell again in 2014. The district assessed \$260,813.82 in 2014, down from the \$277,819.55 that was assessed in 2013. The dollar value of assessments has now fallen four years in a row. On the bright side, median assessments doubled from \$2,500 to \$5,000. In 2014 the Southwest District collected \$167,146.35 in civil penalties, down 23% from the \$217,818.20 that was collected in 2013. Collections have now fallen in each of the past 4 years.

7. All Other Enforcement

This category typically involves the beaches and coastal systems program and the stormwater discharge program. The remaining categories initiated 28 enforcement actions in 2014, 15 more than in 2013. Penalties were levied in 71% of those cases. Penalty assessments were seen in 20 cases, 6 more than in 2013. The dollar value of these assessments increased slightly from \$24,959.25 in 2013 to \$40,242.00 in 2014. By comparison, there were \$199,147.25 in assessments in 2012 and \$196,003.02 in 2011. Medians fell from \$1,000.00 in 2013 to just \$392.00 in 2014. Overall, in 2014 the \$40,242.00 that was collected accounted for 3% of all assessments levied by the Department. The remaining categories collected \$38,576.10 in 2014 up from the \$30,101.15 that was collected in the previous year, but far short of the collections in previous years.

STATEWIDE ENFORCEMENT RESULTS¹

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

The Department initiated enforcement in 234 cases in 2014, an 11% improvement from 2013 when enforcement was taken in 210 cases. This result, while encouraging, is still 85% lower than the levels seen in 2010.

The Department requested serious enforcement through the Office of General Counsel in civil circuit courts and/or administrative hearings in 30 cases in 2014, a slight improvement from the 28 cases in 2013. Previous years saw 68 cases in 2012, 109 in 2011 and 157 in 2010. Thus, this increase, small as it is, at least ends a three year slide.

The 28 NOVs that were issued in 2014 represent a significant increase from the 11 that were filed in 2013. By comparison, there were 54 NOVs filed in 2012, 96 in 2011 and 114 in 2010.

The Department issued 163 consent orders in 2014, 10 more than in 2013. There were 482 consent orders in 2012, 844 in 2011 and 1249 consent orders in 2010. Of the 163 consent orders issued in 2014, 53 were long-form consent orders.

Model consent orders are essentially long-form consent orders that are tailor-made to fit more routine violations in each program area. They increased from 42 in 2013 to 43 in 2014. Except for 2013, this performance is the lowest since 1997 when 134 were issued.

There were a combined 96 long-form consent orders and model consent orders issued in 2014. This is the second-lowest level for these two enforcement mechanisms in the Department's history, but slightly better than 2013.

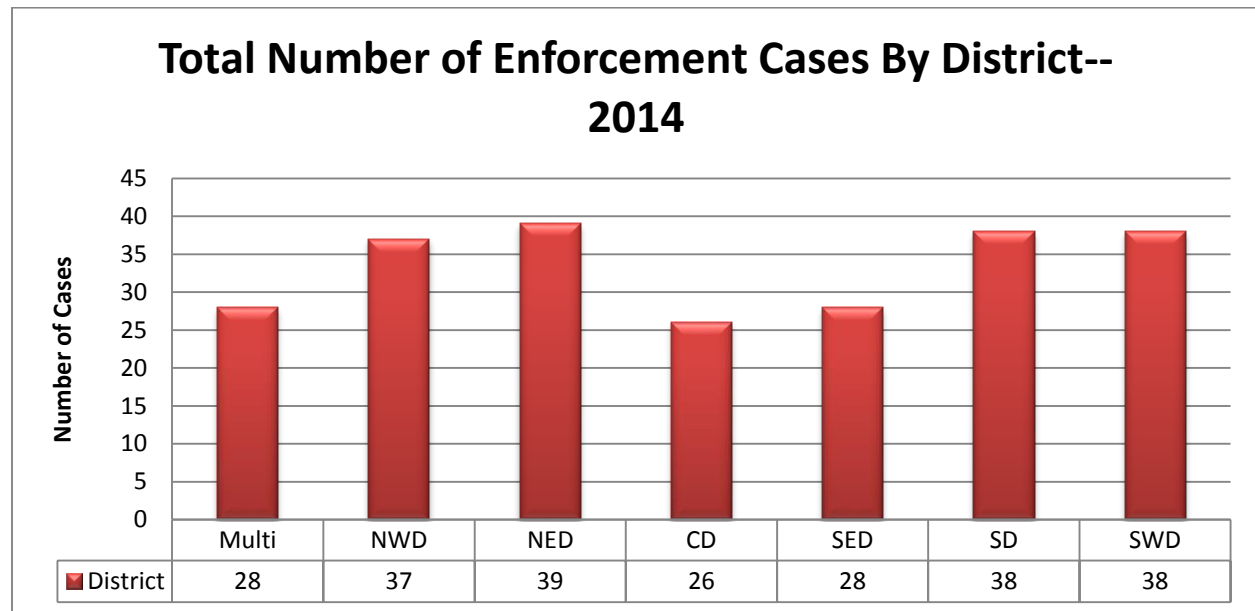
Short-form consent orders rose from 43 in 2013 to 51 in 2014, a 19% increase. In addition, their usage as a percentage of all consent orders increased 3% in 2014 and their usage as a percentage of all enforcement cases rose 1%. Therefore, while there were obviously far fewer short-form consent orders issued over the past two years, the trend towards using them less and less compared to other mechanisms may be reaching its end. Since the Department is using

¹ Florida PEER has previously provided enforcement results for the FDEP based upon data obtained from the agency dating back to 1988. In the past at this juncture we have included a description of the various types of enforcement that the Department is capable of initiating. This description is now at the end of this report in the Appendix wherein the reader will find the descriptions of various enforcement tools, as well as the historical averages for the various program areas. A complete report on the past 20 years of environmental enforcement in Florida can also be found at http://www.peer.org/assets/docs/fl/08_25_11_fl_rpt_on_historical_enforcement.pdf.

enforcement only as a last resort we would expect that the number of short-form consent orders that the Department could use and maintain any credibility at all could not rise much more because serious cases typically demand more agency oversight than simply processing the payment of a fine.

Final orders that were enforcement related dropped 28% in 2014, when only 13 were issued.

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

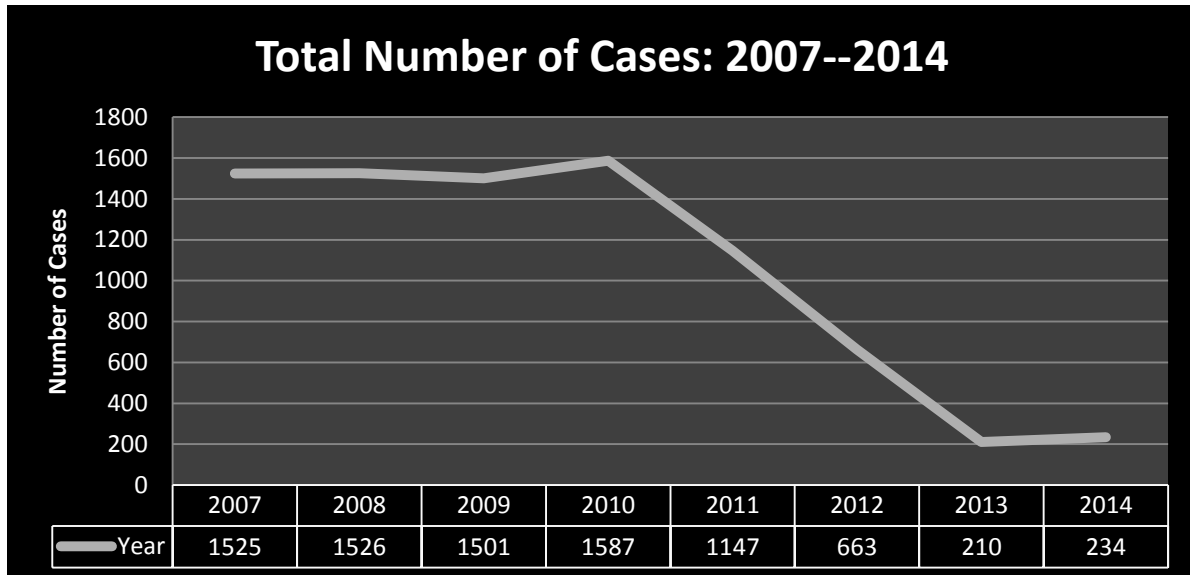


In 2014 the number of cases increased in each district except for the Northeast and Central Districts, both of which have had a declining number of cases consistently over the past five years. But none of the districts are performing at anywhere near 2010 levels:

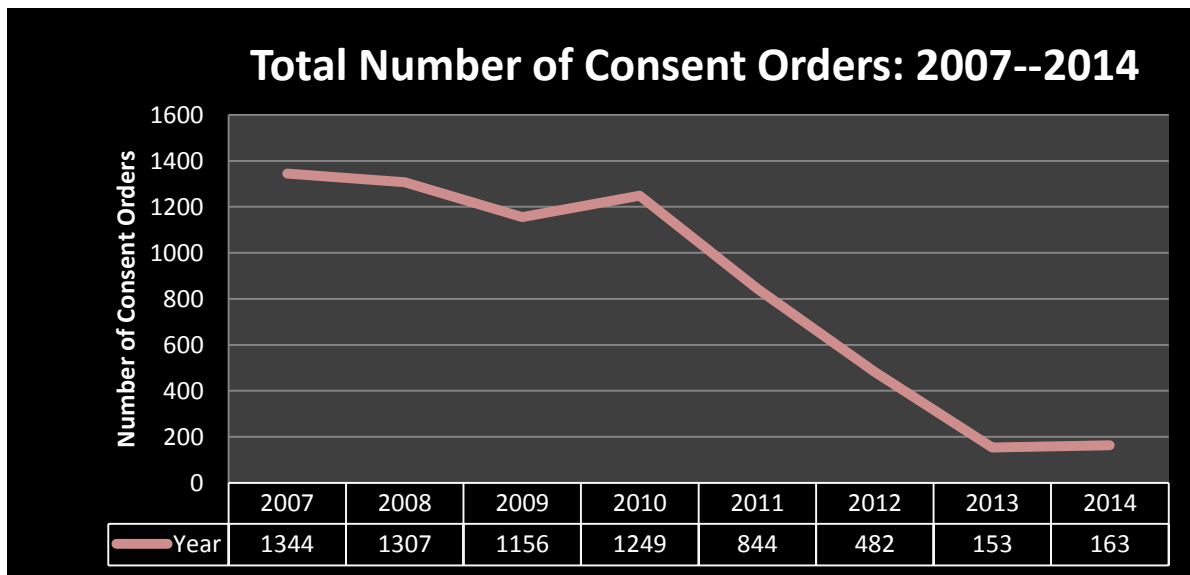
<i>District</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>
<i>Headquarters</i>	134	67	88	15	28
<i>Northwest</i>	167	156	60	37	37
<i>Northeast</i>	230	133	116	41	39
<i>Central</i>	208	161	109	32	26
<i>Southeast</i>	206	128	56	18	28
<i>South</i>	187	145	70	33	38
<i>Southwest</i>	455	357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

B. Statewide Trends In 2014

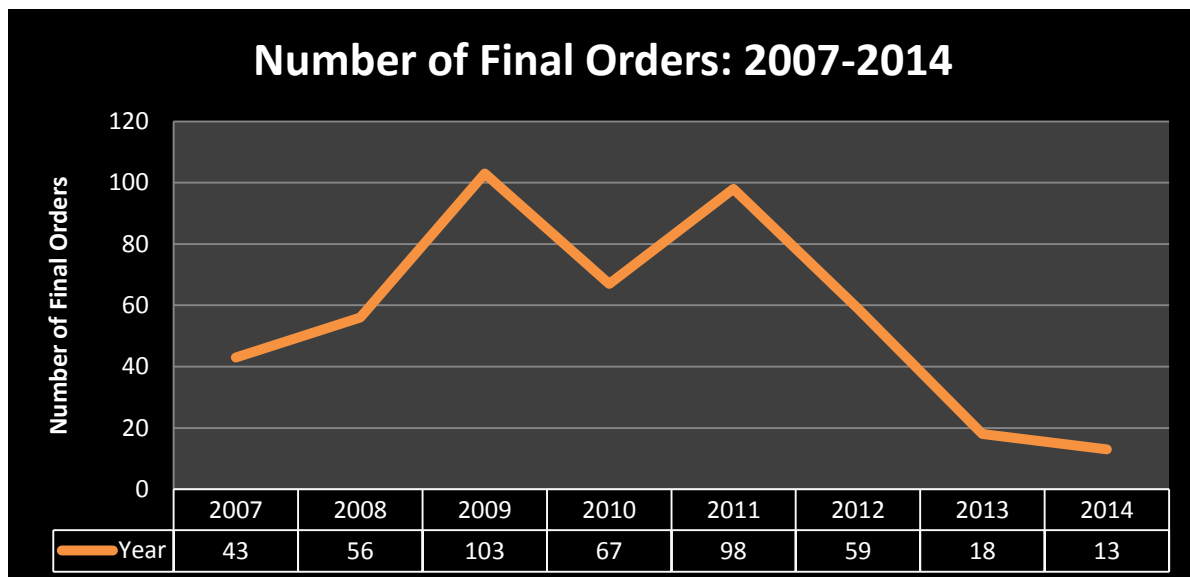
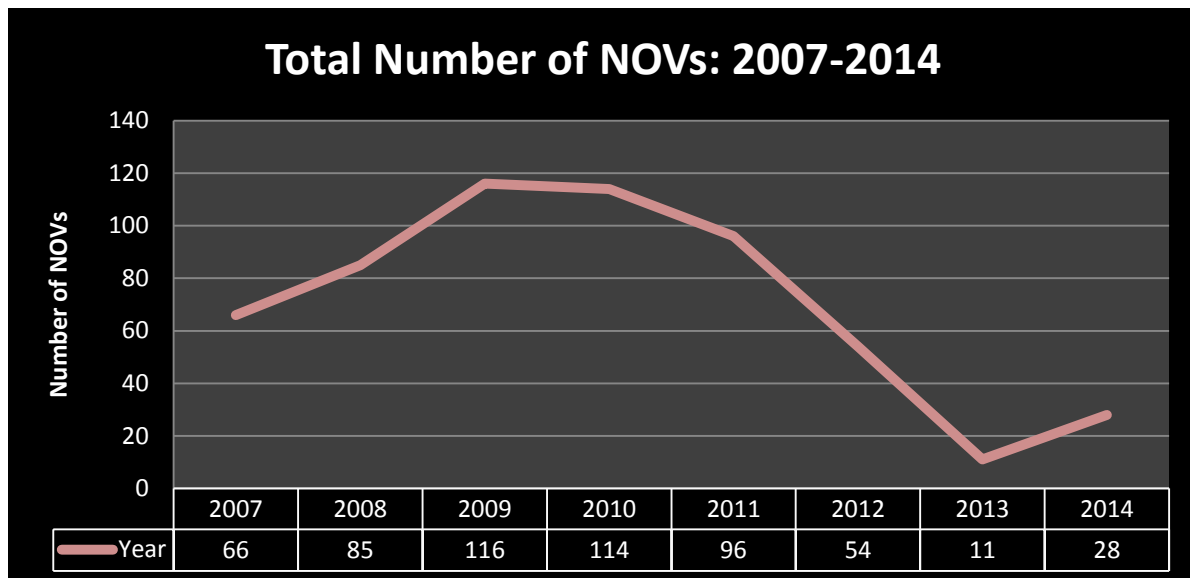
The following chart shows the overall number of enforcement cases brought by the Department over the past eight years. Even with the slight uptick in 2014 the overall results are decidedly negative:



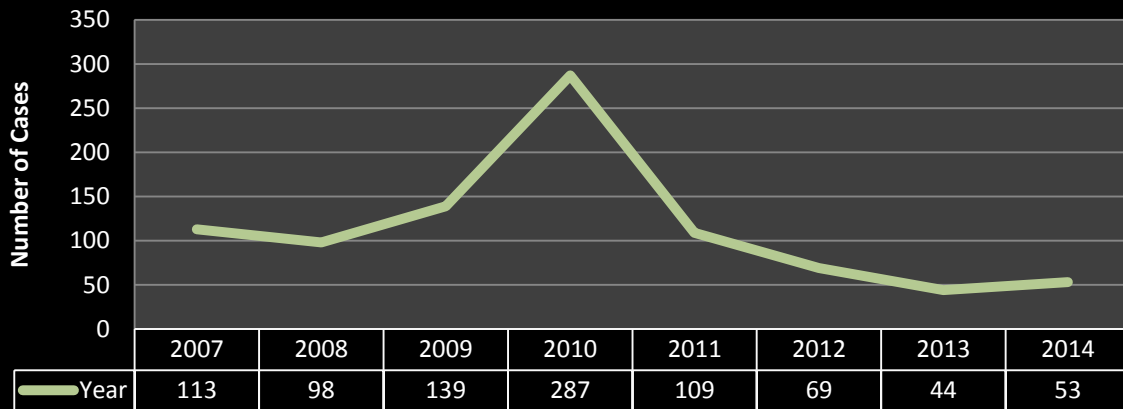
Consent orders continue to be the Department's enforcement mechanism of choice, but their usage has drastically declined.



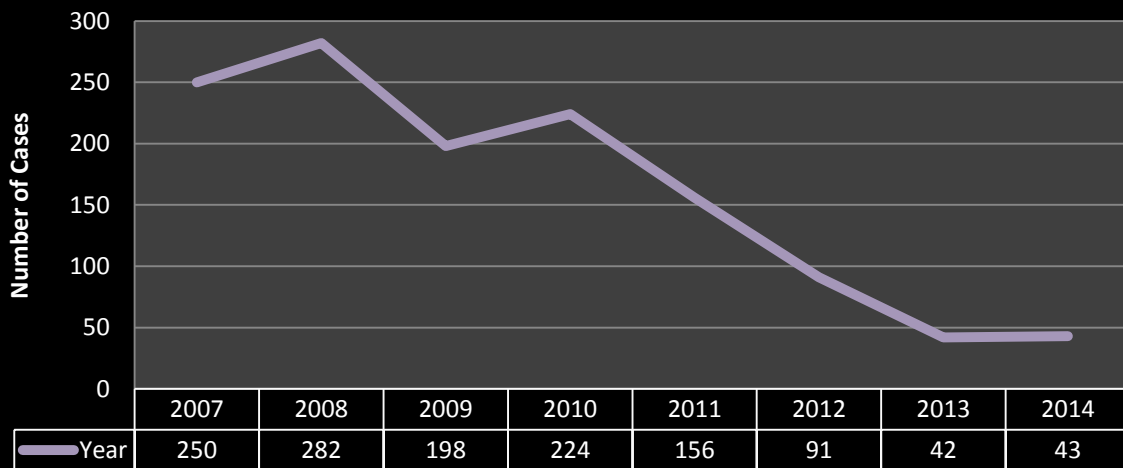
With the exception of NOVs, which showed marginal improvement, the above trend is seen throughout the various enforcement mechanisms. All of them have severe problems, a fact that is easily seen when viewed historically:



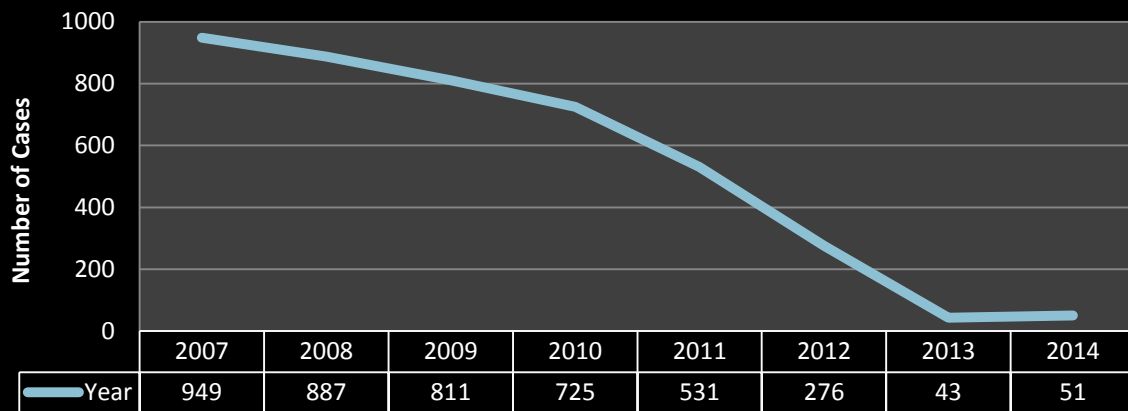
Number of Long-form Consent Orders: 2007-2014



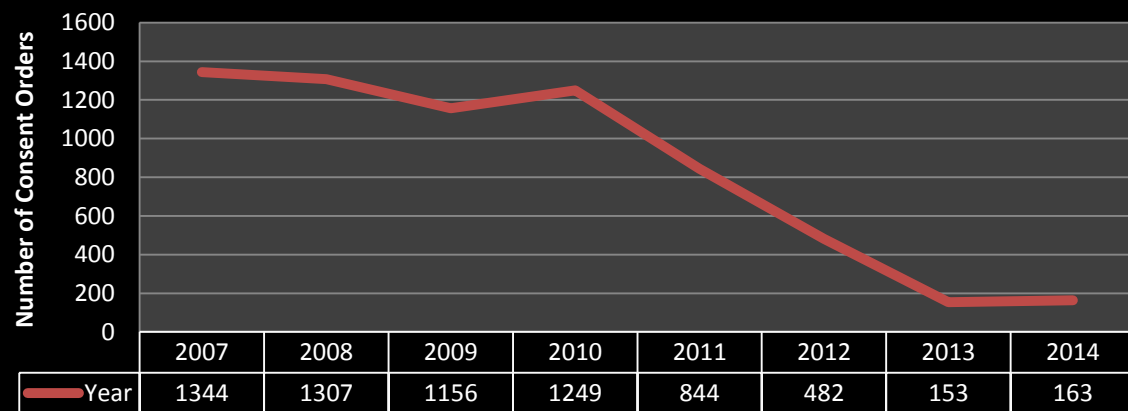
Number of Model Consent Orders: 2007-2014

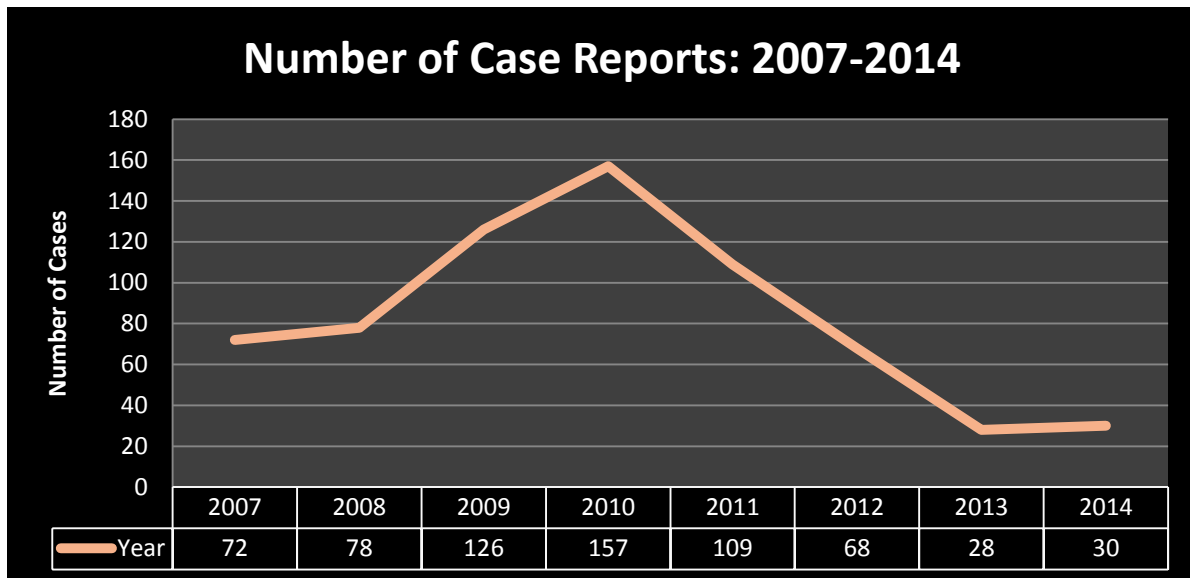


Number of Short-Form Consent Orders: 2007-2014



Number of Consent Orders Combined: 2007-2014

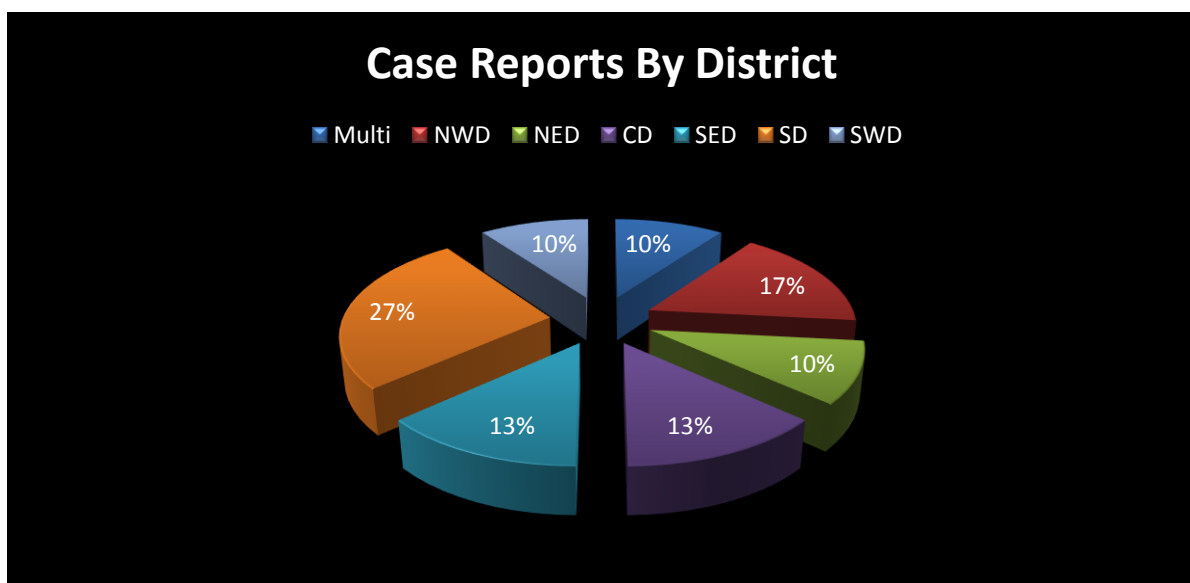




C. Case Reports, NOVs, Consent Orders, Final Orders – District Comparisons

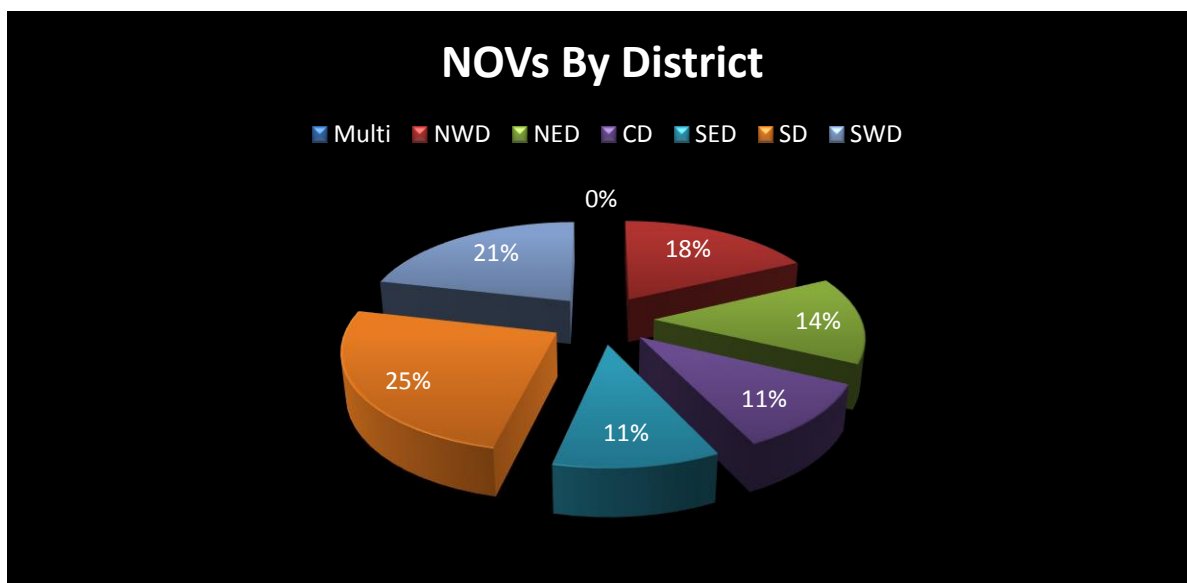
The Department's various enforcement tools were distributed amongst the Districts as follows:

1. Case Reports



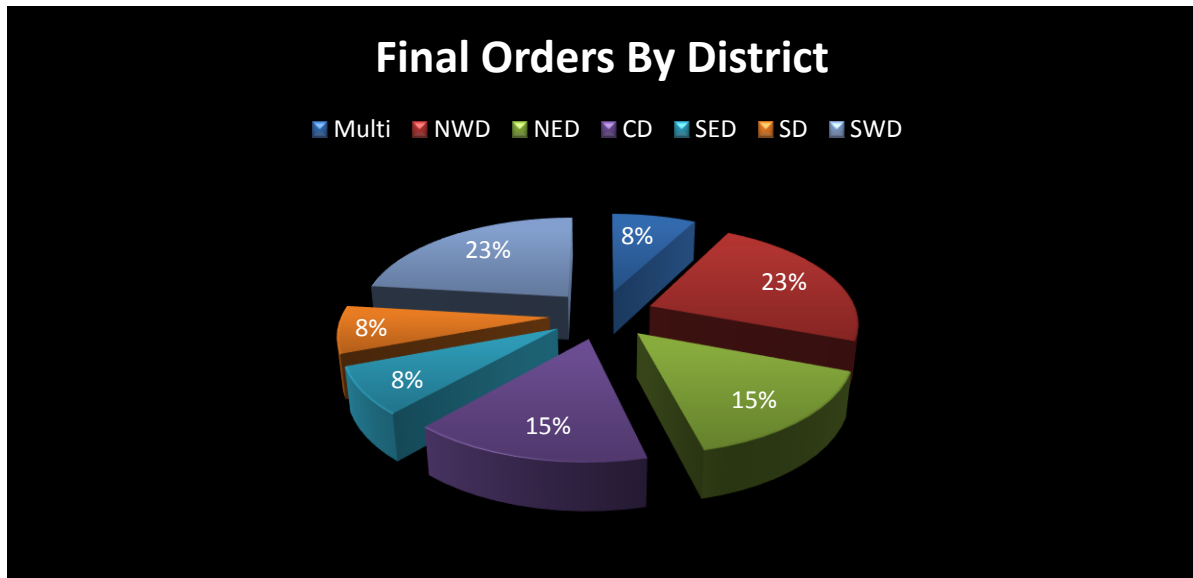
12.82% of the enforcement cases handled by the Department were referred to OGC for various types of litigation, a slight decrease from 2013. The total number of case reports continued to be quite low, less than 20% of the level that they were at in 2010. The Northwest, Central and South districts each posted modest improvements from 2013.

2. NOVs



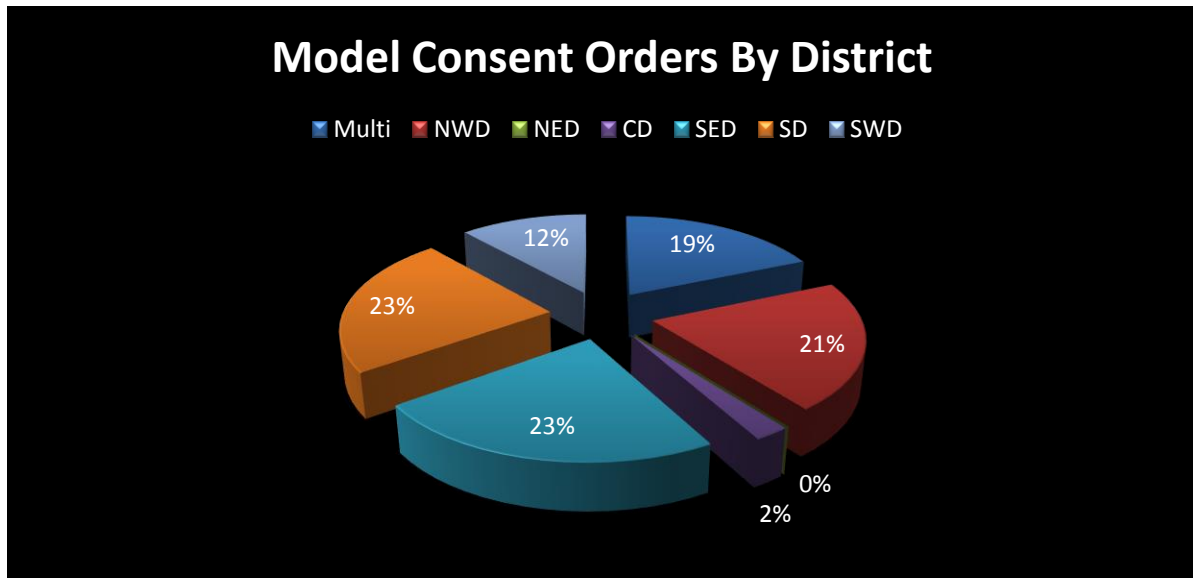
The South and Southwest Districts issued a combined 46% of all NOVs generated by the FDEP in 2014. The remaining districts contributed the rest. All of the districts increased the number of NOVs that they issued compared with 2013's results.

3. Final Orders



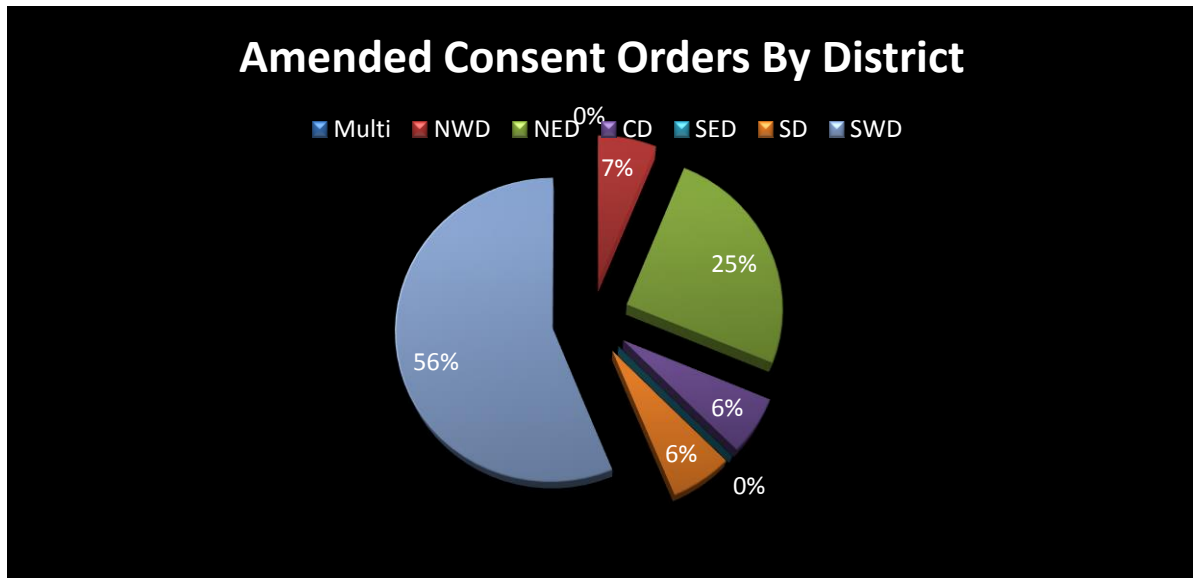
The Southwest and Northwest Districts issued equal numbers of final orders in 2014 and together they contributed 46% of the final orders issued by the Department. The Northwest, Northeast and Southwest Districts all increased the number of final orders they issued when compared with 2013's numbers.

4. Model Consent Orders



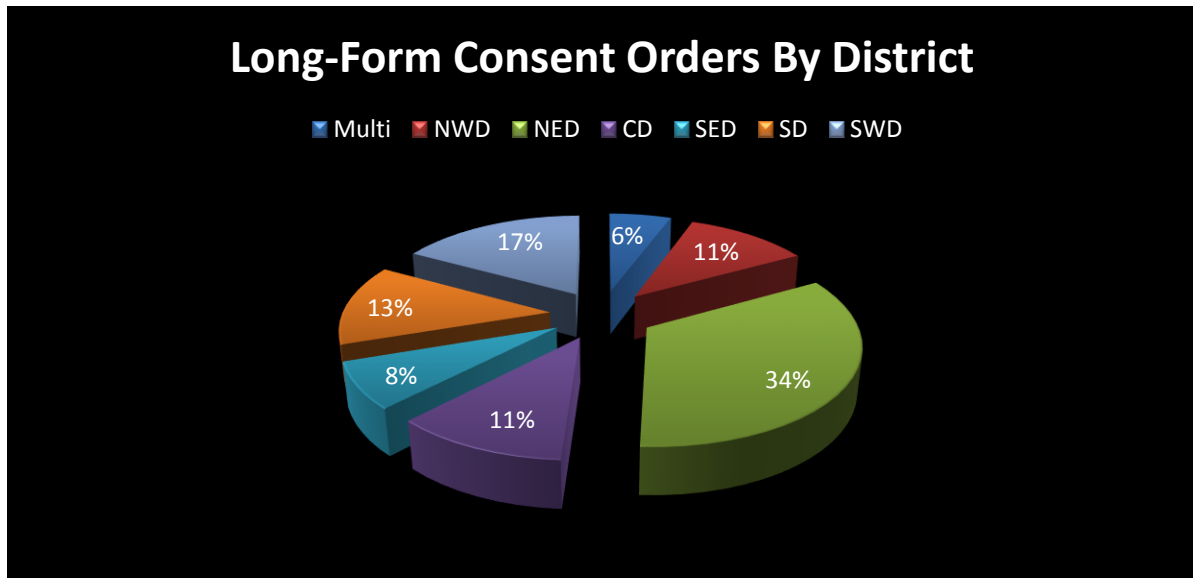
The Southeast and South Districts issued the highest percentage of model consent orders in 2014, each of them accounting for 23% of the overall FDEP total. The Southeast District was the only district to improve its performance compared with 2013. It issued no model consent orders in 2013 and ten in 2014.

5. Amended Consent Orders



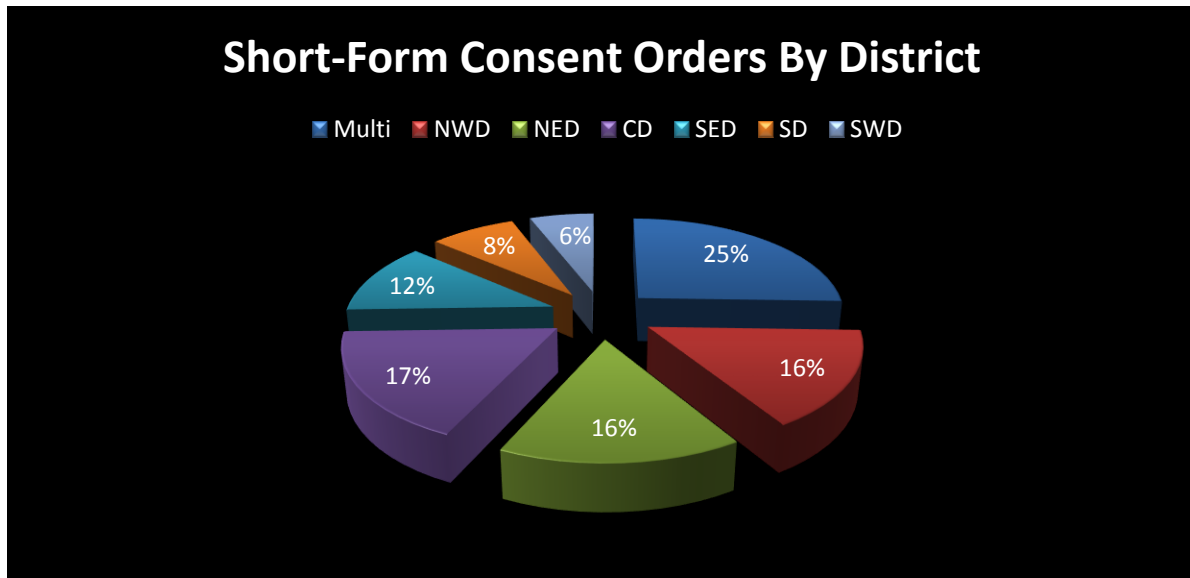
The Southwest District issued the overwhelming majority of amended consent orders in 2014, followed by the Northeast District. Together they account for 81% of all amended consent orders issued by the Department in 2014. The Southeast District issued none. The Central and Southwest Districts saw modest increases in the number of amended consent orders issued in 2014 compared to 2013. The remaining districts all saw poorer performance.

6. Long-Form Consent Orders



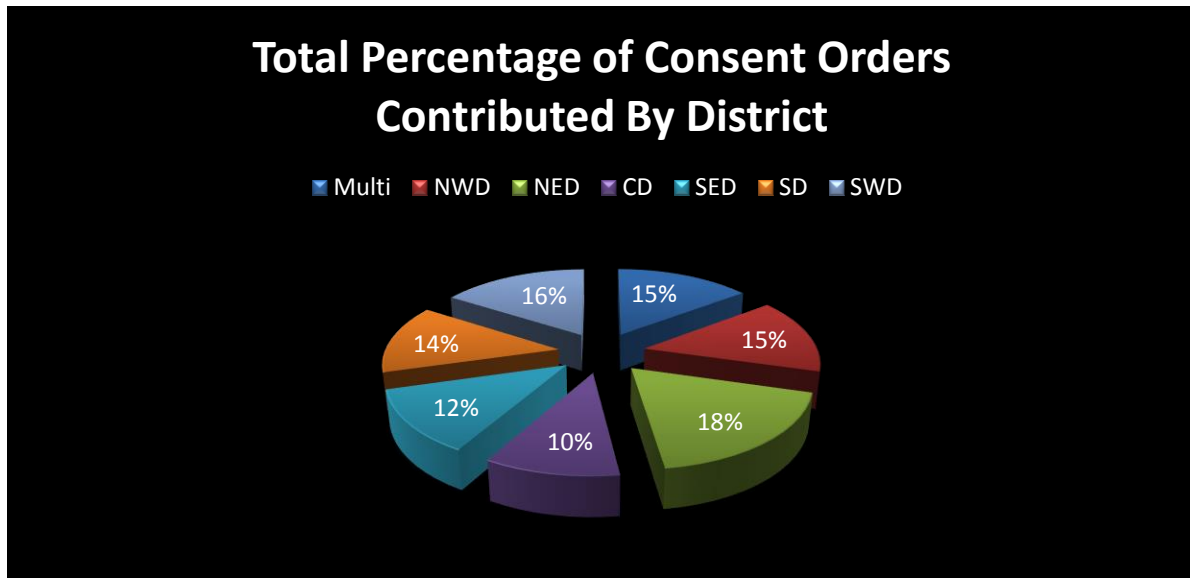
The Northeast and Southwest Districts issued the greatest percentage of long-form consent orders in 2014. The Northeast, Northeast, Southeast and Southwest Districts improved their performance compared to 2013.

7. Short-Form Consent Orders



The most short-form consent orders were issued out of headquarters in 2014, followed by the Central, Northwest and Northeast Districts. The Northwest, Southeast and South Districts each issued more short-form consent orders in 2014 than they did in the previous year. The headquarters more than doubled the number that it issued in 2014.

8. All Consent Orders Combined



It goes without saying that the consent order is by far the Department's most preferred method of resolving enforcement cases. When we look at how the number of consent orders is distributed across the state we see that, with minor differences, the districts essentially contributed the same percentage of consent orders with the greatest percentage coming out of the Northeast District. The South and Southeast Districts were the only two districts to issue more consent orders in 2014 than they did in 2013. Each of the others saw diminished performance.

D. Short-Form Consent Orders

2014 saw the second smallest usage of short-form consent orders since their usage began in 1990, second only to 2013! This is one of the few areas of positive news in this report. 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%

2014 saw a slight increase in the number of short-form consent orders issued by the Department, but this enforcement mechanism continues to play a smaller role than it did in years past. We suspect that this is due to the Department's general reticence to take enforcement in most cases, which results in cases being opened in only the worst situations that don't lend themselves to resolution via this mechanism. This year none of the districts settled a majority of their cases through the short-form route. However, the Northwest, Central and South Districts increased their reliance on these orders compared with 2013, as did the multi-district category. The following table, which compares the use of short-form consent orders to all other enforcement tools, gives the actual percentages.

<i>District</i>	<i>% Cases Settled Through SF COs</i>
<i>Central</i>	34.62%
<i>Northeast</i>	20.51%
<i>Multi-District</i>	46.43%
<i>Northwest</i>	21.62%
<i>Southeast</i>	21.43%
<i>South</i>	10.53%
<i>Southwest</i>	7.89%

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 31.29% of the cases in which a consent order was deemed the appropriate enforcement mechanism, a 3.19% increase from 2013. The following results give further insight into how enforcement cases are handled in each district.

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

The Central and Northwest Districts were the only two (along with the multi-district category) to increase their reliance upon short-form consent orders. The South District also increased its percentage, because it issued no short-form consent orders in 2013. All other districts showed declines with the Southeast District showing the sharpest decrease.

E. Program Area Performance

The number of enforcement cases² brought in each key program area is as follows:

Program Area	Total No. of Enforcement Cases--2011	Total No. of Enforcement Cases--2012	Total No. of Enforcement Cases--2013	Total No. of Enforcement Cases--2014
Asbestos	20	10	0	1
Air (Excluding Asbestos)	80	10	7	11
Beaches/Coastal	21	17	10	8
Waste Cleanup	19	14	12	12
Dredge & Fill³	148	93	42	41
Domestic Waste	108	75	26	29
Hazardous Waste	119	52	20	21
Industrial Waste	62	39	10	7

² Defined as the sum of case reports, all consent orders, NOV's and final orders.

³ This includes Environmental Resource Permitting.

Potable Water	110	76	12	13
Stormwater Discharge	55	71	5	20
Solid Waste	63	22	14	9
Tanks	251	129	14	20
Underground Injection Control	0	1	1	1

The horrible results of 2013 were not repeated, albeit on a minor scale, in some programs. Some of them simply maintained previous results, e.g. waste cleanup, while others managed a few more cases in 2014. The dredge and fill, industrial waste and solid waste programs continue to worsen each year. Despite some minor improvements none of the programs are performing on a level close to that under previous governors and secretaries.

The following table sets out the average number of cases initiated by the Department on an annual basis (the historical average) and then compares those averages to the performance in 2011 through 2014 with respect to the same key program areas listed above. The results are as follows:

Program Area	HistoricAvg⁴	2011 Results	2012 Results	2013 Results	2014 Results	2014 Difference from Average
Asbestos	13	20	10	0	1	(12)
Air (Excluding Asbestos)	93	80	10	7	11	(82)
Beaches/Coastal	14	21	17	10	8	(6)
Waste Cleanup	4	19	14	12	12	8
Dredge & Fill	216	148	93	42	41	(175)
Domestic Waste	119	108	75	26	29	(90)
Hazardous Waste	132	119	52	20	21	(111)
Industrial Waste	47	62	39	10	7	(40)
Potable Water	112	110	76	12	13	(99)
Stormwater Discharge	35	55	71	5	20	(15)
Solid Waste	39	63	22	14	9	(30)
Tanks	72	251	129	14	20	(52)
Underground Injection Control	5	0	1	1	1	(4)

The results for 2014 are minimally better than 2013, but with the exception of waste cleanup every program performed worse than the historical average. And every program performed markedly worse than it did just 4 years ago, i.e. in 2011. Of the programs that underperformed all but underground injection control had results that were in the double digits in poor performance. It wasn't long ago that the FDEP asserted that it was going to increase enforcement efforts in the hazardous waste program, but as these results demonstrate, enforcement in that key program has fallen 84% in just 4 years. The potable water program,

⁴ The Historical Averages shown are for the twenty year period of 1987 through 2007.

which regulates drinking water in the state, has fallen 88% in the same period, the dredge and fill program has fallen 81%, domestic waste enforcement has fallen 76% and solid waste has fallen 77%.

F. Civil Penalty Assessments

The Department assessed civil penalties in 144 cases in 2014, compared to 130 cases in 2013, a slight improvement, but 77% fewer than in 2011. The Department assessed \$1,515,020.45 in civil penalties in 2014, up slightly from the \$1,432,715.61 in civil penalties that were assessed in 2013. Overall, the 2014 result represents an 84% drop from the dollar value of penalties assessed in 2011 and it is the second lowest value (2013 was the lowest) the Department has amassed since 1988, the first full year for which data is available from the then Department of Environmental Regulation..

The key program areas also saw median dollars assessed on a per case basis as follows:⁵

Program Area	Historical Medians	2011 Medians	2012 Medians	2013 Medians	2014 Medians
Asbestos	\$2,000.00	\$2,000.00	\$3,640.00	\$0.00	\$0.00
Air (Excluding Asbestos)	\$1,699.50	\$1,500.00	\$4,387.50	\$4,000.00	\$3,750.00
Beaches/Coastal	\$500.00	\$750.00	\$1,000.00	\$875.00	\$875.00
Waste Cleanup	\$4,500.00	\$3,500.00	\$36,925.00 ⁶	\$0.00	\$0.00
Dredge & Fill	\$700.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
Domestic Waste	\$2,250.00	\$3,000.00	\$3,600.00	\$5,250.00	\$7,500.00
Hazardous Waste	\$4,100.00	\$7,090.00	\$4,104.00	\$10,700.00	\$4,250.00
Industrial Waste	\$4,500.00	\$2,500.00	\$1,500.00	\$2,750.00	\$9,500.00 ⁷
Potable Water	\$500.00	\$537.00	\$500.00	\$7,100.00	\$1,650.00
Stormwater Discharge	\$600.00	\$1,199.00	\$1,199.00	\$1,250.00	\$370.00
Solid Waste	\$2,843.00	\$3,000.00	\$3,375.00	\$6,250.00	\$4,500.00
Tanks	\$2,712.00	\$5,100.00	\$10,000.00	\$10,000.00	\$10,000.00
Underground Injection Control	\$6,850.00	\$0.00	\$0.00	\$0.00	\$0.00

In 2014 the program areas whose medians did not decline mostly maintained their 2013 levels. The two exceptions are domestic waste, which had a significant jump and industrial waste, which also rose significantly. However, the industrial waste program had only one penalty assessment all year statewide, despite opening 7 cases. Five program areas reduced their medians

⁵ Data in **red** represent declines from the performance in 2013. Data in **orange** represents performance in 2013 and previous years that represents declines from the immediately preceding year.

⁶ This result is based on 2 cases statewide.

⁷ This result is based upon 1 case statewide. That case was in the Central District.

and with the exception of the air program those reductions were sizeable. The hazardous waste program, which was the reason for the amended penalty policy under Secretary Sole, saw its median assessment cut in half when compared to 2013. It fell back almost to the historical averages of \$4,100.00.

Four of the districts saw an increase in the number of assessments when compared with 2013, but the Central and Southwest Districts went down further. The Northwest, Southeast and Southwest districts increased the penalty dollars that they assessed compared to 2013. The multi-district category improved in both areas. Overall, the Districts' performance in the area of penalty assessments was as follows:

DISTRICT	NO. OF ASSESSMENTS IN 2011	NO. OF ASSESSMENTS IN 2012	NO. OF ASSESSMENTS IN 2013	NO. OF ASSESSMENTS IN 2014	TOTAL \$ ASSESSED IN 2014	% OF STATE TOTAL
Multi-District	70	77	14	20	\$40,242.00	2.66%
NWD	135	55	21	22	\$107,010.00	7.06%
NED	111	80	25	32	\$207,375.00	13.69%
CEN District	134	89	30	26	\$271,249.00	17.90%
SED	90	45	8	13	\$506,216.63	33.41%
SD	114	50	13	17	\$122,114.00	8.06%
SWD	295	132	19	14	\$260,813.82	17.22%

This is the first year out of the last **seven** that the South District saw an increase in its number of overall assessments. This is the first year out of the last **six** that the Northwest District has seen an increase in the number of overall assessments. But the Central District has now seen declining numbers in each of the past **five** years. And it is the **fourth** year in a row that the Southwest District has seen a drop in the number of assessments.

The dollar value of the assessments compared poorly as well. Three of the six districts assessed fewer dollars in fines in 2014 than they did in 2013.

For the Department as a whole the median assessment was \$3,000.00, a \$60.00 increase over 2013's efforts. The comparison of median assessments from 2013 to 2014 amongst the districts is as follows:

DISTRICT	2013 MEDIAN ASSESSMENTS	2014 MEDIAN ASSESSMENTS
Multi-District	\$1,000.00	\$392.00
NWD	\$2,025.00	\$1,420.00
NED	\$3,875.00	\$4,250.00
CEN District	\$4,550.00	\$3,500.00

SED	\$10,450.00	\$3,000.00
SD	\$7,000.00	\$4,500.00
SWD	\$2,500.00	\$5,000.00

Only two districts, the Northeast and Southwest, saw an increase in their median assessments in 2014 when compared to 2013.

1. The Highest Assessments

The following is a list of the highest assessments, i.e. those assessments exceeding \$100,000, levied by the Department in 2014, sorted by amount:⁸

District⁹	Program	Polluter	Amount
6	DW	City of Largo	\$108,750.00 ¹⁰
4	DW	Miami-Dade Water & Sewer Department	\$466,300.00

G. Civil Penalty Assessments By Program Area—District Comparison

This section addresses the performance of the major program areas in 2014. What follows is a side-by-side comparison regarding the total dollars assessed in each program area, as well as a comparison of each district's median assessments. Given the serious downward trend in many

⁸ 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.

⁹ 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.

¹⁰ This amount is actually the value of an in-kind project. The civil penalty assessment would have been less than \$100,000.00, likely in the amount of \$72,500.00.

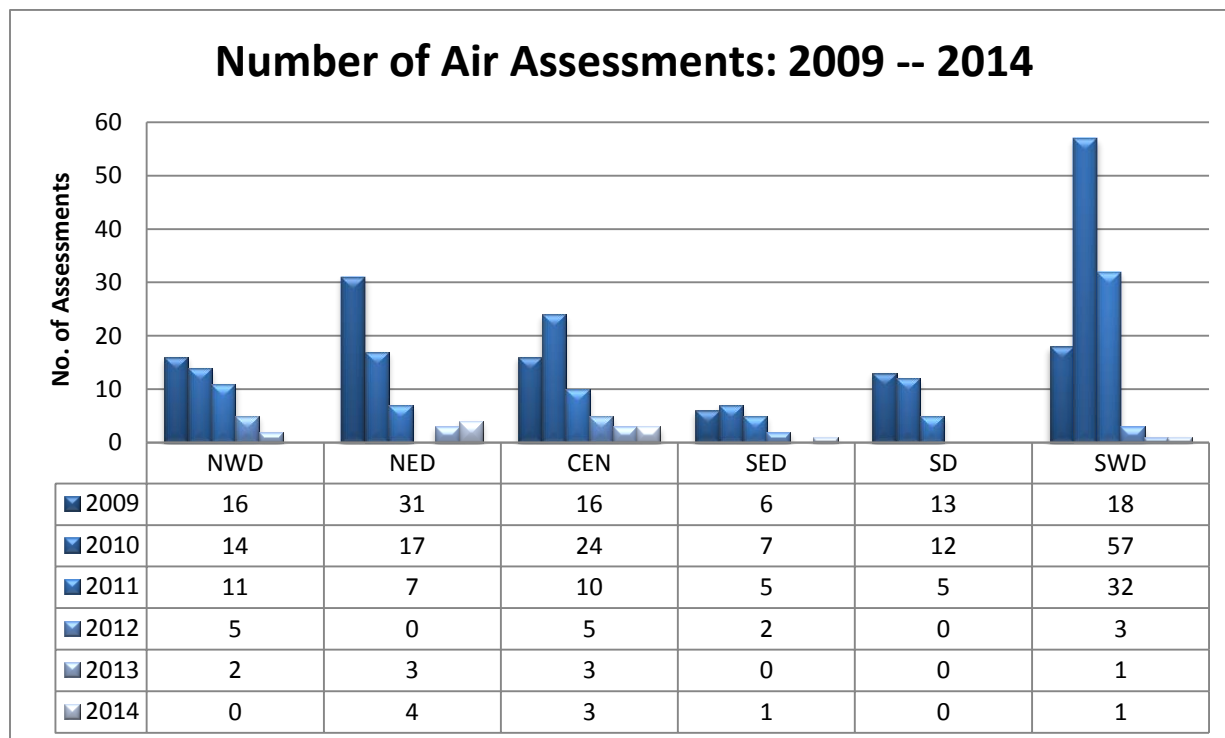
program areas we are also including the results from previous years so that the reader can better understand the state of enforcement in each program.

1. Air Program

The Department-wide results showed a clear decrease in the number of air assessments:

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

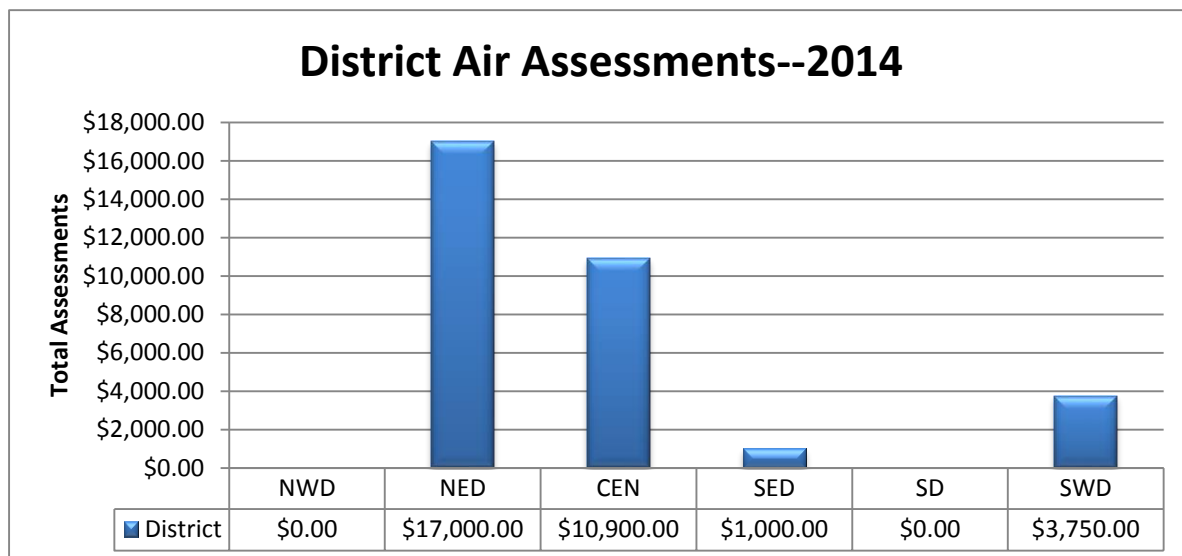
The last two years have seen a total of just 18 cases in the entire state. With these numbers there is little doubt that senior management has decided to all but eliminate enforcement of the air program in Florida. As the following chart indicates, over the last four years there is a clear pattern of bringing fewer enforcement cases in the air program in every district. The South District has not seen an air enforcement assessment since 2011 and the other districts fare only slightly better:



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

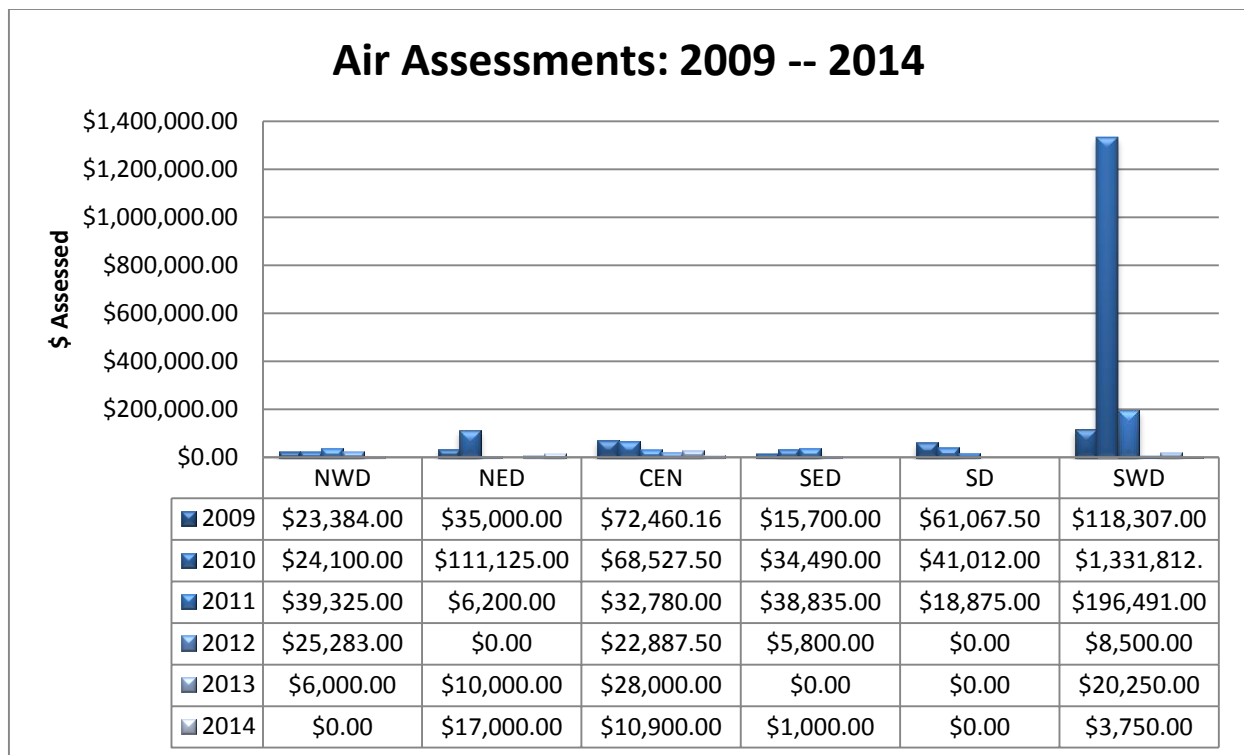
Year	Total \$ Assessed
2009	\$325,918.66
2010	\$1,611,066.50
2011	\$332,506.00
2012	\$62,470.50
2014	\$32,650.00

In terms of dollars assessed were it not for the Northeast and Central Districts the total dollars assessed in the state would have been less than \$5,000.00.¹¹ However, even the results of the Northeast and Central Districts were far less than stellar:



As the following graph indicates, any increases in total dollar assessments compared with 2013 were minimal:

¹¹ In those programs in which the multi-district group had no assessments we have not included the group in the tables.

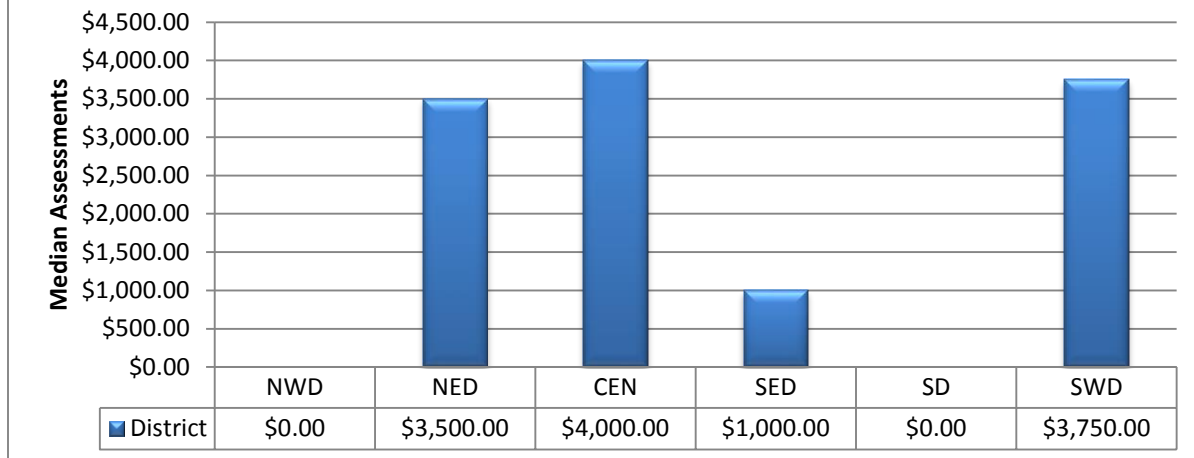


The Department as a whole appears to be also be losing what improvement there had been in median penalty assessments, inasmuch as there have been declining numbers for the past two years. What is more disconcerting still is that there were only 9 cases statewide, which would normally mean that only the very worst cases were prosecuted which, in turn, should lead to higher medians. But this is no longer the case.

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

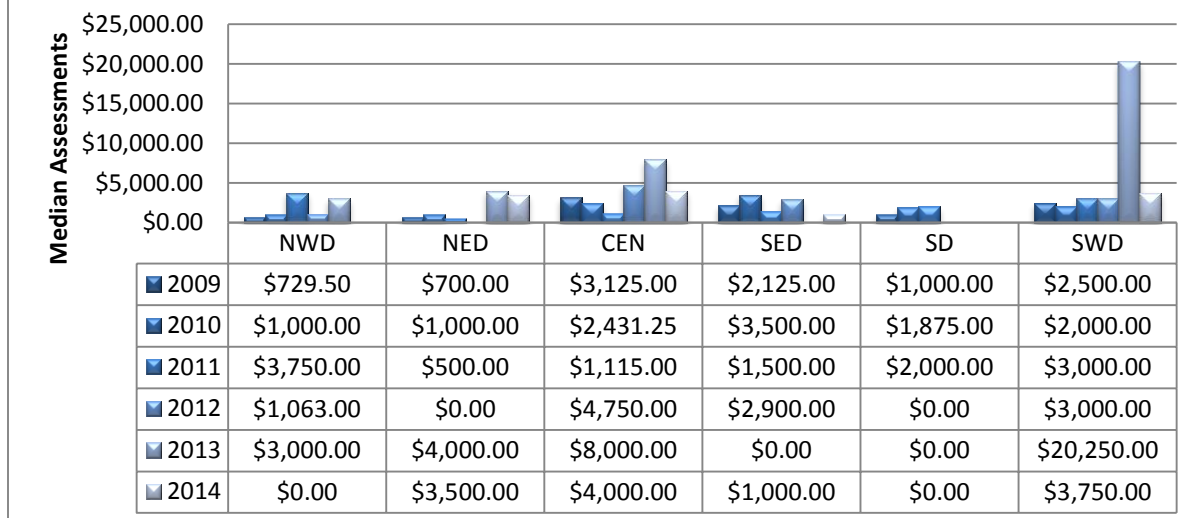
Median air assessments amongst the districts broke down as follows:

Median Air Assessments By District--2014



The Southeast District is the only district to see an increase in its medians from 2013 to 2014, but this is based on only one case. The remaining districts saw their medians decline.

Air Median Assessments: 2009 -- 2014

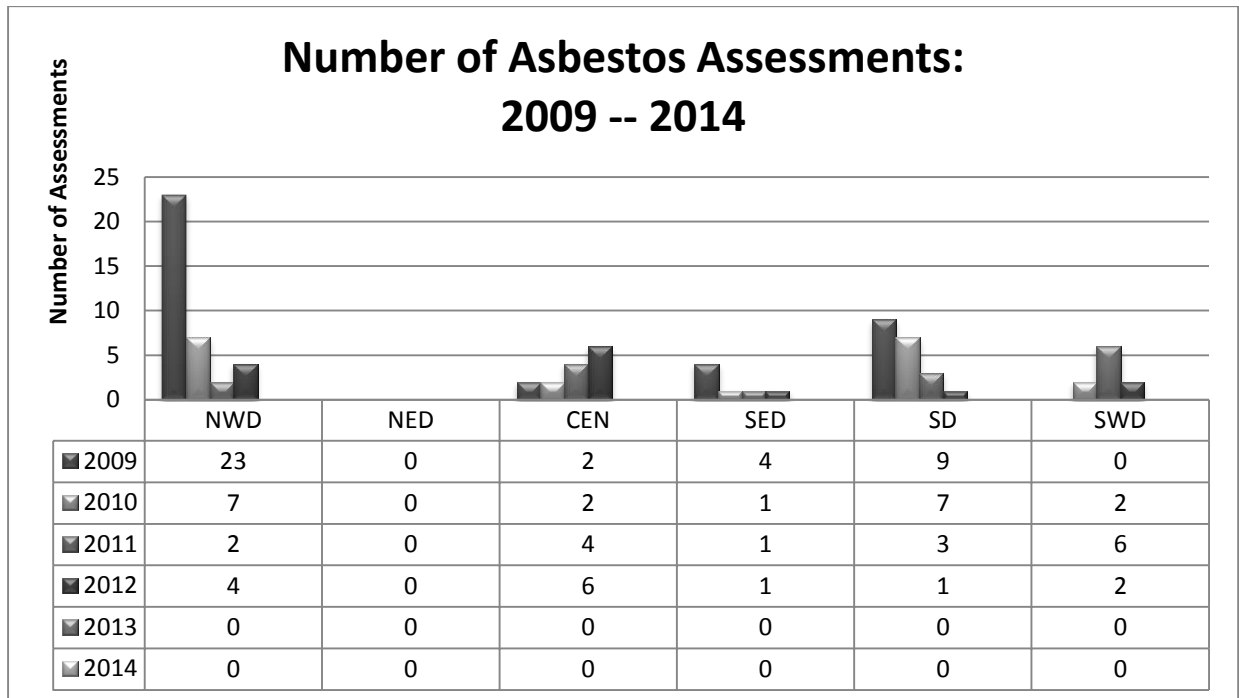


2. Asbestos Program

Since 2010 the number of asbestos assessments has declined **100%** Department-wide for the last two years. In other words, there is no enforcement of this program at the state level:

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

The breakdown at the district level looks like this:

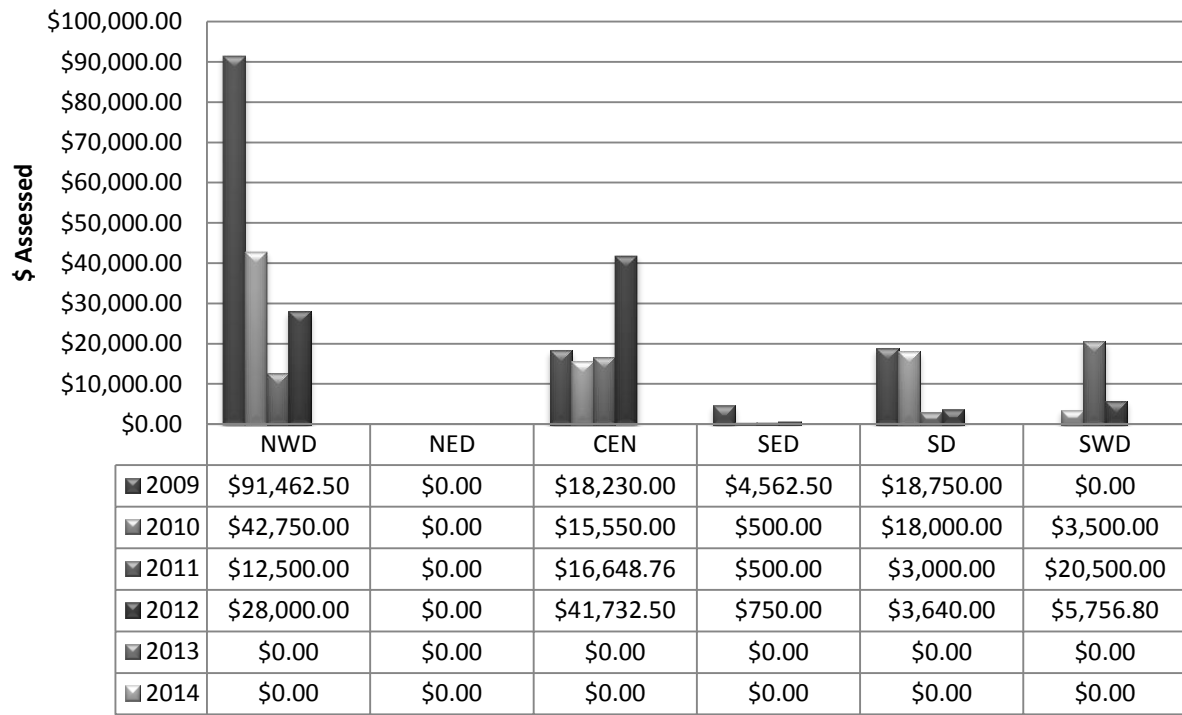


The downfall, in dollar terms, looks like this for the statewide results:

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

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

Asbestos Assessments: 2009 -- 2014

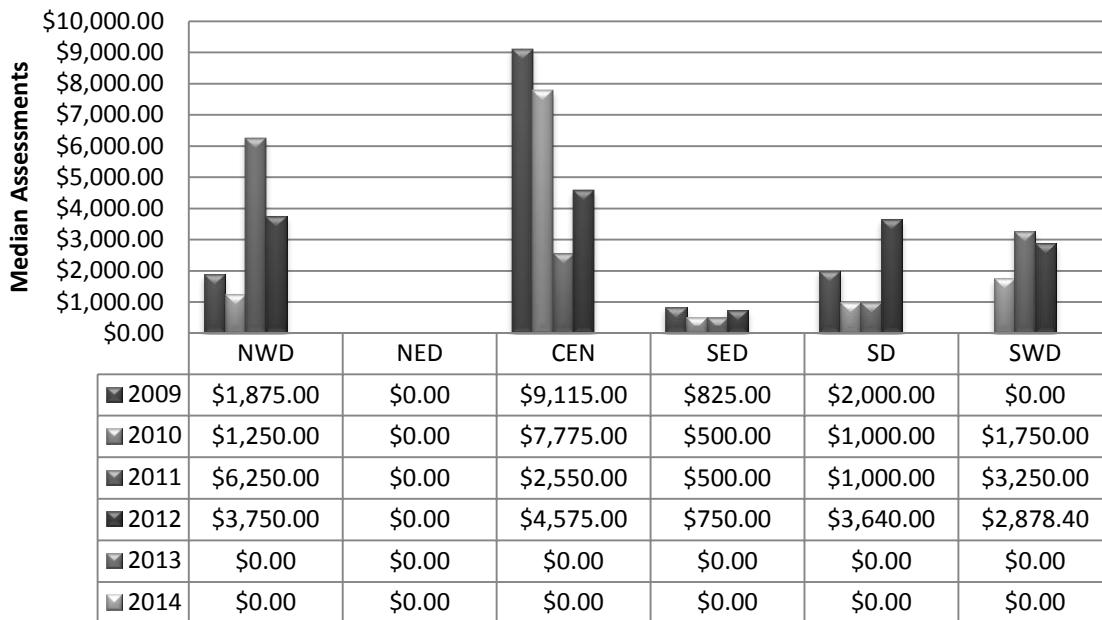


Median asbestos assessments for the Department as a whole have fallen from \$3,640.00 in 2012 to \$0.00 in 2013 and 2014:

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

What, just two years ago, seemed to be an improving trend, has completely reversed course:

Asbestos Medians: 2009 -- 2014

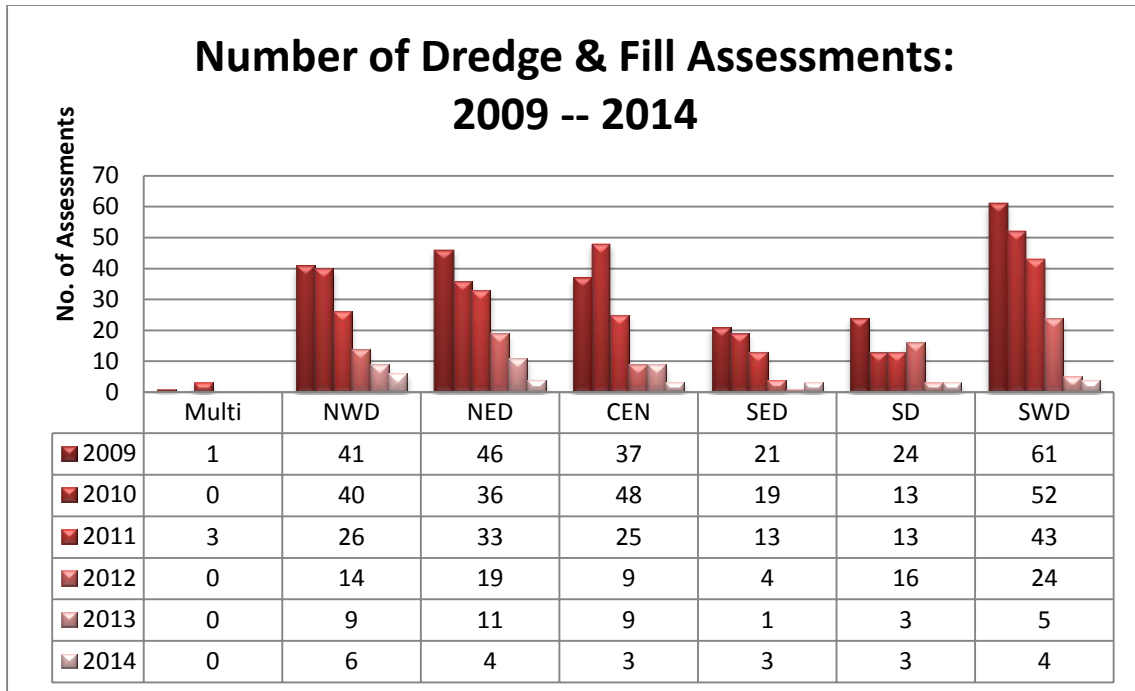


3. Dredge and Fill Program

The downward trend in the number of dredge and fill assessments continues without interruption. The number of cases in 2014 fell 41% compared to 2013 and 89% compared to 2010:

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

The Southeast District was the only district to show any improvement compared to 2013 and it only increased the number of its assessments from 1 to 3. Otherwise, every district showed an unmistakable trend towards less enforcement—most of them having moderately fewer cases. The declines in the Northeast and Central Districts are particularly disturbing:

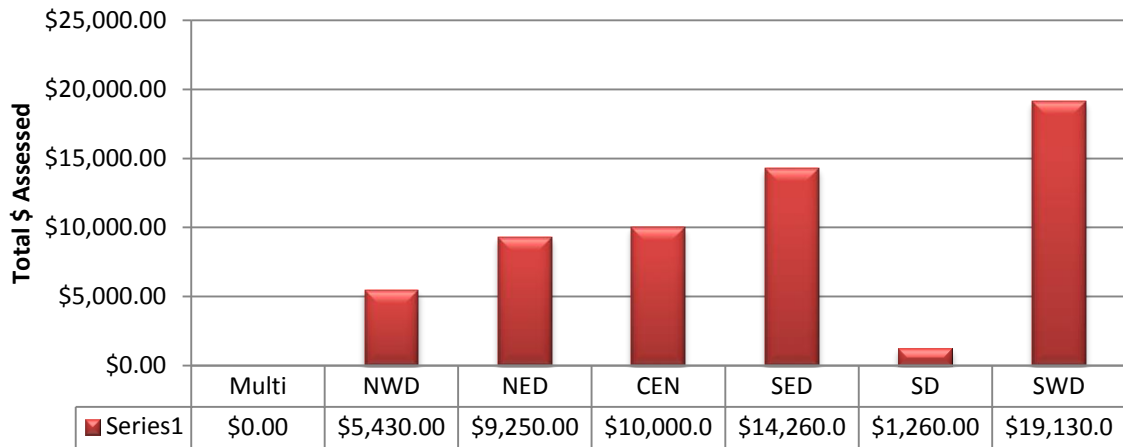


The dollar value of dredge & fill assessments continues to be in free fall. 2014's results were 65% lower than 2013 and the lowest since 1987, the first year for which the Department has provided data:

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

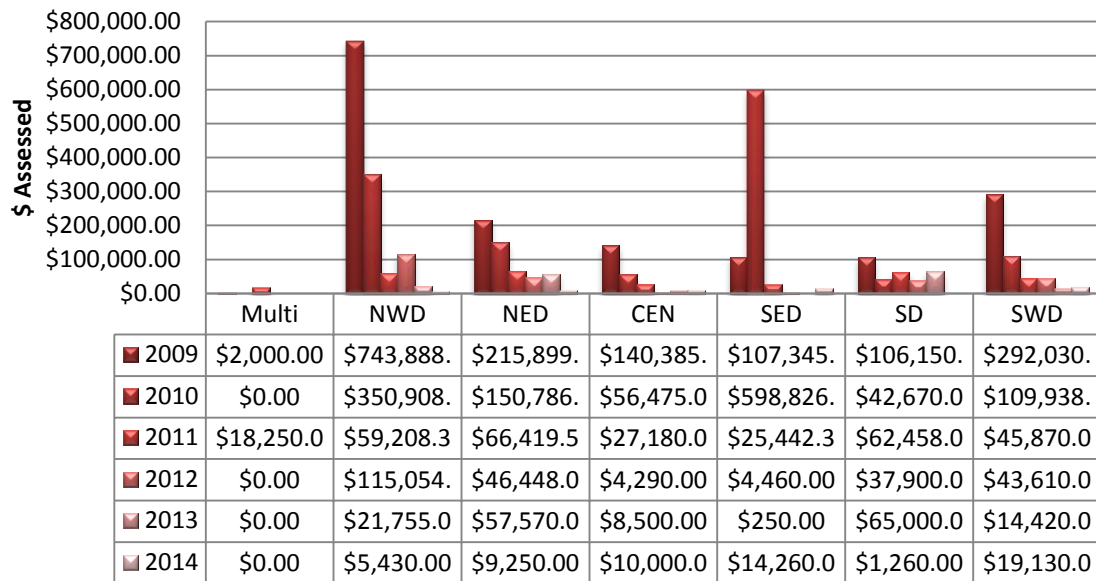
The district results were bad, although three of the districts, the Central, Southeast and Southwest saw increased overall assessments in 2014. Of the 3 districts that increased their assessments only the Southeast District had more assessments in 2014 than it did in 2013. And combined, the same 3 districts had a total of only 10 assessments:

District Dredge & Fill Assessments--2014



When looking at the 6-year history of the districts the downward trend is easy to see:

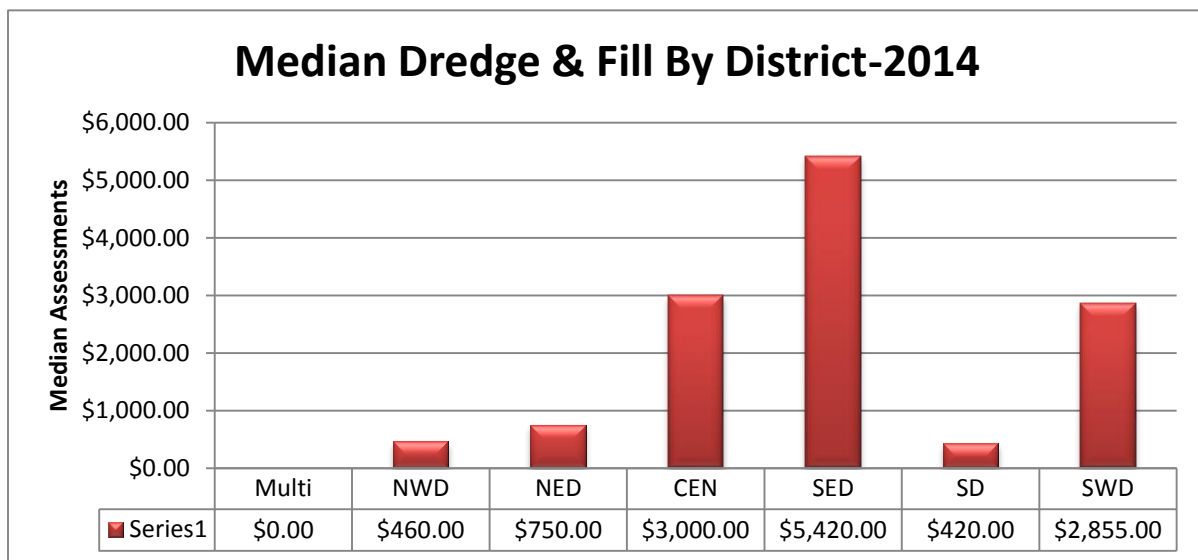
Dredge & Fill Assessments: 2009 -- 2014



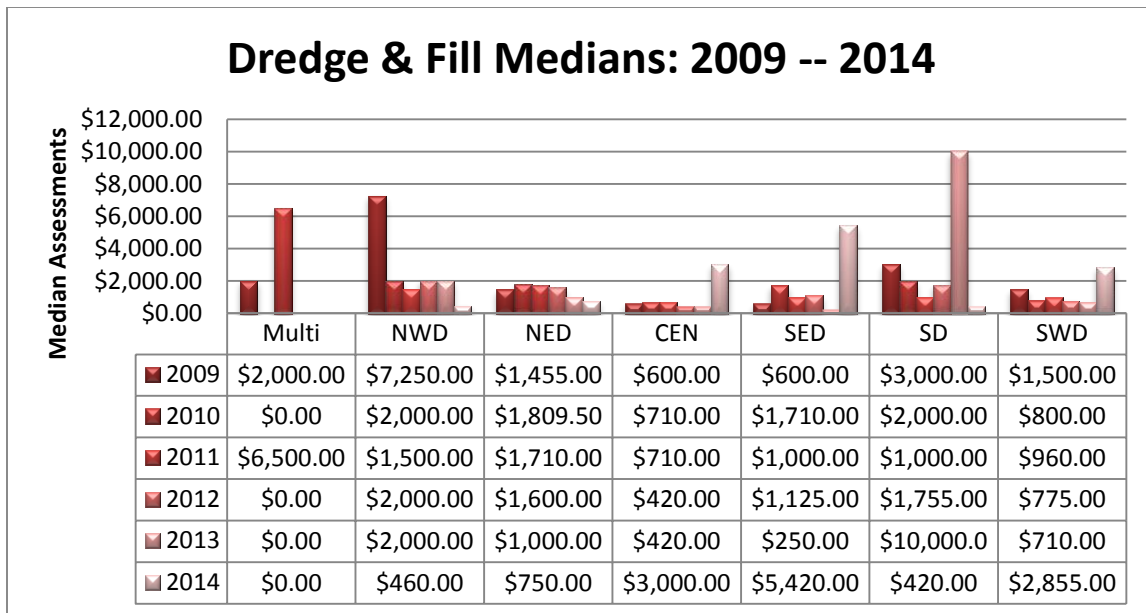
Median assessments remained steady for the Department as a whole. They have not changed since 2011:

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

The median assessments amongst the districts for 2014 were:



Median assessments improved in each of the same 3 districts in which the dollar value of assessments increased in 2014. Yet, it is difficult to say if this is indicative of a trend given the small number (10) of assessments that are represented:



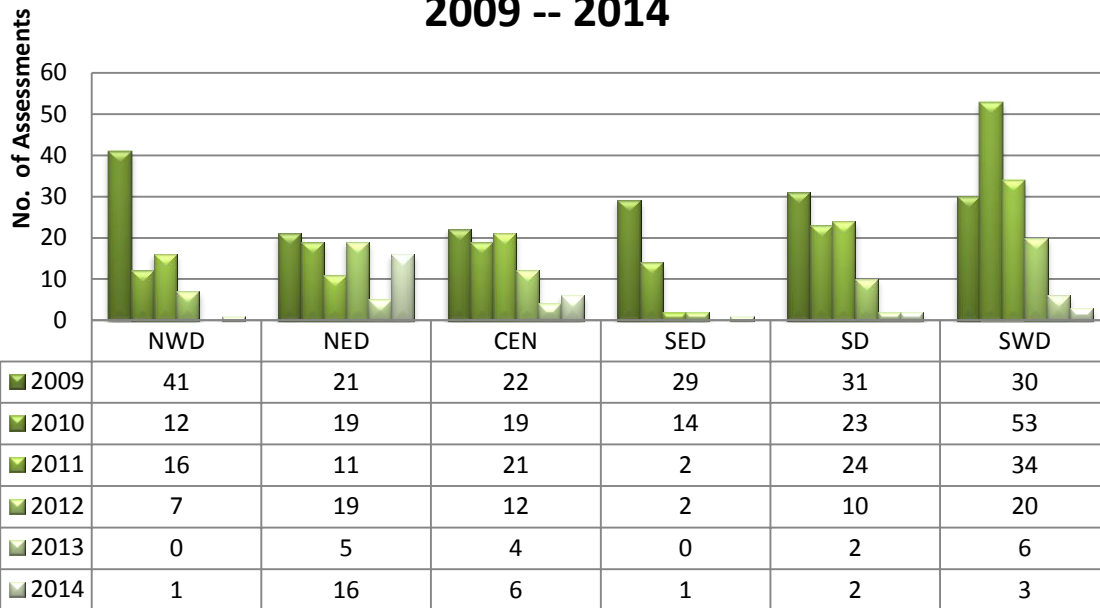
4. Domestic Waste Program

The Department assessed penalties in 29 cases in 2014, 6 more than in 2013, and the 3rd lowest in Department history. The lowest output was a total of 4 cases in the Department's first year:

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

Despite the improvement from 2013's dismal results, the number of cases has now dropped 79% from the levels in 2010. That said, except for the Southwest District, every district assessed penalties in more cases in 2014 than they did the year before. The Southeast and Northwest Districts each took enforcement in only 1 case for the entire year:

Number of Domestic Waste Assessments: 2009 -- 2014

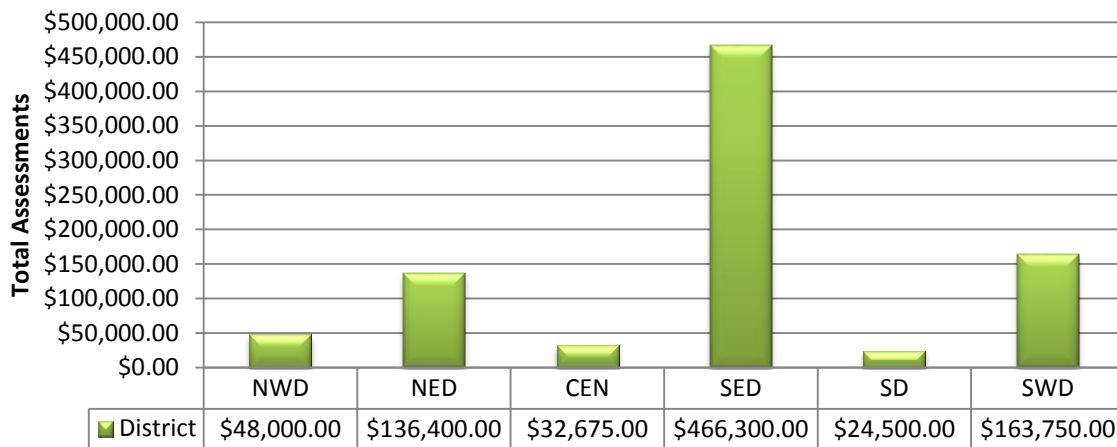


The Department assessed \$871,625.00 in civil penalties in 2014, 175% better than the year before. Of the \$871,625.00 that was assessed, \$466,300.00 came from 1 case in the Southeast District, without which the combined total would have been less than in 2013:

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

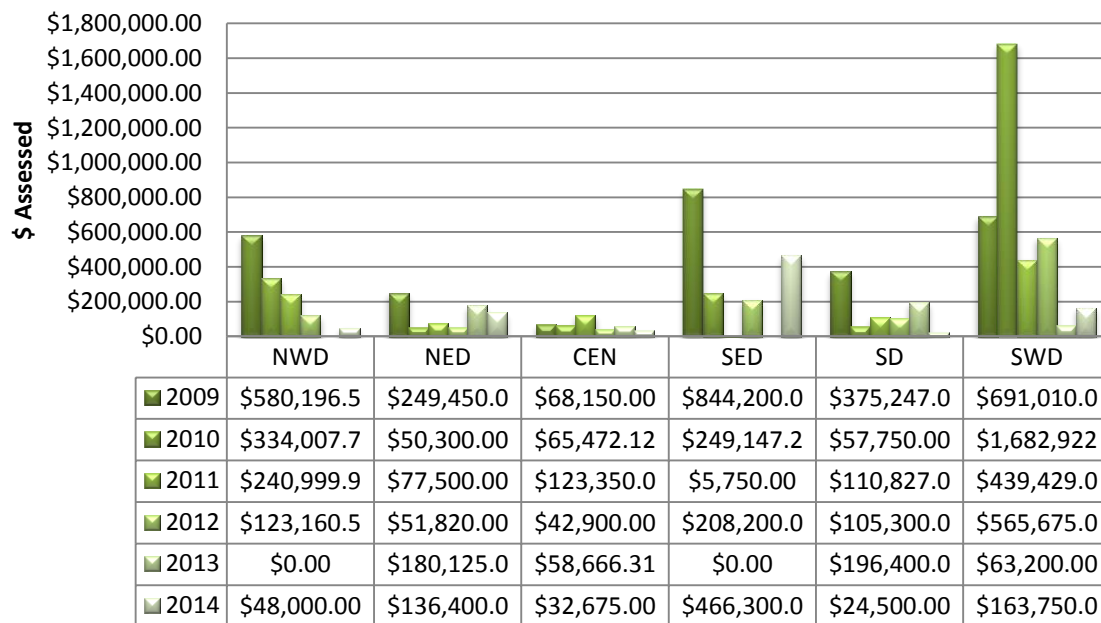
The dollars assessed were distributed amongst the districts as follows:

District Domestic Waste Assessments--2014



Except for the Northeast and South Districts every district performed better in 2014 than it did in 2013. The general historical trend, however, is towards lower performance:

Domestic Waste Assessments: 2009 -- 2014

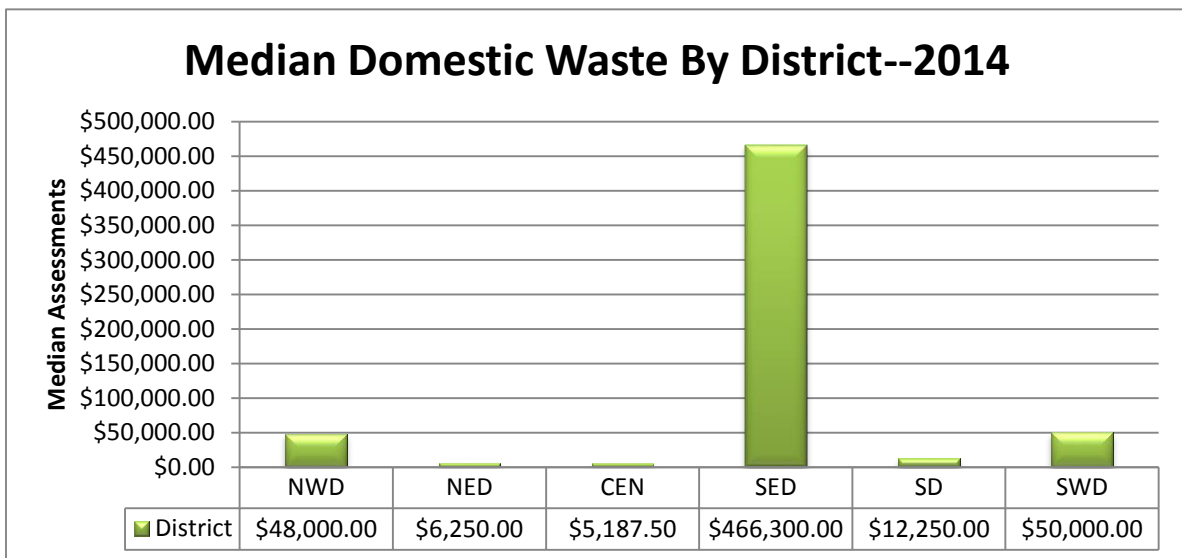


Medians for the Department as a whole continued to improve in 2014. There is an unmistakable trend towards higher medians since 2010:

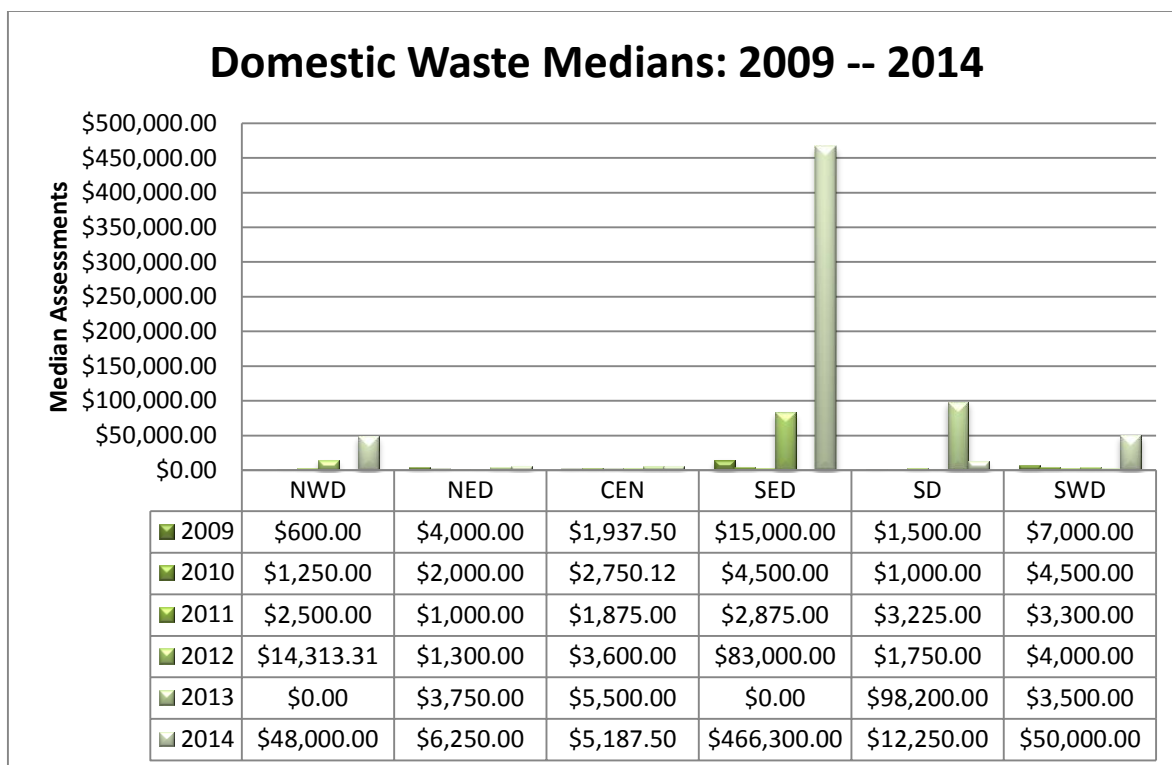
Year	Median Assessments—Domestic Waste
2009	\$2,275.00
2010	\$2,000.00

2011	\$3,000.00
2012	\$3,600.00
2013	\$5,250.00
2014	\$7,500.00

The improvement in medians looks to have been driven largely by the improved numbers in the Northwest, Southeast and Southwest Districts. The problem with being able to state that this is a clear indication of improved performance is that the numbers in the Northwest and Southeast Districts are the result of only **one** case in each district. The high result in the Southwest District is the result of only **three** cases. Therefore, the data set is hardly large enough to be considered representative.



The trend in the individual districts continues to be scattered, though there is not the same clear downward spiral that is evident in the air and dredge and fill programs:



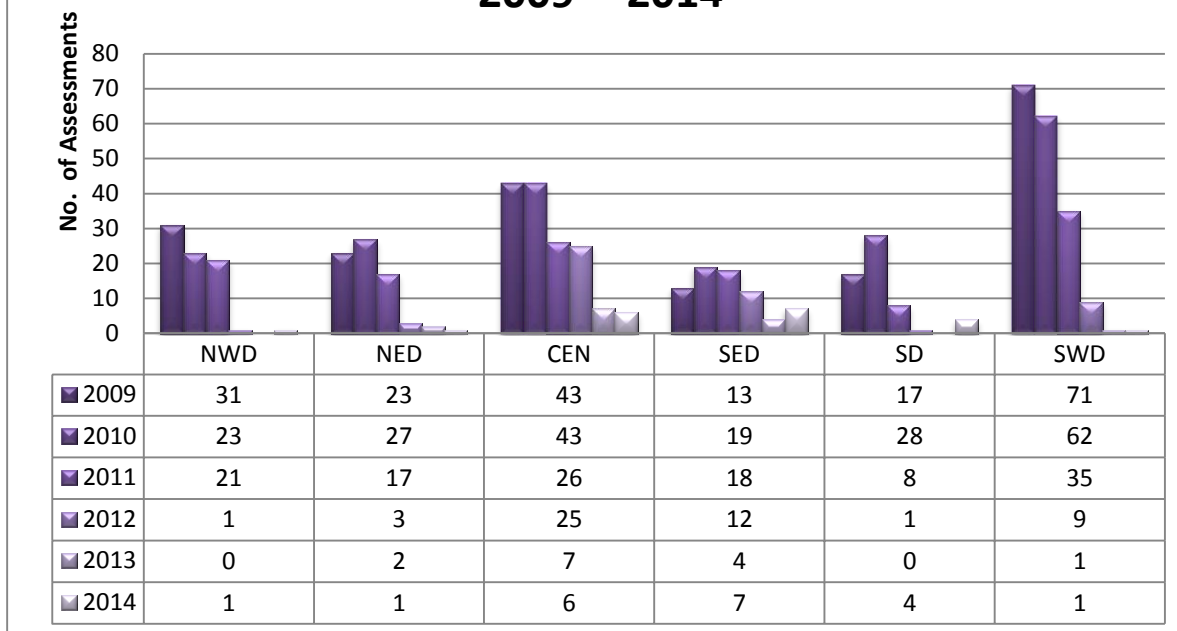
5. Hazardous Waste Program

There was a 43% increase in the number of new enforcement cases in 2014 compared to 2013. But the number of cases is still 80% below the numbers in 2010:

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

While there was an uptick in the number of cases, the reality is that the program is still doing nothing more than limping along. There was only one assessment in the Northwest, Northeast and Southwest Districts. The Central District saw one fewer case than it did in 2013. The results are:

Number of Hazardous Waste Assessments: 2009 -- 2014

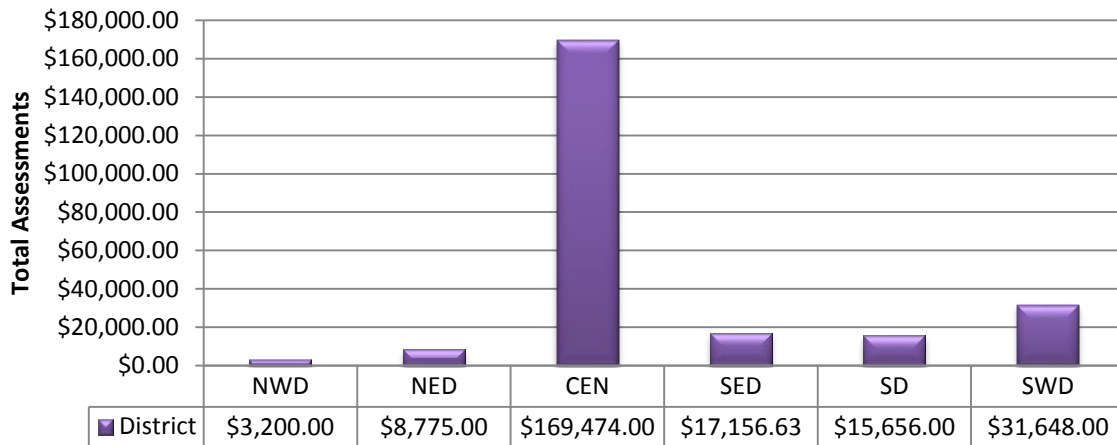


Dollar assessments rose 78% in 2014 when compared with the results in 2013. While the increase is a start, it is still less than half the rate that we saw in 2010. The results for the past 6 years are:

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

The Department's assessments in 2014 were divided amongst the districts as follows:

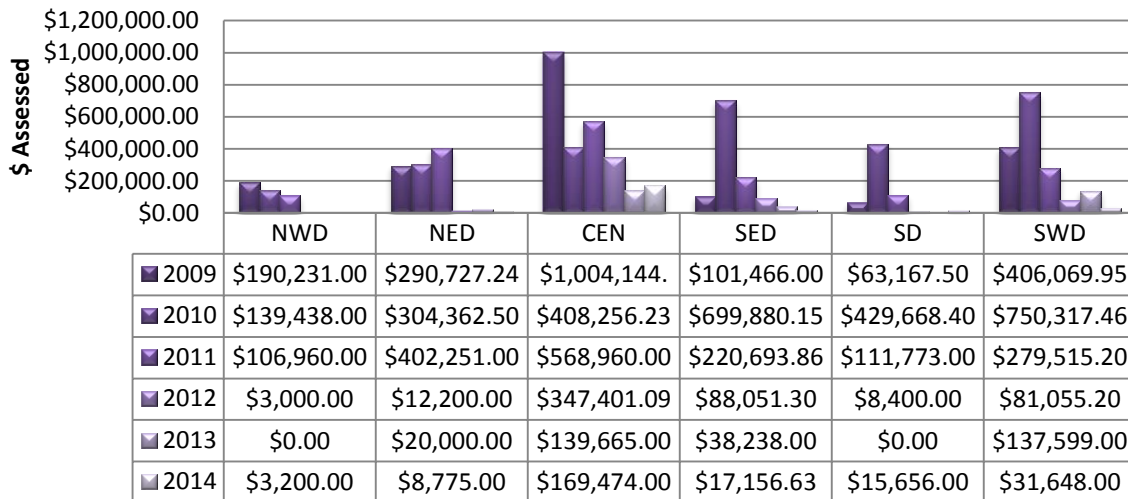
District Hazardous Waste Assessments--2014



The \$245,909.63 in assessments was largely the result of the Central District's efforts in six cases. The remaining districts contributed a combined \$76,435.63.

Three of the districts, the Northwest, Central and South increased the dollars assessed in 2014 compared with 2013. Statistically the increase in the Central District was the lowest of the three. The Northeast, Southeast and Southwest Districts all assessed fewer penalty dollars in 2014 with the decline in the Southwest District being the greatest:

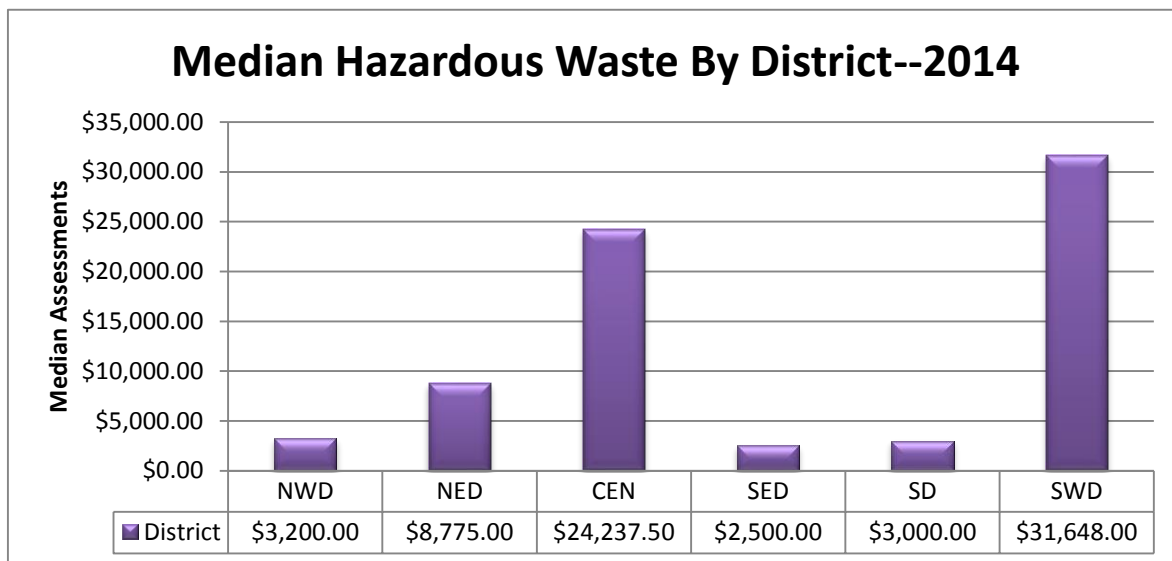
Hazardous Waste Assessments: 2009 -- 2014



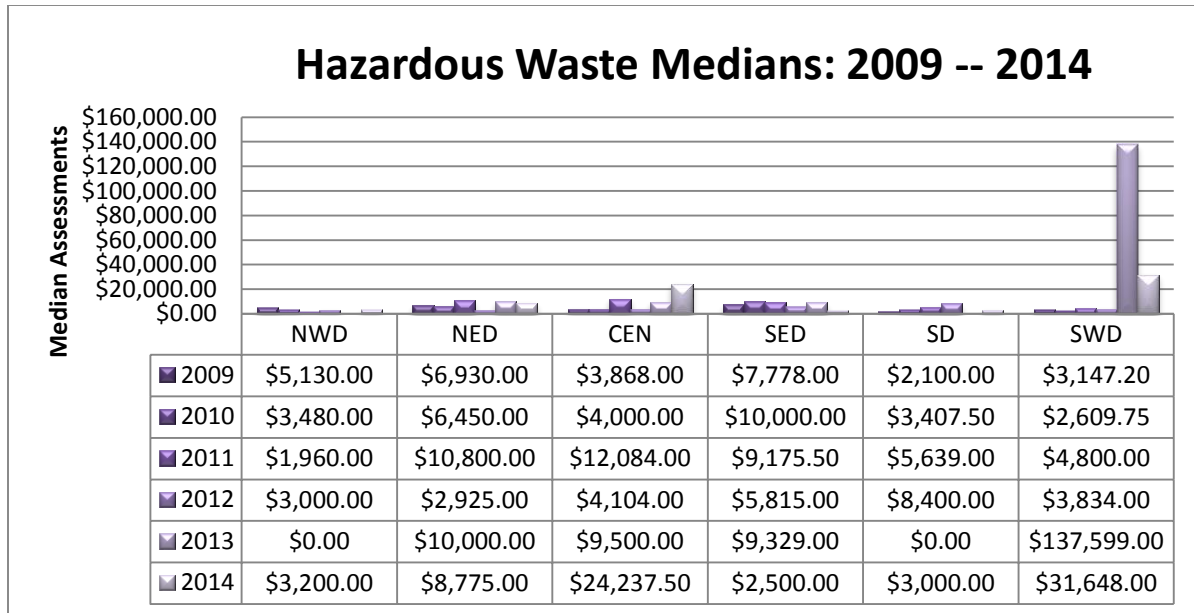
Median assessments for the Department as a whole remain high, but fell over 50% compared with the very high results of 2013:

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

Median assessments for each district in 2014 were :



The median assessments in the Northwest, Northeast and Southwest Districts are based upon one assessments in each district. Thus, those districts would be considered outliers. Otherwise, medians rose in the Central, Southeast and South Districts:



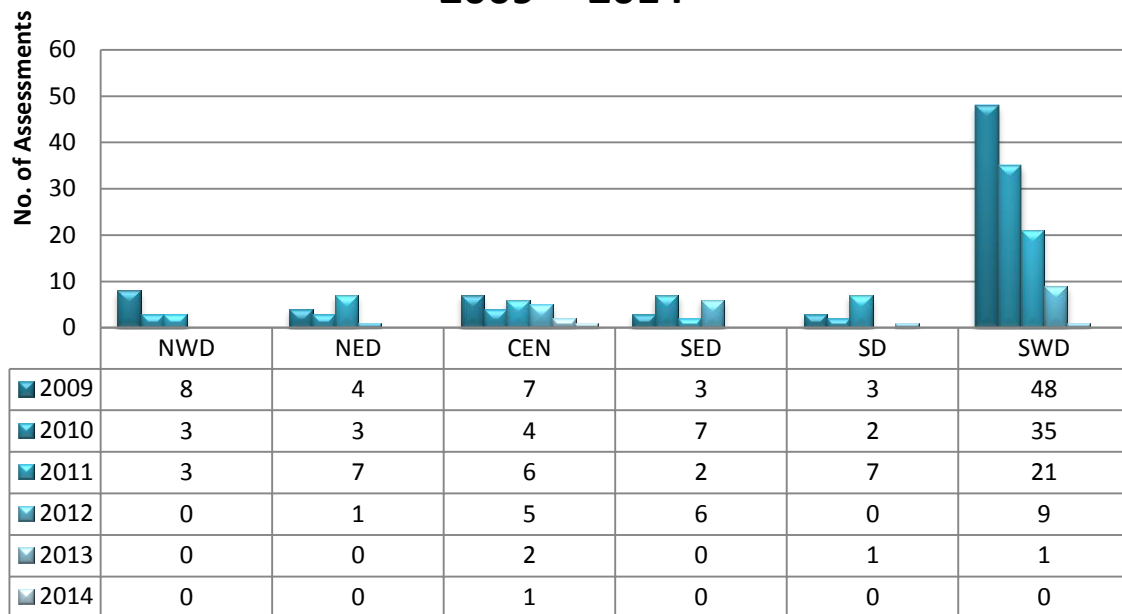
6. Industrial Waste Program

For all intents and purposes this is a program that has now ceased to function. The number of assessments declined 75% from last year's dismal results and has declined over 99% from 2010:

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

Needless to say, none of the districts improved upon 2013's results. The heavily industrialized Northeast and Southwest Districts had no cases:

Number of Industrial Waste Assessments: 2009 -- 2014

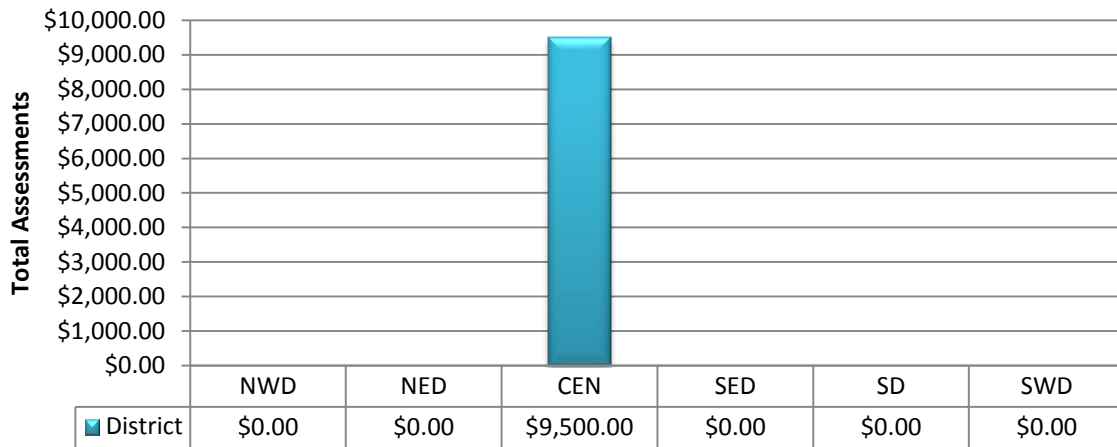


Overall the Department levied just \$9,500.00 in civil penalties in 2014, down from \$13,687.50 in 2013:

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

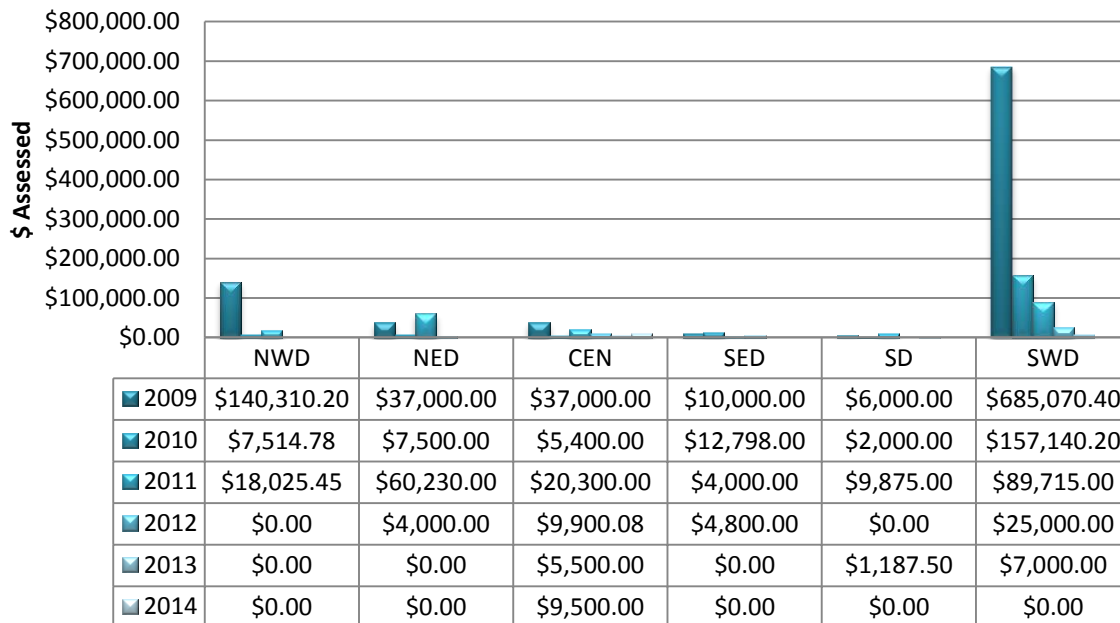
In 2014 the districts assessed penalties in this program as follows:

District Industrial Waste Assessments--2014



The yearly decline continues to be seen in every district:

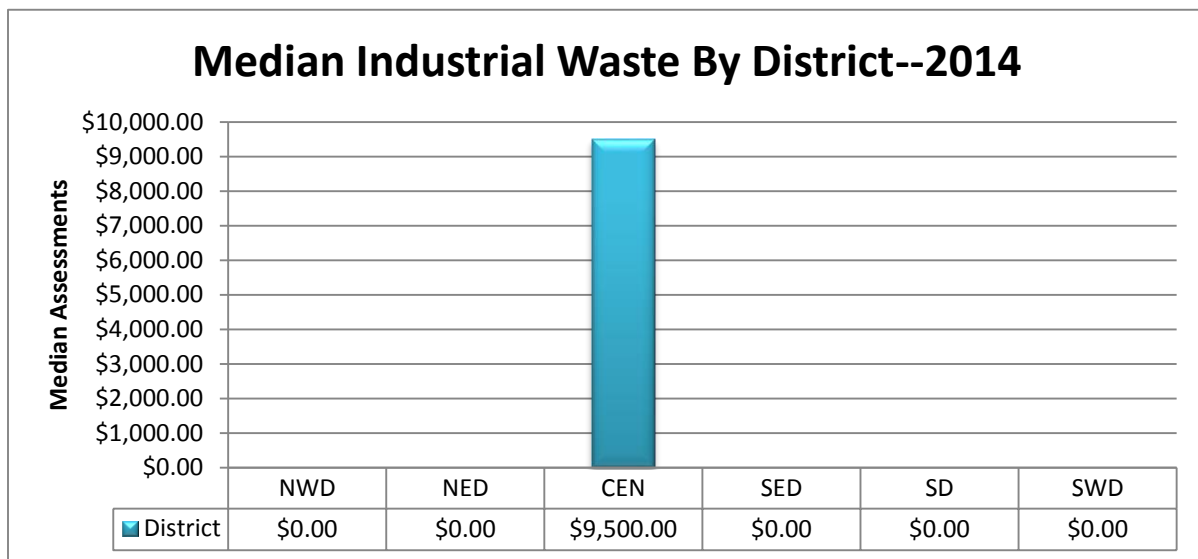
Industrial Waste Assessments: 2009 -- 2014



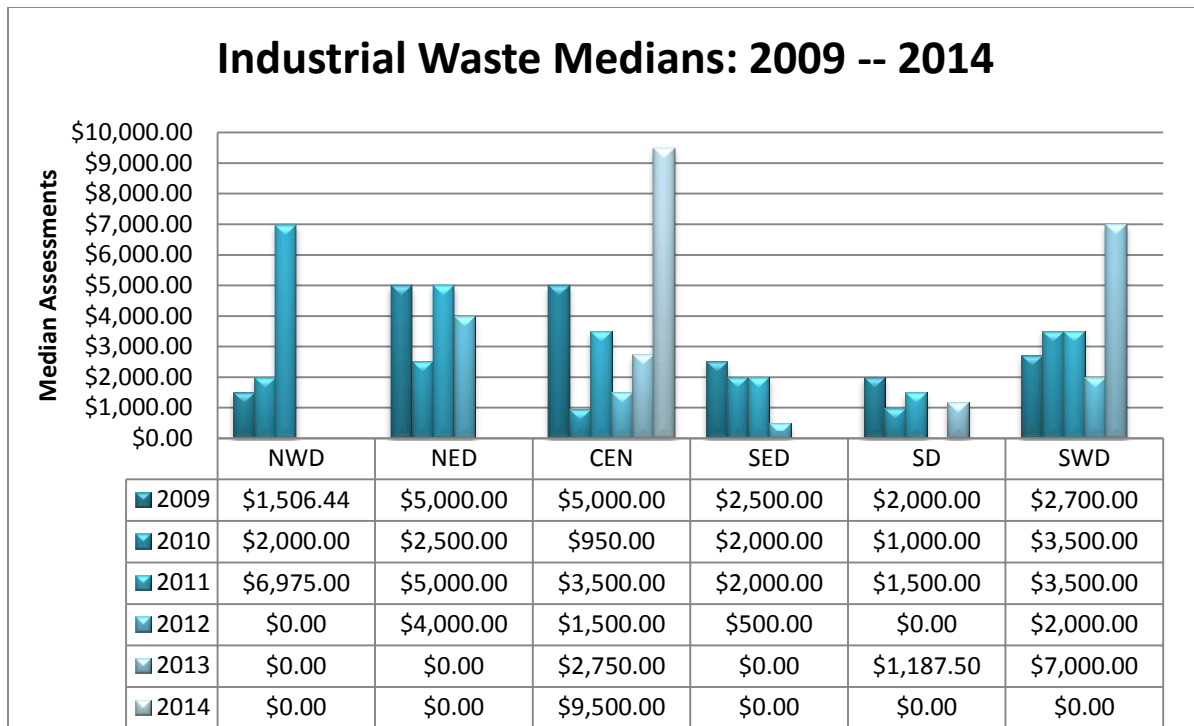
Over the course of the past three years the median civil penalty assessments have remained remarkably stable for the Department, but the median in 2014 is based upon one case statewide and is thus only nominally representative of the overall performance:

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

The Central District was the only district that assessed a penalty:



It has been three years since the Northwest District assessed a civil penalty and two years since a penalty was assessed in the Northeast and Southeast Districts:

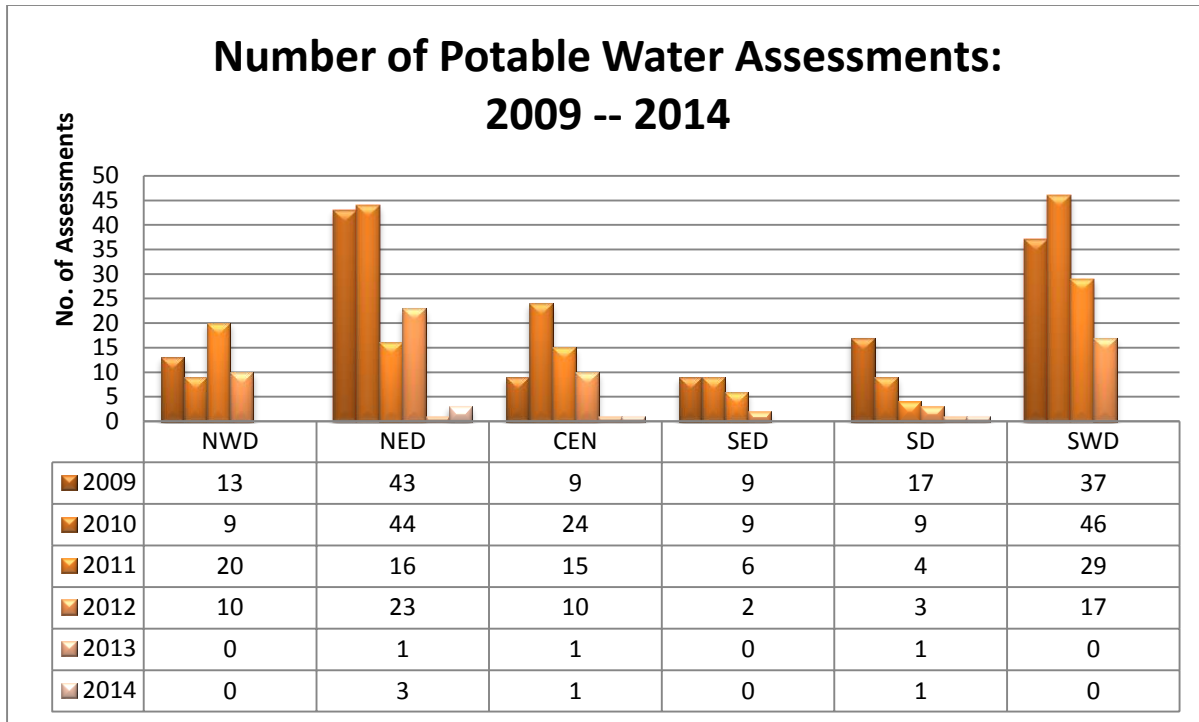


7. Potable Water Program

The potable water program oversees the provision of drinking water to Florida's families, businesses, schools, daycare centers etc. Notwithstanding the critical role that this program plays, the number of potable water assessments has declined steadily since 2010. While there was a small increase in 2014 it was statistically insignificant:

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

The only district to increase the number of assessments in 2014 was the Northeast District. The performance in the other districts remained exactly the same as in 2013:

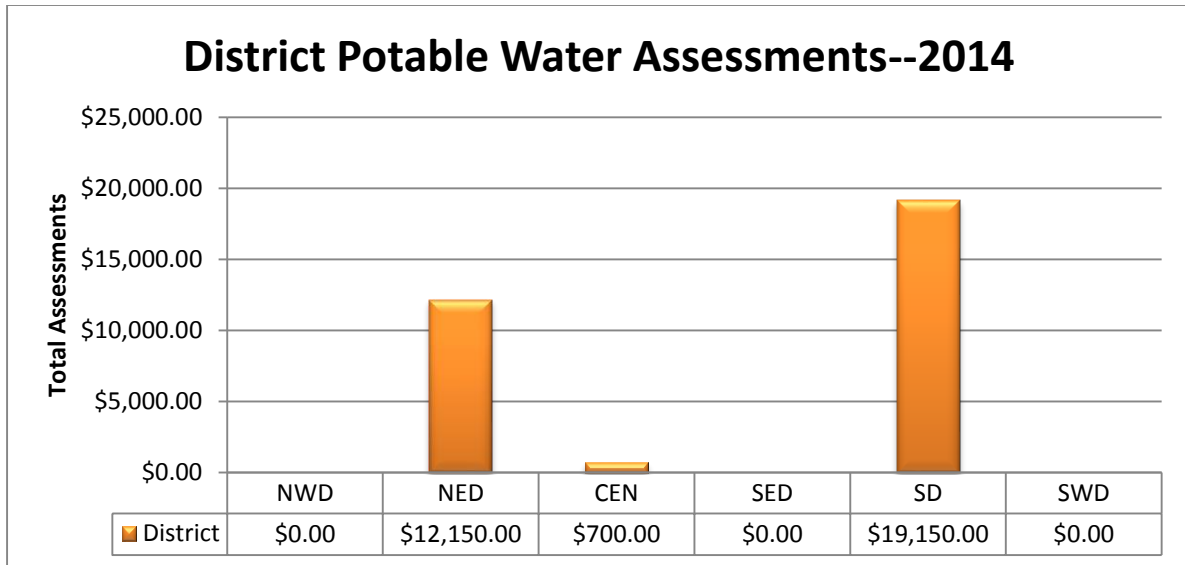


There is an unmistakable decline in the number of assessments in every district.

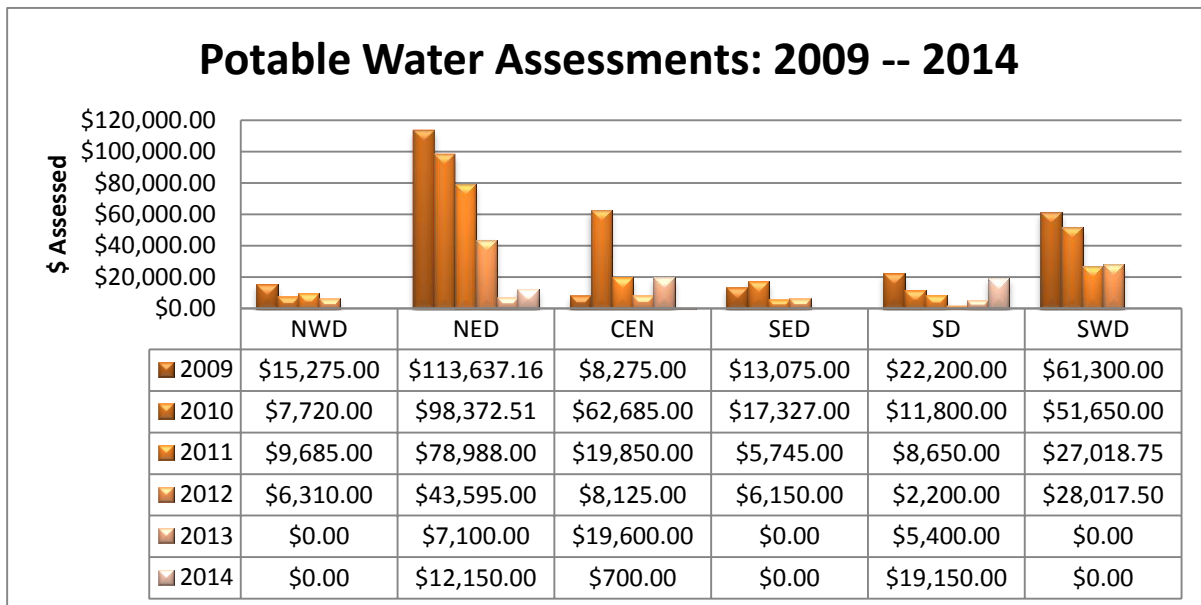
The Department as a whole assessed penalties of \$32,000.00 in this program, a \$100.00 decrease from 2013. This is down 87% compared with the results in 2010:

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

The fines were distributed amongst the districts in 2014 as follows:



Only the Northeast and South Districts assessed more potable water penalties in 2014 than in 2013. Every district but the South District assessed fewer penalties than in 2010. Overall there is a distinct downward trend over the past six years:

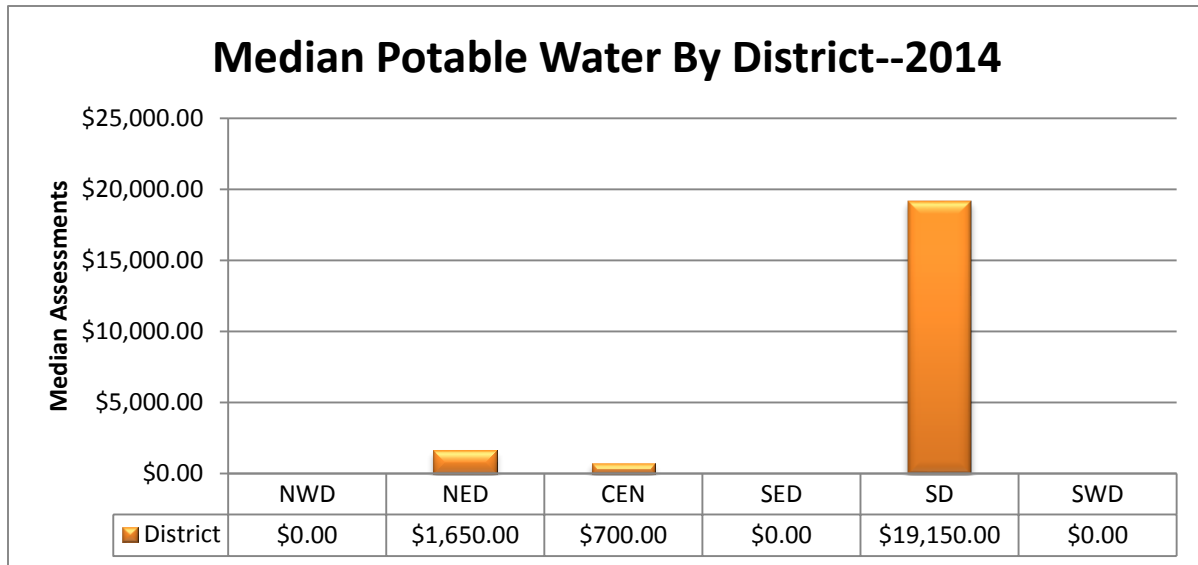


Median assessments fell 77% in 2014 when compared to 2013; however, they are still almost twice what they were in 2010. That said, it must be remembered that this result is based upon a total of only 5 cases statewide:

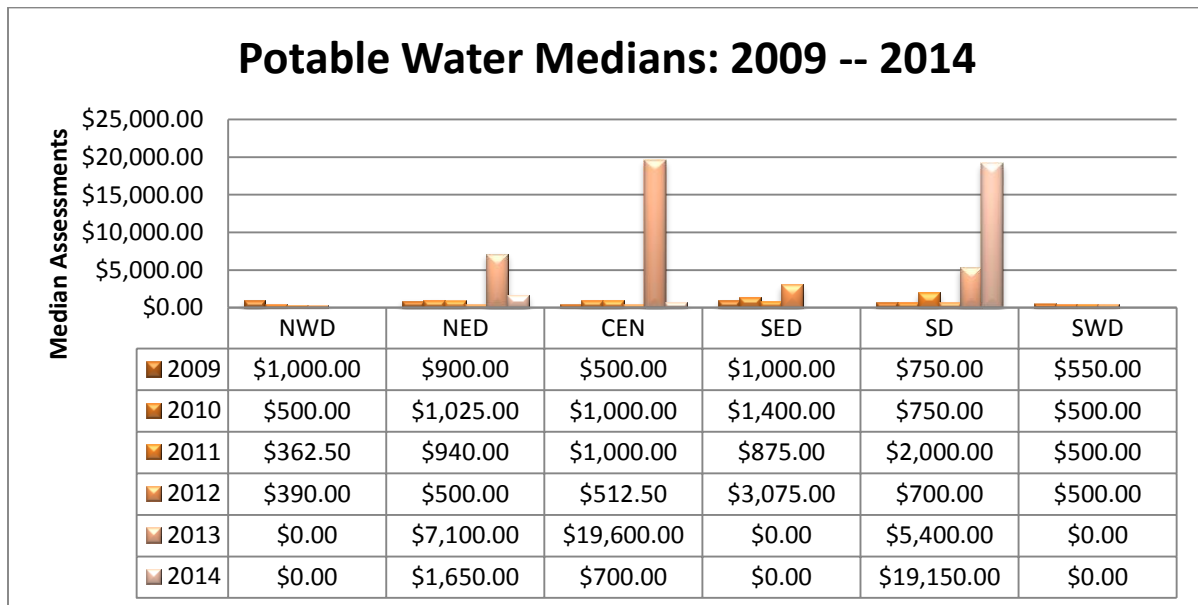
Year	Median Potable Water Assessments
2009	\$750.00
2010	\$875.00
2011	\$537.50

2012	\$500.00
2013	\$7,100.00
2014	\$1,650.00

A comparison of the medians for the districts in 2014 yields these results:



Based upon the above results one would be tempted to conclude that there is a significant disparity between the districts. However, the above results are based upon only 1 assessment in the South and Central Districts and 3 in the Northeast. Thus, the data pool is simply too small to reach a valid conclusion. Over the past six years there is no discernable pattern that applies to every district. This is due in large part to the paucity of assessments over the past 2 years:



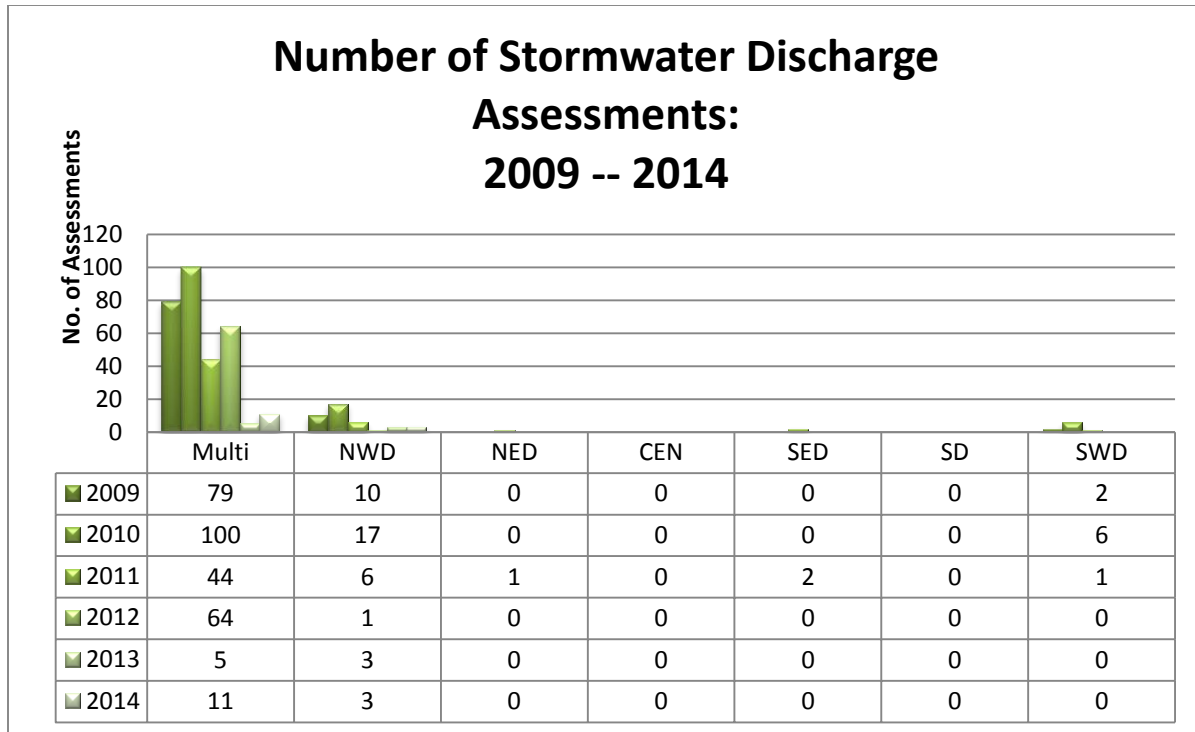
8. Stormwater Discharge Program

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

The number of assessments rose slightly in 2014 compared to 2013, but it is still significantly below the levels prior to that. This is a troubling sign in light of the rapid development in the state, a situation that one would expect to result in an increase in violations:

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

The statewide pattern seen above held true for only the Multi-District category. The Northwest District was the only other district to have any assessments in 2014:

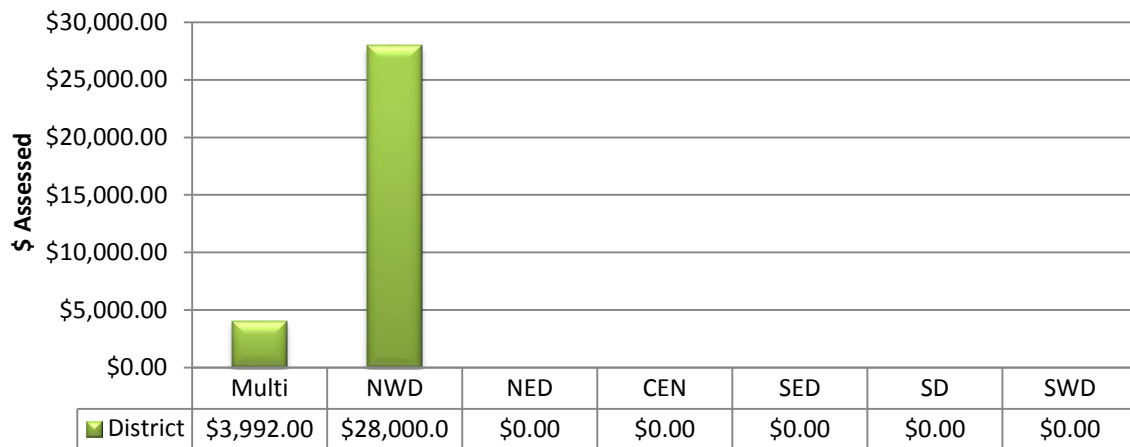


The state assessed almost 1.5 times more in penalties in 2014 than it did the year before. But this result is still far below the levels seen in 2009 through 2012:

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

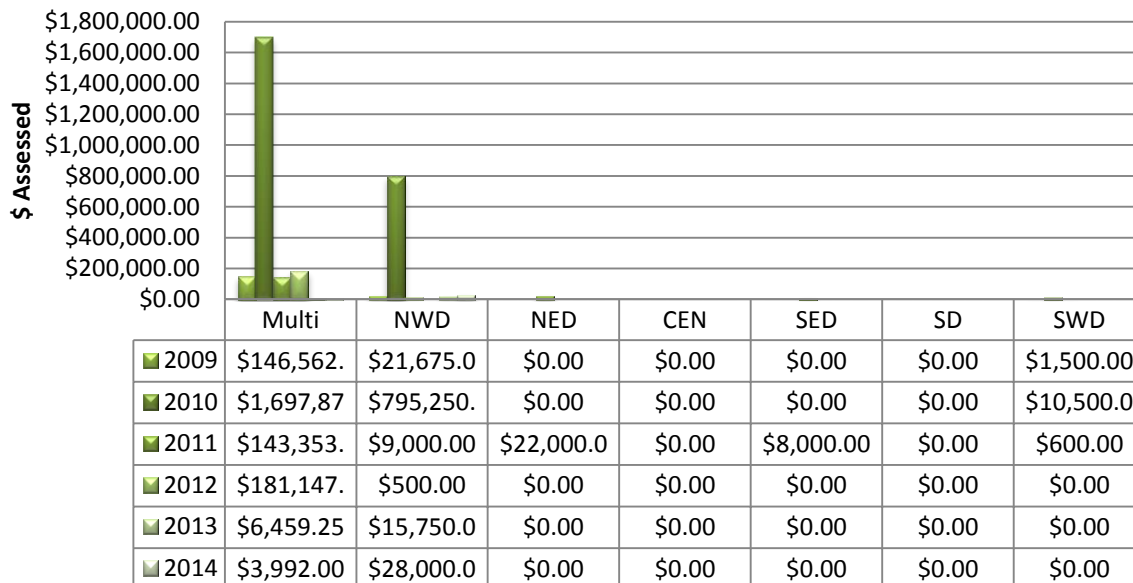
These penalties were assessed across the state in the following fashion:

District Stormwater Assessments--2014



And no discernable pattern is seen over the past six years:

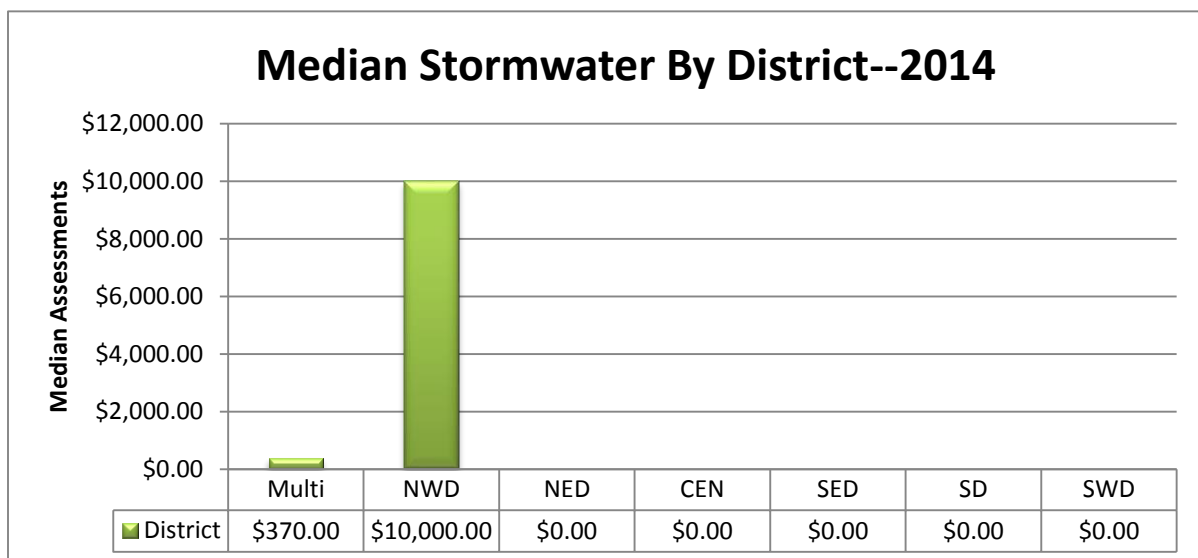
Stormwater Discharge Assessments: 2009 -- 2014



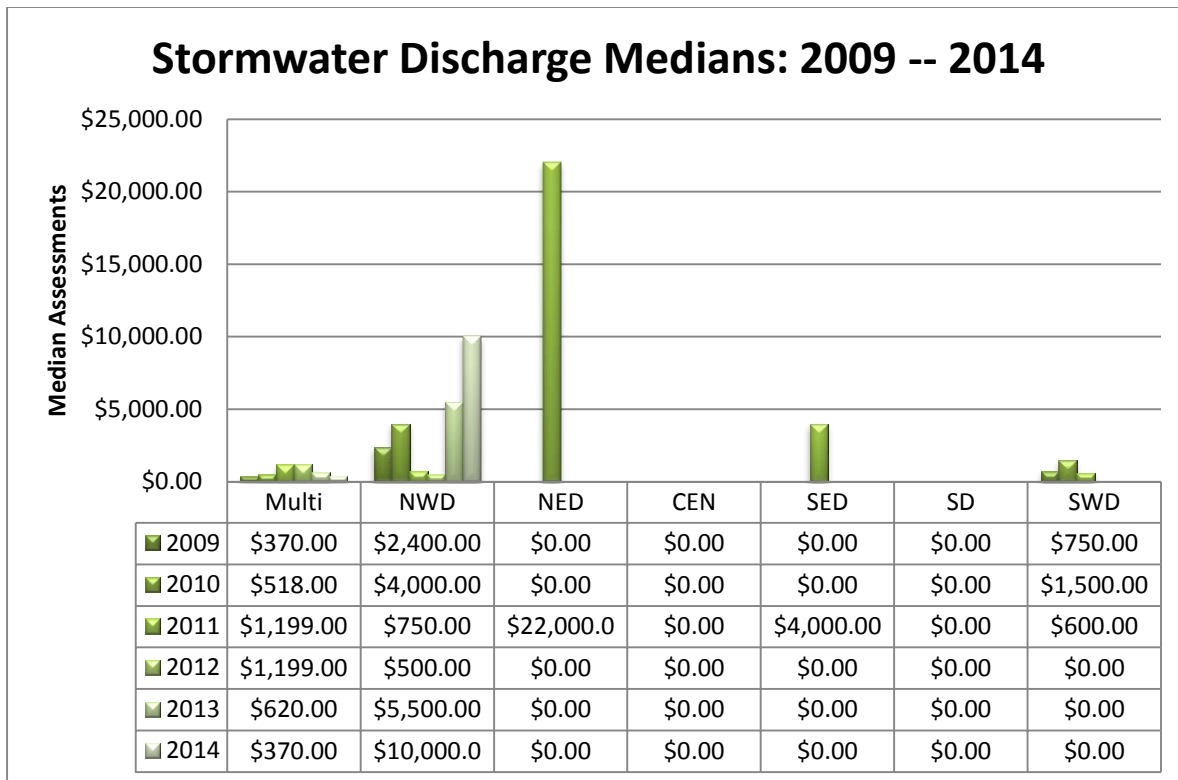
Median assessments, which had been uniform over the past few years, fell sharply in 2014:

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

Medians for the two individual districts that assessed penalties varied substantially, though it must be remembered that the Northwest District assessed penalties in only 3 cases:



While trends are not discernable in most districts (since they are not handling these cases) there does seem to be a trend toward higher mediums in the Northwest District, while the Multi-District category has seen medians fall substantially:



9. Solid Waste Program

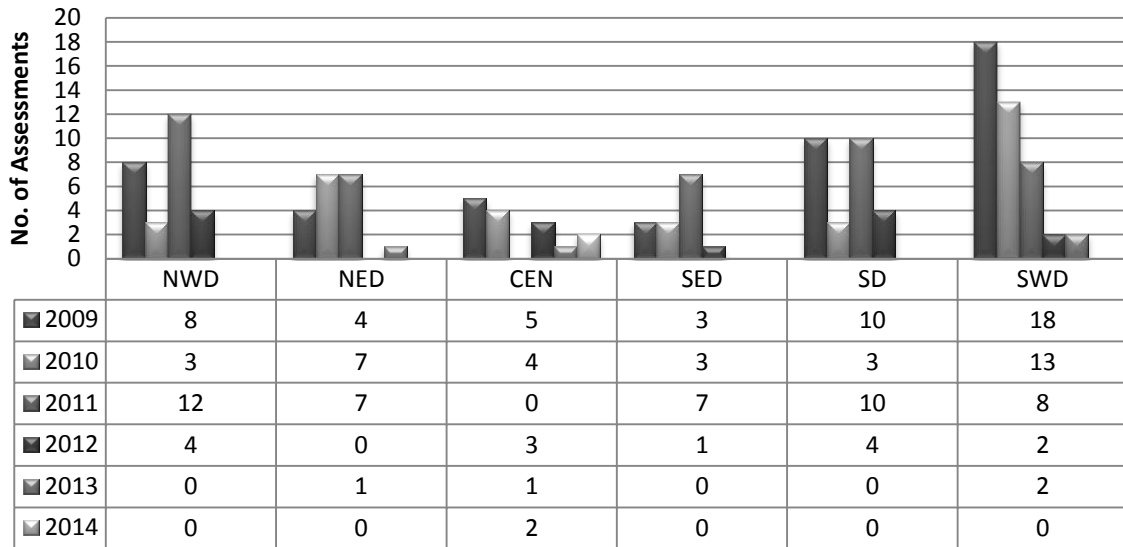
This program oversees the handling of Florida's solid waste that is deposited into landfills across the state. Since 2011 enforcement in this program has fallen steadily to the point that it is practically non-existent.

There were only two assessments in 2014, which is a 50% reduction for the Department as a whole compared with 2013:

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

The Central District doubled its assessments from 1 in 2013 to 2 in 2014. As such it also provided the only enforcement in the state:

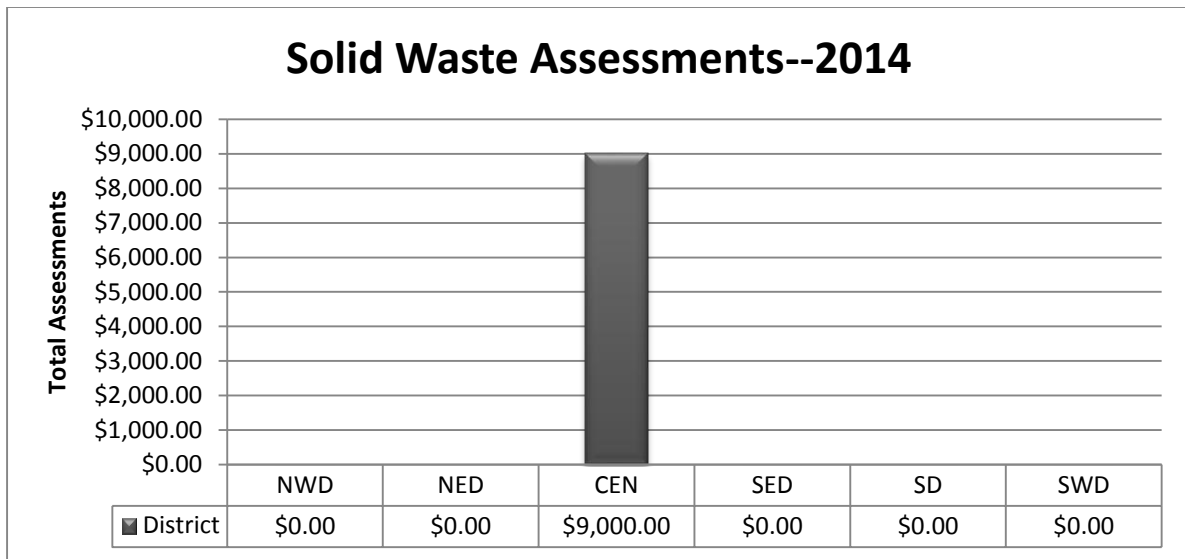
Number of Solid Waste Assessments: 2009 -- 2014



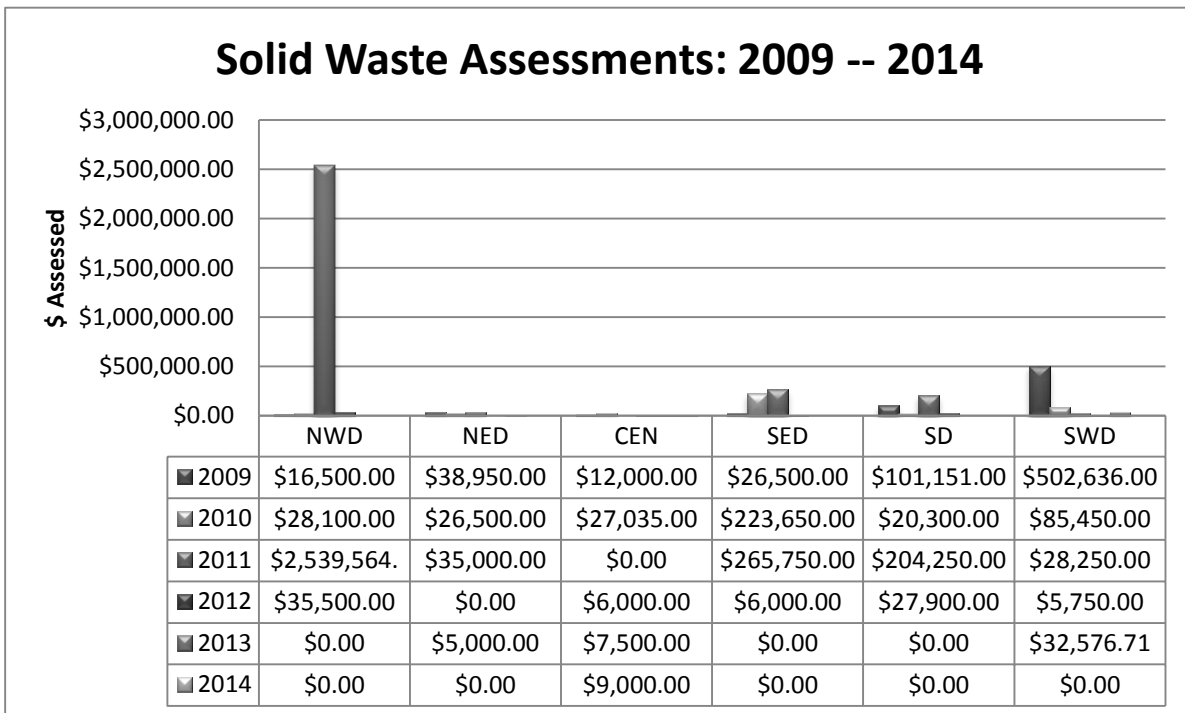
Not surprisingly, penalty assessments also dropped to the lowest level since 1988, the last year that saw no assessments at all:

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

The only district to assess civil penalties was the Central District:



It has now been over two years since there was any enforcement in the Northwest, Southeast and South Districts. The Central District raised its assessments by 120% compared with 2013, but again, there were only two assessments in total:

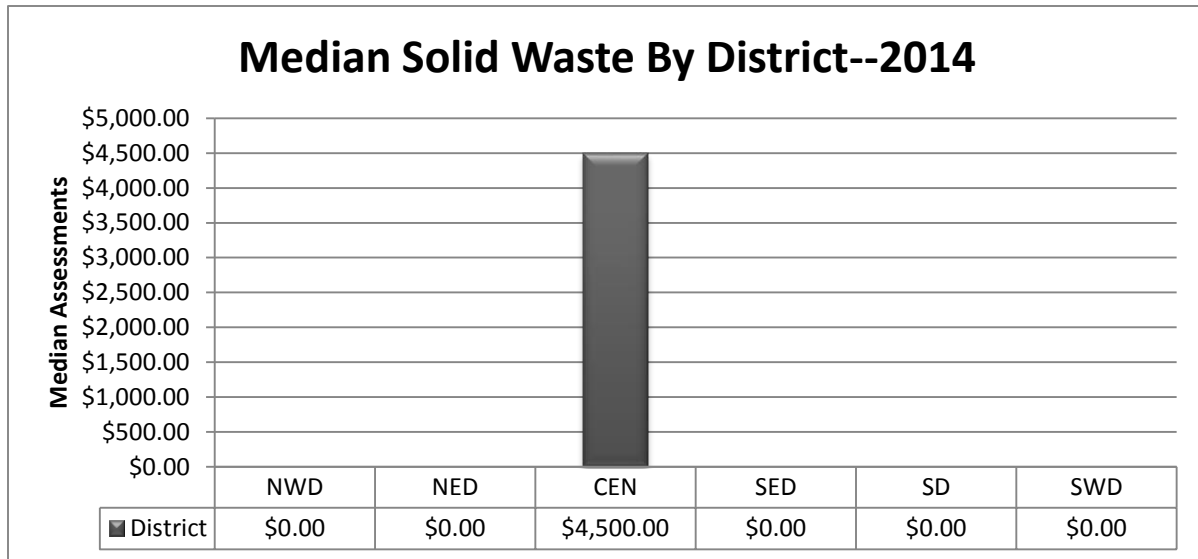


Medians also fell in 2014 for the Department as a whole:

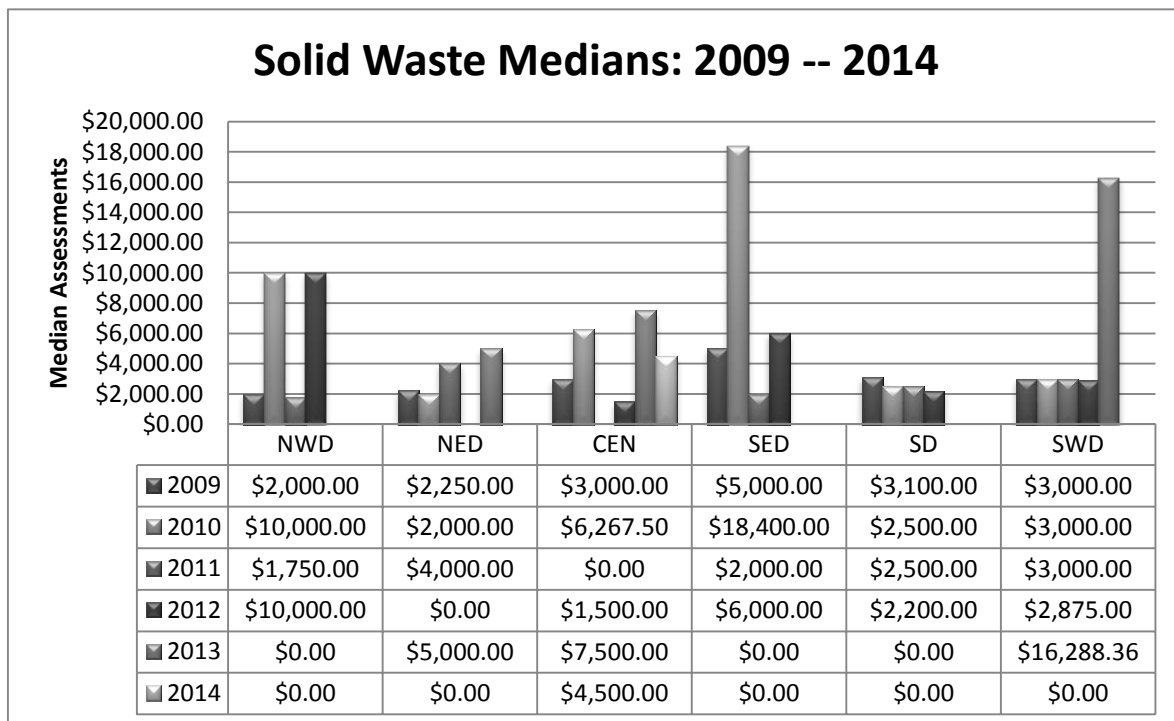
Year	Median Assessments
2009	\$3,000.00
2010	\$3,000.00
2011	\$3,000.00

2012	\$3,375.00
2013	\$6,250.00
2014	\$4,500.00

The only activity was in the Central District:



Median assessments for the Central District fell \$3,000.00 in 2014:



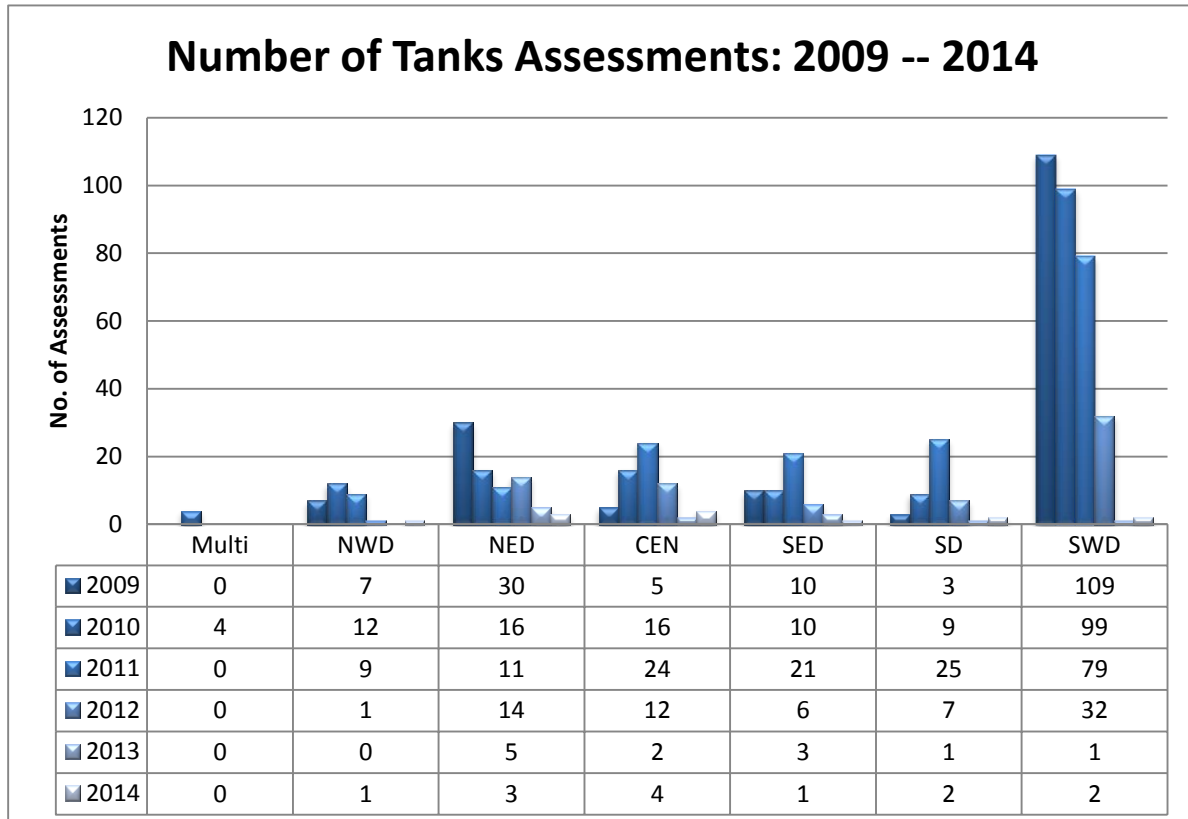
10. Tanks Program

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

Statewide the number of tanks assessments recorded one more assessment than in 2013:

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

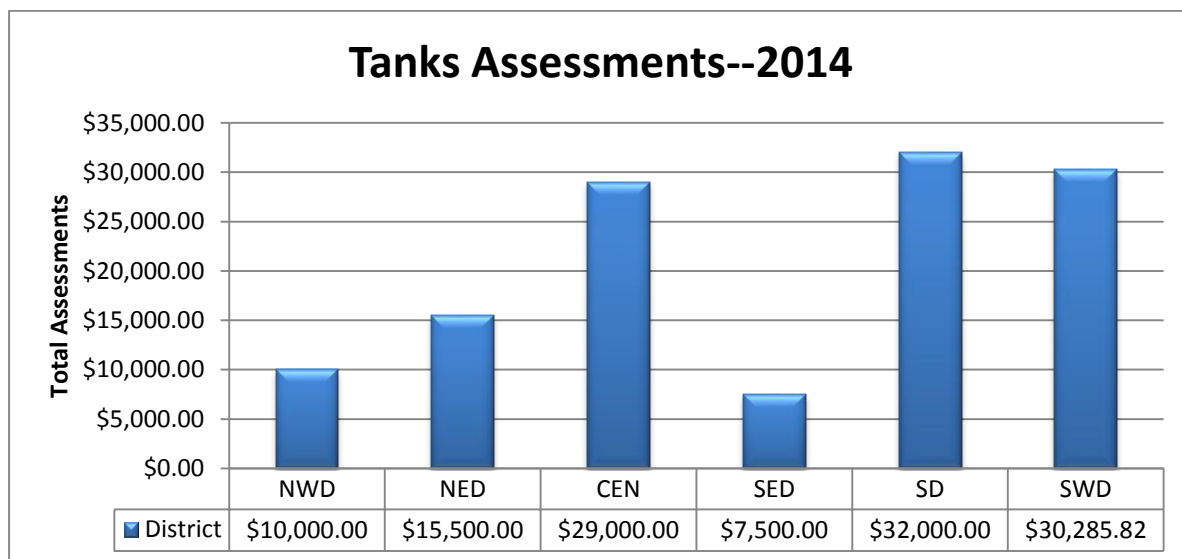
While the Northeast District was the only district to report a drop in assessments, the remaining districts only showed very modest increases:



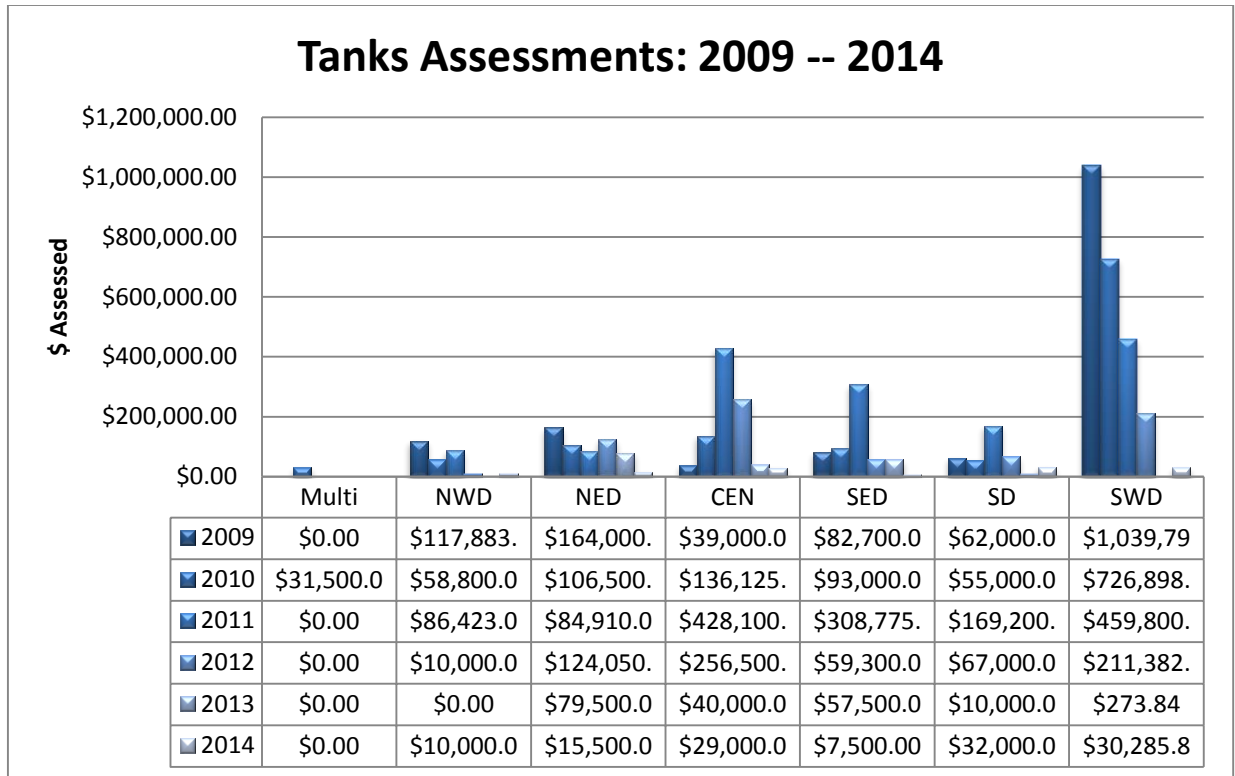
Even though there was one more assessment in 2014 than in 2013, the total dollar value of penalties that were assessed fell 34%:

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

Each district contributed to the overall results as shown in the following chart. The South and Southwest Districts contributed the most of all of the districts:



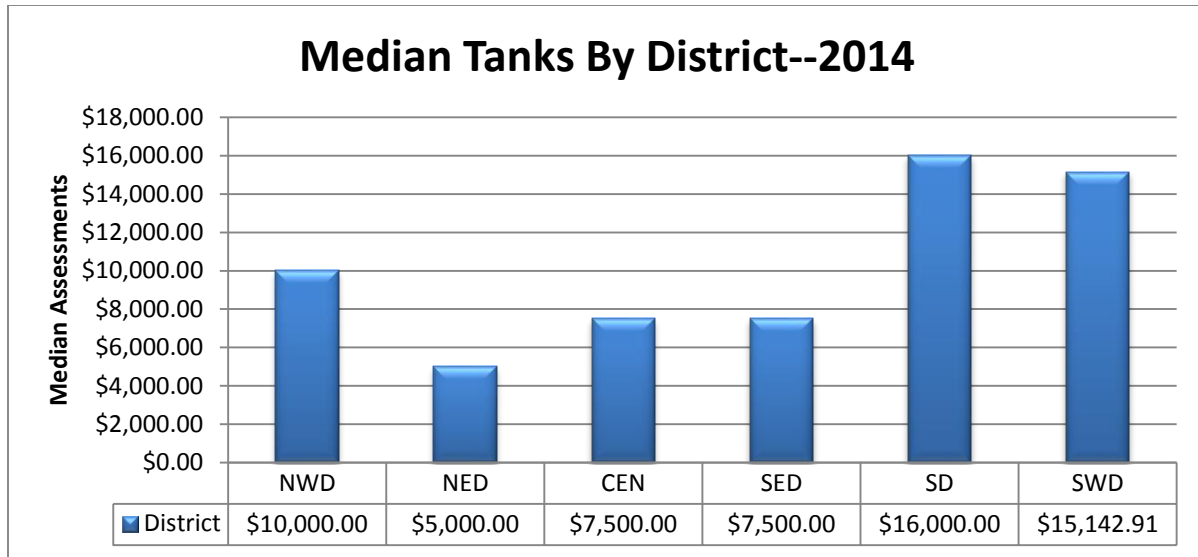
The Northwest, South and Southwest Districts were the three districts that showed an increase in the amount of penalty dollars assessed in 2014. The remaining districts all showed decreases with the Southeast District recording the largest drop:



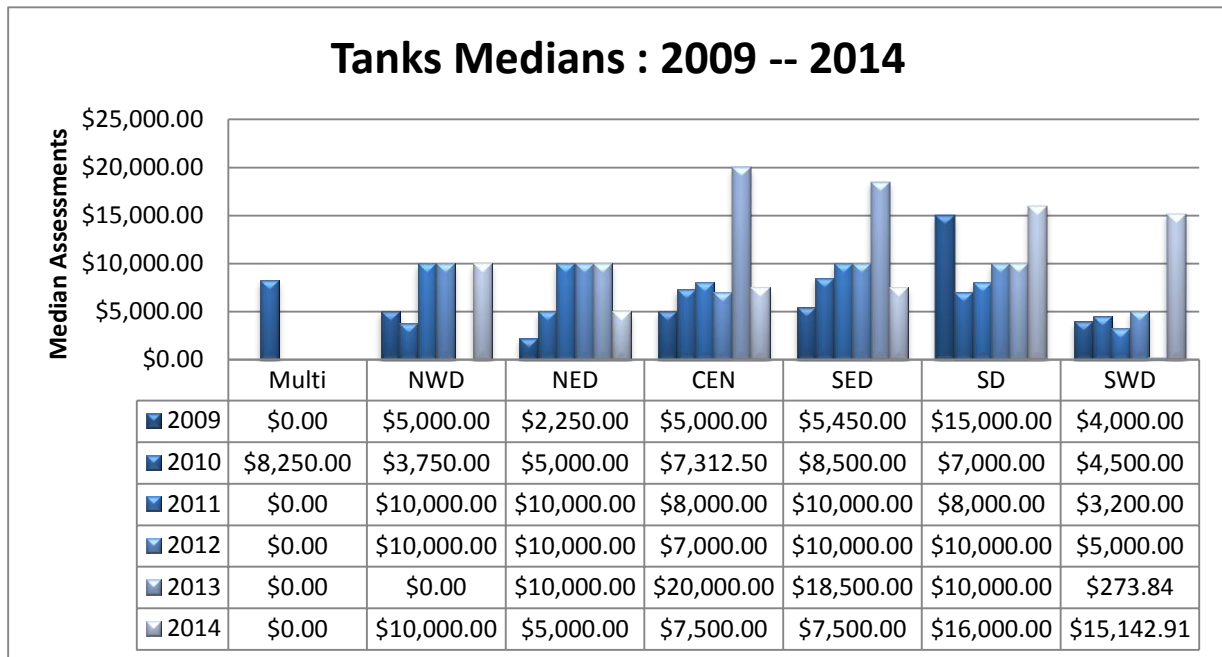
The one positive is that medians have not fallen for the Department:

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

In 2014 the median assessments in the districts were:



The South and Southwest Districts had the highest medians of the group. The Northeast District is the only district to not show a positive upward trend in this section:



H. Civil Penalty Collections By Program Area—District Comparison

A statewide total of \$932,998.94 was collected by the Department in 2014, an increase of \$245,221.25 from the \$687,777.69 that the Department collected in civil penalties in 2013. This is the first time since 2010 that collections actually increased.

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

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

The above results show that since 2007 there has not been a significant change (except for 2011) in the percentage of penalty dollars that have been collected. Also, while the pure dollar amounts of civil penalties collected rose in 2014, as a percentage of assessments they actually declined from 2013's 68%.

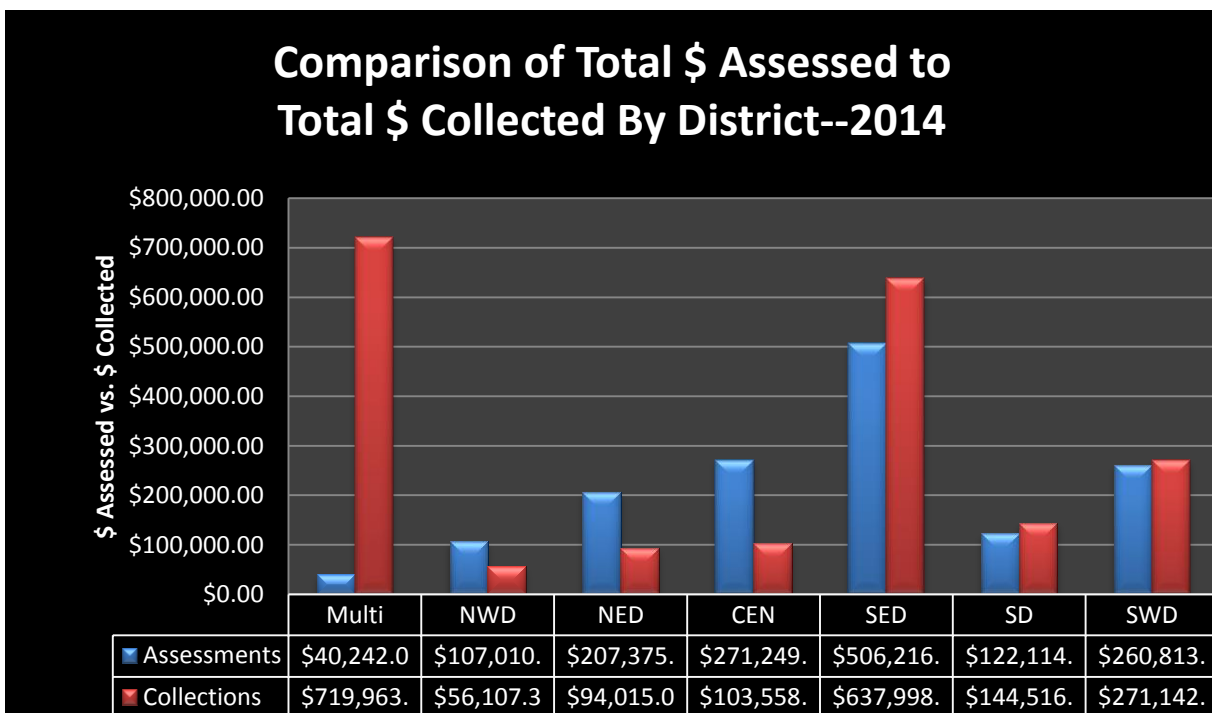
The Department also recorded in-kind and penalty prevention project fulfillments valued at \$1,094,303.00. Adding these to the penalty dollars that were collected gives us a total collection result in 2014 of \$2,027,301.94. This cumulative total is actually less than the cumulative total in 2013 which was \$3,232,525.69

The following chart shows the highest individual collections for every program area that collected civil penalties in 2014, sorted by program area:

Program	Dist.	OGC #	Highest Collection	Amount of Highest Collection
AP	2	140227	<i>Buckeye Florida, LLP</i>	\$8,000.00
BS	0	140680	<i>Consultatio Bal Harbour, LLC</i>	\$1,500.00
CU	1	93329	<i>Coyote Land Co., Inc.</i>	\$28,597.30
DF	5	80798	<i>Dreikron, Michael; Kuhn, Werner and Landau, Angela</i>	\$10,000.00
DW	4	101941	<i>Miami-Dade Water & Sewer Department</i>	\$466,300.00

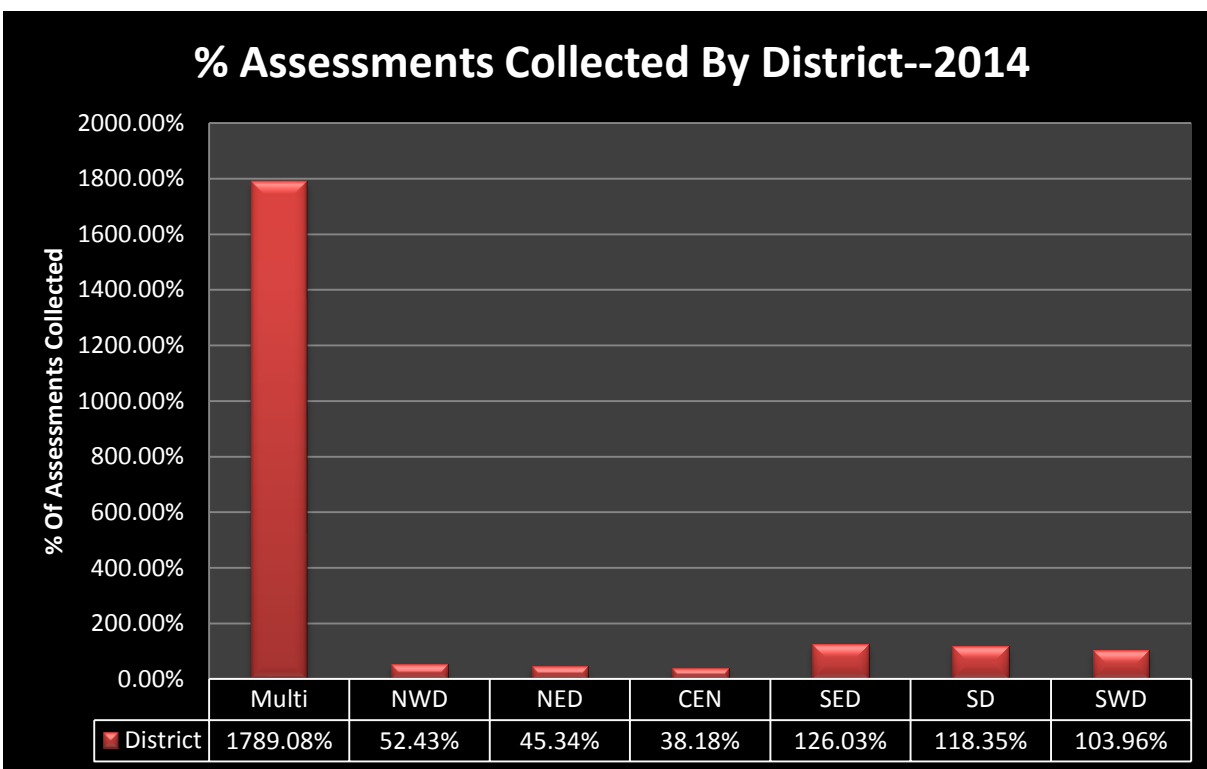
EP	6	80127	<i>Jozsa, John</i>	\$13,000.00
EW	6	140511	<i>Johnson Bros. Corporation</i>	\$5,000.00
HW	3	140031	<i>Capital Traders and Investment, LLC</i>	\$8,509.00
IW	3	140604	<i>Florida Food Products, Inc.</i>	\$9,500.00
MA	6	140013	<i>Hullinger, Roger</i>	\$1,200.00
MN	0	140250	<i>Mosaic Fertilizer, LLC</i>	\$10,000.00
OG	0	140012	<i>Dan A. Hughes Co., LLP</i>	\$20,000.00
PW	3	140389	<i>General Utilities Corporation</i>	\$700.00
RO	1	131014	<i>Phoenix Construction Services, Inc.</i>	\$3,000.00
SL	5	101207	<i>Burke Construction, Inc. and Burke, Francis</i>	\$18,750.00
SW	6	30292	<i>Coniglio, George, Sr.</i>	\$70,000.00
TK	4	100728	<i>Sunshine Gasoline Distributors & Sunshine Dade Investments, LLC</i>	\$10,000.00

The following chart shows each district and compares the dollars assessed by each district in 2014 with the dollars actually collected, including dollar equivalents for in-kind and penalty prevention projects. Notably, three of the districts collected more in penalties in 2014 than they assessed, meaning that they are making headway in collecting penalties assessed in previous years:



When looking at the results on a percentage basis, i.e. the pure percentage of dollars collected that were assessed, both in penalties and projects, it is clear that three of the districts

are making headway in collecting outstanding penalties. Why this is happening is unclear, but the increased revenue is certainly fortunate given the paucity of assessments across the state.¹²



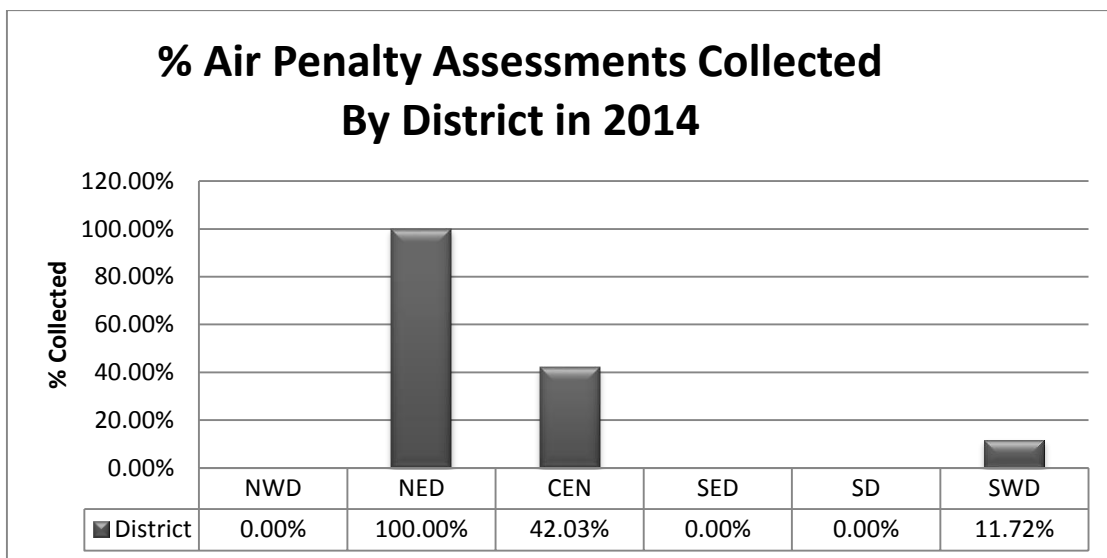
The above results notwithstanding, when compared with 2013's results, in 2014 every district but the South District collected a smaller percentage of assessments.

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

1. Air Program

2013 was arguably the worst year in the Department's history. But even as bad as it was, each of the 4 districts that collected penalty assessments in this program collected 100% or more of those assessments. In 2014 only 3 districts assessed penalties and none of them collected over 100% of the dollars assessed and the Department as a whole collected only 41.56%:

¹² 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.

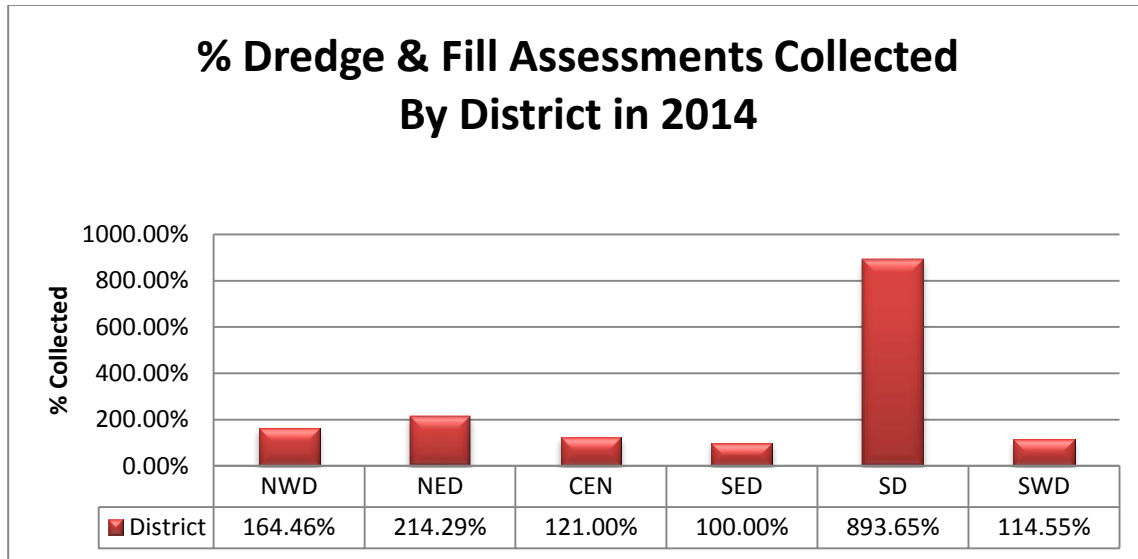


2. Asbestos Program

It has been 2 years since the Department assessed any penalties in this program. Therefore, there were no penalty dollars collected in 2014 by the Department in Florida.

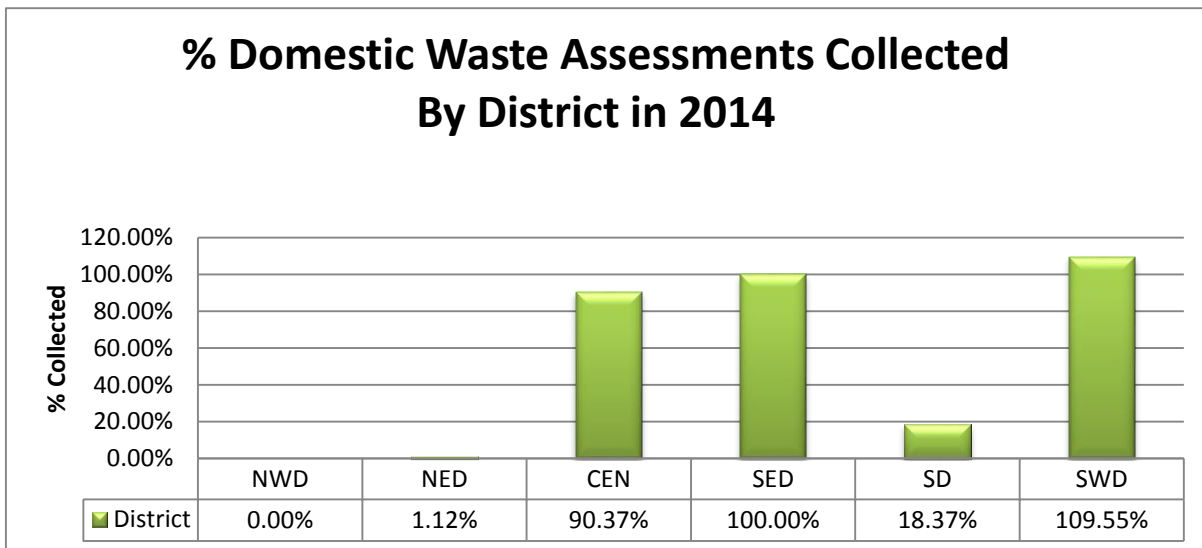
3. Dredge and Fill Program

The Department collected 139.33% of its penalty assessments in this program area, substantially higher than the 56.77% collected in 2013. The Southeast District maintained its 100% collection rate while every other district improved upon their 2013 results:



4. Domestic Waste Program

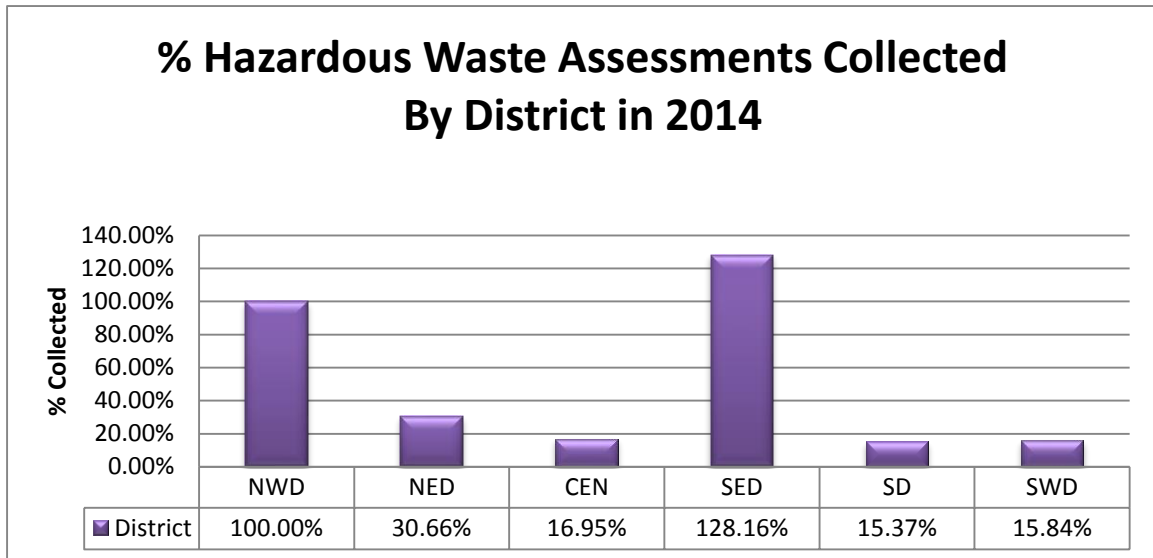
Overall the Department collected 86.66% of its penalty assessments in 2014, much better than the 39.53% collected in 2013. Two of the six districts collected 100% or more of their assessments. The results for 2014 are:



5. Hazardous Waste

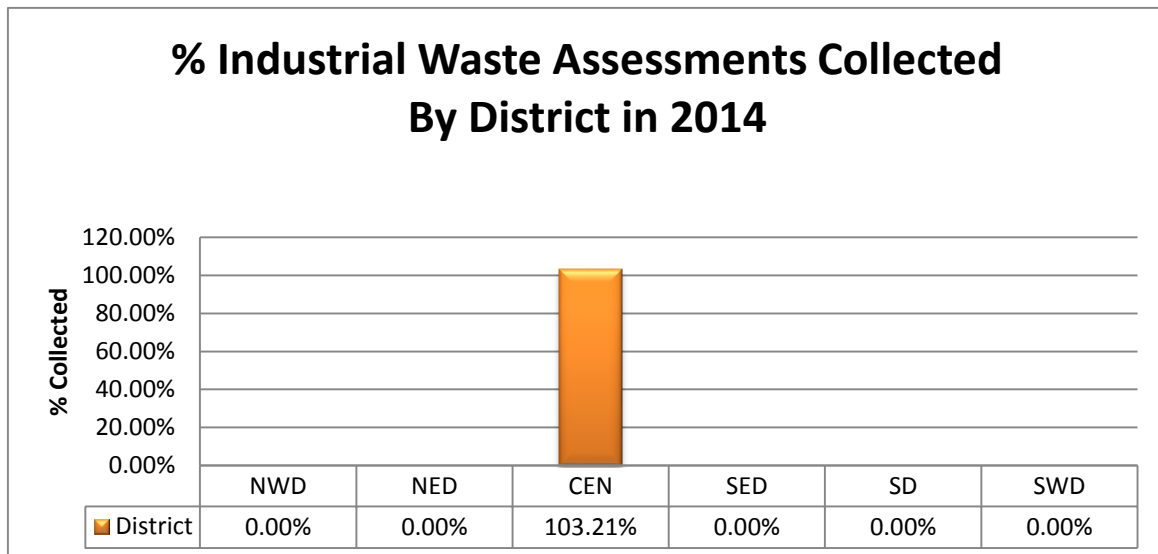
Hazardous waste collections fell sharply from 98.38% in 2013 to 27.18% in 2014. This result is unexpected given that the number of assessments and dollars assessed rose in 2014

when compared with the previous year. Every district but the Southwest District saw poorer performance in 2014. The results are:



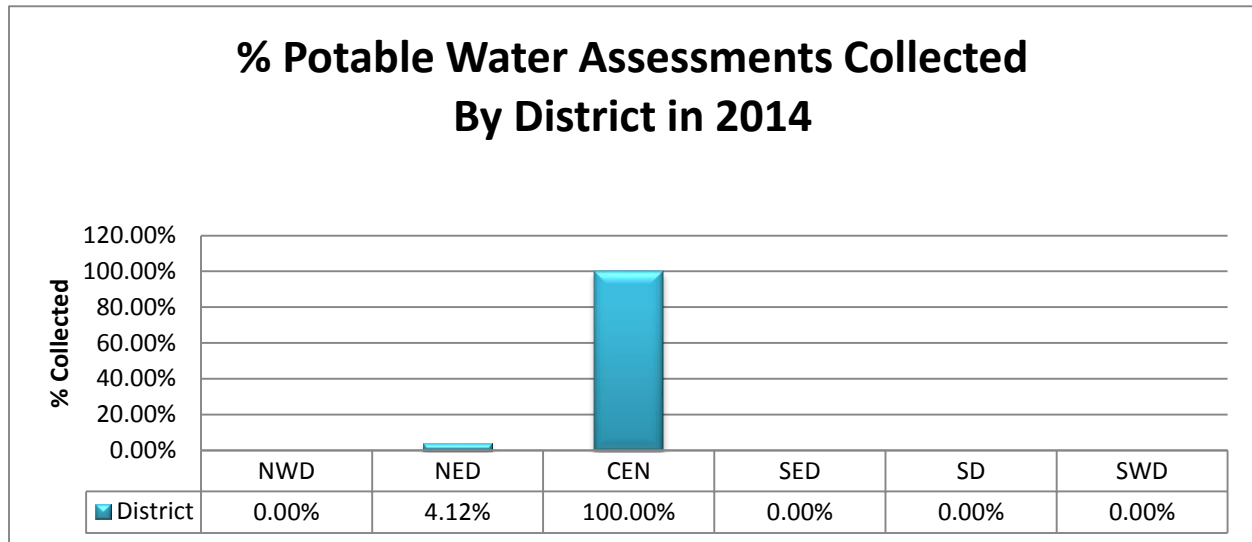
6. Industrial Waste

Overall the Department collected 103.21% of its industrial waste assessments in 2014; however, this result is based upon only two collections in the Central District. This district assessed only one penalty in 2014 and collected it in addition to a penalty from previous years. Otherwise, there was no activity in the state. The districts' performance was:



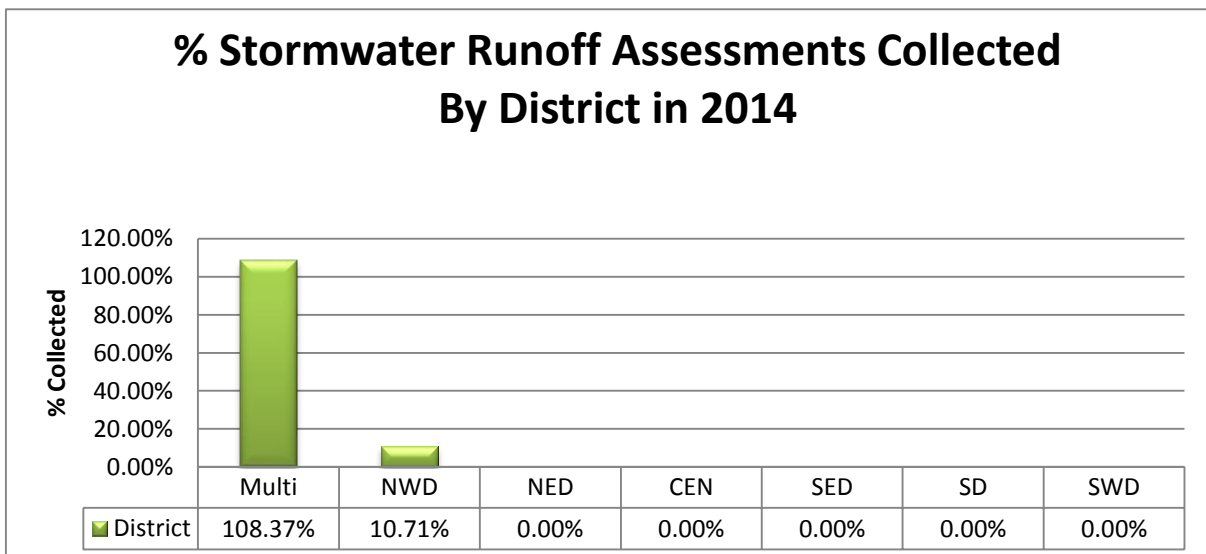
7. Potable Water Program

Collections continued to fall in this area. The Department collected just 3.75% of its assessments in 2014, compared to 32.41% in this area in 2013 and the only district that saw any improvement was the Central District:



8. Stormwater Discharge Program

On a statewide level collections in this program fell from 123.15% in 2013 to 22.90% in 2014. The Northwest District collected the highest dollar amount, \$28,000.00, but the multi-district category collected the highest percentage of penalties overall. There were no assessments made in the Northeast, Central, Southeast, South and Southwest Districts:

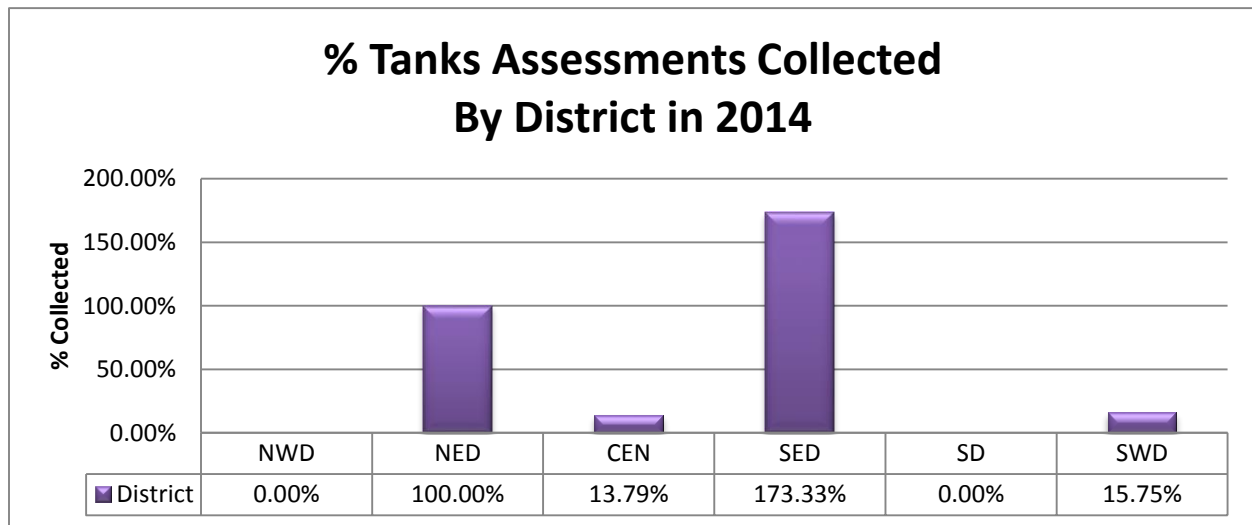


9. Solid Waste Program

Although in 2014 the Department assessed \$9,000.00 in solid waste penalties (all from the Central District) none of those penalty dollars were collected. The Southwest District did collect \$70,000.00 in penalties from a case originating in a prior year.

10. Tanks Program

In 2014 the Department collected 29.99% of the civil penalties it assessed, down almost 30% from the 59.75% that it collected in 2013 and also lower than its performance in 2011 and 2012. This result is largely due to significant decreases in collections in the South and Southwest Districts. The Northwest District has collected no tanks penalties since 2011. The Northeast, Central and Southeast Districts all saw lower results in 2013. The performance by each district was as follows:



I. A Quick Look At Statewide Results

The following is a summary of the overall enforcement picture for 2014:

Enforcement Area	Performance Compared with 2012	Performance Compared with 2013
Total Number of Cases	Down 65%	Up 11%
Case Reports	Down 56%	Up 7%

NOVs	Down 48%	Up 155%
Final Orders	Down 78%	Down 28%
Consent Orders—Total	Down 66%	Up 7%
Consent Orders—Long-Form	Down 23%	Up 20%
Consent Orders—Model	Down 53%	Up 2%
Consent Orders—Short-Form	Down 82%	Up 19%

Assessments for 2014 can be summarized as follows:

Assessment/Program Area	Performance Compared with 2012	Performance Compared with 2013
Total Number of Assessments	Down 73%	Up 11%
Total Dollars Assessed in Penalties	Down 55%	Up 6%
Total Medians	Up 50%	Up 2%
Air Program—Number of Assessments	Down 40%	Unchanged
Air Program—Dollars Assessed	Down 48%	Down 49%
Air Program—Median	Down 15%	Down 6%
Asbestos Program—Number of Assessments	Down 100%	Unchanged
Asbestos Program—Dollars Assessed	Down 100%	Unchanged
Asbestos—Median	Down 100%	Unchanged
Dredge & Fill—Number of Assessments	Down 73%	Up 71%
Dredge & Fill—Dollars Assessed	Down 76%	Down 65%
Dredge & Fill—Median	Unchanged	Unchanged
Domestic Waste—Number of Assessments	Down 59%	Down 35%
Domestic Waste—Dollars Assessed	Down 21%	Up 75%
Domestic Waste—Median	Up 108%	Up 43%
Hazardous Waste—Number of Assessments	Down 41%	Up 43%
Hazardous Waste—Dollars Assessed	Down 55%	Up 78%
Hazardous Waste—Median	Up 4%	Down 60%
Industrial Waste—Number of Assessments	Down 95%	Down 75%
Industrial Waste—Dollars Assessed	Down 78%	Down 31%
Industrial Waste—Median	Up 533%	Up 245%
Potable Water—Number of	Down 92%	Up 67%

Assessments		
Potable Water—Dollars Assessed	Down 36%	Unchanged
Potable Water—Median	Up 230%	Down 77%
Stormwater Discharge—Number of Assessments	Down 78%	Up 75%
Stormwater Discharge—Dollars Assessed	Down 82%	Up 44%
Stormwater Discharge—Median	Down 69%	Down 70%
Solid Waste—Number of Assessments	Down 86%	Down 50%
Solid Waste—Dollars Assessed	Down 89%	Down 80%
Solid Waste—Median	Up 33%	Down 28%
Tanks—Number of Assessments	Down 82%	Up 8%
Tanks—Dollars Assessed	Down 83%	Down 34%
Tanks—Median	Unchanged	Unchanged

The Collections for 2014 are:

Collections/Program Area	Performance Compared with 2012	Performance Compared with 2013
Total \$ Collected	Up 21%	Down 37%
Air—Penalties Collected	Down 13%	Down 53%
Asbestos—Penalties Collected	Down 100%	Down 100%
Dredge& Fill—Penalties Collected	Down 70%	Down 24%
Domestic Waste—Penalties Collected	Up 126%	Up 411% %
Hazardous Waste—Penalties Collected	Down 87%	Down 68%
Industrial Waste—Penalties Collected	Down 74%	Down 48%
Potable Water—Penalties Collected	Down 98%	Down 88%
Stormwater Discharge—Penalties Collected	Down 96%	Down 73%
Solid Waste—Penalties Collected	Up 65%	Up 51%
Tanks—Penalties Collected	Down 97%	Down 95%

DISTRICT ENFORCEMENT RESULTS

A. Northwest District

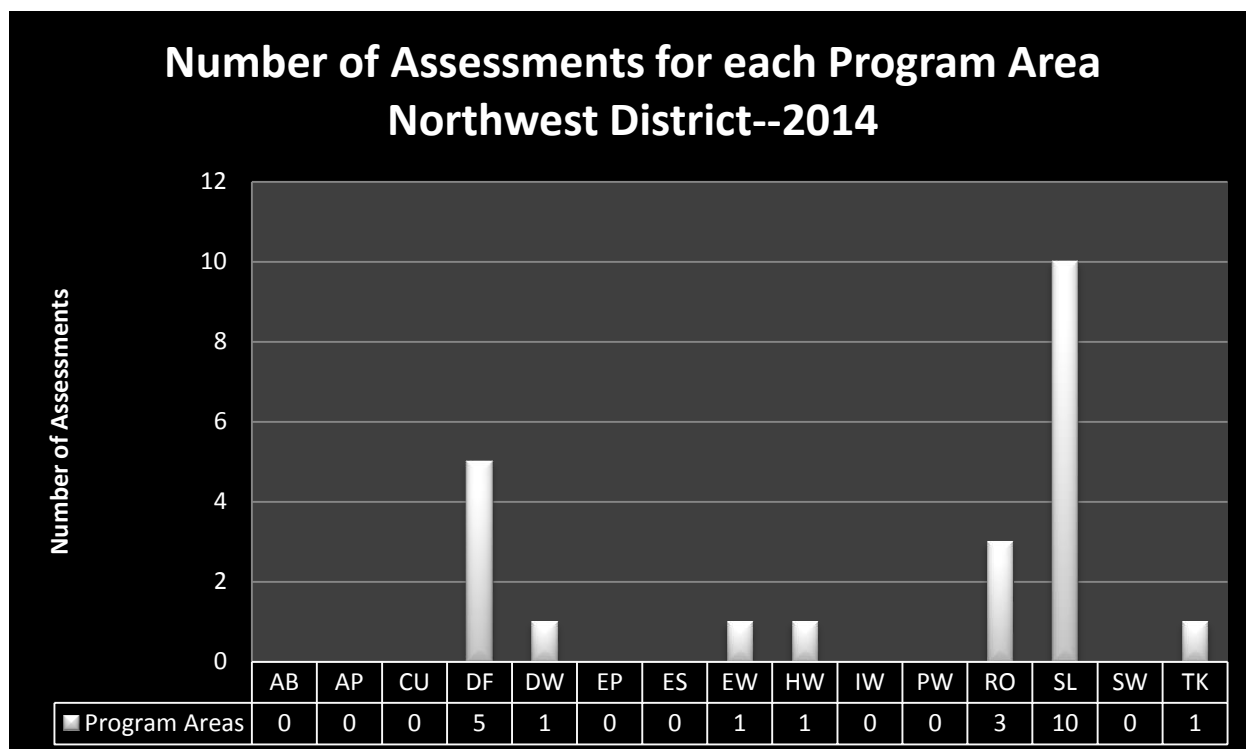
1. Case Reports, NOVs, Consent Orders, Final Orders

The Northwest District initiated enforcement in only 37 cases in 2014, the same number as in the previous year. 15.085% of all of the enforcement cases opened by the Department came out of this district. It issued 5 case reports, compared with 3 case reports in 2013, 5 NOVs (compared with 1 in 2013) and 3 final orders, also an increase and the highest percentage in the Department. The number of consent orders fell from 31 in 2013 to 24 in 2014, a 23% decline. Long-form consent orders increased from 4 in 2013 to 6 in 2014. Short-form consent orders also increased from 5 in 2013 to 8 in 2014. The district issued 16% of all short-form consent orders issued by the Department. 22% of all cases initiated by the Northwest District in 2014 were resolved with short-form consent orders, an 8% increase from 2013.

2. Program Area Enforcement

Although the Northwest District opened 37 enforcement actions in 2014 it assessed civil penalties in just 22 of them, which is one more than in 2013. The following chart provides a breakdown¹³ of how those assessments were distributed among the program areas:

¹³ Only program areas with actual assessments in the past are shown. The same is true for the remaining districts that will be discussed.



The number of assessments fell in the air and dredge and fill programs. The stormwater runoff program was unchanged and the remaining programs with assessments were increases over 2013. This is the second year in a row that there have been no potable water assessments in this district.

3. Civil Penalty Assessments

In 2013 the Northwest District assessed \$53,765.00 in civil penalties. This number increased to \$107,010.00 in 2014. By comparison, civil penalty assessments were \$366,937.56 in 2012 and \$3,633,190.89 in 2011. Of the \$107,010.00 assessed in 2014, \$48,000.00 was in one case against *Emerald Coast Utilities Authority*. The district's total assessments made up just 7% of all assessments levied by the Department in 2014. The median civil penalty assessment for 2014 for all programs combined in this district was \$1,420.00, a significant decline from the 2013 median of \$2,025.00.

Program area assessments for the Northwest District broke down as follows:¹⁴

¹⁴ 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 assessments are listed.

Program Area	Total \$ Assessed in 2014	2014 Medians	2013 Medians
DF	\$3,010.00	\$420.00	\$1,750.00
DW	\$48,000.00	\$48,000.00	\$0.00
EW	\$2,420.00	\$2,420.00	\$0.00
HW	\$3,200.00	\$3,200.00	\$0.00
RO	\$28,000.00	\$10,000.00	\$5,500.00
SL	\$12,380.00	\$1,260.00	\$1,710.00
TK	\$10,000.00	\$10,000.00	\$0.00

The median assessment for the domestic waste program is based upon one case. Except for the stormwater discharge program, those assessments that rose did so only because there were no assessments at all in 2013.

4. Civil Penalty Collections

The Northwest District collected \$56,107.30 in civil penalties in 2014¹⁵, compared to \$92,240 that was collected in 2013. \$257,522.56 in civil penalties were collected in 2012 and \$307,752.21 collected in 2011 (itself a declining year). The NWD collected just 6% of all collections by the Department in calendar year 2014.

B. Northeast District

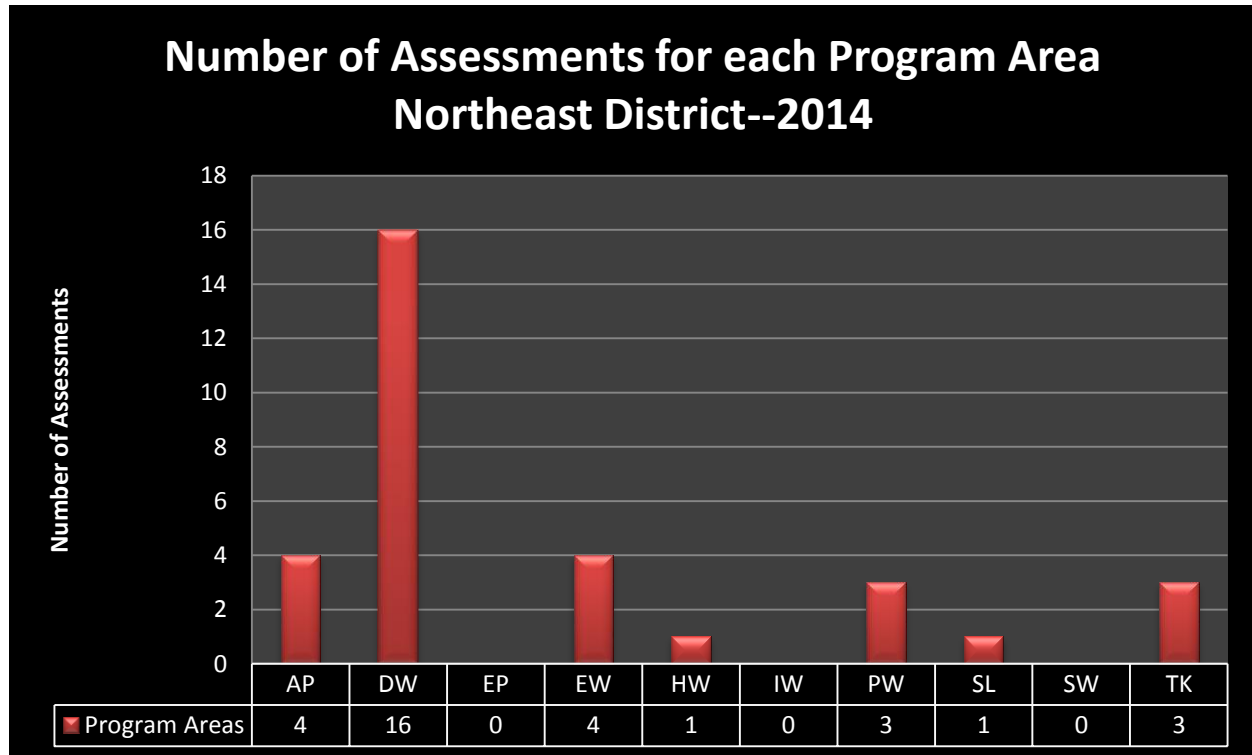
1. Case Reports, NOV's, Consent Orders, Final Orders

The Northeast District initiated enforcement in 39 cases in 2014, 2 fewer than in 2013. 116 cases were opened in 2012 and 133 cases in 2011. These cases accounted for 16.67% of all cases opened by the Department in 2014. It issued 3 case reports, 4 NOV's and 2 final orders. 30 consent orders were issued in 2014, 4 fewer than in 2013. 75 were issued in 2012, 90 in 2011 and 162 in 2010. 18 of the 30 consent orders in 2014 were long-form, 8 more than in 2013. 8 short-form consent orders were issued—4 less than in 2013. 21% of all cases initiated by the Northeast District in 2014 were resolved with short-form consent orders, down 8% from 2013. 16% of all short-form consent orders issued by the Department came out of this district.

¹⁵ 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.

2. Program Area Enforcement

The Northeast District assessed civil penalties in 32 cases in 2014, a 28% increase over 2013's performance, but still much less than the 80 cases in 2012. The breakdown of assessments by program area follows:



There were increases in the number of air, domestic waste and potable water cases in 2014.

3. Civil Penalty Assessments

The Northeast District assessed civil penalties totaling \$207,375.00 in 2014 a level that is 42% less than the \$359,295.00 that this district assessed in 2013. This district's numbers have gone down in 4 of the past 5 years. The district's performance represented 13.69% of all assessments by the Department in 2014. The median civil penalty assessment for 2014 for all programs increased to \$4,250.00 from the \$3,875.00 median in 2013.

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

Program	Total \$ Assessed in 2014	2014 Median	2013 Median
AP	\$17,000.00	\$3,500.00	\$4,000.00
DW	\$136,400.00	\$6,250.00	\$3,750.00

EW	\$9,250.00	\$750.00	\$1,000.00
HW	\$8,775.00	\$8,775.00	\$10,000.00
PW	\$12,150.00	\$1,650.00	\$7,100.00
SL	\$8,300.00	\$8,300.00	\$0.00
TK	\$15,500.00	\$5,000.00	\$10,000.00

Total assessments fell in major program areas in 2014, as did medians in the air, dredge and fill, hazardous waste, potable water and tanks programs.

4. Civil Penalty Collections

The Northeast District collected \$48,515.00 in 2014, compared to \$165,612.51 that was collected in 2013. This is the fifth straight year of declining collections. The district collected 5% of all collections by the Department in calendar year 2014, a 19% decrease from 2013.

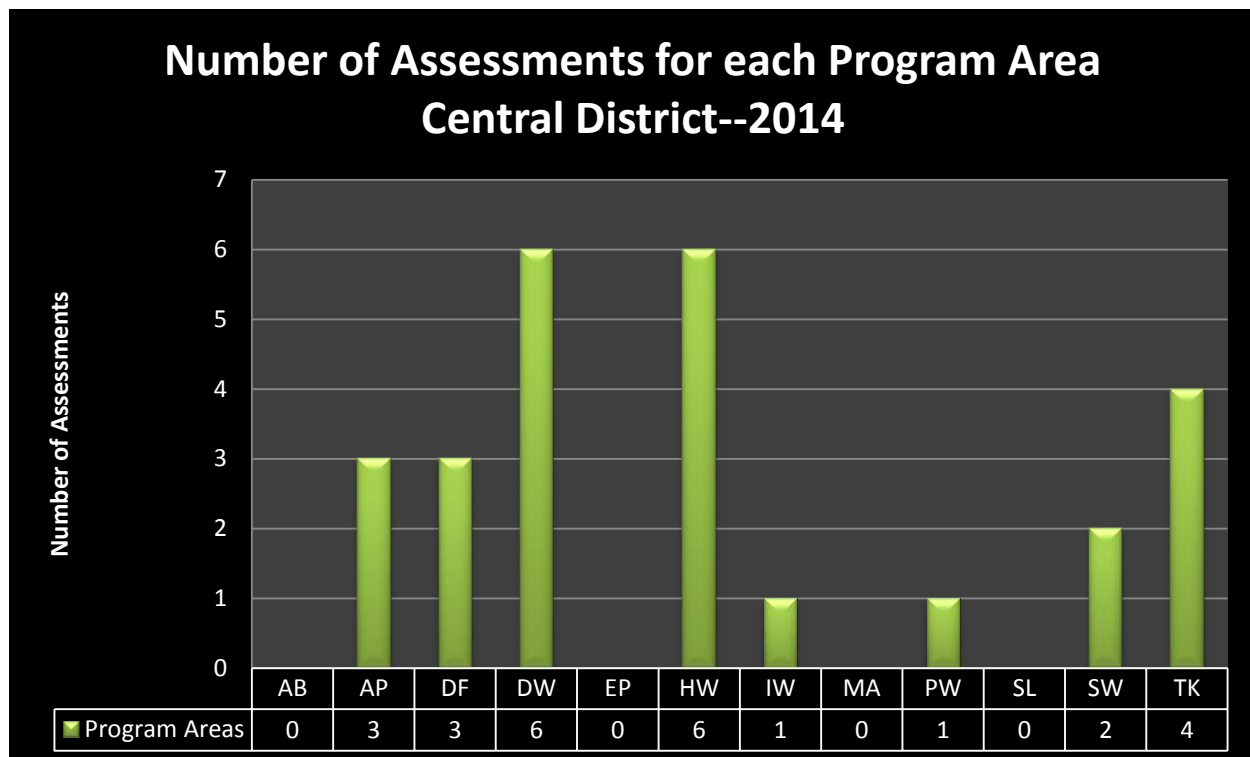
C. Central District

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

The Central District took enforcement in 26 cases in 2014, **the fewest of all of the districts and 6 fewer than in 2013**. It submitted 4 case reports to OGC in 2014, 1 more than in the previous year. It issued 3 NOVs (1 less than 2013), 2 final orders (a drop of 3) and 17 consent orders (5 fewer than in 2013). Of the 17 consent orders, 53% (9) were short-form consent orders whereas 35% (6) were long-form. Of all of its cases 35% were resolved via short-form consent orders and 23% were resolved with long-form consent orders.

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 2014:



The Central District assessed penalties in 26 cases in 2014, one more case than in 2013. There were improvements in every program area except for the asbestos, tanks and dredge and fill programs. The hazardous waste program improved noticeably from a percentage standpoint, although there were still only 6 cases over the course of the 12 month period.

3. Civil Penalty Assessments

The Central District levied \$271,249.00 in penalties in 2014. The previous year it assessed \$359,295.00. **The district now has three straight years of declining assessments.** Nevertheless, on a percentage basis the district assessed the second-most penalties of all of the districts. **Medians also rose from \$3,875.00 in 2013 to \$5,500.00 in 2014.**

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

Program	Total Assessments in 2014	2014 Medians	2013 Medians
AP	\$10,900.00	\$4,000.00	\$4,000.00
DF	\$10,000.00	\$3,000.00	\$0.00
DW	\$32,675.00	\$5,187.50	\$3,750.00
EP	\$0.00	\$0.00	\$23,105.00
EW	\$0.00	\$0.00	\$1,000.00
HW	\$169,474.00	\$24,237.50	\$10,000.00

IW	\$9,500.00	\$9,500.00	\$0.00
PW	\$700.00	\$700.00	\$7,100.00
SW	\$9,000.00	\$4,500.00	\$5,000.00
TK	\$29,000.00	\$7,500.00	\$10,000.00

Assessments rose significantly in the dredge and fill and hazardous waste programs. The industrial waste program also rose, but in 2013 it had no assessments and there was only 1 in 2014. There were also sizeable improvements in the medians for those programs. It should be noted that the potable water program, which monitors drinking water, had only one assessment in each of the last two years.

4. Civil Penalty Collections

The district did manage to collect more in civil penalties in 2014. It collected \$103,558.96, compared to \$74,070.36 the previous year. This represented 8% of all of the penalties collected department-wide.

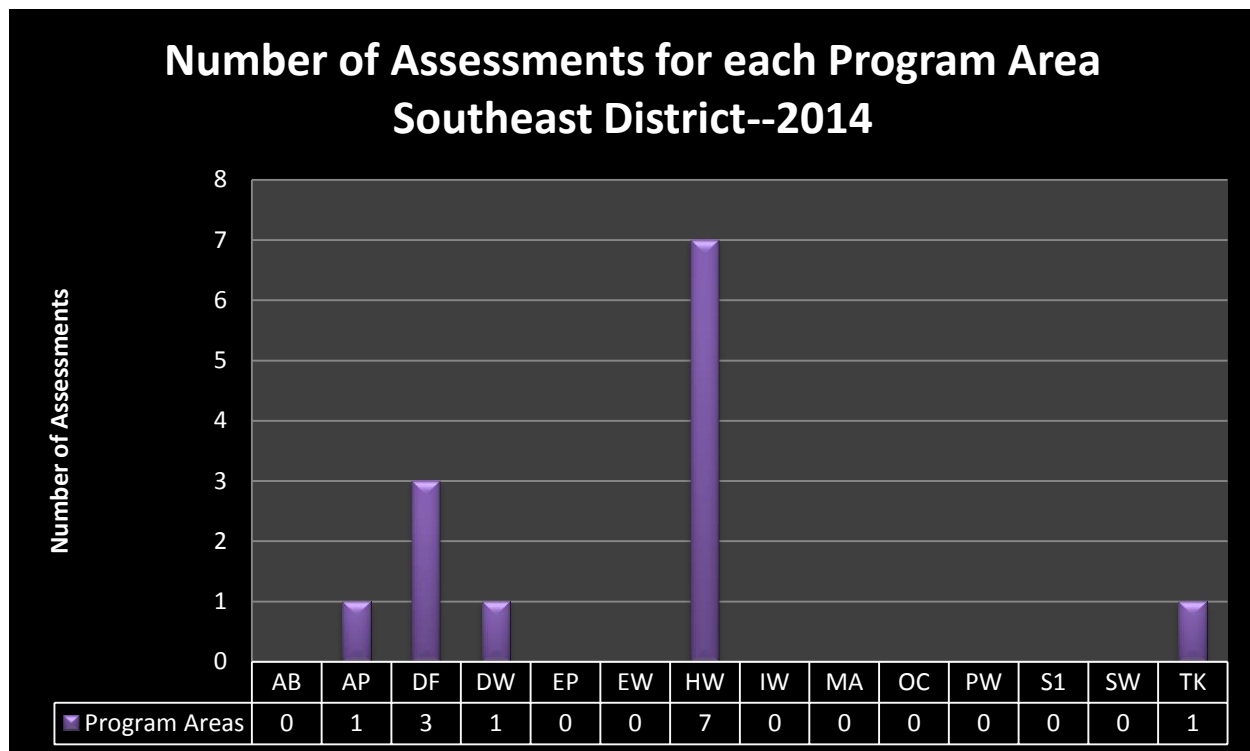
D. Southeast District

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

The Southeast District initiated enforcement in 28 cases in 2014, second only to the Central District as having the fewest number of cases. But it is still 10 more than the Southeast District had in the previous year. It issued 3 NOVs in 2014 (an increase of 3 from 2013), 1 final order (a decrease of 1), and 4 case reports (a decrease of 3). 20 of its 28 cases were consent orders, an increase of 11 compared to 2013's results. 30% of the consent orders that were issued were short-form consent orders (there were 6), a 19% increase from 2013. Short-form consent orders accounted for 21% of all settlements in this district, a 7% decrease from 2013. The use of long-form consent orders rose from 1 in 2013 to 4 in 2014. Overall there was small improvement from the disastrous results in 2013.

2. Program Area Enforcement

The following chart provides the number of civil penalty assessments made by the Southeast District by program area in 2014:



The Southeast District assessed civil penalties in only 13 of its 28 enforcement cases in 2014, but this result is 62% higher than in 2013. There were improvements in the air, dredge & fill, and hazardous waste programs. There have been no industrial waste assessments for two years.

3. Civil Penalty Assessments

The increase in the number of assessments translated to an increase in the dollar value of those assessments. The district levied penalties totaling \$506,216.63 in 2014 compared to \$95,988.00 in 2013. While at first blush this would be an impressive turnaround the reality is that \$466,300.00 of the penalties levied in 2014 were from one case, a domestic waste case against the *Miami-Dade Water and Sewer Department*. **If this assessment is removed from the total it leaves the entire district assessing only \$39,916.63, a significant decline from the pathetic results in 2013.** Therefore, the fact that the Southeast District accounted for 33% of all Department assessments in 2014 (the highest percentage of all districts) is deceiving. The district's median assessments across all programs fell to \$3,000.00 from \$10,450.00 in 2013.

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

Program	Total \$ Assessed in 2014	2014 Medians	2013 Medians
AP	\$1,000.00	\$1,000.00	\$0.00
DF	\$14,260.00	\$5,420.00	\$250.00

DW	\$466,300.00	\$466,300.00	\$0.00
HW	\$17,156.63	\$2,500.00	\$9,329.00
TK	\$7,500.00	\$7,500.00	\$18,500.00

This is now the fifth year in a row in which total penalty assessments declined in the hazardous waste program. The domestic waste program saw only one assessment, but it was the highest in the Department for 2014. The single domestic waste assessment accounted for 31% of all of the Department's assessments in 2014, an indication of just how weak overall enforcement continues to be in the Department as a whole. **Median assessments declined sharply in the hazardous waste program and tanks programs. This was also the second straight year of declining medians in both of those programs.**

4. Civil Penalty Collections

The Southeast District matched its poor performance in assessments with a good performance in collections. It collected \$513,498.98 in 2014, compared to just \$70,217.54 in 2013. But once again, \$466,300.00 of the collections was in the one case against the *Miami-Dade Water & Sewer Department*. Due to this one case, therefore, this district accounted for 55% of all dollars collected by the Department in civil penalties in 2014.

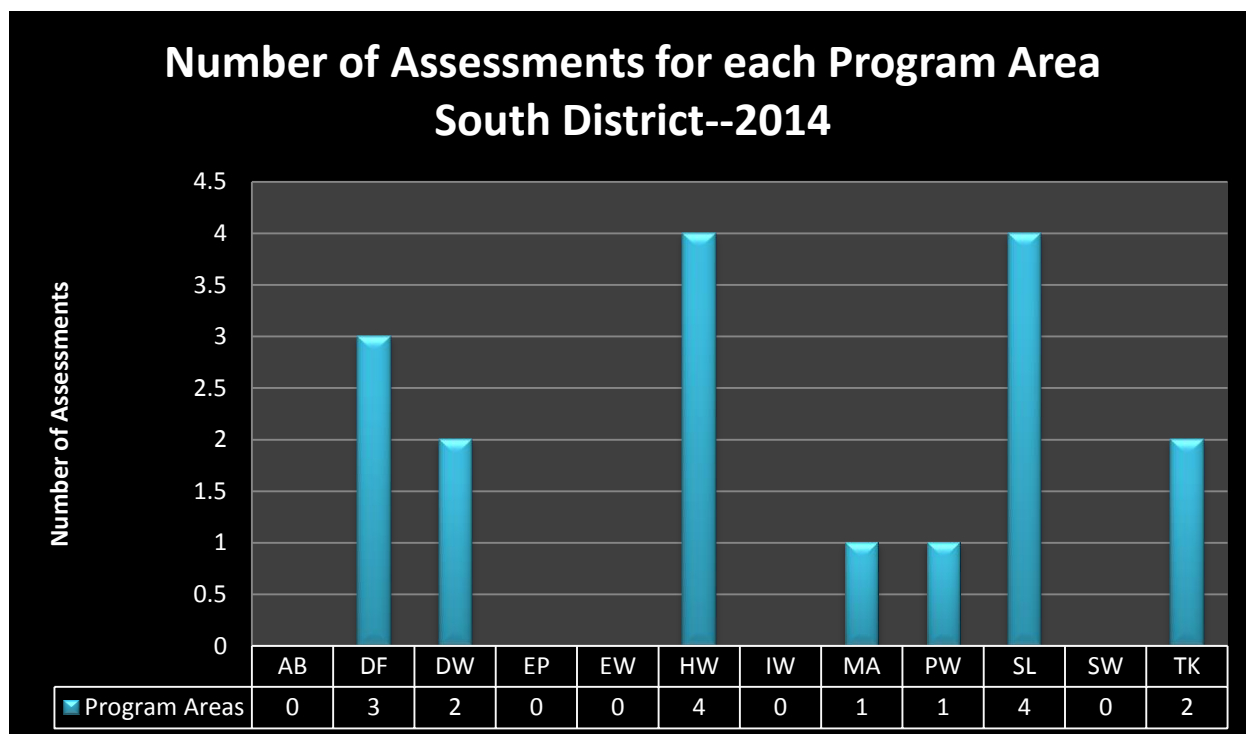
E. South District

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

The South District took enforcement in 38 cases in 2014, a 15% increase from 2013's performance, but 45% fewer than in 2012. The district sent 8 Case Reports to the OGC, 3 more than in 2013. There were 7 NOVs, 4 more than in 2013, and 1 final order compared with 5 in 2013. 22 consent orders were issued, 2 more than in 2013, but 31 fewer than in 2012. The district did not issue any short-form consent orders in 2013, but it issued 4 in 2014. **11% of all enforcement cases were resolved through the use of short-form consent orders, a figure that is second only to the Southwest District for the lowest usage of these enforcement tools in the state.** In 2014 it issued 7 long-form consent orders, two fewer than in 2013. 18% of the consent orders that were issued were long-form consent orders, 9% lower than last year. The South District accounted for 27% of all Case Reports (the most in the state), 25% of the NOVs (the most in the state), 8% of the final orders and 14% of all consent orders issued in Florida.

2. Program Area Enforcement

The following chart provides the number of civil penalty assessments issued by the South District by program area in 2014:



The South District assessed penalties in 17 cases in 2014, a **32% decline** from the 25 assessments in 2013. 50 assessments were made in 2012 and 114 in 2011 making this the **sixth straight year in which results declined**. The hazardous waste program had 4 more cases in 2014 than in 2013. The dredge & fill, mangrove alteration and tanks programs each had one more case in 2014 than in the previous year. The industrial waste, environmental resource permitting and state lands programs all fell by one case. **There were no air cases in 2014, making this the third year in a row with no assessments in this critical program.** There have been no assessments in the solid waste program for 2 years in a row.

3. Civil Penalty Assessments

Civil penalty assessments dropped to \$122,114.00 in 2014. In 2013 the same district assessed civil penalties in the amount of \$312,627.50, an amount that was actually an improvement over 2012. The district provided 8% of all assessments levied by the FDEP in 2014, down 14% from 2013. The median assessment for all programs combined dropped from \$7,000.00 in 2013 to \$4,500.00 in 2014.

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

Program	Total \$ Assessed in 2014	2014 Medians	2013 Medians
DF	\$1,260.00	\$420.00	\$7,500.00
DW	\$24,500.00	\$12,250.00	\$98,200.00

HW	\$15,656.00	\$3,000.00	\$0.00
MA	\$850.00	\$850.00	\$0.00
PW	\$19,150.00	\$19,150.00	\$5,400.00
SL	\$28,698.00	\$4,849.00	\$1,000.00
TK	\$32,000.00	\$16,000.00	\$10,000.00

Assessments declined for the second straight year in the dredge & fill program. The increase in medians in the mangrove alteration and potable water programs was based upon only one assessment for each program. The hazardous waste, state lands and tanks programs each saw a healthy increase.

4. Civil Penalty Collections

Collections increased from \$37,717.42 in 2013 to \$122,114.00 in 2014. The amount collected represents 4% of all dollars collected by the Department in civil penalties in 2014.

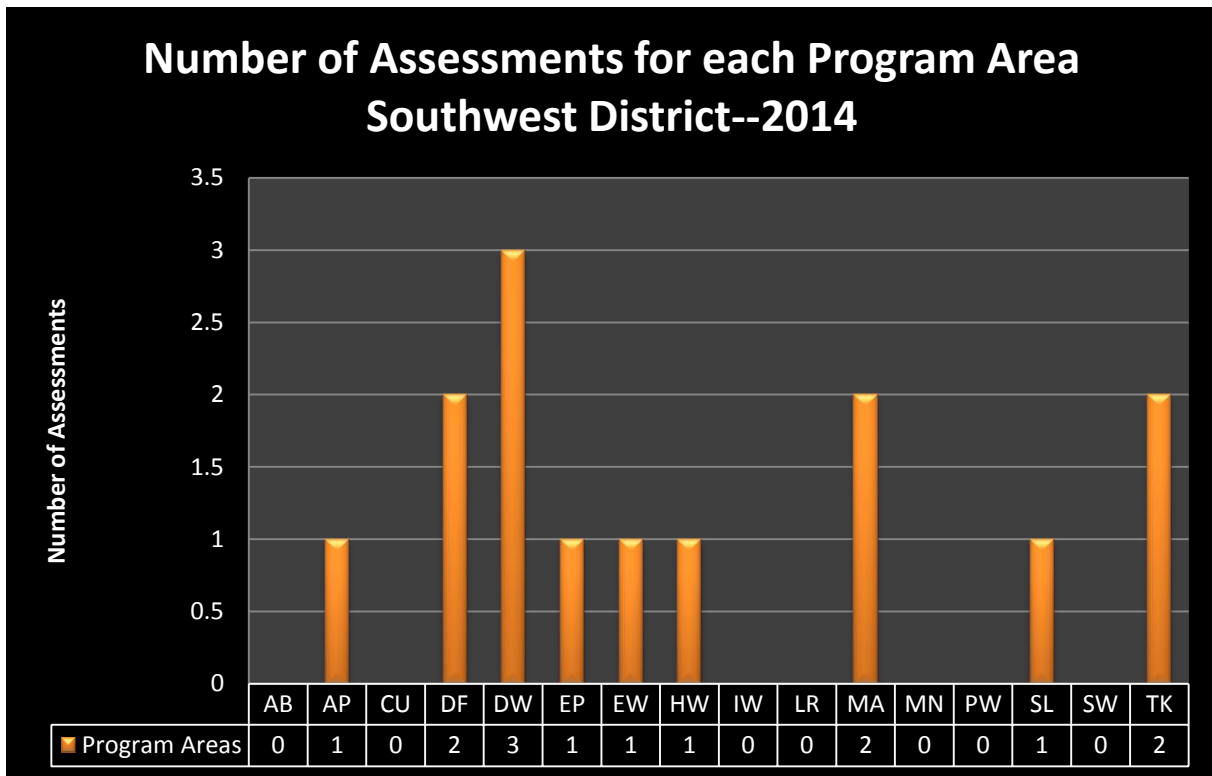
F. Southwest District

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

The Southwest District initiated 38 enforcement cases in 2014, an increase of 4 cases from 2013. But just two years earlier, in 2012, the district opened 164 enforcement cases. This district accounted for 16% of all enforcement taken by the Department in 2014, the same as in 2013. 3 case reports were sent to the OGC, unchanged from 2013. 6 NOVs were issued (3 were issued in 2013) and 3 final orders were issued (1 more than in 2013). In 2014 the district issued 26 consent orders, the same as in 2013. This is 78% fewer than the 117 consent orders that were issued in 2012. The number of consent orders issued by this district in 2012 was down 56% from its number in 2011. In 2014, 16% of all consent orders were issued out of the Southwest District. 12% of the consent orders issued by the district were short-form consent orders, compared to 19% last year. 8% of all of the cases settled by the Southwest District were settled via short-form consent orders. 9 long-form consent orders were issued out of this district in 2014, 1 more than in the previous year.

2. Program Area Enforcement

The following chart provides the number of enforcement cases in which civil penalties were assessed by the Southwest District by program area in 2014:



Of the 38 cases in which the Southwest District initiated enforcement in 2014 it assessed penalties in only 14 (37%). This is also 5 fewer assessments than in 2013. It assessed civil penalties in 132 cases in 2012, down sharply from the 295 cases in 2011, and the 445 cases assessed in 2010. Most programs stayed relatively stable compared with 2013, but there were 50% fewer domestic waste assessments in 2014.

3. Civil Penalty Assessments

Civil penalty assessments fell again in 2014. The district assessed \$260,813.82 in 2014, down from the \$277,819.55 that was assessed in 2013. Comparatively, total assessments in 2012 were \$1,063,447.33, which was 33% less than the \$1,592,075.89 levied in 2011. And in 2010 the district assessed fines of \$4,941,029.22. Median assessments doubled to \$5,000.00 in 2014, compared to \$2,500.00 in 2013. Overall, the district contributed 17% of all penalty assessments levied by the Department in 2014, down 2% from the year before.

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

Program	Total \$ Assessed in 2014	2014 Medians	2013 Medians
AP	\$3,750.00	\$3,750.00	\$20,250.00
DF	\$1,130.00	\$565.00	\$710.00
DW	\$163,750.00	\$50,000.00	\$3,500.00

EP	\$13,000.00	\$13,000.00	\$0.00
EW	\$5,000.00	\$5,000.00	\$10,000.00
HW	\$31,648.00	\$31,648.00	\$137,599.00
MA	\$12,000.00	\$6,000.00	\$1,250.00
SL	\$250.00	\$250.00	\$0.00
TK	\$30,285.82	\$15,142.91	\$273.84

While median assessments improved overall, the results in the air, hazardous waste, environmental resource permitting and wetlands/surface waters permitting results were based upon only 1 assessment in each program.

4. Civil Penalty Collections

In 2014 the Southwest District collected \$167,146.35 in civil penalties, down 23% from the \$217,818.20 that was collected in 2013. The district is steadily going downhill, inasmuch as in 2012 it collected \$350,218.44 and in 2011 it collected \$1,167,323.08. Overall, in 2014 this district accounted for 18% of all the monies collected by the Department across the state.

G. All Other Enforcement

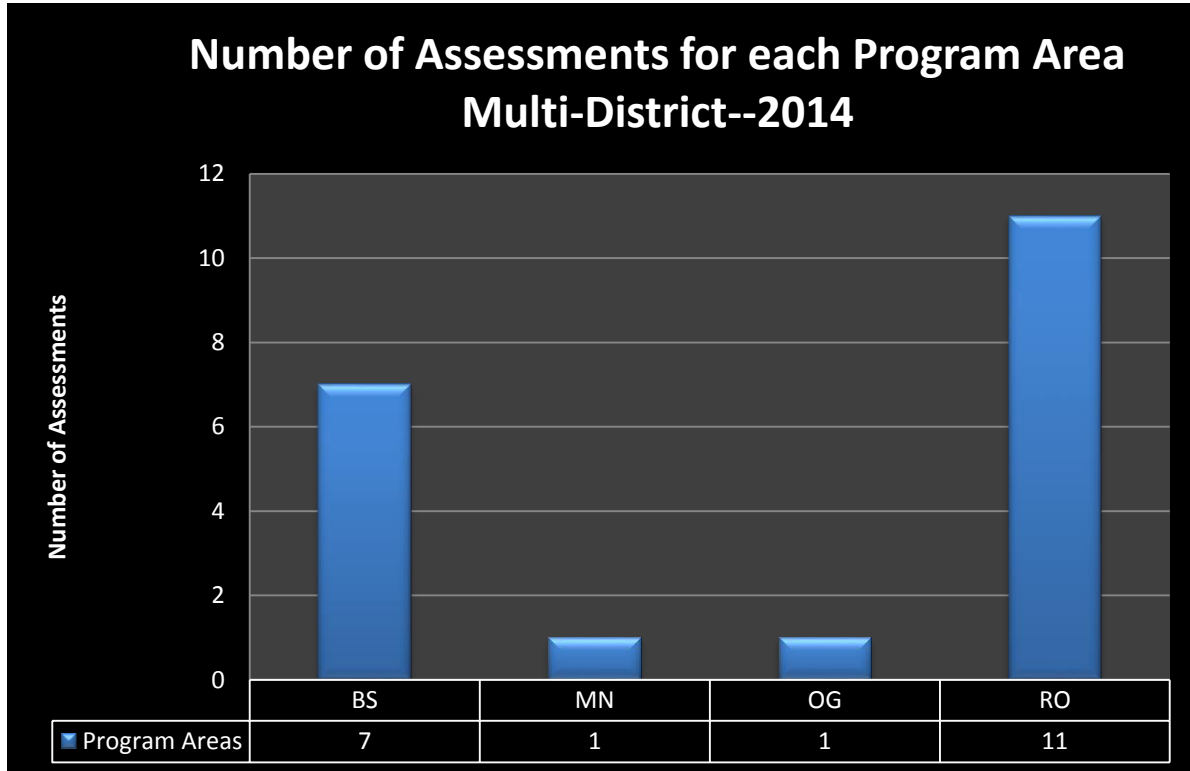
The Department's headquarters in Tallahassee handles some cases, most of them being stormwater discharge cases associated with the National Pollutant Discharge Elimination Program (NPDES), a federally delegated program. Other types of cases are also handled out of Tallahassee. The cases that are not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

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

The remaining categories initiated 28 enforcement actions in 2014, 15 more than in 2013, but still significantly less than the 88 enforcement actions in 2012. The performance in 2014 equaled 12% of all cases opened by the Department. They sent 3 case reports the OGC in 2014, 0 NOV's, 1 Final Order, and 24 Consent Orders. Their performance improved in all but the number of NOV's and long-form consent orders issued. The remaining categories accounted for 10% of all case reports, 8% of the final orders and 15% of all consent orders.

2. Program Area Enforcement

The following chart provides the number assessments issued by Other Enforcement by program area in 2014:



There were 20 assessments overall in 2014, 6 more than in 2013. While the beaches and shores program had 1 fewer assessment than in 2013 the stormwater discharge program had 6 more.

3. Civil Penalty Assessments

Civil penalty assessments increased slightly from \$24,959.25 in 2013 to \$40,242.00 in 2014. By comparison, there were \$199,147.25 in assessments in 2012 and \$196,003.02 in 2011. Medians fell from \$1,000.00 in 2013 to \$392.00 in 2014. Overall, in 2014 the \$40,242.00 that was assessed accounted for 3% of all assessments levied by the Department. Assessments broke down as follows:

Program	Total \$ Assessed-- 2014	2014 Medians	2013 Medians
BS	\$6,250.00	\$500.00	\$875.00
MN	\$10,000.00	\$10,000.00	\$5,000.00
OG	\$20,000.00	\$20,000.00	\$0.00

RO

\$3,992.00

\$370.00

\$620.00

Assessments and medians both fell in the two programs that accounted for the majority (90%) of all assessments that were levied. Medians fell for the third straight year in the beaches and shores program and for the second straight year in the stormwater discharge program.

4. Civil Penalty Collections

The remaining categories collected \$38,576.10 in 2014 up from the \$30,101.15 that was collected in the previous year. Both are miniscule compared to the \$190,356.25 collected in 2012, and \$171,850.61 collected in 2011. The 2014 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 2012	Performance Compared with 2013
Northwest	Down 38%	Unchanged
Northeast	Down 66%	Down 5%
Central	Down 76%	Down 19%
Southeast	Down 45%	Up 56%
South	Down 45%	Up 15%
Southwest	Down 77%	Up 18%
Multi-District	Down 68%	Up 115%

Number of Assessments:

District	Performance Compared with 2012	Performance Compared with 2013
Northwest	Down 60%	Up 1%
Northeast	Down 60%	Up 28%
Central	Down 71%	Up 1%
Southeast	Down 71%	Up 62%
South	Down 66%	Down 32%
Southwest	Down 71%	Down 26%
Multi-District	Down 74%	Up 43%

Dollars Assessed:

District	Performance Compared with 2012	Performance Compared with 2013
Northwest	Down 85%	Up 99%
Northeast	Down 27%	Down 42%
Central	Down 64%	Down 25%
Southeast	Up 15%	Up 427%
South	Down 54%	Down 61%
Southwest	Down 75%	Down 6%
Multi-District	Down 87%	Up 61%

Medians By District:

District	Performance Compared with 2012	Performance Compared with 2013
Northwest	Down 30%	Down 30%
Northeast	Up 165%	Up 10%
Central	Up 83%	Up 42%
Southeast	Unchanged	Down 71%
South	Up 125%	Down 36%
Southwest	Up 100%	Up 100%
Multi-District	Down 67%	Down 61%

Overall collections by district:

District	Performance Compared with 2012	Performance Compared with 2013
Northwest	Down 78%	Down 39%
Northeast	Down 100%	Down 71%
Central	Down 98%	Up 40%
Southeast	Down 93%	Down 81%
South	Down 100%	Up 223%
Southwest	Down 52%	Down 23%
Multi-District	Down 80%	Up 28%

THE ARCHITECTS OF THE DEPARTMENT'S ENFORCEMENT POLICIES

This lack of meaningful enforcement has not happened in a vacuum. It is the result of a management staff that is primarily focused on ensuring that businesses in Florida are financially prosperous. Environmental protection is now seen merely as a tool to be used to generate business income. For the entire first four years of Governor Scott's administration the Department was overseen by Secretary Herschel Vinyard, a man who came directly from the regulated community and thus labored under a clear conflict of interest. PEER brought this to the public's attention beginning as early as February 23, 2011.¹⁶ Nevertheless, Mr. Vinyard continued in the job and oversaw a massive curtailment of enforcement the likes of which the Department has not seen before. He then left the Department in late 2014 and in December 2014 was replaced by Jon Steverson, the former Executive Director of the Northwest Florida Water Management District, a position that he had held since 2012. Steverson has shown no signs of curtailing Vinyard's disastrous policies. But Secretary Vinyard did not bring about these changes by himself. Indeed, he was assisted by individuals who were more than willing to facilitate the unraveling of Florida's environmental regulatory framework.

One of the individuals who has clearly bought into the "program" is Jorge Caspary. It is worth remembering that in our 2012 Enforcement Report we noted that Caspary, who heads the solid waste program, was very outspoken at a July 2011 management meeting at which he essentially advocated a management by fear approach. In our report we stated that:

"The notes from that meeting left no doubt that management was expected to demand that all employees comply with their new plans. Jorge Caspary, Director of Waste Management, was quoted as summing up the approach this way:

"Nothing motivates people like losing a job."

Not surprisingly, the solid waste program, overseen by Mr. Caspary saw the number of assessments decline by 68% and the penalty dollars assessed declined by 97%. In Tampa the Southwest District [eliminated 40 positions](#) from various program areas with 62% of the positions being enforcement related. More positions were then eliminated in Tallahassee."

(PEER 2012 Enforcement Report¹⁷, page 90) That was in 2012; and after replacing the District Director for the Southwest District both the number of assessments and dollars assessed in that district in particular have fallen through the floor.

¹⁶ <http://www.peer.org/news/news-releases/2011/02/23/florida-top-officials%E2%80%99-pollution-ties-violate-federal-law/>

¹⁷ http://www.peer.org/assets/docs/fl/8_29_13_Report_2012_FL_Enforcement2.pdf

Frankly, we were too easy on Mr. Caspary. He heads up the Division of Waste Management, which includes not only the solid waste program, but also the hazardous waste program, another program that is also clearly in serious decline. The Division of Waste Management also oversees the waste cleanup program, a program that has had no assessments in the past two years. The tanks program is also in this division and has also seen sizeable reductions in enforcement when compared with recent years. On the webpage for the Division of Waste Management (<http://www.dep.state.fl.us/waste/>) there is a link to the “business plan” for the division.

http://www.dep.state.fl.us/waste/quick_topics/publications/documents/DWM_Business_FY13-14_06Aug13.pdf On page 13 of the agenda one of the goals of the division is seen as “Reduc[ing] the Cost of Doing Business.” (Business Plan, page 12) In order to further that goal, under Caspary, the division has been given “A New Paradigm.” That paradigm is”

“One of the biggest drivers to make our State a competitor in attracting capital investment that leads to a thriving economy will necessarily have to come from an agency that sees itself not only as a strong advocate and steward of our environment but also as a partner in ensuring sustainable economic development.”

(*A new paradigm in Florida*,¹⁸ May 19, 2012, page 13) Given the results that we are seeing in the solid waste program and the other programs in this division it would appear that the goals in the business plan and new paradigm are easily being met to the extent that they serve as a voice for business interests. The environment, however, clearly has taken a back seat.

Another program that is in clear decline is the Division of Air Resource Management (DARM). Paula Cobb was the Director of DARM until Jon Steverson, the current Secretary, elevated her to become the Secretary for Regulatory Programs. Ms. Cobb’s accomplishments that apparently justified her promotion include essentially eliminating the asbestos program and reducing the air program to the point that it is but a shell of itself. Under her stewardship the number of asbestos assessments dropped from 19 in 2010 to a point that there have been no assessments in the past two years. The dollar value of penalty assessments has declined from \$80,300.00 to nothing. Meanwhile, air assessments dropped from 131 in 2010 to just 9 in 2014. Those assessments resulted in corresponding declines of \$1,578,416.50 in penalty assessments.

Florida’s water policy and regulation is handled by the Water Resource Division. For most of the four-year period the division was headed by Mark Thomasson¹⁹ until Fred Aschauer was appointed by Secretary Steverson as the new Director. Aschauer, an attorney, briefly worked in FDEP’s Office of General Counsel and before that he worked for Sundstrom, Friedman & Fumero, LLP, a well-known firm representing corporate regulated interests, including utilities.²⁰

¹⁸ http://www.astswmo.org/Files/Meetings/2014/2014-LUST_SF-FR_Workshop/Presentations/CASPARY-A_New_Paradigm_in_Florida.pdf

¹⁹ Upon his departure from FDEP Thomasson joined a consulting firm, WSource, where he works with the regulated community alongside the former FDEP Deputy Secretary, Jeff Littlejohn, who oversaw much of the disintegration of the FDEP enforcement program. http://www.wsourcegroup.com/our_firm.html

²⁰ <http://www.sfflaw.com/index.html>

As for the state's water policy we see that domestic waste assessments have dropped from 140 to 29 over the course of the past four years and the dollar value of those assessments has dropped from \$2,439,599.07 to \$871,625.00. And in the critical potable water program over the course of that same period the number of assessments has dropped from 141 to 5 with a corresponding dollar value decline of \$249,554.51 to \$32,000.00. In addition, after Governor Scott took office the Department "streamlined" the dredge and fill program, by moving it to the Water Resource Division.²¹ In its new division the number of assessments in the dredge and fill program (now called Environmental Resource Permitting or ERP) has steadily fallen. In 2014 the number of cases fell 41% compared to 2013 and 89% compared to 2010. The dollar value of assessments has likewise fallen 65% from 2013 and 95% from 2010. All of this comes at a time that the Governor tells the public that he is laser focused on protecting Florida's water.

²¹ <http://www.dep.state.fl.us/WATER/wetlands/erp/dffact.htm> and <http://www.dep.state.fl.us/water/wetlands/erp/index.htm>

CONCLUSION

This report marks the end of Rick Scott's first four-year term as Florida's Governor and the Florida, Department of Environmental Protection's performance with Scott and his appointees holding the reins of power. It is a four-year period that culminated with a Department that is a mere shadow of itself, filled with employees who trumpet, willingly or unwillingly, the administration's fact-challenged assertions that compliance is at an all-time high. Thus, they claim, enforcement is no longer needed except in those cases in which the polluters have failed to avail themselves of the Department's "compliance assistance." Those polluters are therefore seen as the worst of the worst. Fair enough. And consequently we should see fewer cases and those cases should have higher penalties designed to punish the offenders. But that is not what has happened at all.

Over the past two years in particular there has been a drastic decline in the number of enforcement cases. In 2014 there were a scant 234 enforcement cases opened, whereas in 2010, the year before Scott came to power, there were 1587. And of those 234 cases opened in 2014, the Department saw fit to assess penalties in only 144 of them—a rate of 62%. Four years earlier, penalties were assessed in 1318 of the 1587 cases that were opened—a rate of 83%. So, the odds of being penalized financially dropped over 20% in 2014 even though only the worst polluters are now being punished.

While it is true that there were some small improvements from the horrendously poor performance in 2013 the fact is that those improvements did not in any way signal a change in direction for the Department. While more cases were opened, the number of short-form and long-form consent orders both rose at roughly the same levels. And even though the number of assessments increased, the dollar values of those assessments rose largely because of only one case. And indeed, the dollars assessed in the air, dredge and fill, industrial waste, solid waste and tanks programs all fell in 2014 compared with 2013's disastrous results. Medians, which tell us what the 50% level of the penalty assessments are in each program, were unchanged in the dredge and fill and asbestos programs, but fell in the air, hazardous waste, potable water, stormwater discharge and solid waste programs. These are all major programs and it was the hazardous waste program that not too long ago was supposed to see its enforcement become much harsher. It is now regressing along with the rest of the programs. The above results do not mesh with a world in which only the worst offenders are punished and are also given the more severe punishments so as to send a signal to other polluters.

The reality is that the State of Florida is now governed by individuals who simply cannot bring themselves to punish polluters except with token cases that must be brought lest even the most ardent supporters, i.e. business interests, of Scott lose faith in their governance. Accordingly, it may be that we have reached (or are close to reaching) the proverbial bottom of the barrel, meaning that for Scott's second term we may see numbers fluctuate at the levels we see now. What that means for the state is four years of little to no oversight, worsening air and water quality, coupled with one ad campaign after another inviting unsuspecting tourists and businesses to come to Florida and spend their money while the leadership sells Floridians on the notion that they need not worry about rising water levels, polluted drinking water or air that isn't safe to breath. Apparently Floridian voters by a slim majority have no problem with this approach, even though the numbers tell a different story. No, there's no need to look behind the

curtain. After all, judging by the last legislative session the all-powerful Oz probably won't be there anyway.

APPENDIX

ENFORCEMENT HISTORICAL OVERVIEW

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

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

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

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

Historically, the FDEP relied heavily upon long-form COs and Model COs in its enforcement cases. Thus, there was a demonstrable and measurable showing of its efforts to not only require environmental remediation, but to also require increased monitoring of known violators. However, as was pointed out in Florida PEER's 2007 report on the FDEP's history over the past 20 years, the use of long-form COs began waning in the 1990s. There was also a http://www.peer.org/assets/docs/fl/08_25_11_fl_rpt_on_historical_enforcement.pdf 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.