



Compliance & Enforcement Storage Tank Regulation

Southeast District Storage Tanks Program

presented by

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Environmental Manager

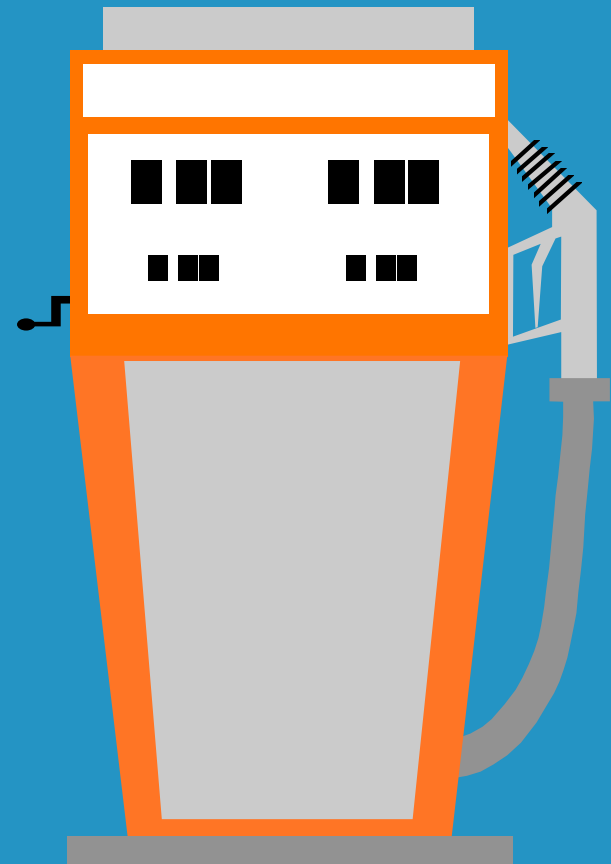
Role of SED

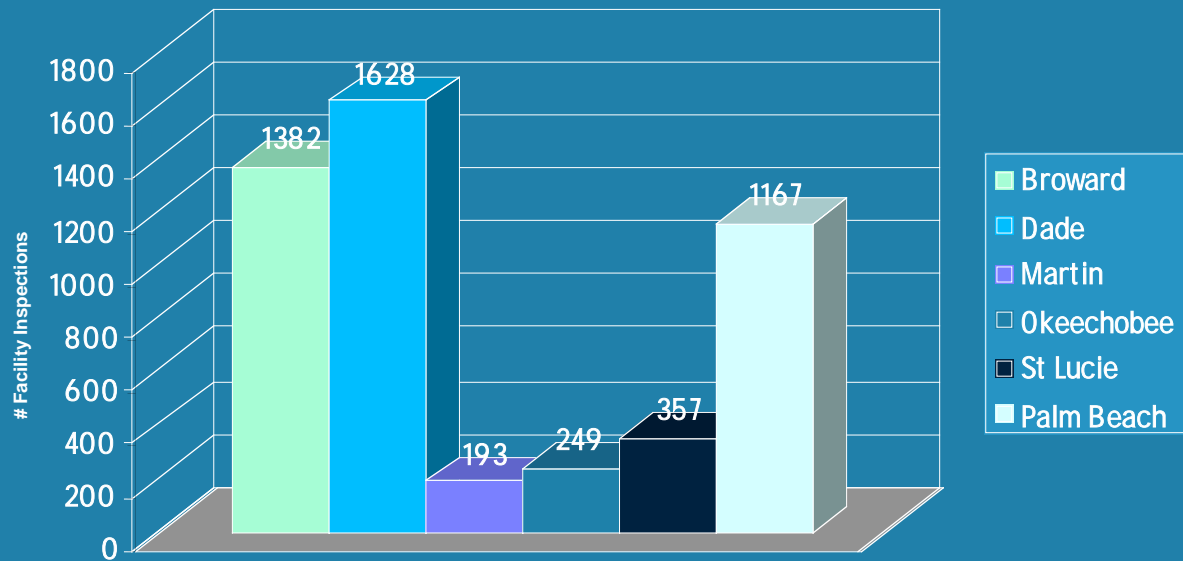
• Enforcement Support:

- Compliance Verification Contracts: Martin, St Lucie, Okeechobee,
- Cleanup Contracts: Martin, St Lucie, Okeechobee

DEP TANK PROGRAM TASKS

- CONTRACT MANAGEMENT
- CLEANUP TRACKING
- COMPLIANCE
- **ENFORCEMENT**





SED DEP CONTRACTED COUNTIES

Storage Tanks Enforcement Priorities

SNC A

Upgrade violations

- USTs not protected from corrosion or upgraded with secondary containment
- ASTs not upgraded with secondary containment
- Piping not upgraded with secondary containment

Release detection violations

- Not provided in accordance with Table RD
- USTs without release detection
- ASTs without release detection

Storage Tanks Enforcement Priorities

SNC B

- Financial responsibility violations
- Discharge reporting violations
- Installation & Performance violations
 - Installed per reference standards
 - Spill containment
 - Dispenser liners
 - Overfill protection
 - Piping sumps
 - Secondary containment
 - Shear valves



⊙ Release detection violations

- Performed monthly
- Meets manufacturer's specifications
- Site suitability determinations
- Vapor monitoring plans
- Interstitial monitoring
- Line leak detectors
- Visual inspections

⊙ System component out of operation until repaired

⊙ Closure violations

- Closure assessment
- Unmaintained tanks

Storage Tanks Home Page

- <http://www.dep.state.fl.us/waste/categories/tanks/>
 - Menu: Compliance & Insurance
 - Approved Equipment List
 - Closure Assessment Guidelines
 - Standard Reports
 - Inspection Forms

Level of Effort

SNC A

- Issue NCL within 10 working days
- Resolve or refer within 5 working days of NCL

SNC B

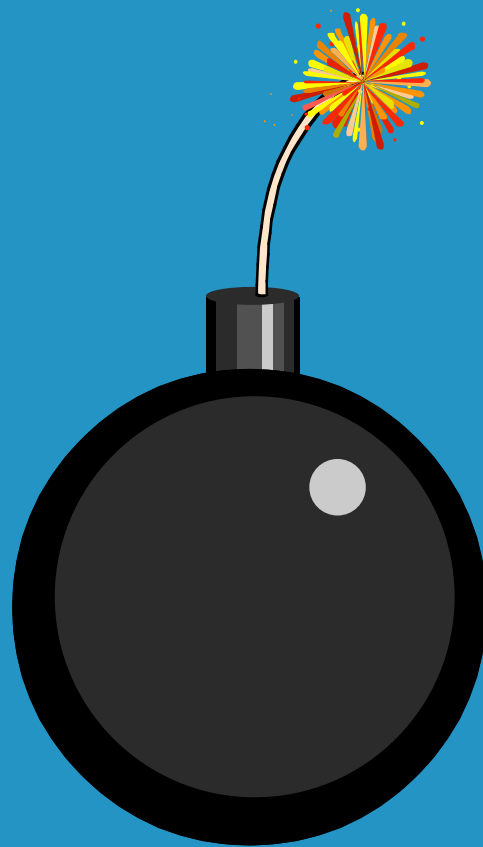
- Issue NCL within 10 working days
- Resolve or refer within 90 days of NCL (Add 90)

MINOR

- Issue NCL within 10 working days
- Pursue resolution for 180 days
- If unresolved, consult with District (SED ?)

Top Ten Violations-SED

(1/1/07-Present)



- ⊙ 1. Release Detection devices not tested annually USTS (312)
- ⊙ 2.. No Financial Responsibility USTS (279)
- ⊙ 3. No Financial Responsibility ASTS (143)
- ⊙ 4. Spill Containment, dispenser liners, piping sumps accessible, water/regulated substances removed (128)
- ⊙ 5. Monitor well construction standards not met (108)
- ⊙ 6. Not repaired a component that has or could cause a discharge (98)
- ⊙ 7. Release Detection not performed once/month (52)
- ⊙ 8. Registration fees not paid (36)
- ⊙ 9. Release detection not monitored once per month ASTs (30)
- ⊙ 10. Release Detection not installed, calibrated or operated per manuf. Specs



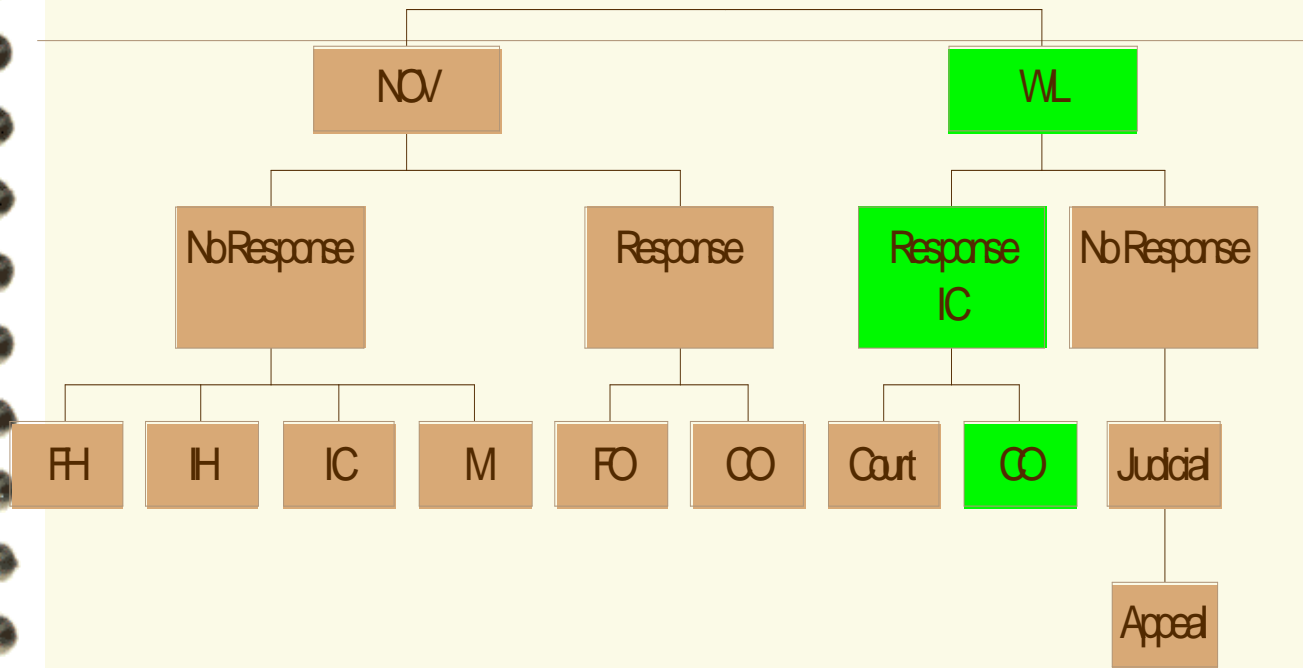
Top SNC A and SNC B Violations SED

- SNC B: No Financial Responsibility for either USTs or ASTs (422)
- SNC A: All Systems not meeting requirements of Table UST (9)

Enforcement Process

- Non-compliance Letter
- Warning Letter
- Enforcement Meeting
- Notice of Violation or Consent Order (if no agreement) (if in agreement)
- Law suit may be filed if continued non-compliance

Flow Chart: Enforcement Process



Environmental Enforcement Reform Act

- ⊗ *Administrative Procedures Revision of Florida Statutes, Chapter 403*
- ⊗ *Clearer, more consistent, more predictable process for litigating penalties.*



ELRA, the new enforcement tool!

- ⊗ On June 15, 2001, the Environmental Litigation Reform Act (ELRA) was signed into law
- ⊗ ELRA led to changes to 403.121 and 403.131, F.S.
- ⊗ Created an administrative penalty authority.
- ⊗ For sites where the penalty does not exceed \$10,000.

Penalties as specified in 403.121(3)(g): (Storage Tanks)

• \$5000

1. Failure to empty a damaged storage tank system to ensure a release does not occur until repairs are completed.
2. Failure to empty a damaged storage tank system when a release has occurred.
3. Failure to timely recover free product or failure to conduct remediation.

• \$3000

1. Failure to timely upgrade.

Penalties as specified in 403.121(3)(g): (Storage Tanks), continued:

• \$2000

1. Failure to conduct or maintain release detection.
2. Failure to timely investigate a suspected release.
3. Fueling an unregistered tank system.
4. Failure to timely assess or remediate contamination.
5. Failure to properly install a storage tank system.

• \$1000

1. Failure to properly operate, maintain, or close a storage tank system.

Storage Tank Program Penalty Assessment Matrix

VIOLATION TYPE	Unresolved	Resolved
Significantly Not in Compliance (MAJOR)-TYPE A	\$5,000-\$10,000	\$2000-\$5000
Significantly Not in Compliance (MODERATE)-TYPE B	\$2000-\$5,000	\$2000-\$5000
Minor Out of Compliance (MINOR)	\$200-\$500	\$100-\$500

Penalties as specified in 403.121(4): (General), :

☸ \$5000

(a) Failure to have Financial Responsibility.

☸ \$4000

(b) Failure to install, maintain or use a required pollution control device.

☸ \$2000

(d) Failure to conduct required monitoring or testing.

☸ \$2000

(d) Failure to conduct release detection.

☸ \$1000

(e) Failure to submit required notification to the Department.

☸ \$500

(f) Failure to maintain required documentation.

Penalties as specified in 403.121(5): (General)

- \$500

1. Failure to comply with any other Rule.

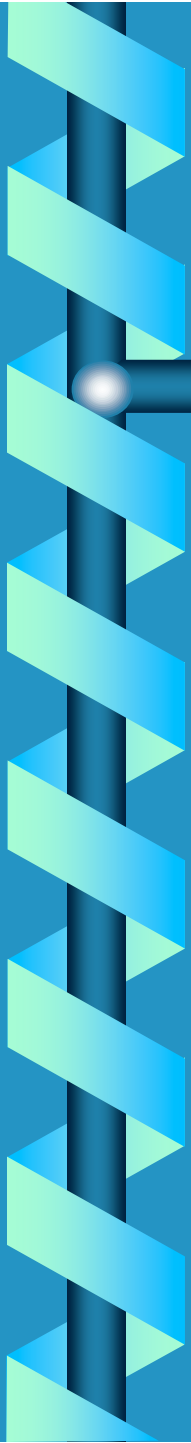
Other Issues that can be considered:

- History of noncompliance.
- Economic benefit.
- Multi-day violations.



Case Referrals for Enforcement

- Initiated by County Inspectors by contract guidelines in LOE (Level of Effort)
- Generated, reviewed and tracked in FIRST
- DEP Oversight of Corrective Actions & Payment of Penalties
- DEP Enforcement Meeting for resolution
- Generally resolved via agreement (SFCO)



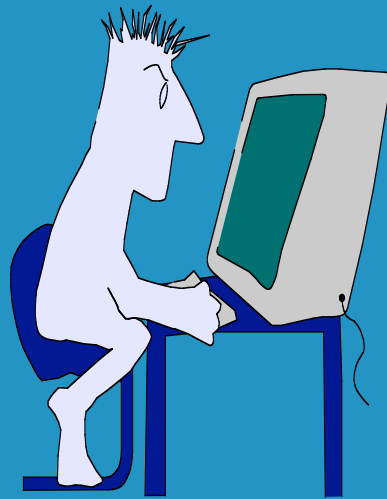
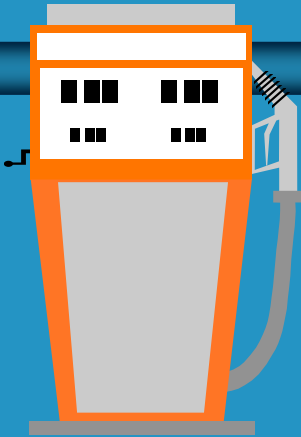
New Penalty Guidelines: Settlement Guidelines for Civil and Administrative Penalties, Effective: July 17, 2007

- New hazardous substance and multi day penalties**
- Recovering economic benefit where practical**
- Supplemental guidance on calculating higher range penalties when chronic or deliberate.**

Note: Tools already existed, but rarely used.

- * Stronger deterrent to help lower # of serious violations!**
- * Change the idea that penalties are cost of doing business!**

Storage Tank Program Website Information



- Storage Tank Regulation Home Page:
<http://www.dep.state.fl.us/waste/categories/tanks>
- Petroleum Cleanup Program:
<http://www.dep.state.fl.us/waste/categories/pcp>
- Online Sunshine: <http://www.leg.state.fl.us>
- EPA Home Page: <http://www.epa.gov/epahome>
- OUST (EPA) Program Home Page:
<http://www.epa.gov/swerust1>
- New England Interstate Water Pollution Control Commission: <http://www.neiwpc.org> ~ for L.U.S.T.line go to publications/newsletters ~
- Department of Environmental Protection:
<http://www.dep.state.fl.us>
- 411 Direct:
http://fcn.state.fl.us/owa_tel/owa/www_tel.public_411
- Division of Waste Management:
<http://www.dep.state.fl.us/waste>
- DEP Office of General Council:
<http://www.dep.state.fl.us/legal>
- Petroleum Equipment Institute Home Page:
<http://www.pei.org>



That's all, folks!