

CHAPTER ONE

DEP REGULATORY ENFORCEMENT ORGANIZATION

1.1 Secretary and Deputy Secretary and Assistant Deputy Secretary for Regulatory Programs

The Department of Environmental Protection involves all levels of the organization in the compliance and enforcement process. The Secretary, Deputy Secretary and Assistant Deputy Secretary for Regulatory Programs oversee the development and implementation of the Department's overall policies, goals, and objectives for the regulatory enforcement and compliance programs. The Secretary's Office monitors the progress of policy implementation through regular meetings with the Division and District Directors (DDM's) and their staff. The Deputy Secretary and Assistant Deputy Secretary for Regulatory Programs oversee the day-to-day implementation of the Department's enforcement policies, goals, and objectives. The Secretary, Deputy Secretary or Assistant Deputy Secretary for Regulatory Programs are occasionally involved in the disposition of select enforcement cases. The Secretary, and on occasion the Deputy Secretary, with input from the Office of General Counsel, reviews and signs final orders after receiving a recommended order from an Administrative Law Judge.

1.2 Division Directors

The program-specific enforcement activities conducted at the District level are overseen from Tallahassee by the Division Directors for the Air Resource Management, Water Resource Management, Environmental Assessment and Restoration and Waste Management Divisions. The Division Directors and Deputy Division Directors in consultation with the District Directors and their respective Assistant District Directors are responsible for developing the Department-wide enforcement policies and objectives for the programs within their respective divisions. Staff in each division are responsible for various division-level enforcement activities such as

managing enforcement data, training, coordinating inter-governmental actions, formulating proposals for program policies, developing priorities and procedures, and reviewing district-level activities for consistency with overall program enforcement objectives.

1.3 Districts

The vast majority of Department regulatory compliance and enforcement activities occur in the six Districts, with main offices located in Pensacola (Northwest District), Tampa (Southwest District), Fort Myers (South District), Jacksonville (Northeast District), Orlando (Central District), and West Palm Beach (Southeast District). Each District may have one or more branch or satellite offices.

The Districts have teams of compliance and enforcement staff headed up by the Assistant District Directors that handle compliance and enforcement for the regulatory programs and for proprietary enforcement matters. The District compliance and enforcement staff have the entire spectrum of the Department's civil and administrative compliance and enforcement tools at their disposal. They educate regulated parties and the public, provide compliance assistance, inspect regulated facilities and sites, investigate complaints, and initiate administrative and civil enforcement actions. The Districts also operate Public Outreach and Ombudsmen programs to work with communities to identify and resolve environmental issues.

The District Directors have the authority and responsibility to direct all District compliance and enforcement activities. The District Directors may delegate certain responsibilities to lower management in the District with the approval of the Secretary.

Coordination and consistency of compliance and enforcement actions among the Districts and Divisions is critical. This coordination and consistency is maintained in several ways, which are described below:

- Guidance and direction received from outside of the Department; e.g., from the U.S. Environmental Protection Agency or the Governor's Office.
- Department and programmatic policies and guidance originating in the Office of The Secretary, Office of General Counsel, programmatic Divisions, or the Districts.
- Group problem-solving and information exchange among the DDMs, Division Directors, program administrators, programmatic compliance and enforcement supervisors, and staff.
- Program-specific training such as Water Facility inspector training sessions that foster open communication among all levels of the Department, particularly among the Districts.

Leaders and staff members are critical to the Department's successful compliance and enforcement program. The responsibilities of some key positions are described in the next section.

1.4 Duties and Responsibilities of District Staff

The majority of the Department's enforcement and compliance activities are undertaken at the District level with support from OGC. The following describes the duties and responsibilities of the DDMs and staff.

District Managers

The District Directors are responsible for overseeing the day-to-day implementation of Department enforcement directive and program specific guidelines through the work of the Assistant District Directors and staff. DDMs decide whether to pursue a particular violation, what relief should be sought, and the terms of any settlement reached. Decisions are usually made after input from District staff and OGC and in certain cases after consultation with a

Division Director, Deputy Secretary and/or Assistant Deputy Secretary of Regulatory or the Office of the Secretary.

The District Directors authorize warning letters, consent orders, notices of violation, and case reports in all cases unless pre-empted by the Secretary or delegated by the DDM to the Assistant District Directors. DDMs may also review and sign default final orders for notices of violation issued by the District, or conduct or participate in informal conferences with responsible parties.

Assistant District Directors

Assistant District Directors directly oversee the enforcement activities in all programs by generally supervising the overall day-to-day activities of their enforcement staff. Assistant District Directors review non-compliance and warning letters, Notices of violation and certain consent orders (reviewed by OGC) for final approval before execution by the District Directors. Assistant District Directors also participate in informal conferences and settlement negotiations with responsible parties.

Environmental Managers

These positions supervise and/or perform the investigation and documentation of violations, preparation of case reports, and assistance as witnesses or consultants in the prosecution of administrative or judicial cases.

Compliance Assurance and Enforcement Staff

District compliance assurance and enforcement staff are primarily responsible for investigating and documenting violations, participating in informal conferences with responsible parties, entering enforcement data into the Compliance Enforcement Tracking System (COMET), and monitoring compliance with consent orders, final orders, and final judgments.

District compliance assurance and enforcement staff also prepare notices of violation, consent orders, and compliance assistance and warning letters for review by their supervisors, Assistant District Directors, District Directors, and OGC, when appropriate.

1.5 Office of General Counsel (OGC)

The Office of General Counsel provides legal counsel and representation in the Department's administration of its regulatory and proprietary enforcement activities. The General Counsel reviews and approves requests for authorization to sue, and the Senior Deputy General Counsel reviews penalty authorization memos. The Deputy General Counsel for Litigation handles some enforcement cases, and is responsible for the day to day activities of the Department's enforcement attorneys.

1.5.1 Litigation Section of the Office of General Counsel (OGC)

The litigation section of the OGC represents the Department in all regulatory and proprietary legal enforcement matters. The litigation attorneys' duties may include advising clients (Department employees) on enforcement legal matters; writing pleadings, legal opinions, and briefs; negotiating cases; training district enforcement staff on legal procedures; and representing the Department in enforcement litigation in administrative hearings, state courts, and federal courts.

A Deputy General Counsel for Litigation is directly responsible to the General Counsel and manages the litigation section of OGC in accordance with the requests of the client. The Deputy General Counsel directly supervises, with the assistance of two Assistant Deputy General Counsels and other senior staff, the attorneys, paralegals, and administrative assistants in the Litigation Section. The Deputy General Counsel also handles individual litigation cases.

1.6 Other Governmental Entities

The Department also works with other governmental entities in enforcing the state's environmental laws. The Department's relationship with these entities will depend on the Department's agreement with them and the nature of the case. These agreements can include local program agreements, delegations, cooperative agreements, or contracts.