



FLORIDA PEER

Report On Enforcement Efforts By The Florida, Department Of Environmental Protection For Calendar Year 2013

ASSESSMENTS

August 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 2013. 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.

Introduction

Our previous report focused on the numbers and types of enforcement actions brought by the Florida, Department of Environmental Protection (FDEP or Department) during the course of calendar year 2013. The results that we reported were derived from data obtained directly from the FDEP. The data showed that enforcement at the FDEP in 2013 dropped 68% from the dismal results turned in for 2012. Overall, enforcement has dropped 87% from the levels reached just 3 years ago in 2010. The decline is across the board, affecting all districts and all program levels.

In this report we focus exclusively upon the civil penalties that were levied by the Department during the same 2013 calendar year. As with the previous report, the results are not promising. They show a drastic decline in the penalties levied both on a statewide and district level. Programs have been sliced across the board. The penalties themselves serve as a deterrent to future law breaking. But in addition to that, once collected, are used to fund environmental restoration efforts as well as to contribute towards paying the salaries of FDEP personnel. Thus, the policies that have been enacted to prevent the assessment of civil penalties, if continued, will likely result in real additional harm to the FDEP itself, not to mention the environment that it is statutorily obligated to protect.

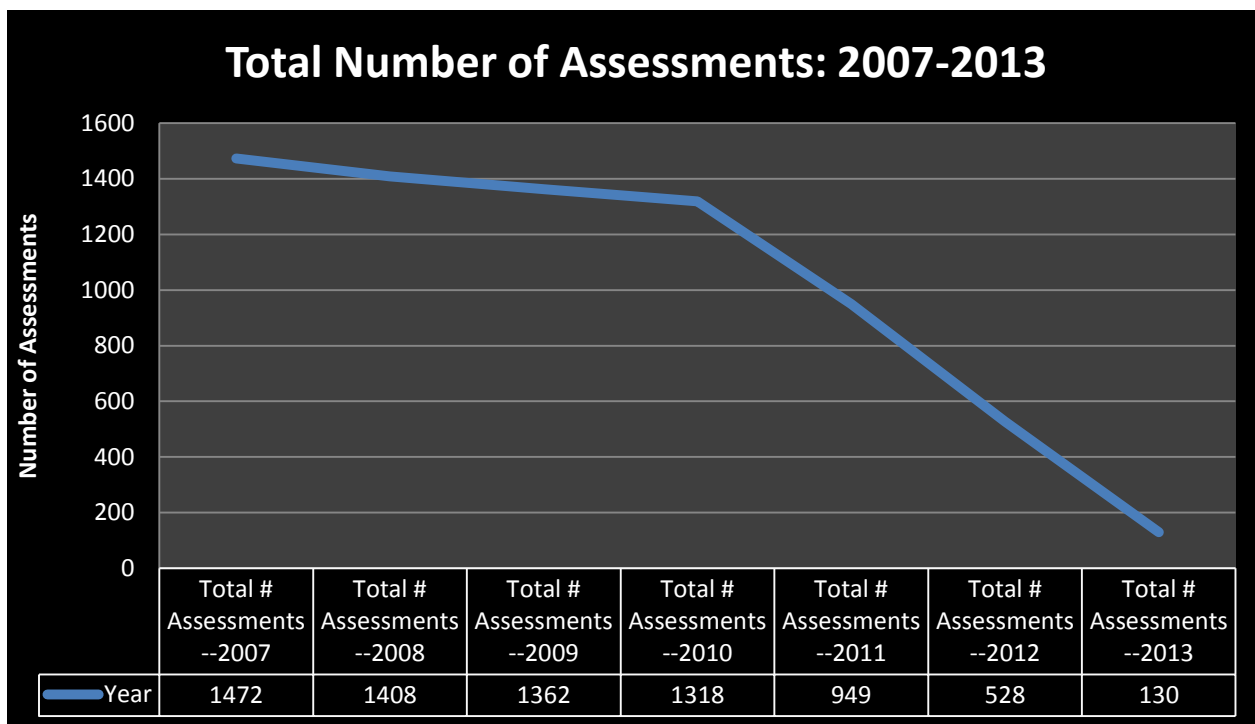
Results

A. Statewide Results

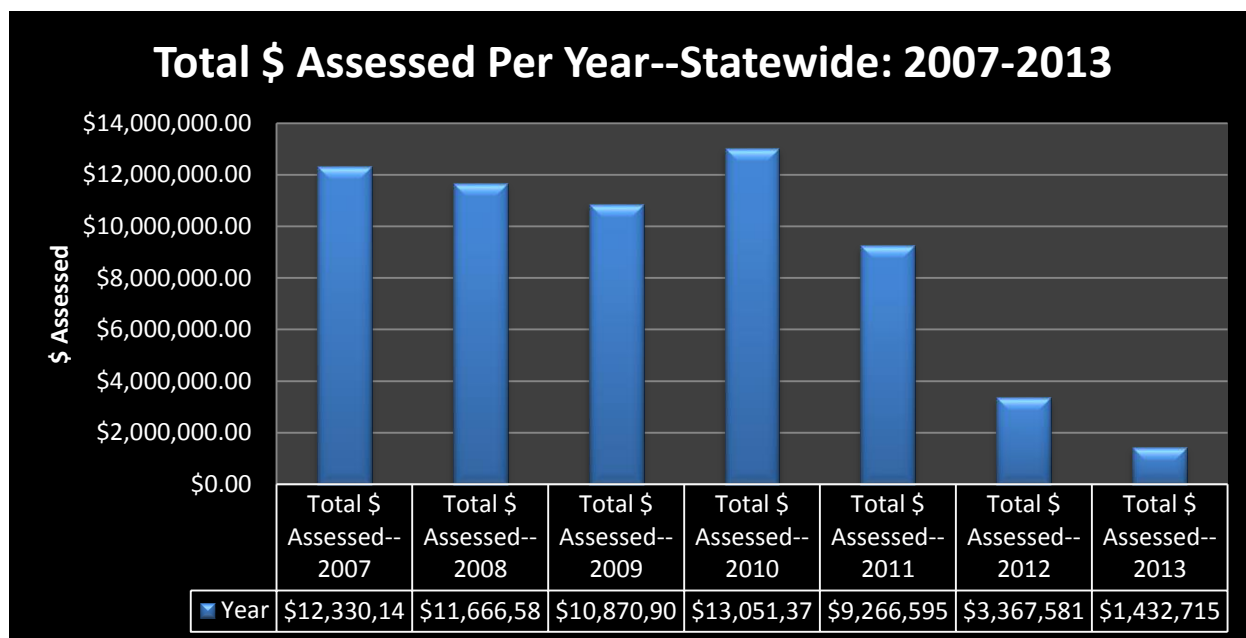
In last year's report we reported that "528 penalty assessments were levied in 2012, a result that is 44% lower than the number in 2011 and 60% lower than the number in 2010." We also reported that "The Department assessed \$3,367,581.61 in civil penalties in 2012, a 64% decline from the \$9,266,595.25 that was assessed barely one year ago. This follows 2011's performance, which saw a 29% decline from 2010." Those results, while disturbing enough, were mild when compared to the numbers turned in for 2013. While the FDEP recorded 210 enforcement cases in 2013, it assessed civil penalties in still fewer cases—130. (In 2012 it assessed penalties in 528 cases.) The total penalties assessed dropped from \$3,367,581.61 in

2012 to just \$1,432,715.61 in 2013, a 57% decline from 2012. Just 3 years ago, in 2010, the Department levied civil penalties in 1,318 cases for a total of \$13,051,374.23. Thus, the number of assessments has dropped 90% in just 3 years along an 89% decline in dollars assessed.

If we plot the numbers from 2007 through 2013 the visual result is this:



The total dollars assessed across the state from 2007 through 2013 are:



The only good news to report is that medians rose in 2013. Statewide the median assessments were \$2,940.00 each, compared with \$2,000.00 per assessment in 2012, 2011 and 2010. While this is clearly a healthy increase (147% better than both 2012, 2011 and 2010) the result carries with it a caveat that there were only 130 cases in which assessments were levied in 2013 compared with 528 just one year prior and 949 in 2011 and 1318 in 2010. Not only does the lower number of cases reduce the statistical significance of the result, but it also suggests that assessments were levied only in the worst cases or in those cases that were particularly contentious. As will be shown below, when medians are considered on a program area basis alone it was oftentimes the case that a district would have only one case for the entire year, thus the median would be all but meaningless.

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 2013, sorted by amount:¹

District ²	Program	Polluter	Amount
6	HW	The Dumont Company	\$137,599.00

¹ The abbreviations are as follows: DW = Domestic Waste; HW = Hazardous Waste.

² 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.

2	DW	JEA	\$168,750.00
5	DW	Pink Citrus Mobile Home Park, LLC	\$189,400.00

B. District Results

All of the six districts, as well as headquarters, assessed civil penalties in fewer cases in 2013 than they did in 2012. The downward trend continues for each of them:³

DISTRICT	NUMBER OF ASSESSMENTS IN 2010	NUMBER OF ASSESSMENTS IN 2011	NUMBER OF ASSESSMENTS IN 2012	NUMBER OF ASSESSMENTS IN 2013
Multi-District	120	70	77	14
NWD	150	135	55	21
NED	169	111	80	25
CEN	187	134	89	30
SED	109	90	45	8
SD	138	114	50	13
SWD	445	295	132	19

What is striking about the above results is not only the decline in 2013, but also the fact that every district has been on a consistent downward trajectory since 2010, a year that can hardly be described as stellar. Most notable, however, is the fact that assessments in the Southwest District alone have fallen **99.95%** since 2010.

Assessed dollars are equally declining with essentially the same trends apparent. The Southwest District has fallen every year since 2010:

DISTRICT	TOTAL \$ ASSESSED In 2010	TOTAL \$ ASSESSED In 2011	TOTAL \$ ASSESSED In 2012	TOTAL \$ ASSESSED In 2013
Multi-District	\$1,753,320.00	\$196,003.02	\$199,147.25	\$24,959.25
NWD	\$1,803,908.53	\$3,633,190.89	\$366,937.56	\$53,765.00
NED	\$855,446.11	\$837,127.50	\$283,913.00	\$359,295.00
CEN	\$850,315.85	\$1,252,278.76	\$748,156.17	\$308,261.31
SED	\$2,030,645.12	\$942,531.19	\$438,761.30	\$95,988.00
SD	\$816,709.40	\$813,388.00	\$267,219.00	\$312,627.50
SWD	\$4,941,029.22	\$1,592,075.89	\$1,063,447.33	\$277,819.55

³ Numbers in red indicate a decline from the previous year's results.

Since 2010 assessment dollars have fallen:

- 97.02% in the Northwest District
- 57.99% in the Northeast District
- 63.74% in the Central District
- 95.28% in the Southeast District
- 61.73% in the South District
- 94.38% in the Southwest District

The comparison of median assessments from 2010 to 2013 amongst the districts is as follows:

DISTRICT	2010 MEDIAN ASSESSMENTS	2011 MEDIAN ASSESSMENTS	2012 MEDIAN ASSESSMENTS	2013 MEDIAN ASSESSMENTS
Multi-District	\$750.00	\$1,199.00	\$1,199.00	\$1,000.00
NWD	\$2,000.00	\$1,500.00	\$2,025.00	\$2,025.00
NED	\$2,000.00	\$2,500.00	\$1,605.00	\$3,875.00
CEN	\$2,000.00	\$2,000.00	\$3,000.00	\$4,550.00
SED	\$3,500.00	\$3,350.00	\$3,000.00	\$10,450.00
SD	\$1,695.00	\$2,500.00	\$2,000.00	\$7,000.00
SWD	\$2,053.80	\$2,000.00	\$2,500.00	\$2,500.00

While the Southeast and South Districts provided the largest increase in medians in 2013 the fact is that they only assessed penalties in 8 and 13 cases respectively. Therefore, it is hard to see these improved numbers as a sign of improved future performance. By comparison, in 2013 the Northeast and Central Districts assessed penalties in the most cases (25 and 30 respectively) and also raised their medians significantly. Otherwise, over the four year period there does not seem to be a definite trend in any of the districts, except perhaps for the Southwest District, which is essentially turning in the same results year after year in this category.

C. Program Results

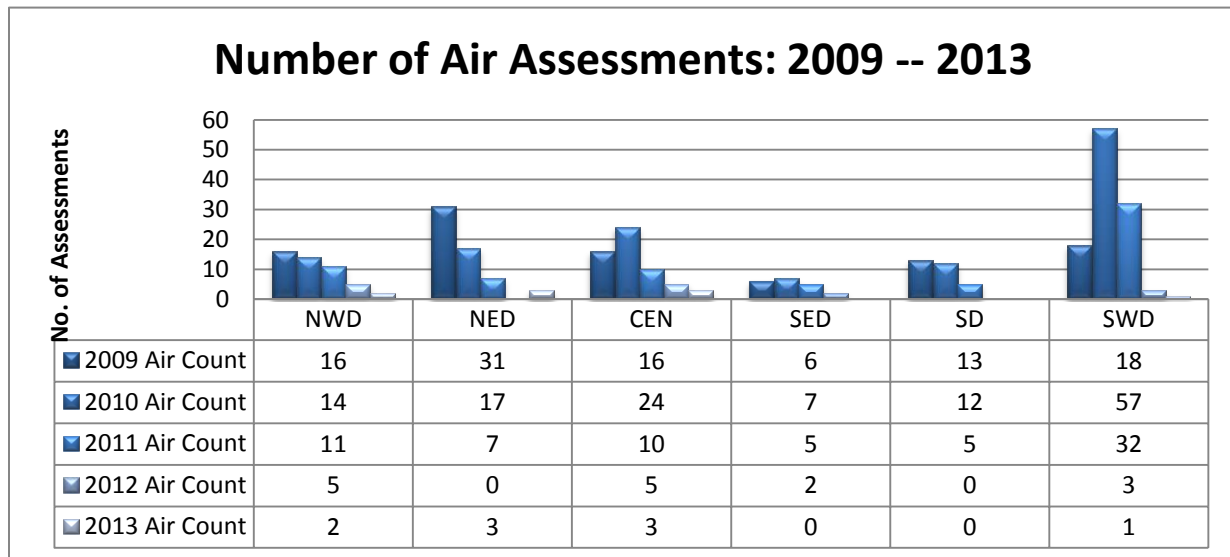
This section addresses the performance of the major program areas in 2013. What follows is a side-by-side comparison regarding the total dollars assessed in each program area, as well as a comparison of each district's median assessments. Given the serious downward trend in every program area we are continuing to include 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

In the past two years there has been a total of 24 cases in this program, which is less than half the total number of cases in 2011 alone. To suggest that there is a credible air program in Florida would now be unrealistic. There were only two cases in the Northwest District in 2013 and only one in the Southwest District, a case brought against *Pinellas County Utilities* (OGC # 121610). There have been no air enforcement cases initiated by the South District in the past two years.

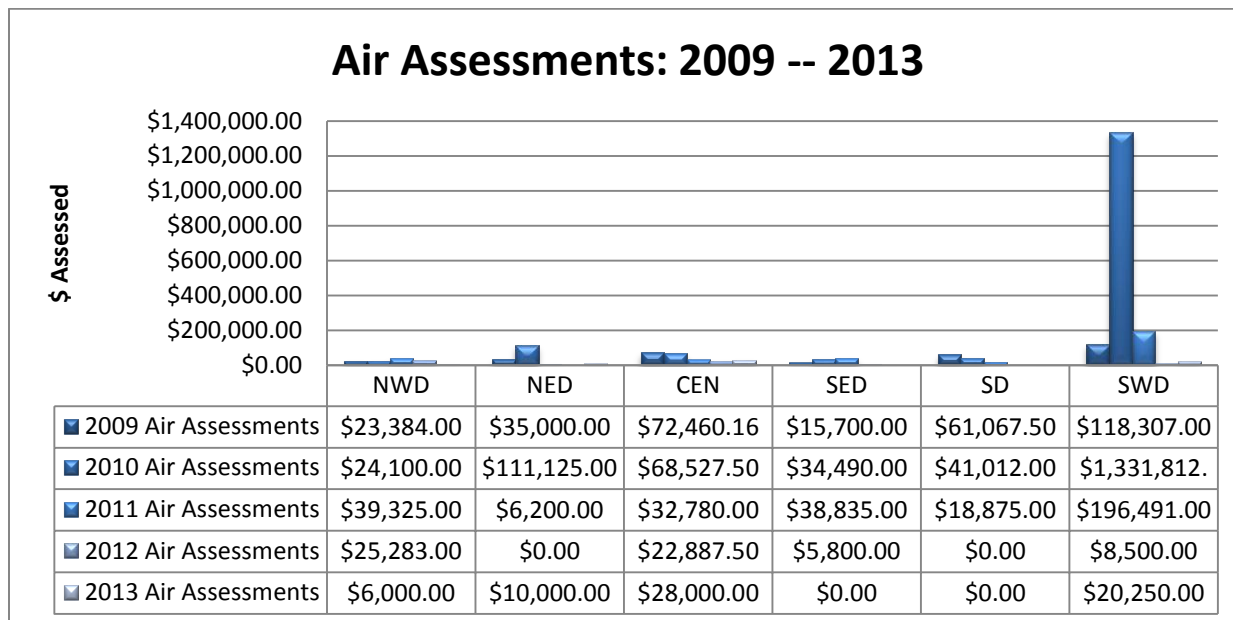


The following table illustrates the decline in dollar assessments for the Department as a whole. While there was a modest rise in assessments when compared to 2012 the results still constitute the second worst results in the history of the Department:

Year	Total \$ Assessed
2009	\$325,918.66
2010	\$1,611,066.50
2011	\$332,506.00

2012	\$62,470.50
2013	\$64,250.00

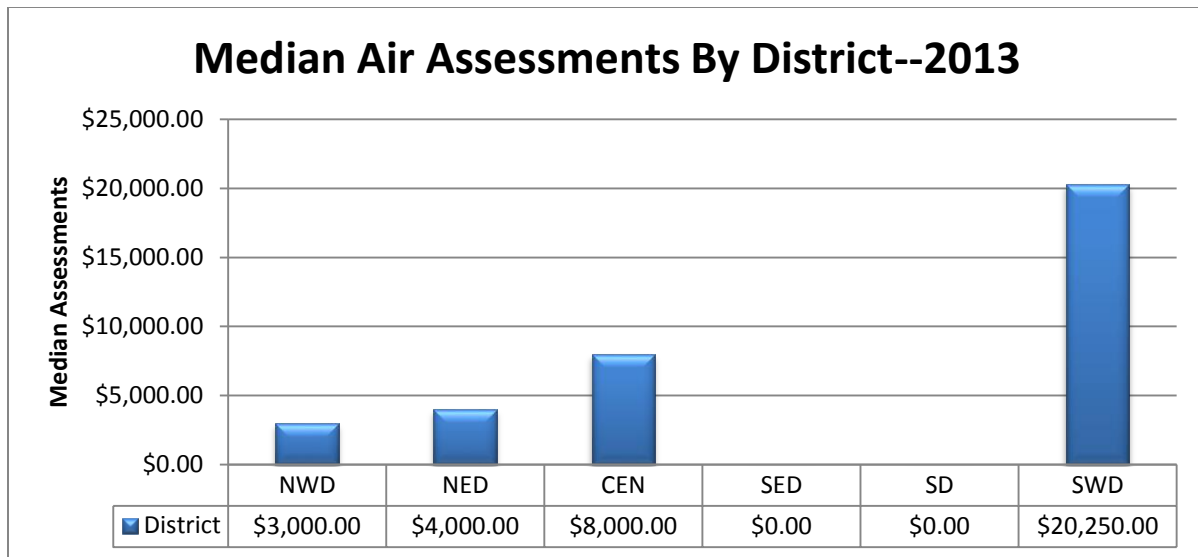
The dollar value of assessments fell in the Northwest and Southeast Districts. The South District assessed no penalties. Assessments rose in the Northeast, Central and Southwest Districts. However, assessments in all districts are significantly lower than in 2010:



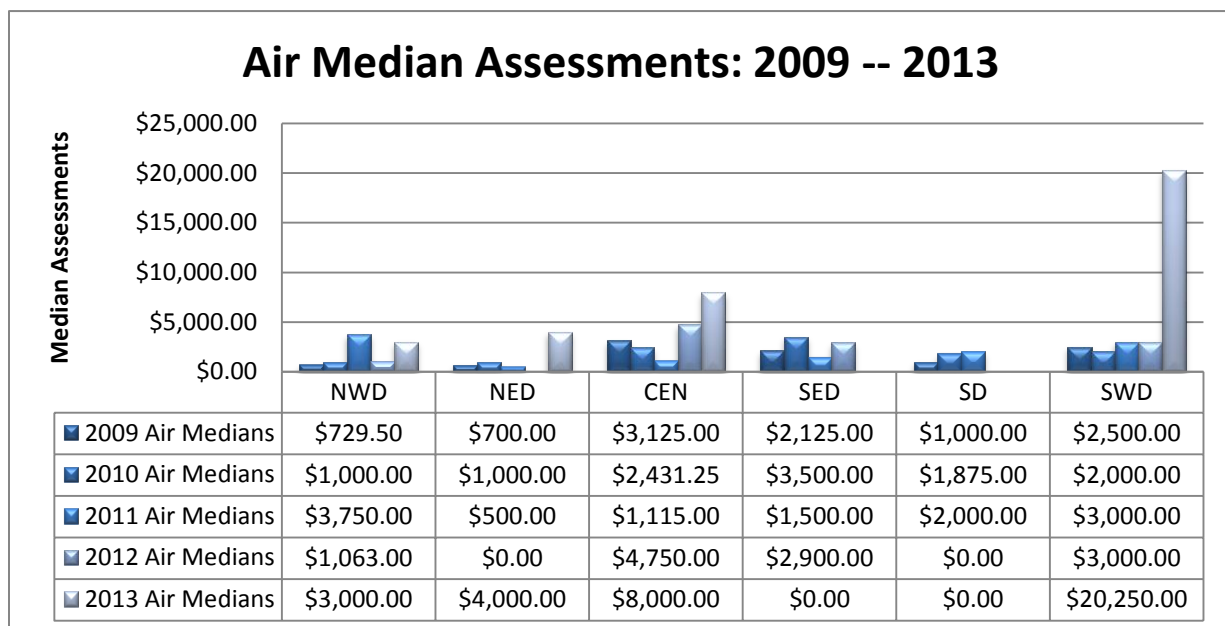
The Department as a whole appears to be more stable when it comes to median assessments in this program, although, 2012's rise did not continue into 2013. Added to this is the fact that there were only 9 cases making up the end result:

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

Median air assessments amongst the districts broke down as follows:



The four-year summary again shows mixed results on a district-by-district basis. While the Northwest and Northeast improved, the results are based on a total of 5 cases. The “amazing” result in the Southwest is based upon one case:

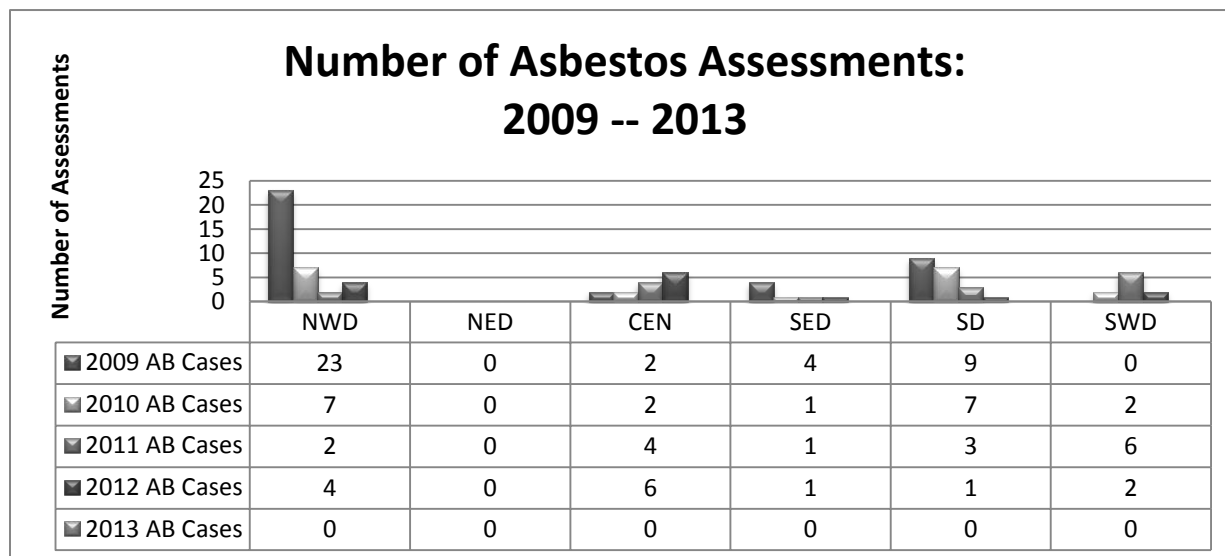


2. Asbestos Program

Since 2009 the number of asbestos assessments has declined from 38 in 2009 to 0 in 2013:

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

The district-by-district results are the same:

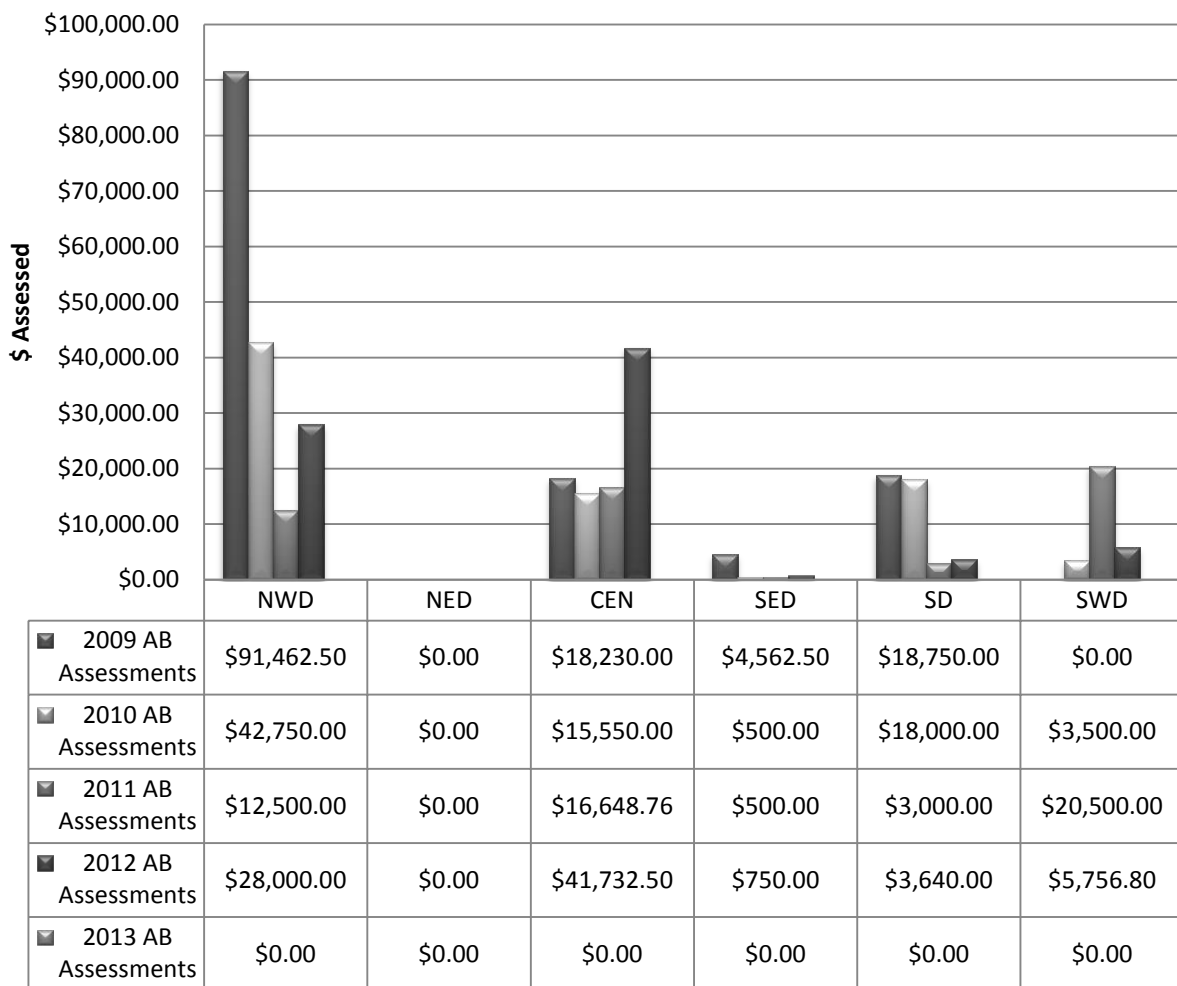


Obviously, with no cases there were no penalties assessed:

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

The extent of decline in each district is as follows:

Asbestos Assessments: 2009 -- 2013

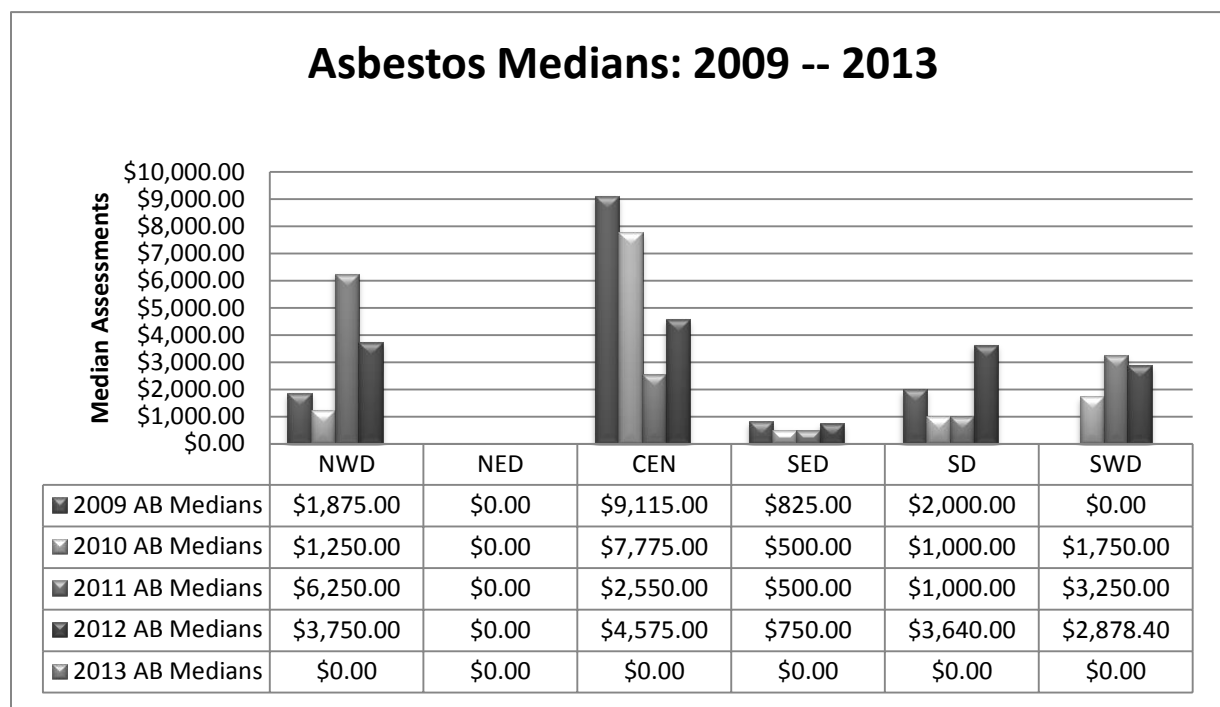


Until 2013 median asbestos assessments had been increasing, but that has stopped. Not since 1992 has there been a year in which the Department assessed no civil penalties in this program area:

Year	Median Asbestos Assessments
2009	\$1,937.50
2010	\$1,250.00
2011	\$2,000.00

2012	\$3,640.00
2013	\$0.00

The Northwest, Northeast and Southwest Districts are the one district for which the complete lack of assessments is a continuation of a recent downward trend. Until 2013 the other districts had been showing improvement in the medians:

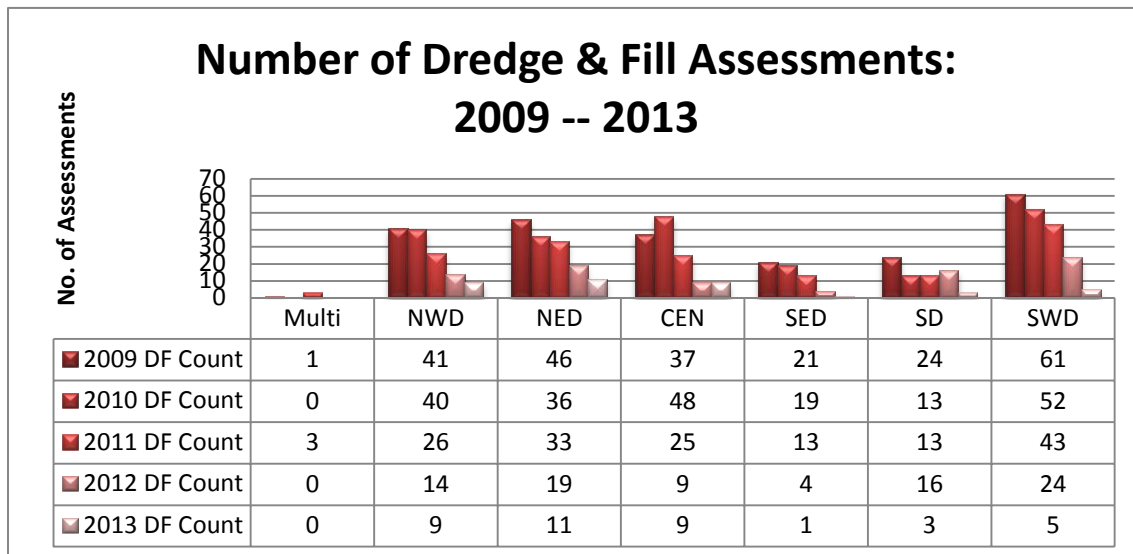


3. Dredge and Fill Program

The downward trend continues in this program .With some exceptions, the data shows that this is a program that continues to be in trouble. The number of cases has now fallen by 82% compared to 2010:

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

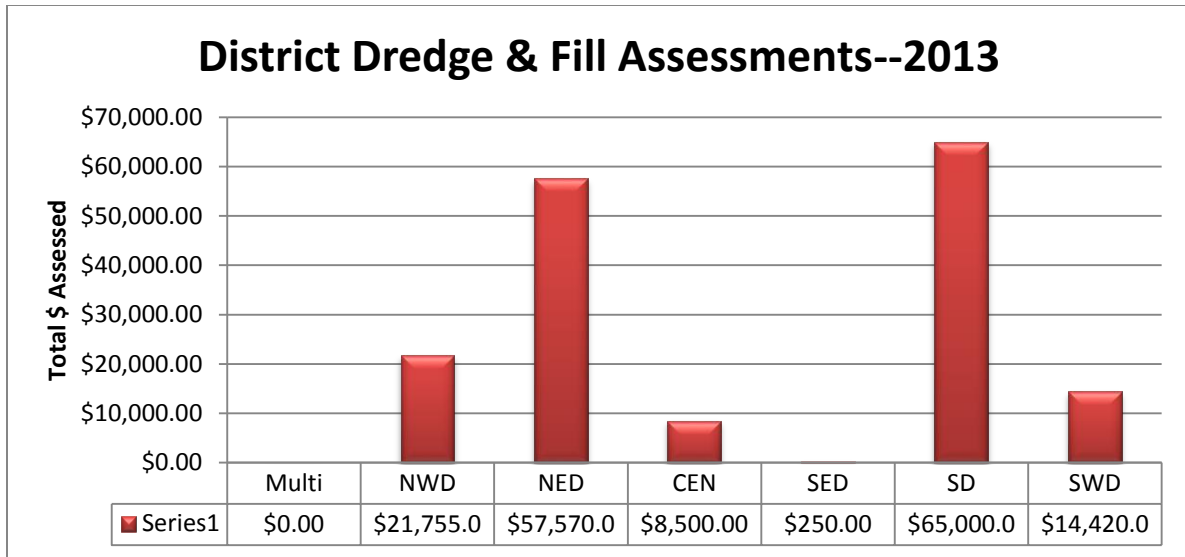
Except for the Central District, every district had fewer cases in 2013 than in the year past. Every district's results were the lowest since at least 2009.



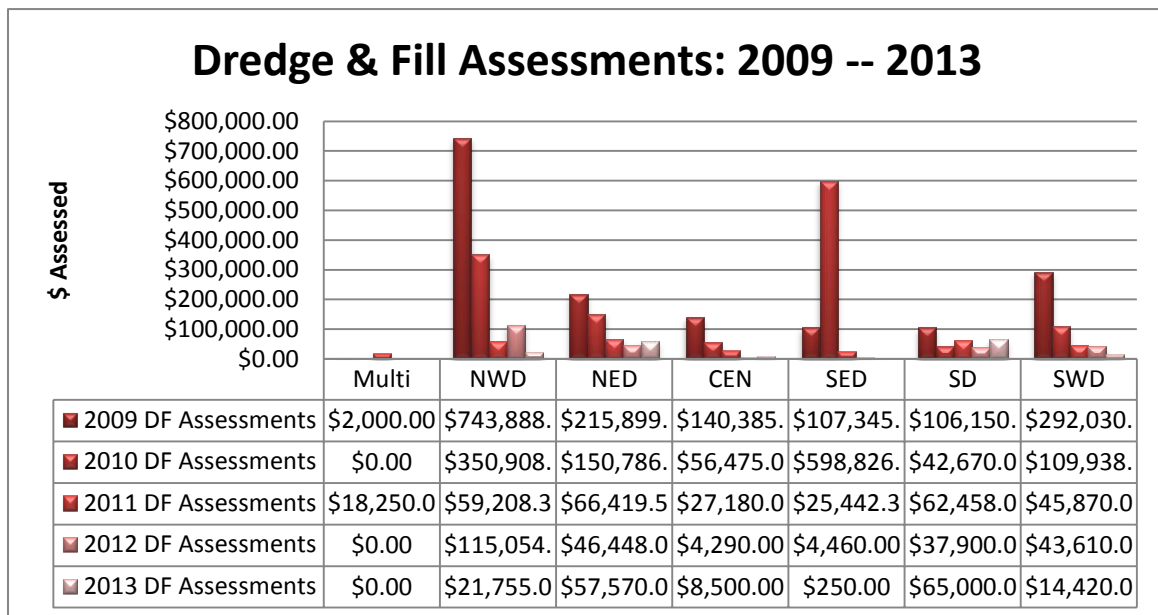
Total penalty assessments fell another 33% in 2013 when compared to 2012. They are down 87% compared to 2010. 2011 was a very bad year for this program. 2012 was worse. **But the levels are now approaching the same levels that they saw in 1989, when the Department was in its infancy and the Department was a much smaller organization overseeing a less populous state:**

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

The district results continue to be low, with the exception of the Northeast and South Districts:



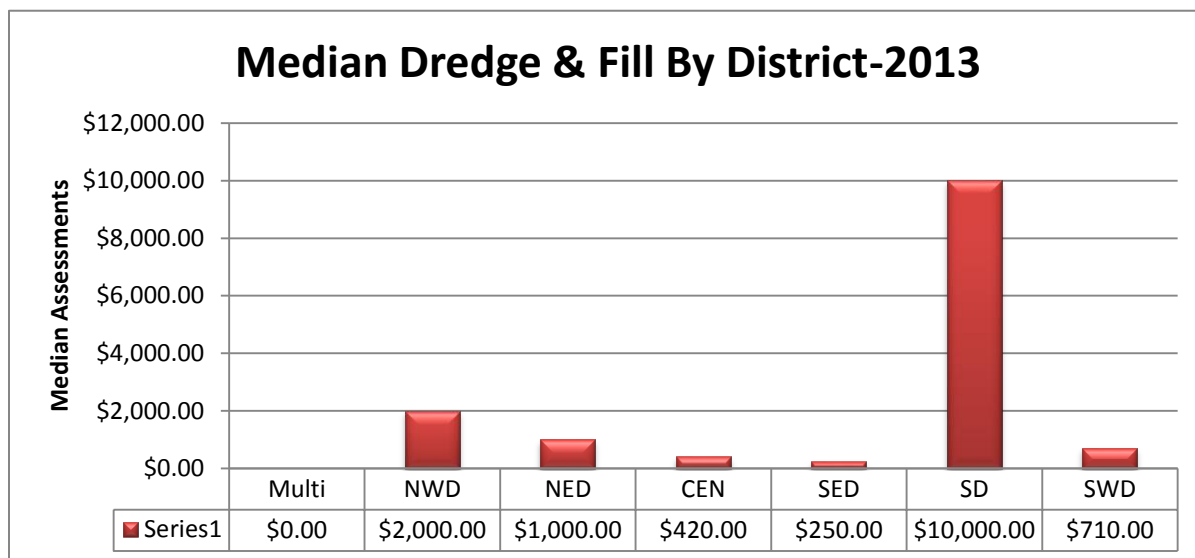
While there were slight improvements in the Northeast, Central and South Districts one must remember that there were only 23 cases between them for the entire period. When looking at the 4-year history of the districts the downward trend is easy to see:



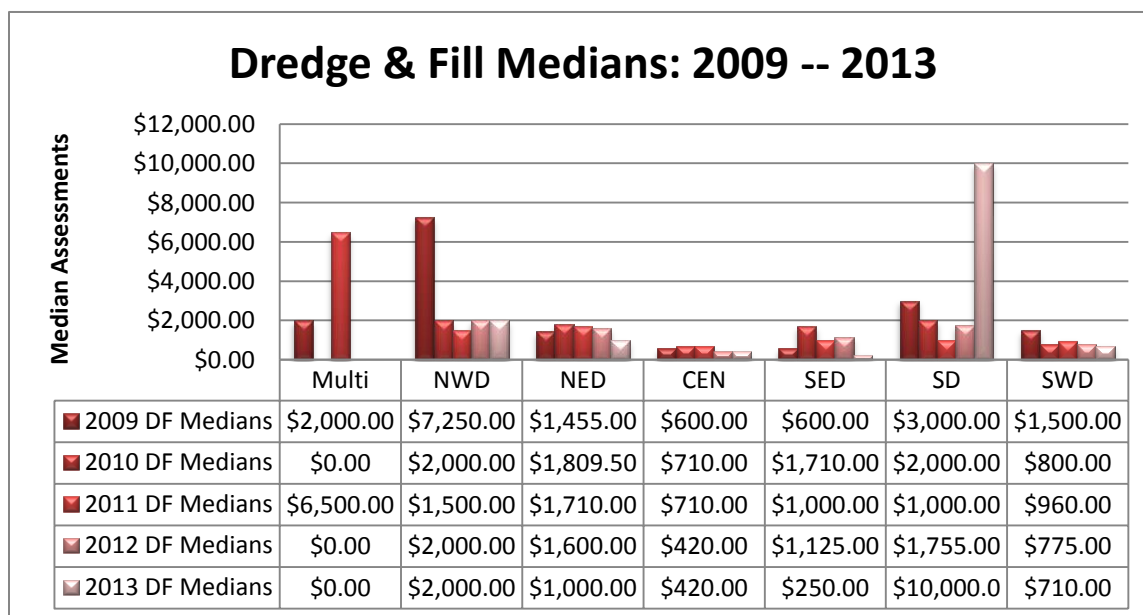
Median assessments remained steady for the Department as a whole:

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

The sizeable median assessment for the South District is based on only 3 cases for the entire year. Overall, the median assessments amongst the districts for 2013 were:



There was no improvement seen in any district, with the exception of the South District which, again, had only 3 cases for the entire year:

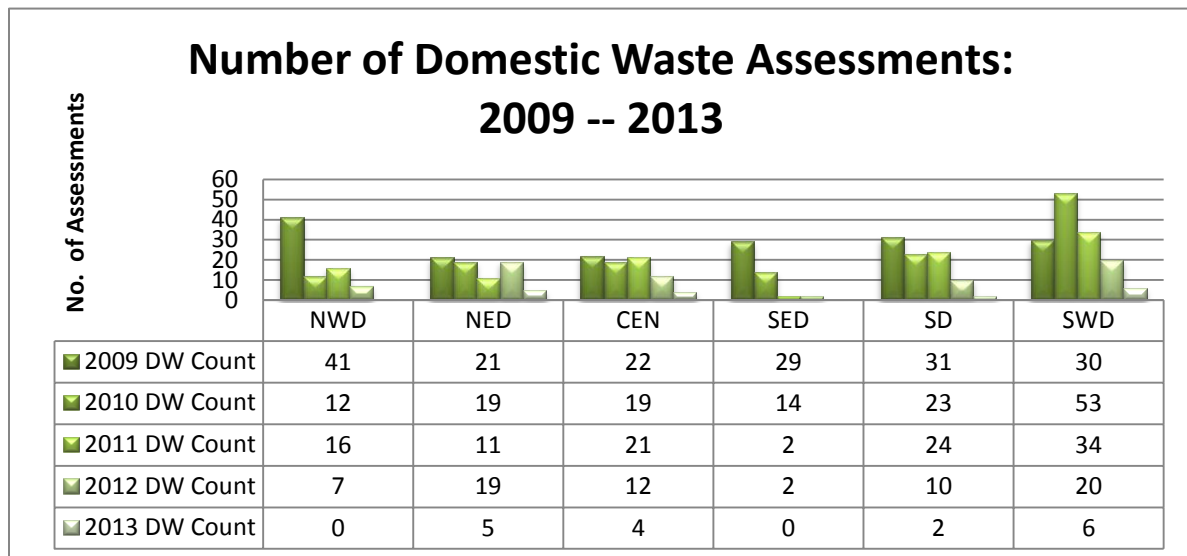


4. Domestic Waste Program

The Department assessed penalties in only 17 cases in 2013, the five year trend looking like this:

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

The number of cases has now dropped 88% from the levels in 2010 and 76% from just one year ago. Every district saw sharp declines. **The Northwest and Southeast Districts had no assessments the entire year:**

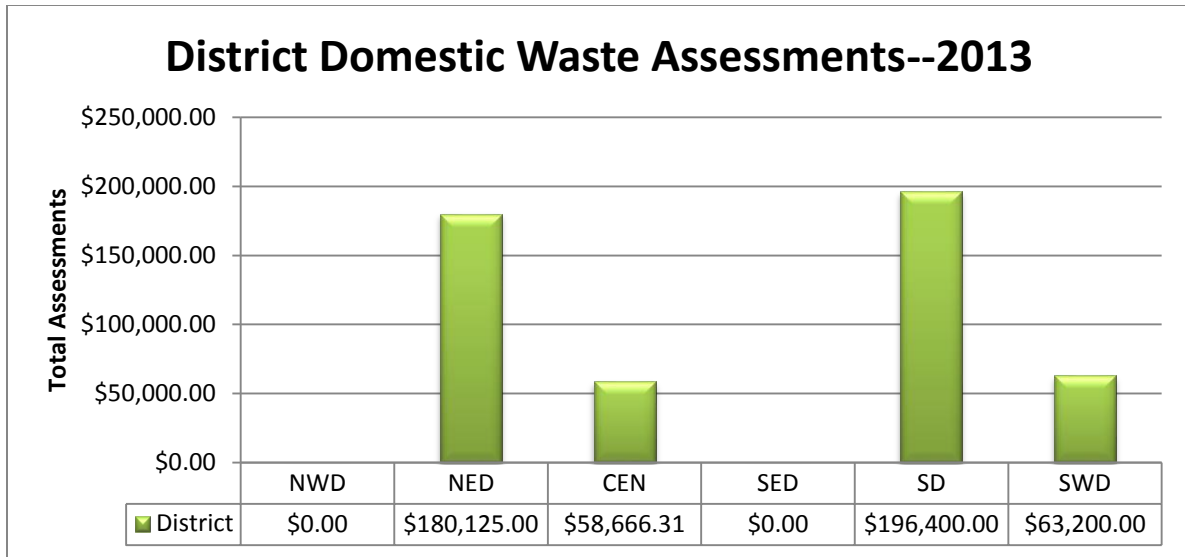


Assessments fell 55% from just one year ago. These are the lowest results in a decade—and an 80% decline from 2010:

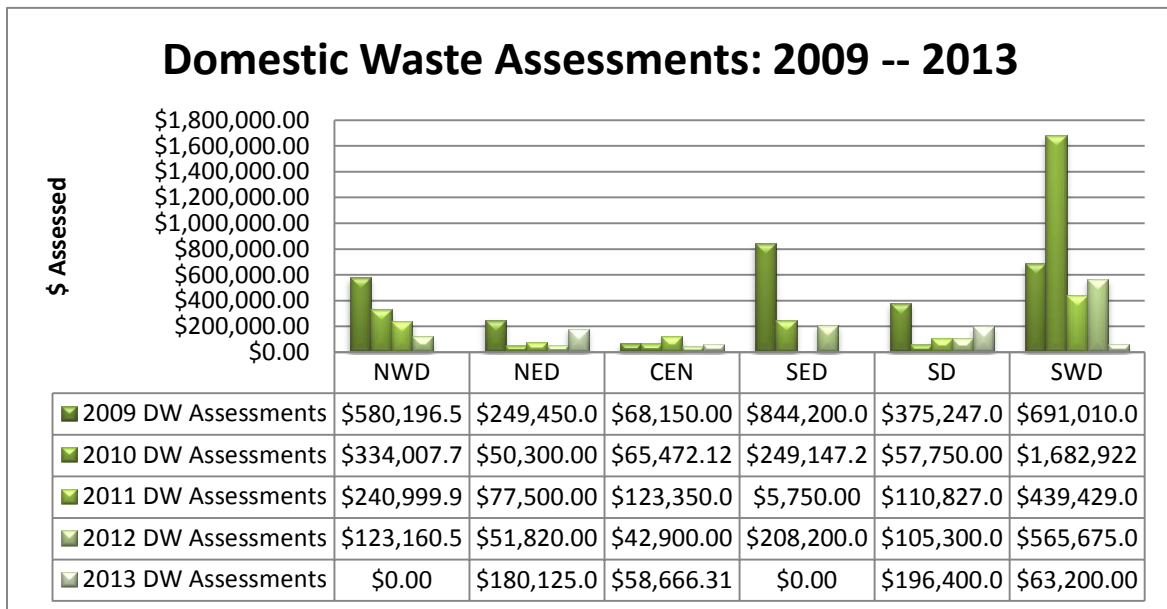
Year	Domestic Waste Assessments
2009	\$2,808,253.58
2010	\$2,439,599.07
2011	\$997,855.99
2012	\$1,097,055.56
2013	\$498,391.31

Of the \$498,391.31 assessed by the Department in 2013, \$358,150.00 came from just two cases. The remaining assessments were spread amongst the 15 cases that were left.

The Districts assessed the penalties as follows:



The Northeast, Central and South Districts actually increased the total dollars assessed in 2013, but the remaining three districts saw drastic cuts. The one result that stands out the most is the \$63,200.00 assessed by the Southwest District, a district that heretofore has been the foundation for the program. Only the South District shows any signs of potential improvement:



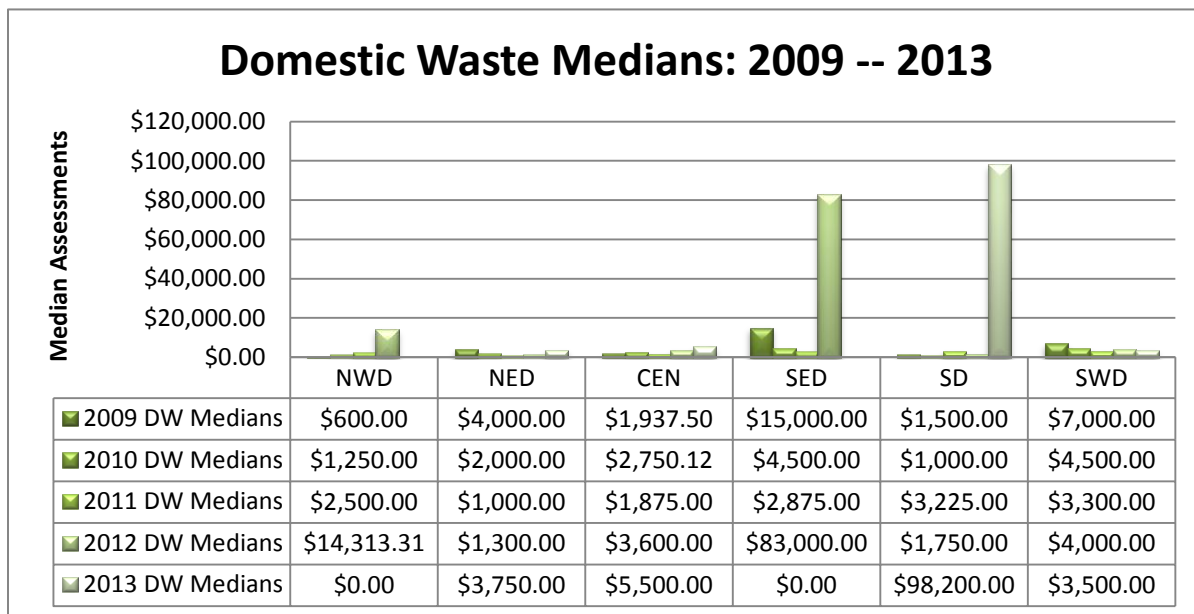
Medians for the Department as a whole continued to improve in 2013:

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

The one caveat to the improved medians is the fact that the result is based on a scant 17 assessments. When the results of individual districts are displayed we see that the South District saw a dramatic increase, but it is based on only two cases. The Northeast and Central Districts also saw increases, but those are based on only 5 and 4 cases respectively.

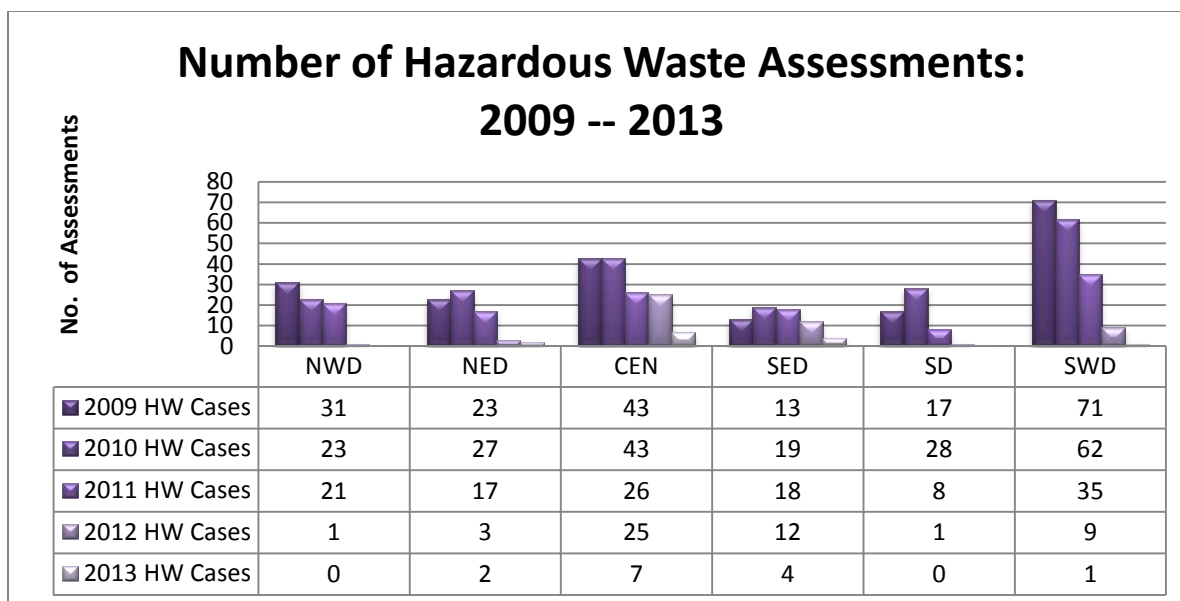


5. Hazardous Waste Program

Just as in the domestic waste program, there has been a substantial decline in this key program. 2013 saw a 63% reduction compared to 2012 and a **93%** decline from the results in 2010:

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

The downward trend that we noted last year is continuing. Not one district improved on its performance in 2012. **Amazingly, there was but one assessment for the entire year in the Southwest District.** Overall, the policy of stricter enforcement and assessments in this key program has been abandoned:

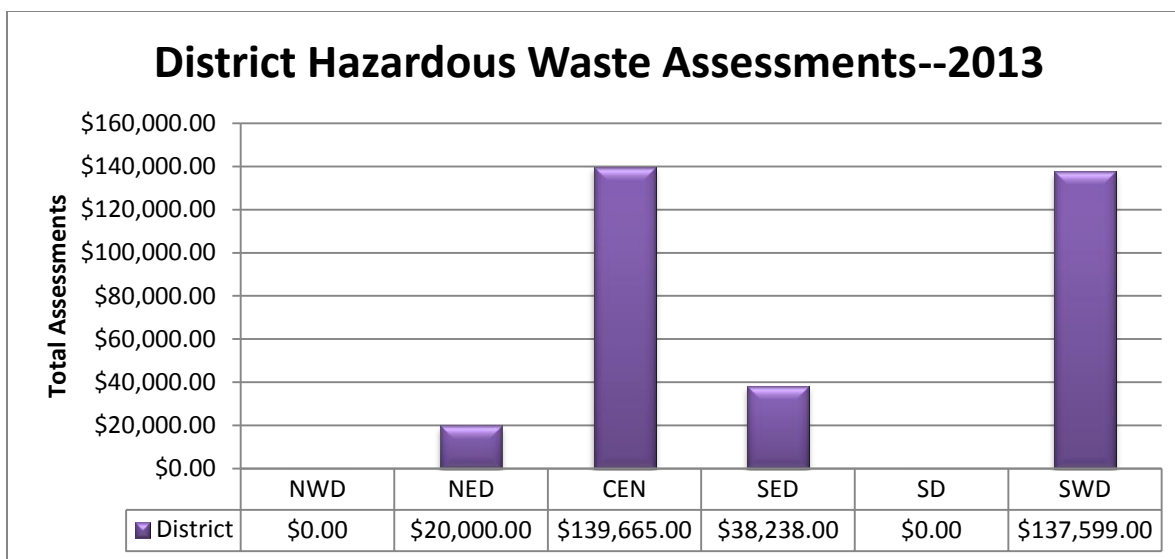


2013 saw the continued decline in the total dollars assessed on a statewide basis. **Overall, the results are the lowest in the history of the Department.** Total assessments fell 38% from the results of 2012. They are now just 12% of the levels set in 2010. The results for the past 5 years are:

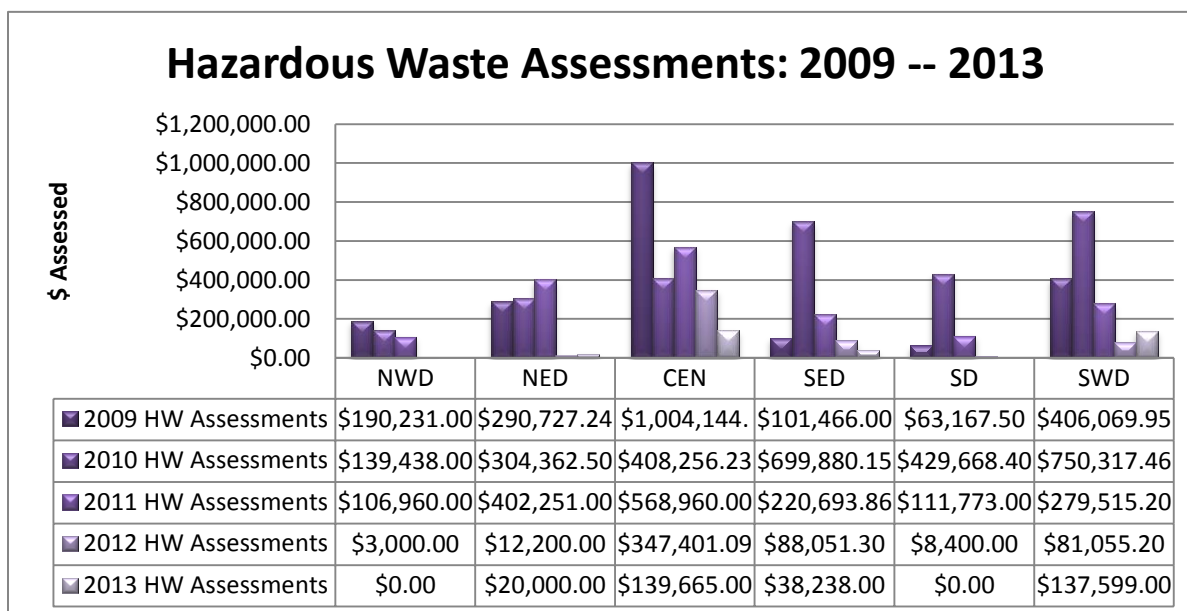
Year	Total Hazardous Waste Assessments
2009	\$2,055,805.69
2010	\$2,731,922.74
2011	\$1,690,153.06
2012	\$540,107.59
2013	\$335,502.00

\$223,514.00 of the \$335,502.00 assessed came from 2 cases. \$85,915.00 was assessed against Raptor Fabrication & Equipment, Inc. in the Central District. \$137,599.00 was assessed against The Dumont Company, Inc. in the Southwest District.

The Department's assessments in 2013 were divided amongst the districts as follows:



Except for the Northeast and Southwest Districts, every district saw drastic falls in hazardous waste assessments in 2013. But the results in the Northeast and Southwest Districts aren't stellar. They are based on a total of 3 cases between them. Overall, the result is dismal with a clear declining trend:

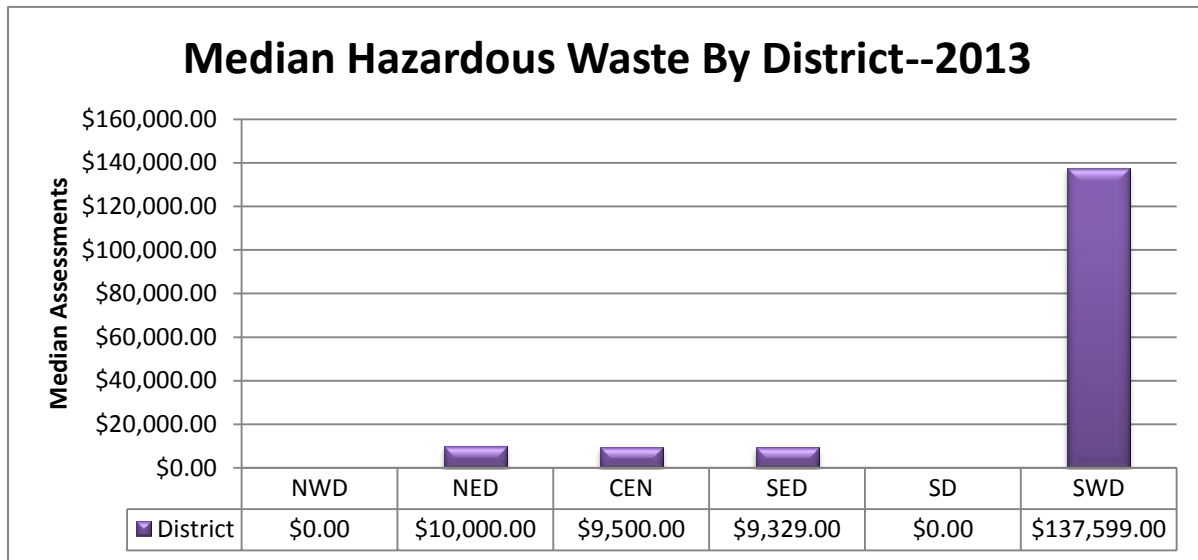


Median assessments rose significantly for the Department in 2013. The \$10,700.00 median represents a 260% increase from 2012's results. Over the past five years the Department's performance has been inconsistent which is something that we would not expect to see if the official penalty policy was being used consistently:

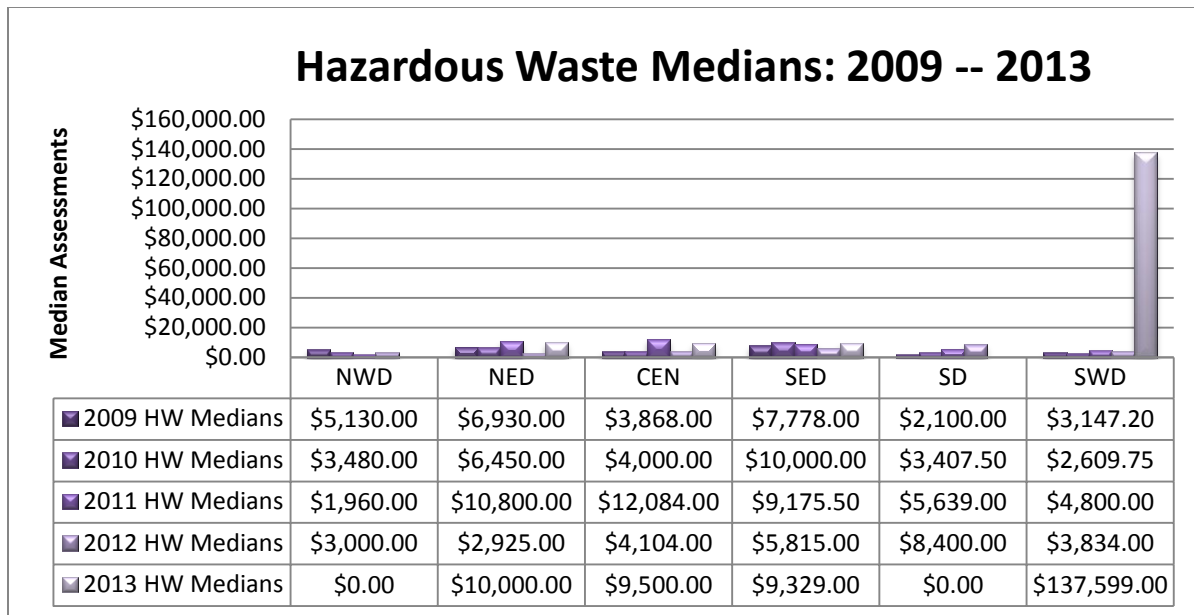
Year	Median Hazardous Waste Assessments
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2009	\$4178.25
2010	\$3868.50
2011	\$7,090.00
2012	\$4,104.00
2013	\$10,700.00

Median assessments for each district in 2013 were :



The median assessments in the Southwest District are based upon one assessment. Normally, that result would be considered an outlier, but in 2013 only one district, the Central District, even assessed more than 4 cases. Thus, it is hard to tell what should be considered “normal.” But the pure results do show that three of the districts improved their medians from the levels in 2012:



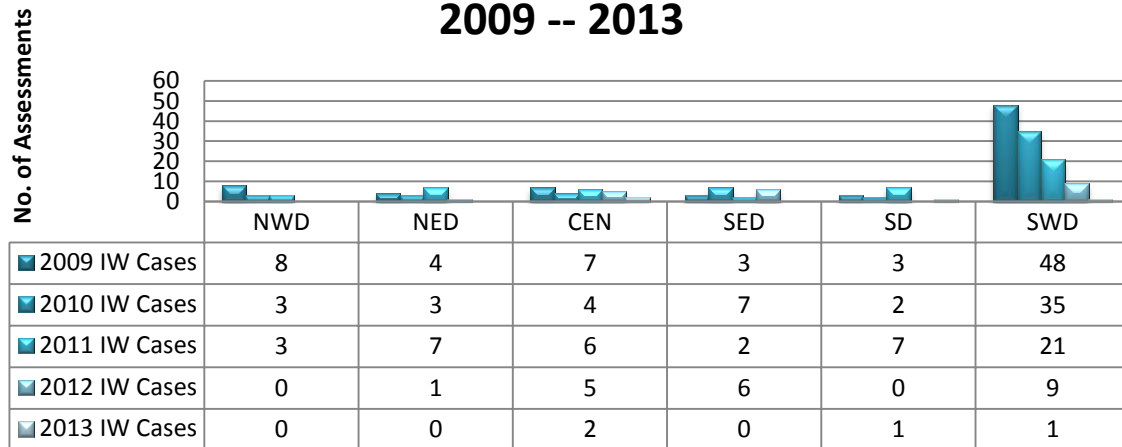
6. Industrial Waste Program

This program is slowly dying on the vine. As with the other program areas, there continues to be a steady drop in the number of penalty assessments in the industrial waste program:

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

The South District was the only district to improve upon its 2012 performance. All other districts showed poorer performance. The Northwest, Northeast and Southeast Districts took enforcement in no cases in 2013. This is the second year in a row that there has been no enforcement in the Northwest District. The Southwest District, which assessed penalties in 35 cases in 2010, did so in just 1 in 2013.

Number of Industrial Waste Assessments: 2009 -- 2013



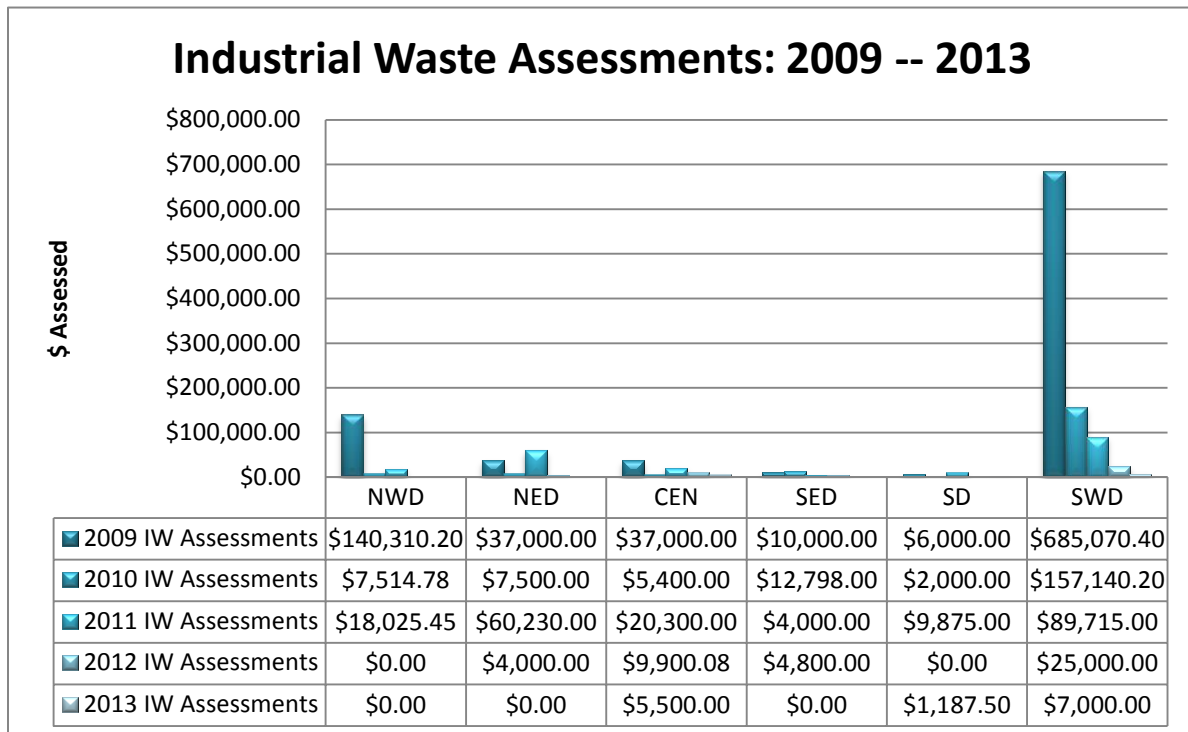
Overall the Department assessed 93% fewer penalty dollars in 2013 compared to the penalties levied in 2010. The result is 69% weaker than in 2012. **The performance is the lowest in the Department's history, dating back to 1988:**

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

In 2013 the districts assessed penalties in this program as follows:



The yearly decline continues to be seen in all but one of the districts over the course of the past three years. It is rather sad when a district, in this case the South District, has only one assessment, but that one assessment is better than the performance in all of 2012, yet that is the level at which we are now dealing. In short, the performance was dismal:



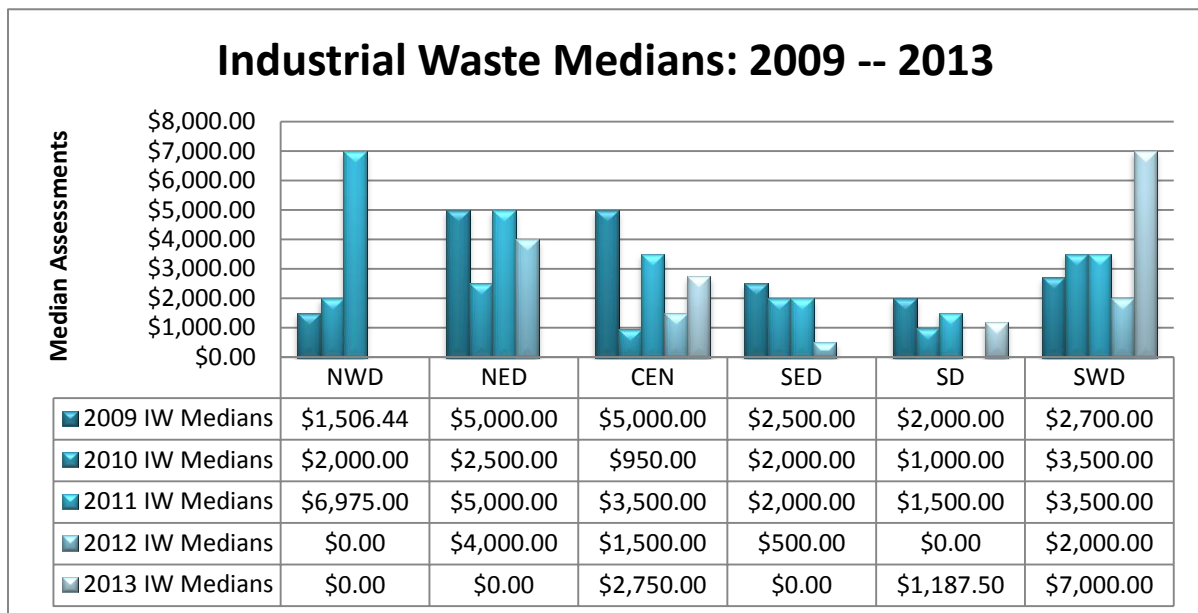
The medians rose in 2013, but given that there were only 4 cases it is hardly a result that could be indicative of improved performance.

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

The highest medians were in the Central and Southwest Districts, however, the results are based on a total of 3 cases:



Median assessments were at a four year low in the Northwest, Northeast and Southeast Districts:

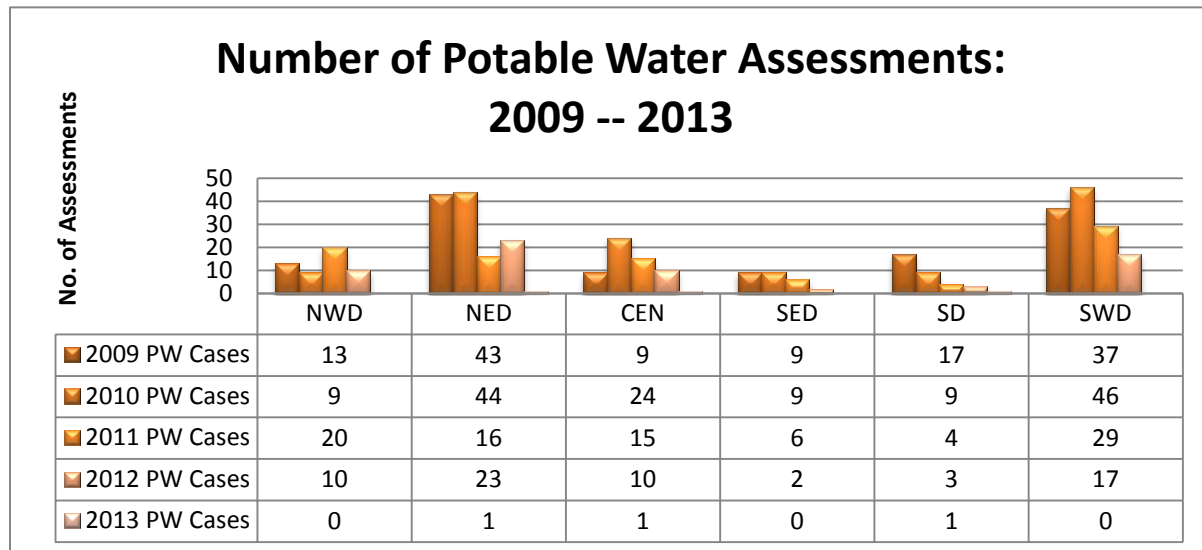


7. Potable Water Program

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 once more for the Department as a whole. The results for 2013 were 95% lower than in 2012 and 98% lower than in 2010. In other words, enforcement all but ceased to exist:

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

This decline was the result of significantly poorer performance in every district:

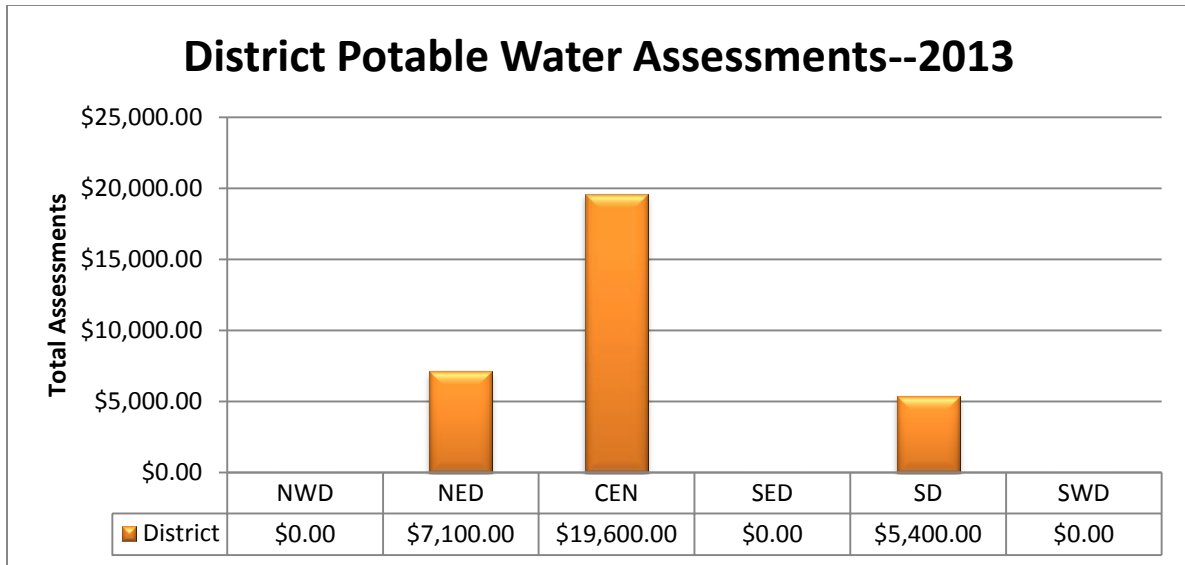


The results in every district are the lowest since at least 2009.

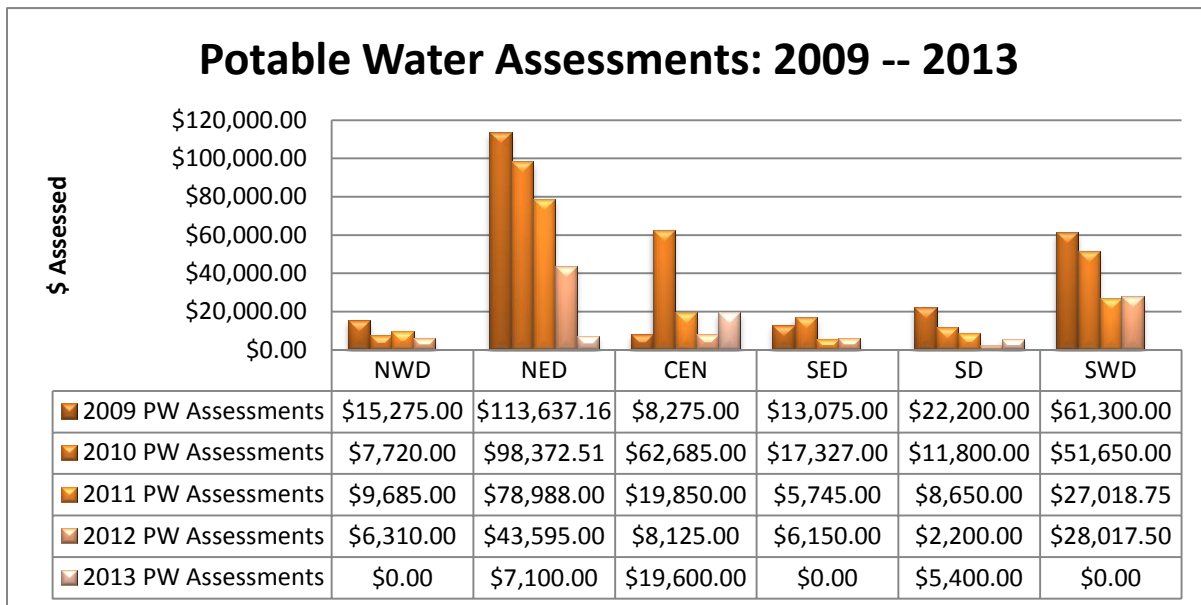
As dictated by the Legislature, the fines for violations of the environmental laws governing this program are small compared to the other programs. The Department as a whole assessed penalties of \$32,100.00 in this program. **These results are the lowest in the history of the Department.** The results are down 76% compared with the results in 2012 and 87% from 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

The fines were distributed amongst the districts in 2013 as follows:



Despite each of them having significantly fewer enforcement cases than in 2012, the Central and South Districts actually increased their assessed penalty dollars. But realistically, each of the districts continues to show a clear downward trend over the past five years:



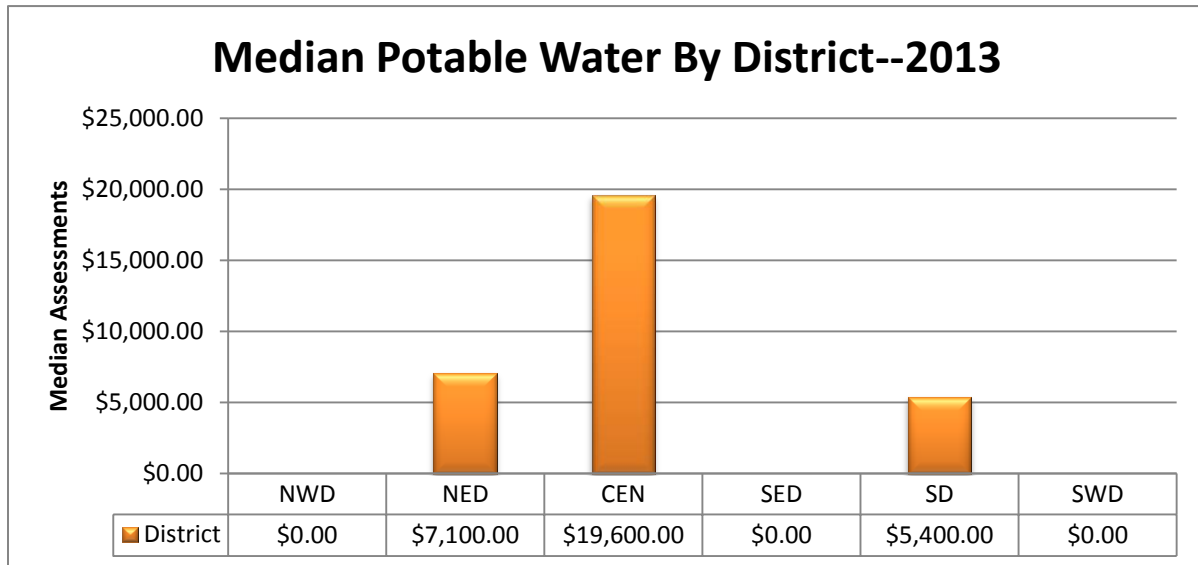
Median assessments rose sharply in 2013. But the result is based on a total of three assessments on a statewide basis. So the result is hardly cause for celebration:

Year	Median Potable Water Assessments
2009	\$750.00
2010	\$875.00
2011	\$537.50
2012	\$500.00

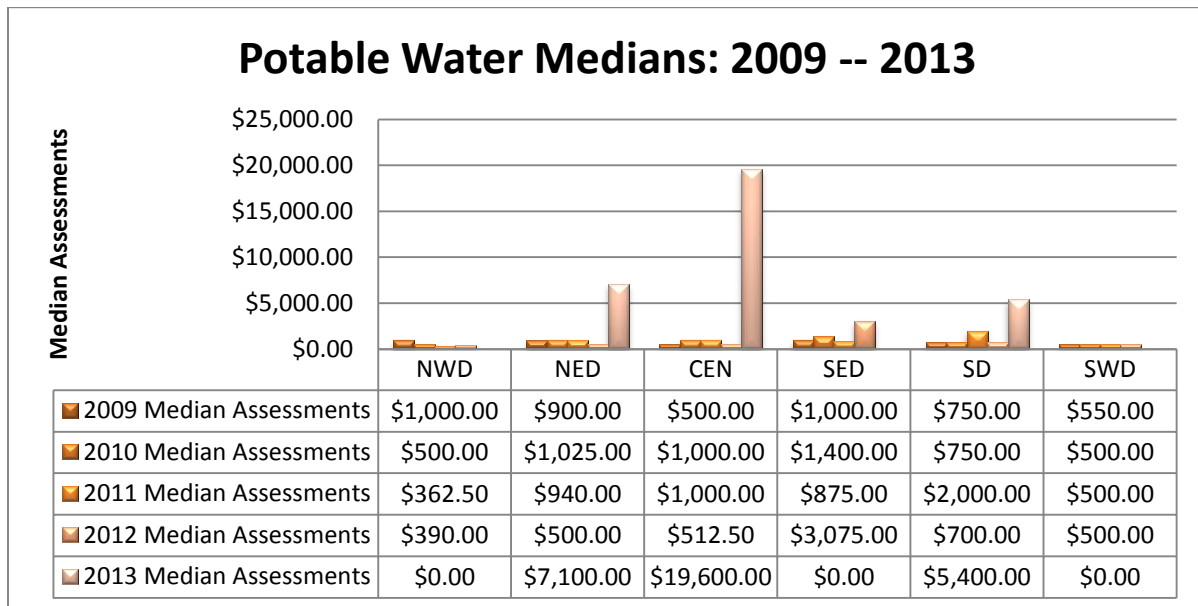
2013

\$7,100.00

A comparison of the medians for the districts in 2013 yields these results:



Over the past five years there is no discernable pattern that applies to every district:



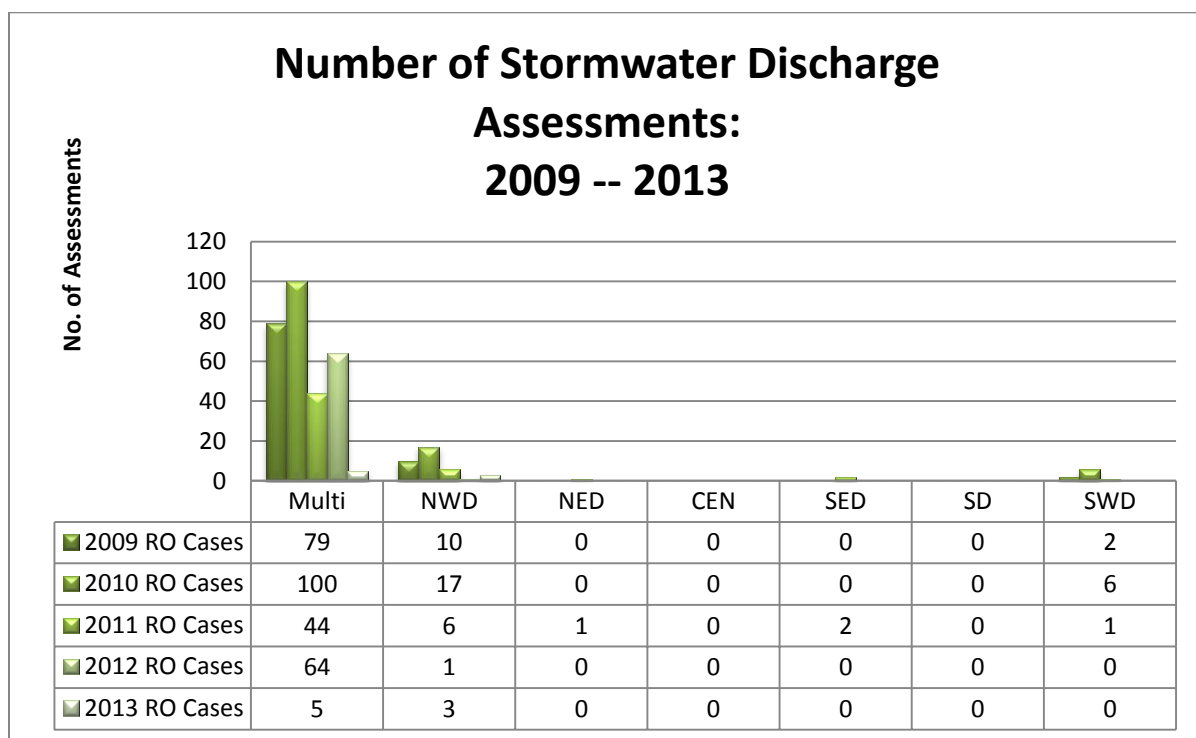
8. Stormwater Discharge Program

This is a program that is largely administered out of Tallahassee. 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, as well as public properties and roadways. The state's rapid growth means that this program (and its enforcement) will continue to be vital to Florida's environmental health.

The number of assessments fell drastically in 2013 compared to the previous four years:

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

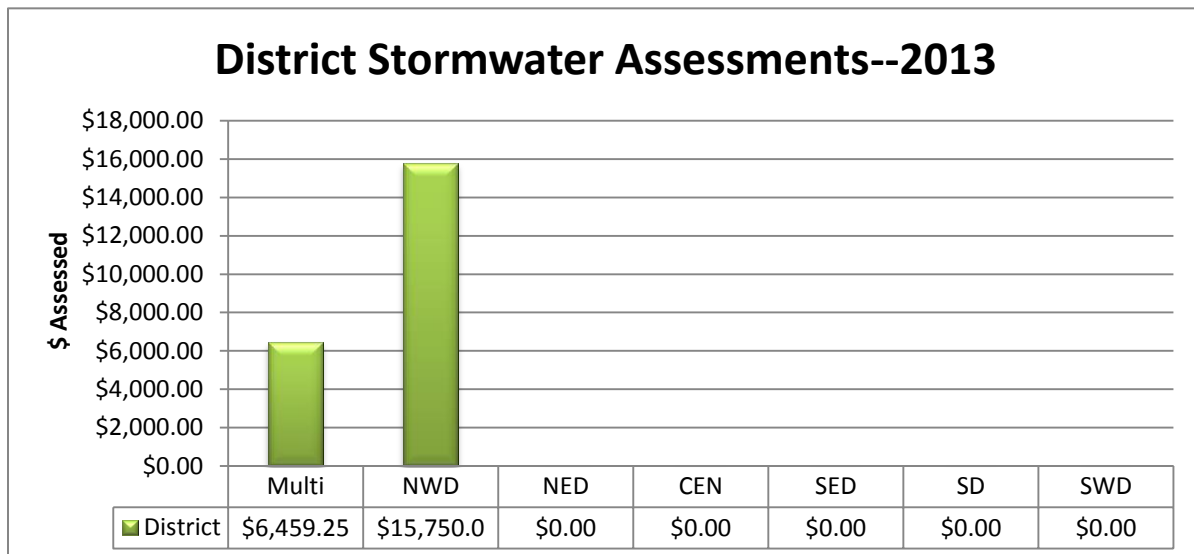
The statewide pattern seen above held true for only the Multi-District category. The Northwest District had two more assessments in 2013 than it did the previous year. But overall the results are pathetic:



The state assessed significantly fewer penalties in 2013, \$22,209.25, compared to \$181,647.25 in civil penalties over the course of 2012. Overall, the performance continues to be significantly lower than the Department's performance in 2010. It is also the poorest performance since 2001, when the Department assessed \$18,880.00 in civil penalties:

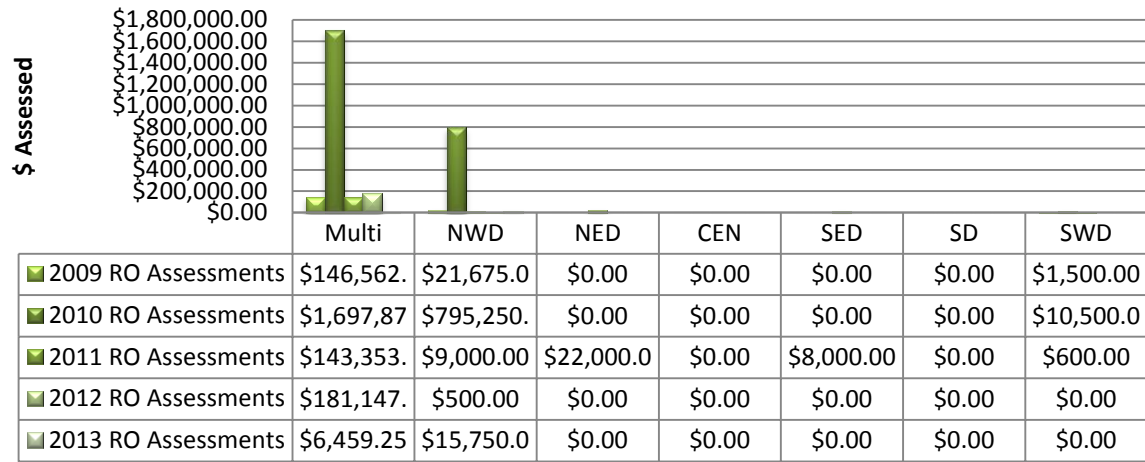
Year	Total Stormwater Discharge Assessments
2009	\$169,737.75
2010	\$2,503,620.00
2011	\$182,953.02
2012	\$181,647.25
2013	\$22,209.25

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



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

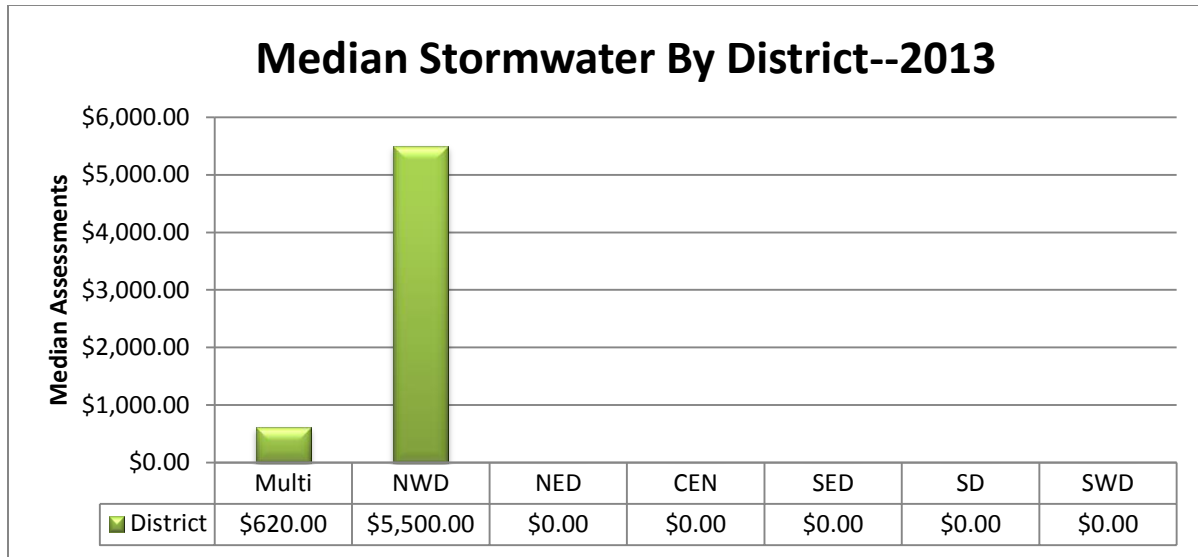
Stormwater Discharge Assessments: 2009 -- 2013



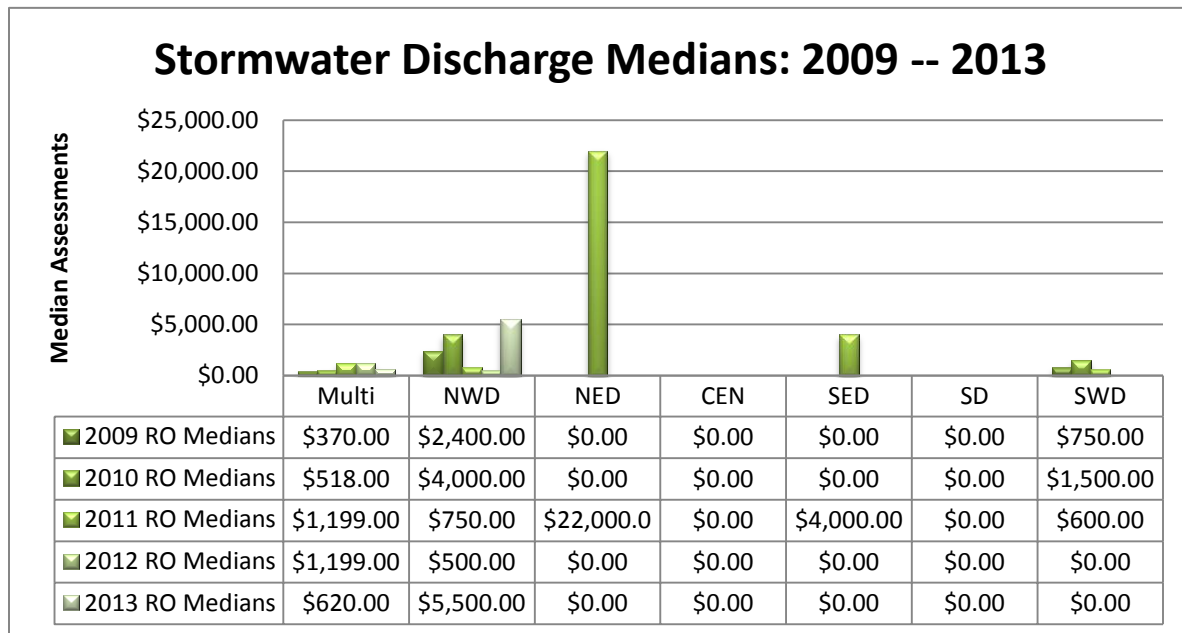
Median assessments remained steady in 2013:

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

Medians for the two individual districts that assessed penalties continue to vary substantially:



What appeared to be a slight upward trend in medians for the Multi-District category has now been erased. While the Northwest District boasts a higher median in 2013, the result is based upon a total of 3 cases:



9. Solid Waste Program

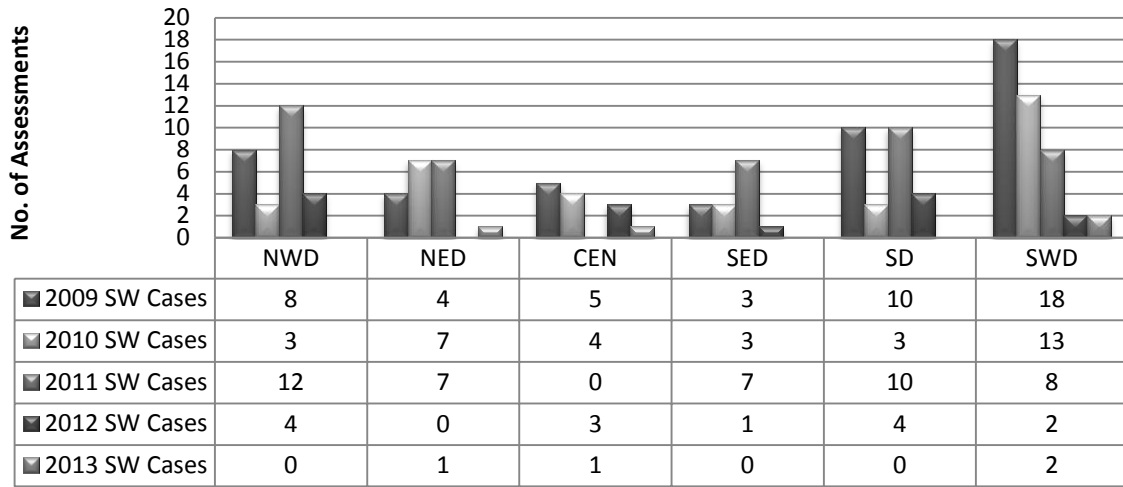
This program oversees the handling of Florida's solid waste that is deposited into landfills across the state. As we reported last year, for the past several years enforcement in the program has been mediocre. Then it looked as though things were turning around in 2011. But just as it appeared as though there was some hope for the program the bottom fell out in 2012 with respect to the number of enforcement cases and the amount of civil penalty dollars assessed. Little did we know at that point that things would get worse. In 2013 the number of cases fell even further, as did the amount of penalty dollars assessed. Once again, however, the one bright spot was in medians, which rose again—this time significantly—albeit based upon only four cases.

In 2013 the number of assessments dropped 72% for the Department as a whole when compared to 2012's results. The numbers are down 88% from the results in 2010:

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

The number of assessments fell in every district, except for the Northeast District which had one case. There were no assessments in the Northwest and Southeast Districts:

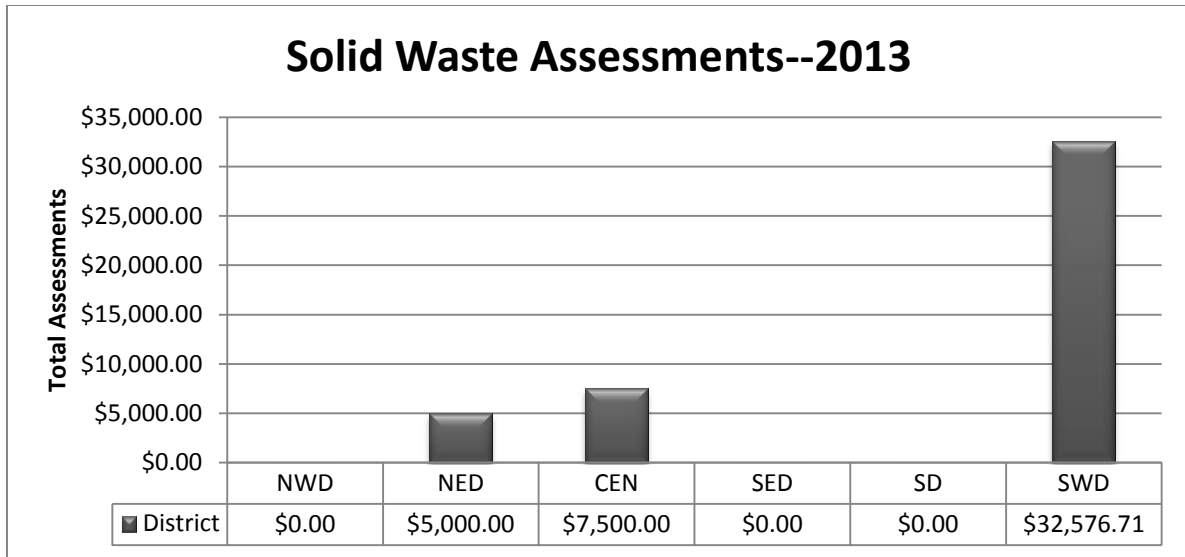
Number of Solid Waste Assessments: 2009 -- 2013



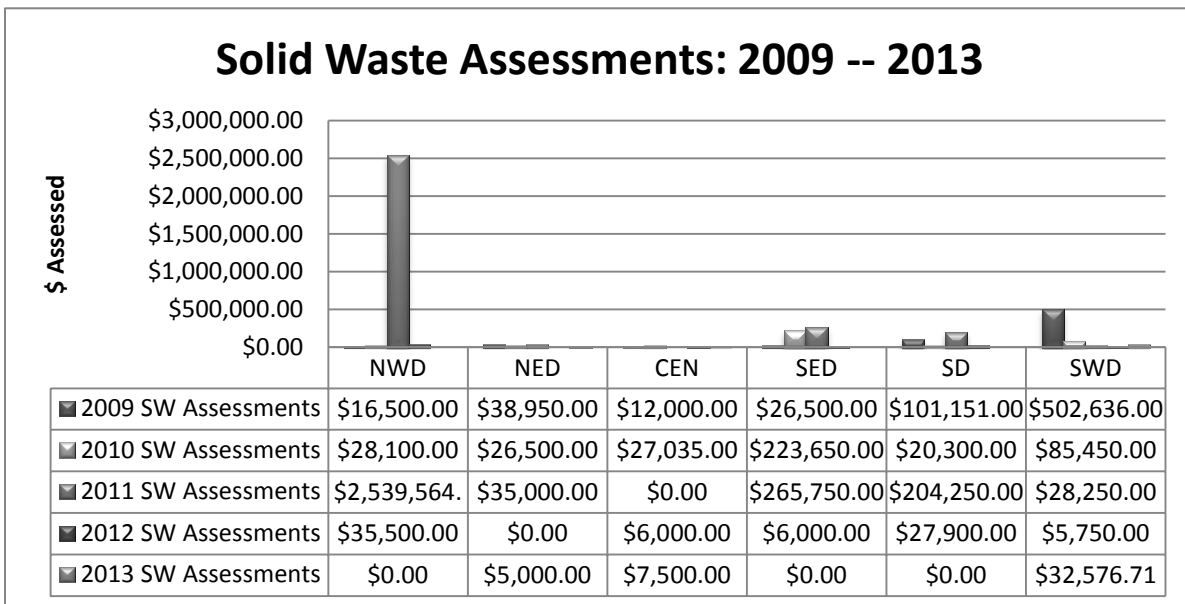
Penalty assessments also dropped significantly to a level not seen since 1988, which assessed \$3,000.00 in penalties when the young Department of Environmental Regulation was beginning the program:

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

Overall, the civil penalty assessments were assessed amongst the districts as follows:



When compared with 2012's numbers, gains were seen in the Northeast, Central and Southwest Districts. But the gains were still not enough to be close to the levels in 2010. The Northwest and Southeast Districts assessed no penalties at all for the entire year. Every district saw five year lows:

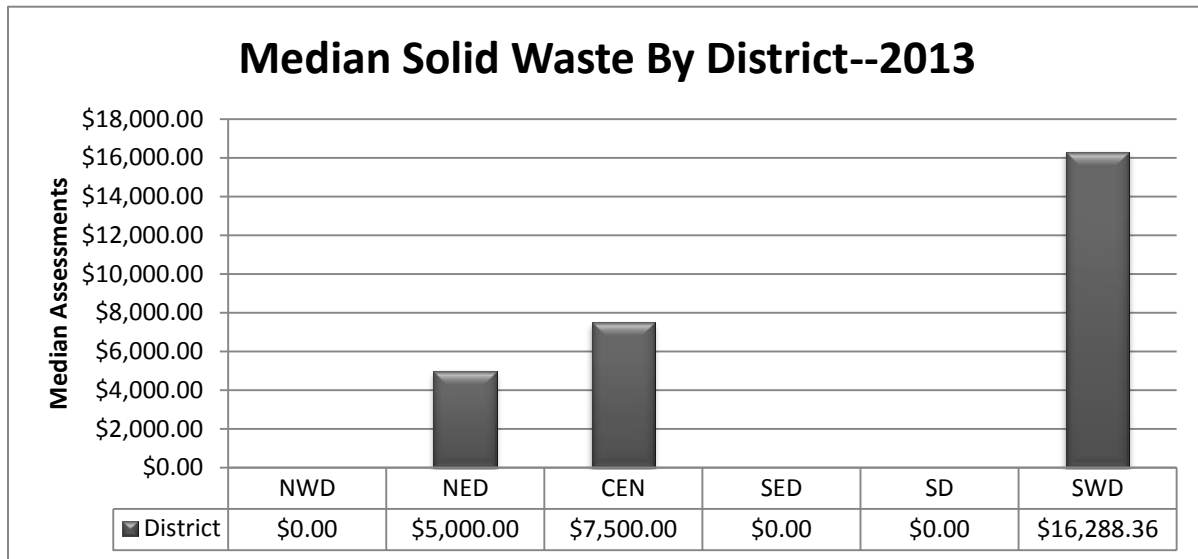


Once again the singular bright spot for this program is that median assessments for the Department rose for the first time in five years. But the reality is that this increase is based solely upon 4 cases, so whether it is indicative of a positive change is doubtful, particularly in light of the lax enforcement overall:

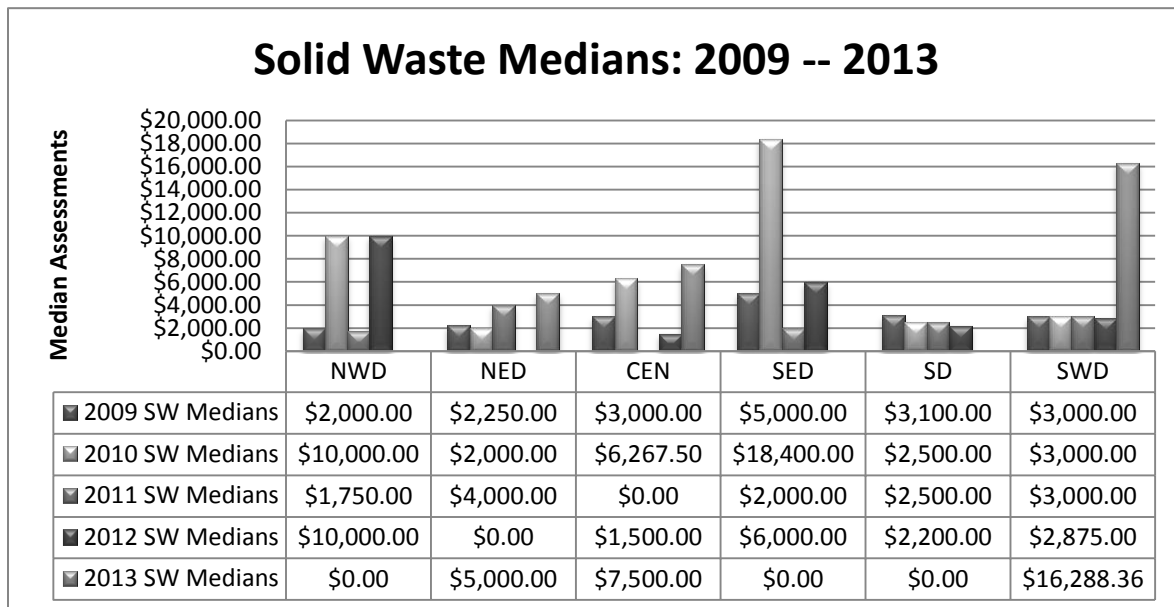
Year	Median Assessments
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2009	\$3,000.00
2010	\$3,000.00
2011	\$3,000.00
2012	\$3,375.00
2013	\$6,250.00

In 2013 the Central and Southwest Districts had the highest medians, but the results are based upon 1 and 2 cases respectfully:



The five year history of median assessments is shown below:



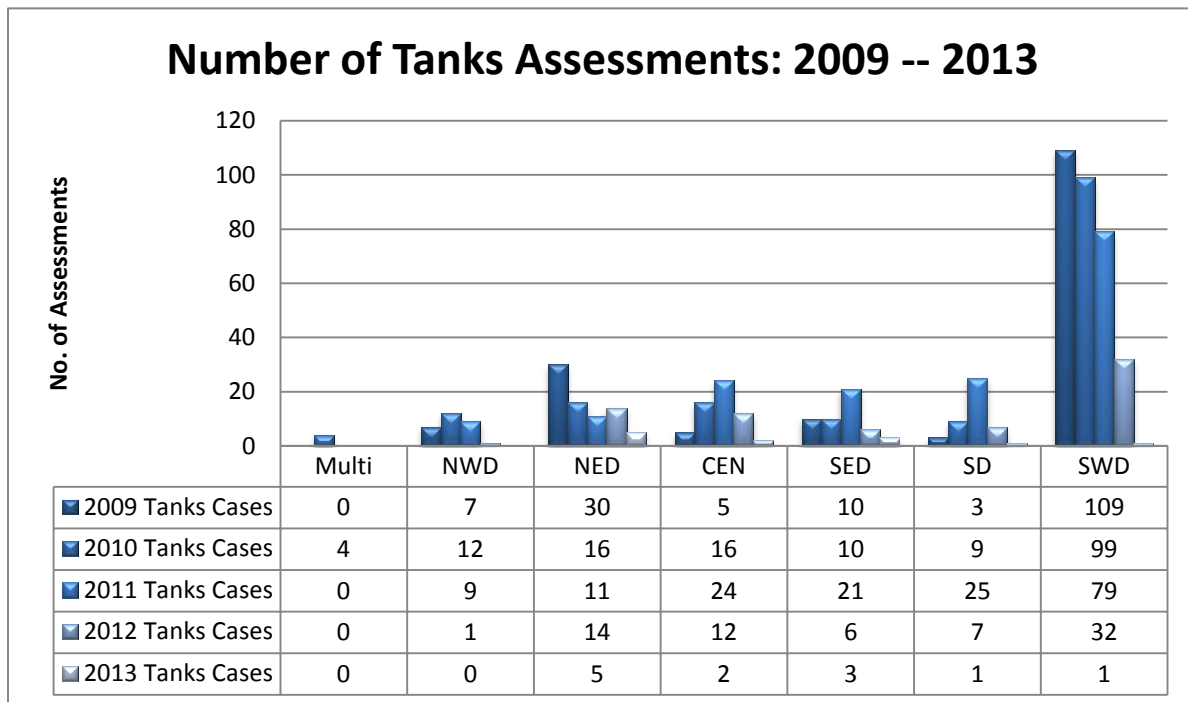
10. Tanks Program

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. In 2013 enforcement of the program all but ceased to exist.

Statewide the number of tanks assessments dropped from 72 in 2012 to just 12 in 2013:

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

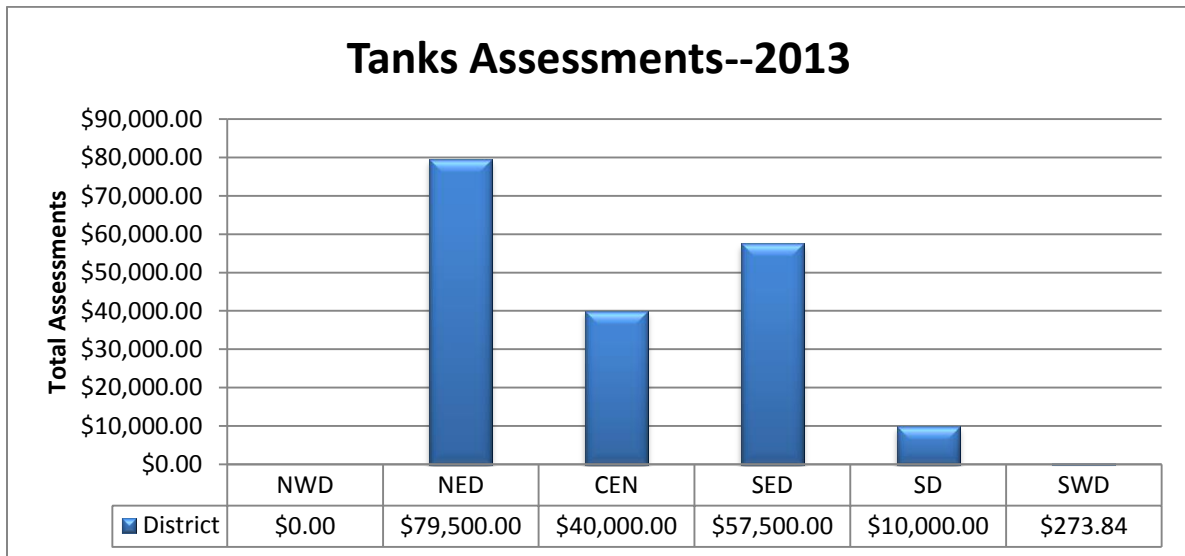
The number of assessments fell in every district—most significantly in the Southwest District, which fell from 32 in 2012 to just 1 in 2013:



In 2011 assessments had risen to \$1,537,209.03. In 2012 assessments fell to \$728,232.83, a 53% decline. 2013's performance was even worse with a total assessment of \$187,273.84, a 74% fall from 2012's poor performance. The results for 2013 represent an 84% decline from the results in 2010. They are also the lowest results since 1998:

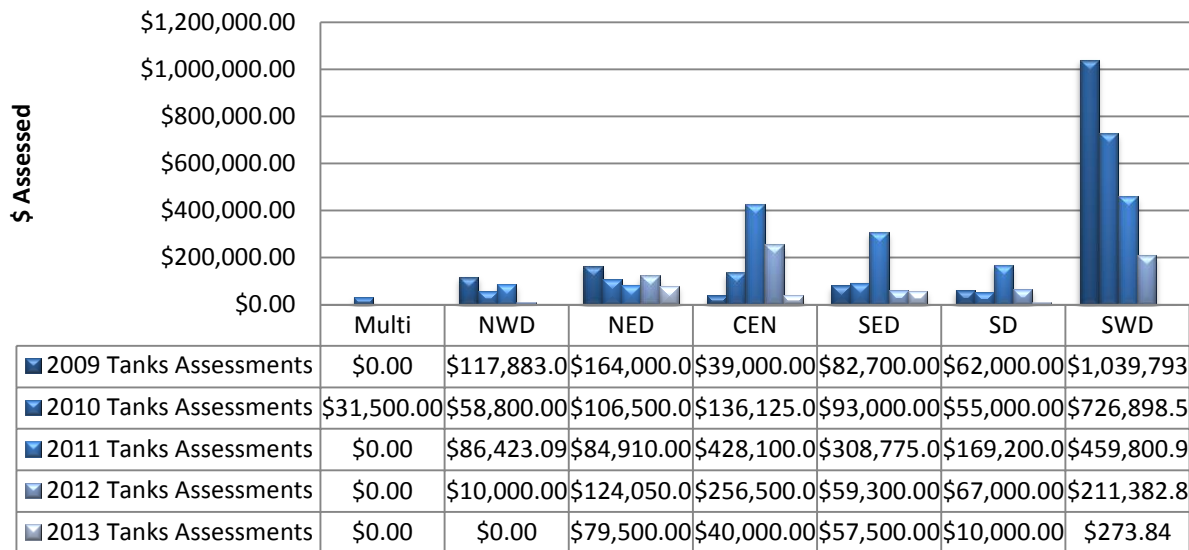
Year	Total Tanks Assessments
2009	\$1,505,376.25
2010	\$1,207,823.56
2011	\$1,537,209.03
2012	\$728,232.83
2013	\$187,273.84

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



Since 2009 assessments have fallen each and every year in the Northwest and Southwest Districts. **The Southwest District managed only one case in 2013 and it was assessed at \$273.84.** But the Northwest District had no assessments for the entire year:

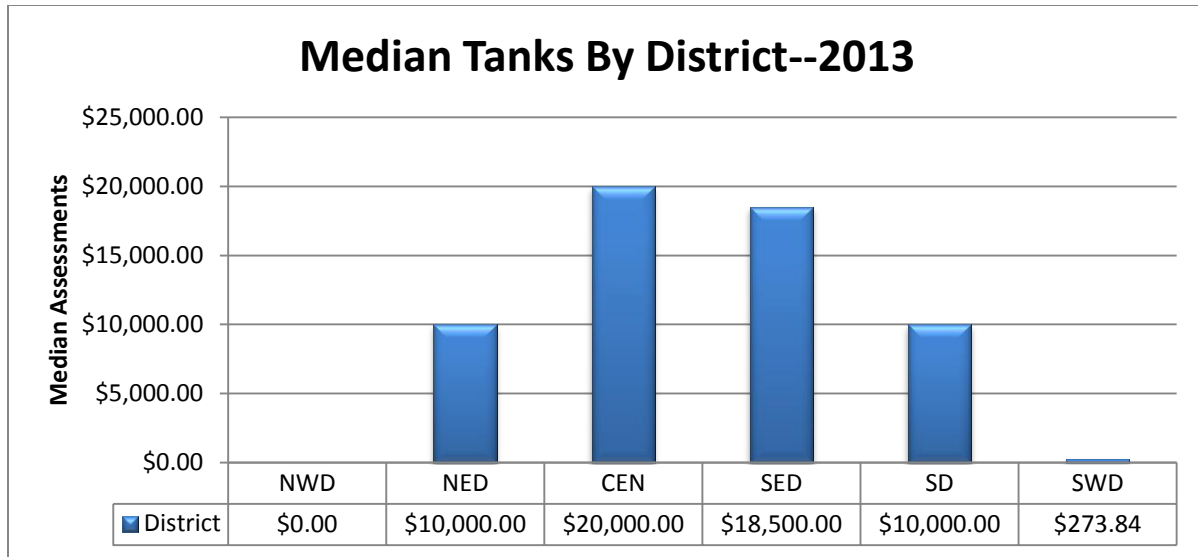
Tanks Assessments: 2009 -- 2013



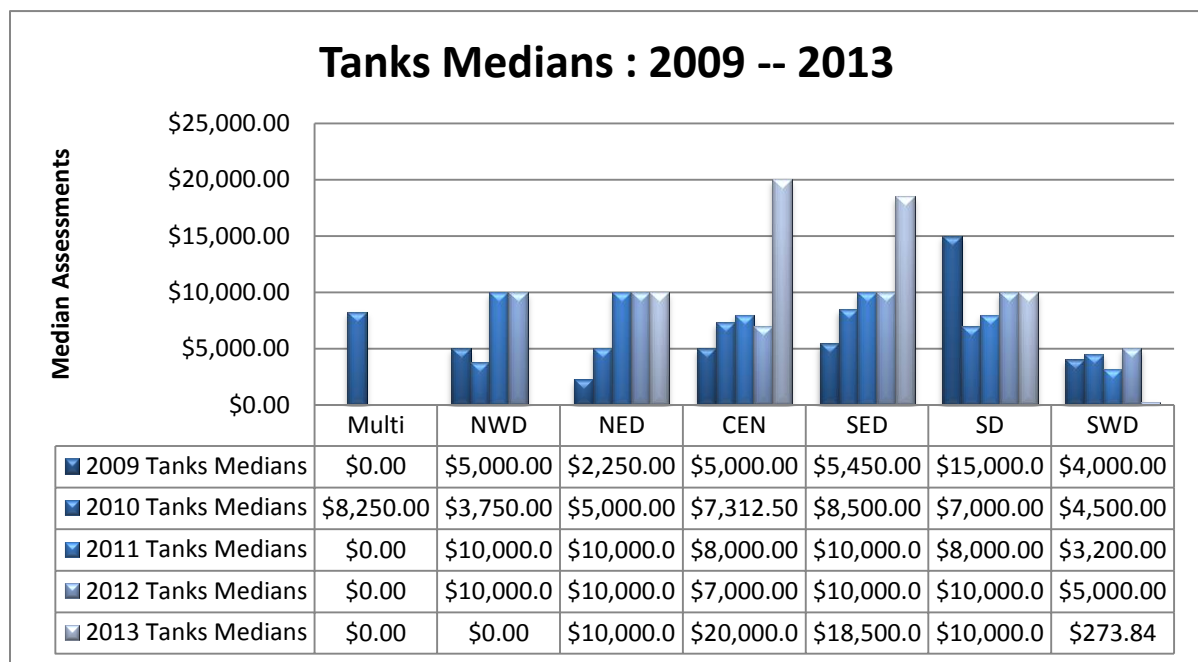
On the positive side, medians for the Department as a whole remained steady at \$10,000.00:

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

In 2013 the median assessments in the districts were:



Medians more than doubled in the Central District, but the result is based on 2 cases. The Southeast District also improved upon 2012's results, but the result in 2013 is based upon only 3 cases. The Northeast District held steady at 2012's levels:



Conclusion

It is clear by now that the Department's management has essentially abandoned not only the initial filing of enforcement cases, but also the assessment of civil penalties in those cases. In fact, it assessed penalties in only 62% of the cases for which it elected to take formal enforcement. Not only did assessments decline in every program area, they did so at historical rates in most programs. The asbestos, industrial waste and potable water programs saw essentially no enforcement at all, while the "major" programs such as air, domestic waste, hazardous waste and tanks all plunged to new, dangerous levels.

Despite the above results (or perhaps because of them) the Governor now says that he wants to emphasize environmental protection by, among other things, taking more serious enforcement against the worst violators and increasing the statutory limit on civil penalties that can be charged. His position is curious, because (a) more enforcement shouldn't be needed if compliance is now at all-time highs, as FDEP's media spokespeople repeatedly claim, and (b) higher penalty authorizations would not necessary if his FDEP would begin enforcing the laws that now exist and begin assessing penalties at the levels already authorized by the Legislature.

The reality is that compliance is not at an all-time high, as the Department would have us believe. The Department has never been able to produce documents to substantiate their claim. Why? Because their claim goes against basic human nature. If you tell people that you are not going to enforce laws then you have taken away much of the reason for people to obey them—particularly when you are dealing in the environmental sector where making money, whatever the cost, is unfortunately the objective of a large segment of corporate America. Are there permittees who really want to protect Florida's environment? Of course there are. And those people, communities and companies will take it upon themselves to obey Florida's environmental laws. But it is naïve, at best, to suggest that all permittees are so inclined and therefore to give them all a wink and a nod to signal an open door to violation of their permits. The result will necessarily be a wholesale violation of permits that will only benefit those permittees who consciously violate their permittees.

Is higher penalty authorization required? No. The Department already has significant authority to enforce its regulations should it so desire. We suggest the Governor and its managers review § 403.121, Florida Statutes if they doubt this. That statute provides, under paragraph (1) (b) that the Department may charge up to \$10,000 per day for each violation *and that each day that any portion of a violation occurs constitutes a separate violation*. Moreover, *criminal penalties* apply to those permittees who intentionally violate Florida's environmental laws. In fact, the violations constitute, at minimum, a second degree misdemeanor and, at maximum, a third degree felony (for intentional violations), the latter being punishable by a fine of not more than \$50,000 and/or imprisonment of up to 5 years. § 403.161(3) & (4), Florida Statutes. If the Governor and/or Secretary Vinyard could show us a single case in which the Department went so far as to claim that a polluter's discharges should be assessed at more than \$10,000 per day for its violations we would be amazed. The only potential candidate would have been BP and even that is doubtful.

The bottom line to this is that this administration, particularly the Governor and Secretary Vinyard do not want to see Florida's environmental laws enforced. The Governor's campaign rhetoric four years ago told us what to expect and the data amassed under his administration now make it abundantly clear. Current missives from this administration about needing further

protections are pointless and ring hollow given the results to date. It is long-since time that Secretary Vinyard and FDEP's management be replaced with people who put Florida's environment above the industries and engineering companies that they hope will employ them after they leave the Florida, Department of Environmental Protection. We only hope that there will be enough employees left who are able to pick up the pieces that are left. Florida will need a lot of them.