

Environmental Enforcement

Septage and Landspreading

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Why?

- Protect the Environment





Why?

- Protect Human Health





Why?

- Level Playing Field

Total amount of unreported waste=	492600
Field is approved for 741000 gallons	
2015 Annual Report listed 445000 gallons	
2015 Holding Tank Waste in Records	114500
2015 Septic Tank Waste in Records	149200
2015 Total Waste in Records	263700
2015 Waste in Records and Reported	140000

Why?

- Level Playing Field

Lime Purchased: 2013 & 2014							13,950 lbs
			Reported Land Applied		typ lime needs (lb/1000 gal)		Lime Req'd
2014	ST	990	941139 gal		32		30,116 lbs
	HT	995	956438 gal		16		15,303 lbs
	Grease	997	13875 gal		50		694 lbs
2015	ST	990	837538 gal		32		26,801 lbs
	HT	995	857553 gal		16		13,721 lbs
	Grease	997	20750 gal		50		1,038 lbs
						Σ	87,673 min. lbs req'd
						Δ	73,723 Diff in lbs.
			Estimated Cost Savings				\$9.00 50lb bag
			due to Lime Purchases only				\$13,270.10
			Other savings as well				
			pH testing, labor, fuel, etc				

How?

- We talked about the why, so now's let's talk about how we do enforcement.





Septage business audits

- Can be regularly scheduled or triggered by complaints/observed violations
- Site visit to business to review:
 - Truck & equipment requirements
 - Annual reports
 - Log book records
 - Lime receipts (land app only)
 - pH meter calibration log (land app only)
 - Site approvals – maps & methods
 - Potential field review/observation



More than Compliance Audits

- Complaint Response
 - Hotline
 - Direct to Staff
- Compliance Checks
 - By County
 - By Warden Team
- DNR Septage Staff Requests
 - Discrepancies in records



Stepped Enforcement

- **A planned series of actions that expand and intensify as the case goes on**
 - **To increase the motivation toward compliance**
- **Starts informally but becomes more formal and legal as the steps progress**
- **Tailored to fit the circumstances of each case**



Stepped Enforcement

Prosecution / Citation

Referral to DOJ/DA/EPA

Admin. / Consent Order

Enforcement Conference

Notice of Violation

Request for Secondary Enforcement

Notice of Noncompliance

Informal Contacts



What enforcement options do we have?

- Septage Business Audit Summary Letter
- NON
- NOV/Closeout
- NOV/Citation/Closeout
- NOV/EC/Closeout
- NOV/EC/Citation
- NOV/EC/Citation/Revocation
- NOV/EC/Citation/Revocation/Referral
- NOV/EC/Referral
- NOV/EC/Revocation
- NOV/EC/Referral/Revocation

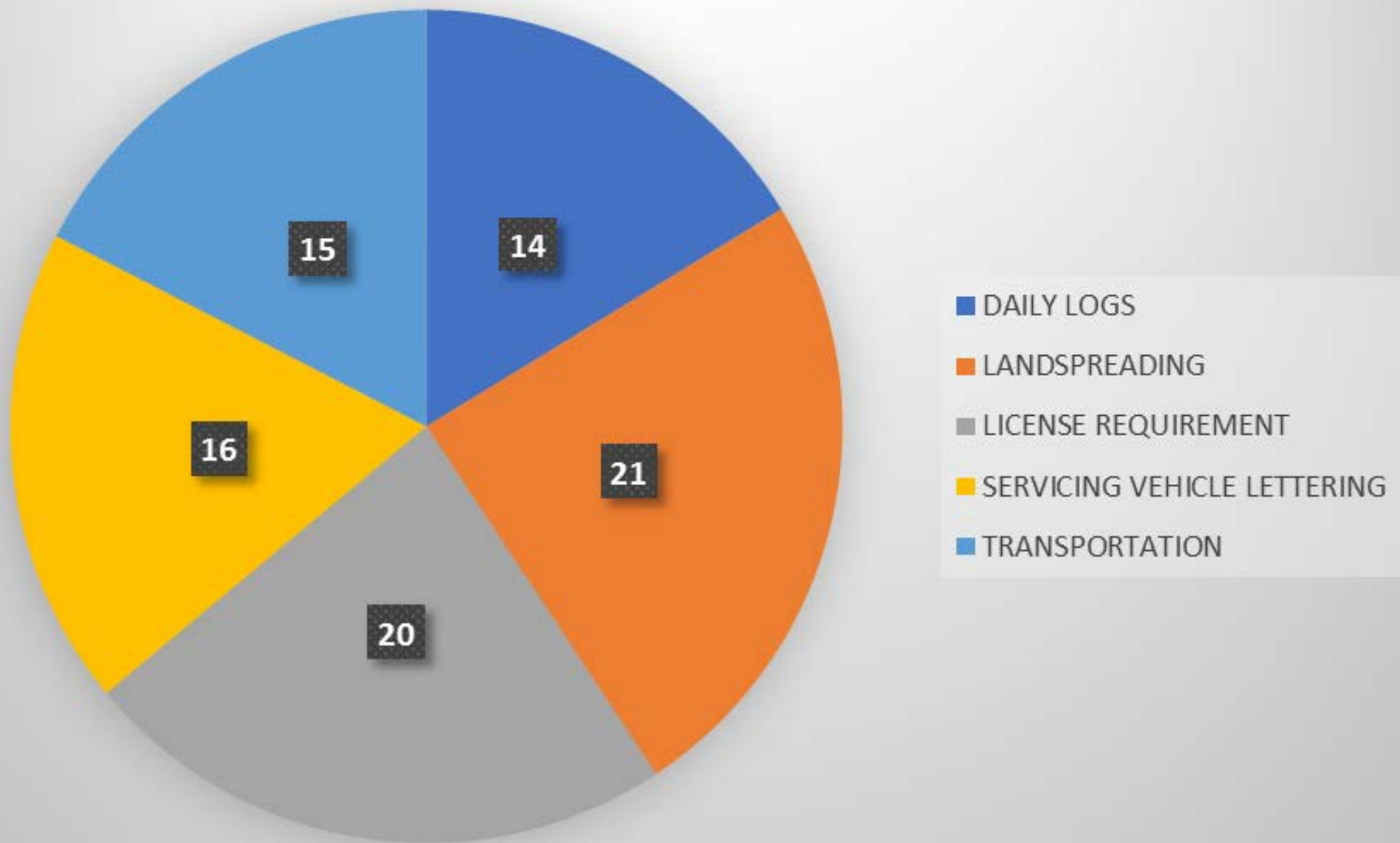


2017 Enforcement Numbers

Cases Accepted	17
Notice of Violation	19
Enforcement Conference	16
Citation Cases	21
Orders	1
Referrals to DOJ	0

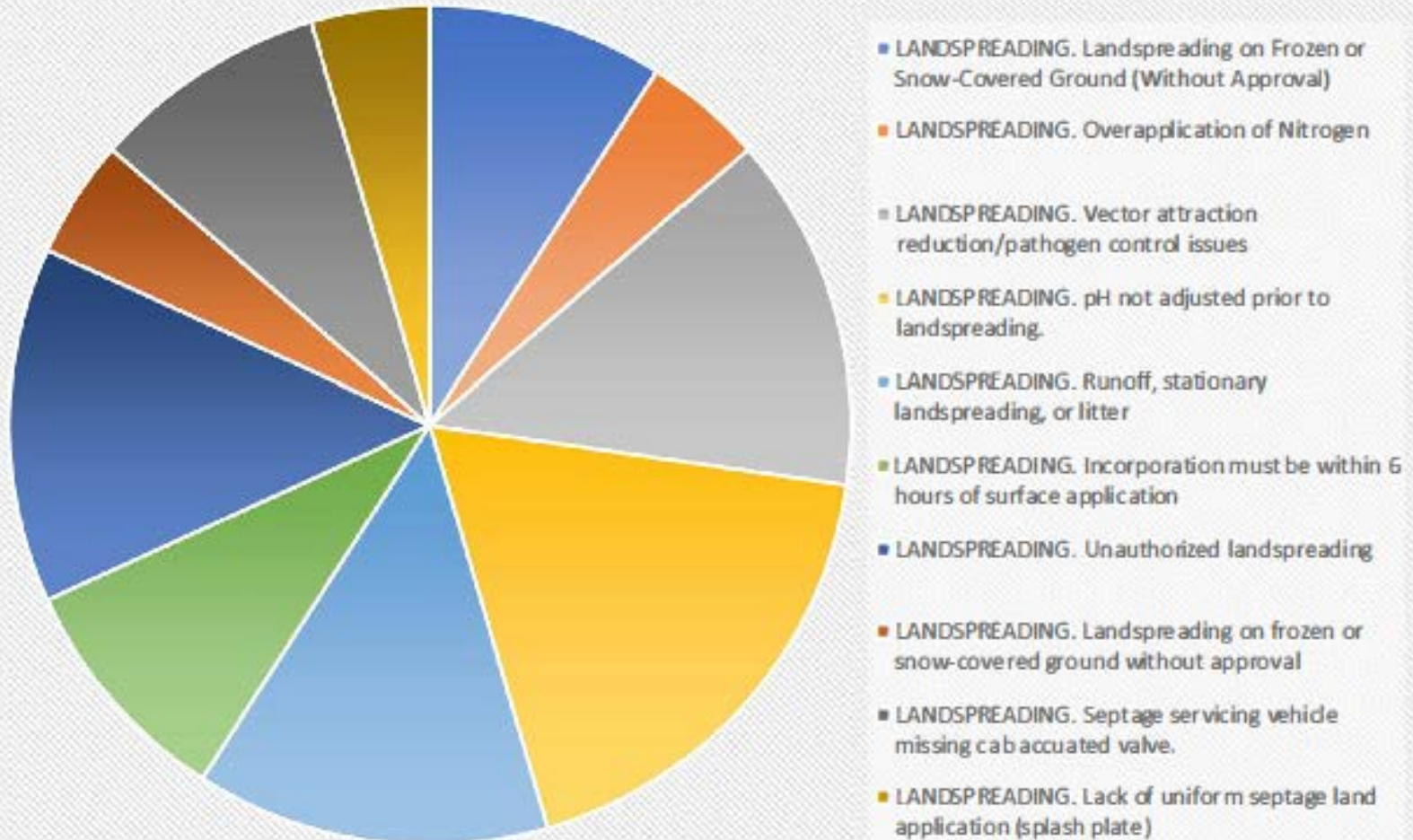
Summary

SUMMARY OF VIOLATIONS ALLEGED



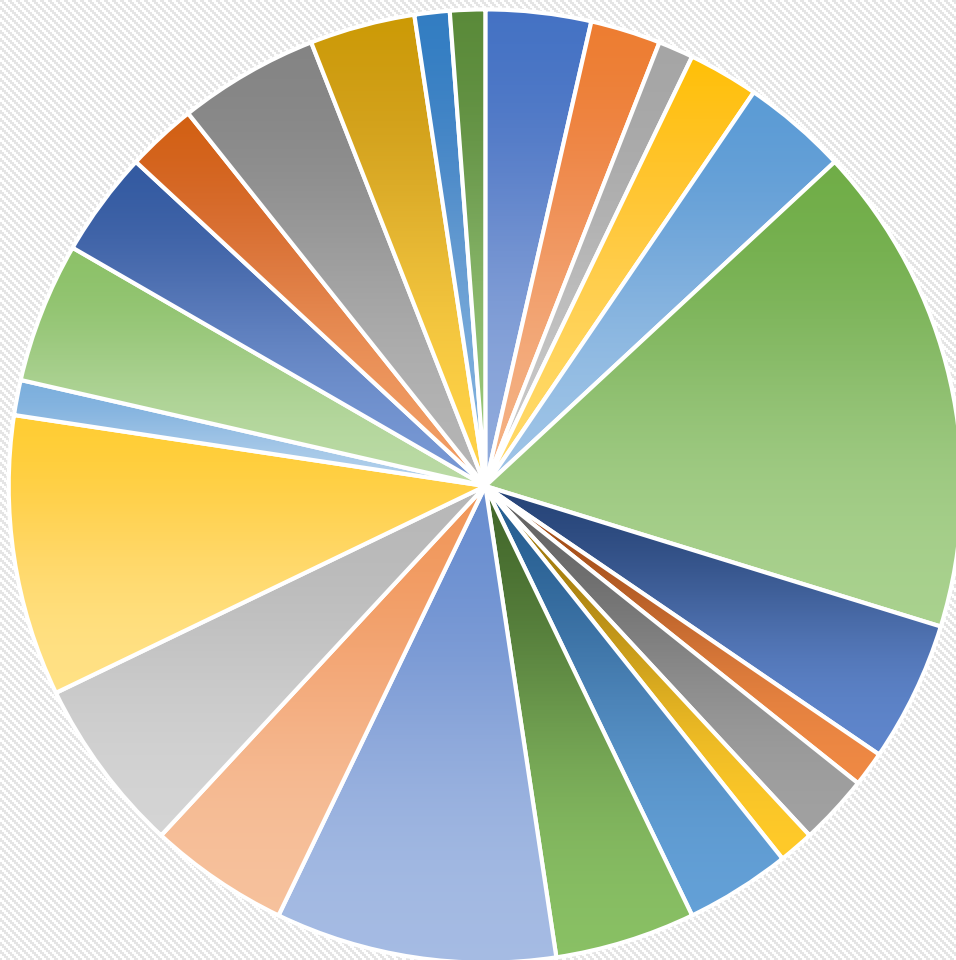
Summary: Landspreading

Landspreading Violations Alleged



Summary: License Requirements

License Requirement Violations Alleged



- LICENSE REQUIREMENTS. Septage business operating without valid septage business license.
- LANDSPREADING. Landspreading on Frozen or Snow-Covered Ground (Without Approval)
- LANDSPREADING. Overapplication of Nitrogen
- LICENSE REQUIREMENTS. Missing Annual Reports
- LANDSPREADING. Vector attraction reduction/pathogen control issues
- LICENSE REQUIREMENTS. Daily Service Logs
- LICENSE REQUIREMENTS. Missing OIC
- TRANSPORT. Transporting septage in portable restroom
- LICENSE REQUIREMENTS. Missing Annual Reports
- LICENSE REQUIREMENTS. Septage business operating without valid septage business license.
- LICENSE REQUIREMENTS. Servicing septage without proper certification
- LICENSE REQUIREMENTS. Missing business license sticker
- LICENSE REQUIREMENTS. Missing lettering on side of septage servicing vehicle
- LICENSE REQUIREMENTS. Missing capacity of septage servicing vehicle
- TRANSPORT. Hoses must be stored in a way to reduce spillage.
- LICENSE REQUIREMENTS. Missing/Incomplete Spill Response Plan
- LICENSE REQUIREMENTS. Servicing wastes other than septage without vehicle rinse-out



Nonrenewals

- NR 113.05(3)(d), Wis. Adm. Code: The department may not issue or renew a license for a business which has violations, as summarized in the following table, for the following; ss. NR 113.04 (1) and (2), 113.05 (3), 113.06 (1), (2) and (3), 113.07 (1) and (3), 113.09, 113.11 (1) and (3), 113.12 and s. 29.601, Stats., during the last license period. The department may not reissue a license for a period of at least one year after revocation.
- See PDF for table PDF

Number of vehicle stickers issued to the business	Number of violations that result in the nonrenewal of the business license
1 to 3	6
4 to 9	12
Greater than 9	18



Nonrenewals/Revocations

NR 114.24 Sanctions.

- (1) The department shall revoke an operator's certification and may not issue or renew a certificate for septage servicing for a period of 2 years if an operator has accumulated 6 or more violations of chs. NR 113, 114 or s. 29.601, Stats., in any 3 year certification period. Enforcement may be taken against the operator, the operator-in-charge responsible for the operator, or both. Each violation shall count against the business for purposes of license renewal as specified in s. NR 113.05 (3).
- (2) The department may, on its own motion, make investigations and conduct hearings and may, on its own motion or on a signed and verified written complaint, revoke, suspend, refuse to issue, or refuse to renew any operator's certificate if the department finds that the holder of or applicant for a certificate does any of the following:
 - (a) Uses deception or any form of dishonesty when writing examinations, or removes examination material from an examination site.
 - (b) Demonstrates incompetence to perform septage servicing as required by this chapter.
 - (c) Falsifies any required applications, operating records or any other records submitted to the department.



Suspend/Revoke

- 281.48(5), Wis. Stats.:

(5) AUTHORITY TO SUSPEND OR REVOKE LICENSES.

- (a)** The department may and upon written complaint shall make investigations and conduct hearings and may suspend or revoke any license if the department finds that the licensee has:
2. Made a material misstatement in the application for license or any application for a renewal thereof.
 3. Demonstrated incompetency in conducting servicing.
 4. Violated any provisions of this section or any rule prescribed by the department or falsified information on inspection forms under s. 145.20 (5).
- (b)** The department may not reissue a license for a period of one year after revocation under par. (a).
- (c)** The department may promulgate by rule a procedure for the temporary suspension of a license.



Case Study 1-Revocation

- Business license issued in 1997
- Between 1998-2002, 6 septage citations issued for failure to lime septage, ponding, unapproved site, and other unlawful disposal violations.



Case Study 1

- 2002-United States Environmental Protection Agency (EPA) submits an information request to business.
- 2003-EPA issues notice of intent to file a civil administrative complaint
- 2005-EPA issues Consent Agreement and Final Order with penalty of \$1,000



Case Study 1

- June 27, 2013-DNR issues Notice of Violation (NOV)
 - Business license sticker
 - Fail to display license number
 - Fail to display tank capacity
 - Fail to keep proper records
- July 19, 2013-Enforcement Conference
 - Three citations issued



Case Study 1



Case Study 1

NAME [Redacted] [Redacted] DATE 3/12/14
 ADDRESS _____
 DRIVER [Redacted] CHARGE CASH ODP _____
 RECEIVED ON ACCOUNT CK# _____ \$ _____
 SEPTIC HOLDING MOUND OTHER _____
 PICK UP TIME: 11:00 DISPOSAL TIME: _____
 DUMP SITE [Redacted] COUNTY: [Redacted]
 Tank(s) appear to be in good condition. YES NO
 All tank access openings (manholes) were locked or below grade. YES NO
 Discharging or ponding on ground surface. YES NO
 Comments: _____

LOADS	GALLONS	AMOUNT
<u>1</u>	<u>500</u>	<u>\$ 150</u>
EXTRA HOSE	\$5.00 PER HOSE	
TEMPORARY DISPOSAL FEE		
FUEL SURCHARGE		
TOTAL DUE		<u>150</u>

Terms: Payment Required Same Day Of Service. If payment does not accompany service you will be billed full amount. Payments received after 5 days will be charged a \$5.00 late fee.
 PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE
 Rural Daylin Service is not responsible for damages to driveways.
 _____ PORTION WITH PAYMENT



Case Study 1

- Ongoing complaints
- Observe spreading on same unapproved location
 - Dairy waste
 - Incomplete records
 - Unapproved winter disposal
- Meanwhile, previous citations remain unpaid...



Case Study 1

- April 27, 2015-NOV for failure to keep adequate records, failure to have splash plate, disposal of septage to unapproved site.
- May 14, 2015 Enforcement Conference
 - Revocation of business license and operator certification



Case Study 1

Under s. 281.48(5), Stats., the Department has authority to suspend or revoke a Septage Servicing Business License for any violation of ch. NR 113, Wis. Adm. Code or demonstrated incompetency in conducting servicing.



Case Study 1

ORDER

It is therefore ordered that:

1. The Septage Servicing Business License No. [REDACTED] is suspended for one year.
2. The Master Operator Certification No. [REDACTED] is suspended for two years.
3. This Order is effective on the date of signature below.

Dated at Madison, Wisconsin, this 22nd day of July, 2015.



Case Study 1

- Business filed a petition for a contested case hearing
- Petition denied

DECISION

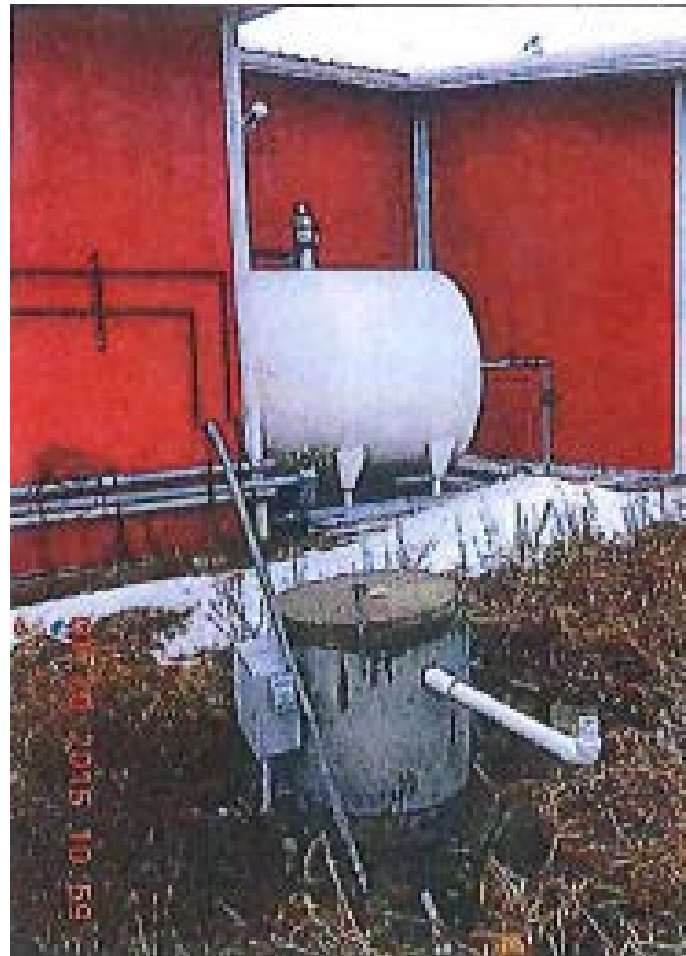
Based on a review of the allegations and issues raised in the petition, the petition for a contested case hearing is denied for failing to comply with the requirements of § 227.42(1), Wis. Stats. Specifically, the request does not allege a “dispute of material fact.” Wis. Stats. § 227.42(1)(d). The statute provides a person the right to a hearing only if “[t]here is a dispute of material fact.” Wis. Stats. § 227.42(1)(d). Whether the citations referenced in your Petition were properly issued, upheld, or adjudicated is an issue that should have been raised in the appropriate jurisdiction upon conclusion of the relevant proceedings and, therefore cannot be a dispute of material fact subject to the jurisdiction of the Department.



Case Study 2-Landspreading

- Wisconsin Pollution Discharge Elimination System (WPDES) permitted facility
- Granted facility approval to land apply liquid dairy process wastes on approved spreading sites
 - Must meet specific hydraulic rates
 - Must be sampled prior to application
 - Must keep records and report annually

Case Study 2



Case Study 2



Case Study 2





Case Study 2

- January 2015 DNR inspection
 - For several years, did not sample and analyze the applied wastewater
 - For several years, did not follow approved land management plan
 - Modified operations and wastewater stream without prior approvals
 - Failed to submit annual reports
 - Failed to comply with permit's landspreading site restrictions



Case Study 2

- 2008 Land Application Management Plan-last plan on file
- Facility states this is the plan they follow
 - Unable to produce copy of plan during inspection
- Inspection reveals application through hose, not irrigator, which has been broken for some time
- Facility had not sampled since January 2012
- No annual reports from 2012-2015
- No daily land application logs
- Impossible to determine land application loading rates on fields
- Should be determining Total Kjeldahl Nitrogen and Chloride and Phosphorous loading rates



Case Study 2

- January 27, 2015 Notice of Noncompliance (NON)
 - Facility does not respond to deadlines in NON
- July 2015 Notice of Violation (NOV)
- September 2015 Enforcement Conference (EC)



Case Study 2

- October 2015-hires consultant
- Institutes sampling and reporting measures
- October 2016 follow-up inspection
- 2016 inspection-facility still not keeping daily application logs

Case Study 2



Case Study 2





Case Study 2

- November 2016 NOV
- November 2016 EC



Case Study 2

- Decision-referral to Department of Justice 12/30/2016
- Outcome-\$50,000 order for judgement 08/7/2017

What can we all do?





Thank you!

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