

# **RESIDENT INSPECTOR PROGRAM**

## **2010 ANNUAL REPORT**

Presented to

The Environmental Review Commission

October 1, 2010



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*Hazardous Waste Section*  
*Resident Inspector Program*

*North Carolina Department of Environment and Natural Resources*

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## ***RESIDENT INSPECTOR PROGRAM 2010 ANNUAL REPORT***

This annual report is presented to the Environmental Review Commission pursuant to Article 9, G.S. 130A 295.02(m). The report covers the activities of the Resident Inspector Program from July 1, 2009 through June 30, 2010.

### ***I. OVERVIEW***

The Resident Inspector Program has been operating for more than 19 years in the North Carolina Department of Environment and Natural Resources' (NCDENR) Division of Waste Management. This program monitors all aspects of the commercial hazardous waste facilities in North Carolina and assures compliance with all laws and rules administered by the NCDENR. It may also enforce laws or rules administered by any other state agency through a memorandum of agreement.

The Resident Inspector Program was established "... to enhance the ability of the department to protect the public health and the environment by providing the department with the authority and resources necessary to maintain a rigorous inspection and enforcement program at commercial hazardous waste facilities" [G.S. 130A-295.02(f)]. Under the program, commercial facilities, which receive and process a wide variety of hazardous waste from large quantity, small quantity and conditionally exempt small quantity generators, are subject to an inspection frequency of two, four or six times per month. This level of inspection presence helps to ensure a high compliance rate at these facilities, where the management of hazardous waste is their primary business.

### ***II. PROGRAM STAFFING***

The Resident Inspector Program resides within the Hazardous Waste Section's Compliance Branch. For the fiscal year 2009-2010, the program was comprised of two resident inspectors, one administrative assistant, and one (half-time) program supervisor and requires the assistance of three part-time Compliance Branch hazardous waste inspectors (one third each to equal one inspector). (See Attachment 1 for the Organizational Chart)

During the past 19 years, the program's staffing levels have fallen from a high of five inspectors, one supervisor and one office assistant in 1995 to the present program-supported staff. Only with the assistance of the Compliance Branch personnel has the program been able to complete the minimum program inspection requirements (see Parts IV and V of this Report).

### ***III. THE RESIDENT INSPECTOR***

Most state agencies perform their compliance monitoring inspections as required through their specific respective regulations. The Resident Inspector Program, however, is unique in that its inspections use a multimedia approach. This approach covers all regulatory responsibilities for which DENR is authorized, such as hazardous waste management and treatment requirements, workplace safety, air emissions requirements, wastewater treatment and discharge requirements.

There are inherent overlaps of DENR's regulatory requirements with regulations administered by other departments. Two examples include the North Carolina-adopted federal regulations enforcing the

Department of Labor's Occupational Safety & Health Act and the Department of Transportation's hazardous materials transportation regulations. Deviations from these regulations could adversely affect public health and the environment, as well as a facility's compliance with air, water or hazardous waste management regulations. Resident inspectors also evaluate the subject facilities for potential violations in these other regulatory areas, and when necessary, they make recommendations to the facilities and/or make referrals to the authorized agency or agencies.

#### ***IV. COMMERCIAL HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL FACILITIES***

To be subject to oversight by the Resident Inspector Program, the facility must be a commercial hazardous waste facility. The term "commercial," as it relates to a hazardous waste facility, is defined as a facility "... that accepts hazardous waste from the general public or another person for a fee" [G.S. 130A-290(a)(3)]. During the past 18 years, the number of "special purpose" commercial hazardous waste treatment, storage and disposal facilities (CTSDF) has diminished from 13 (twelve permitted and one "interim status") to 10 facilities under the jurisdiction of the Resident Inspector Program.

#### ***V. FACILITY CATEGORY RANKINGS***

The frequency of the inspections at each facility is dependent upon its qualification as a "special purpose" commercial hazardous waste facility and the category ranking assigned to it, which is based on such factors as the capacity of the facility, the nature of the hazardous waste and the type of treatment being performed. On June 26, 2007, House Bill 36 was signed into law as Session Law 2007-107, amending SECTION 1.1(a) Part 2 of Article 9 of Chapter 130A of the General Statutes. As a portion of this law, an additional factor was added to the "ranking" criteria, which takes into account the changes in sensitive land use surrounding the commercial facilities. Currently, all existing commercial hazardous waste treatment, storage and disposal facilities in North Carolina qualify as "special purpose" facilities. Each commercial hazardous waste treatment, storage and disposal facility's rank is reviewed annually to determine its required inspection fees and minimum inspection frequency as required under 15A NCAC 13A .0116 and 7. Current designated categories of 1, 2 or 3 correspond to a minimum inspection frequency of two, four or six times per month, respectively. Changes to incorporate the sensitive land use in these rules have been filed and will impact the ranking calculation necessitating the addition of categories 4 and 5 which, in turn, would specify minimum inspection frequencies of eight and ten times per month, respectively. The Resident Inspector Program's minimum required number of inspections has averaged approximately 470 and is currently 456. (See Attachment 2 for current category rankings and primary waste treatment activities for these facilities.) Changes in facility rankings due to the rule change are expected to require an additional 72 inspections per year.

#### ***VI. FUNDING & EXPENSES***

The Resident Inspector Program is intended to be funded solely by fees collected from the commercial hazardous waste facilities [N.C. G.S. 130A-295.02(h)]. These fees are based upon each facility's category ranking and volume (tons) of hazardous waste received. The category ranking system is designed to be an indirect measure of the costs associated with oversight at each commercial hazardous waste facility. These legislated fees have not increased in the past 16 years, while program operating expenses have climbed steadily. In the current significant economic downturn, the commercial hazardous waste facilities' total received tonnage has again decreased this year by approximately 20 percent. The Clean Harbors facility (which in recent years accounted for more than half the hazardous waste tonnage received in North Carolina) had an additional tonnage decrease of 43 percent this year due to the curtailing of all but some

transfer operations at this facility. Due to a change in the formulation of its solvent product, the four Safety Kleen facilities have reduced their received hazardous waste (spent solvent) tonnage by 18 percent for this fiscal year and are projected to decrease an additional 55 to 65 percent for FY 2010-2011. Although revenue from the tonnage received by the facilities has dropped, their facility rankings remain unchanged and therefore still have the same level of inspection requirements under the program. Resident Inspector Program operating expenses have principally increased due to increased fuel costs for transportation. It remains necessary for the Resident Inspector Program supervisor to conduct a portion of the required inspections and receive assistance from other Compliance Branch staff to meet program requirements. The Resident Inspector Program is reviewing options to resolve these staffing issues.

For FY 2009-2010, the budget was developed using anticipated revenues from Resident Inspector Program fees of approximately \$294,000. (A detailed list of the individual tonnages received by each of the commercial hazardous waste facilities in FY 2009-2010 can be found in Attachment 3.) The actual Resident Inspector Program receipts in FY 2009-2010 totaled \$237,000, (a budget shortfall of \$42,000) and the Resident Inspector Program expenses were held to \$231,000 only through assistance provided by the Compliance Branch supplying equipment and staff that are funded by other sources of revenue.

An additional change filed to rule 15A NCAC 13A .0117 would increase the Resident Inspector Program fees by 50 percent (to be implemented over three years, starting with amendment of this rule, which is projected for January 1, 2011). With the additional fees the program will be able to adequately staff for the projected minimum number of inspections.

## ***VII. INSPECTION GOALS & ACHIEVEMENT***

During FY 2009-2010, the Resident Inspector Program staff conducted a total of 464 inspections, exceeding the required minimum of 456 inspections. These inspections included routine site inspections as well as specific inspections to monitor cleanup activity and other inspections to assist in improving compliance performance by other facilities. The additional inspections have been prompted by various changes at the commercial facilities, due to the economic downturn, and for research data gathering for projected changes with state regulations. (A detailed list of the inspections performed by program staff at the commercial hazardous waste facilities in FY 2009-2010 can be found in Attachment 4.)

## ***VIII. ENFORCEMENT & COMPLIANCE***

### **Enforcement Activities**

Although the implementation of Session Law 2007-107 has placed additional burden on the commercial hazardous waste facilities, they continue to be cooperative and, in general, have rapidly responded with corrective action to meet the new requirements and with corrective action when any deficiencies or violations are found or recommendations made. If facilities fail to timely and consistently comply with the regulations, a more severe enforcement action is taken, such as a notice of violation or a compliance order with administrative penalty.

During the past fiscal year, resident inspectors issued two notices of violation to commercial facilities (see Attachment 5 for current and historic enforcement tracking). The overall compliance rate for the commercial facilities is 99.5 percent.

### **Compliance Assistance Activities**

Compliance assistance activities offered under this program are conducted routinely during the inspectors' site visits. Since the inspectors visit these facilities at least semi-monthly, they have the opportunity to

become very familiar with the operations of each facility and may offer compliance assistance in several ways. Inspectors identify trouble areas observed at each facility and work with that facility towards a permanent solution. If a facility begins to have compliance problems, the inspectors increase scrutiny of these problem areas during each visit to keep the facility's compliance awareness high. Inspectors communicate frequently with facility management and front-line workers to clarify the permit and current regulatory requirements, the reasons for the requirements, and the potential risks incurred for noncompliance.

If a facility repeats a violation, the primary inspector and program supervisor will set up an informal enforcement conference with the local facility compliance managers, the plant manager, and, if applicable, the corporate compliance officers. During this conference Compliance Branch and facility personnel discuss the facility's current compliance issues and work together to find a permanent solution (which may include formal enforcement).

## ***IX. PUBLIC MEETINGS / HEARINGS & PERMIT RENEWALS***

The Resident Inspector Program staff continues to observe and assist/support public meetings/hearings that involve the operation of and proposed modifications to the commercial hazardous waste facilities in this state. A continuing program goal is for the staff to be fully aware of public concerns and to be conscious of these concerns during oversight efforts at commercial hazardous waste facilities. Program staff members continue to provide assistance in facility compliance audits by generators, consultants, other agencies and the public.

The Resident Inspector Program staff continues to work with the Facility Management Branch (the permitting arm of the Hazardous Waste Section) and each commercial hazardous waste facility during the permit renewal/application process, other compliance reviews, such as closure of a permitted unit (storage tank, processing area, container storage area, etc.) and implementation of Session Law 2007-107. The purpose of this joint effort is to provide clarification, address areas of concern, and assist in ensuring the permit application accurately reflects the facility as it is operated.

## ***X. SUMMARY***

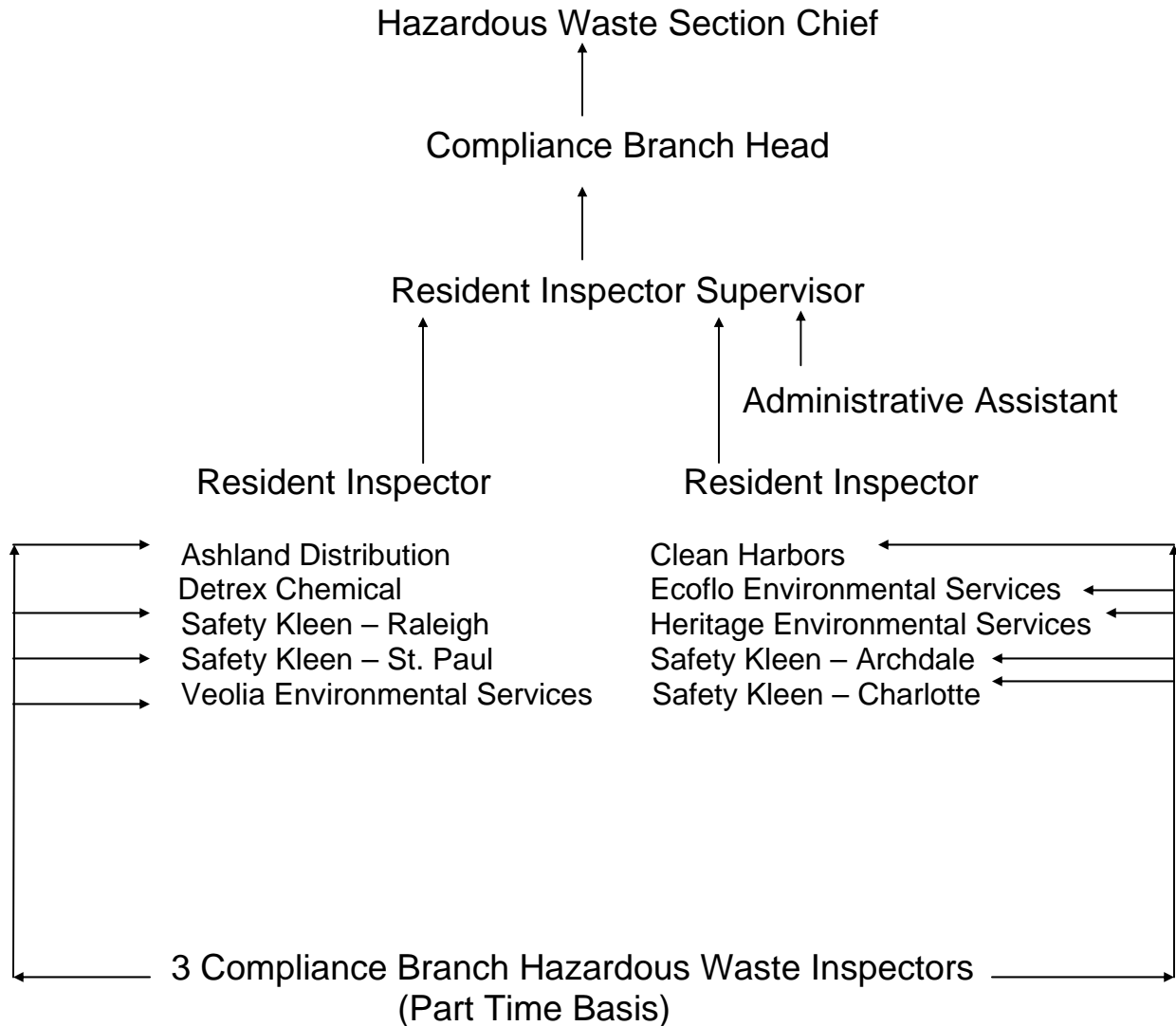
At the conclusion of the program's 19<sup>th</sup> year, the Resident Inspector Program staff continues to provide rigorous oversight of the commercial hazardous waste facilities in this state. This is reflected in the facilities' overall compliance rate of 99.5 percent. The staff is constantly seeking new approaches and initiatives to improve the department's ability to protect public health and the environment. Additionally, the Resident Inspector Program staff worked with the commercial facilities to maintain compliance in light of the economic downturn. For the commercial TSD facilities, the results of the current weak economy have been operations with typically less staff, marginally trained employees and organizational and process procedural changes; all of which can lead to noncompliance. Although funding issues are presenting significant implementation challenges, the Resident Inspector Program staff will continue to aim for a high level of compliance at the commercial hazardous waste facilities in North Carolina.

## **ATTACHMENTS**



**ATTACHMENT 1  
RESIDENT INSPECTOR PROGRAM**

**ORGANIZATIONAL CHART**



**ATTACHMENT 2  
RESIDENT INSPECTOR PROGRAM**

**Commercial Hazardous Waste Facilities  
CATEGORY RANKINGS & PRIMARY TREATMENT  
(FY 2009-2010)**

<b>FACILITY</b>	<b>CURRENT CATEGORY RANKING</b>	<b>Primary Waste Treatment</b>
Ashland Distribution Co.	2	Container Storage
Clean Harbors	3	Hazardous Waste Consolidation, Fuels Blending, Container Storage
Detrex Chemical / Parts Cleaning Technologies	2	Chlorinated Solvent Reclamation
ECOFLO, Inc.	3	Hazardous Waste Consolidation, Fuels Blending, Container Storage
Heritage Environmental Services	3	Hazardous Waste Consolidation, Fuels Blending, Container Storage
Safety-Kleen / Archdale	1	Mineral Spirits Reclamation
Safety-Kleen / Charlotte	1	Mineral Spirits Reclamation
Safety-Kleen / Raleigh	1	Mineral Spirits Reclamation
Safety-Kleen / St. Pauls	1	Mineral Spirits Reclamation
VEOLIA Environmental Services	2	Container Storage

**ATTACHMENT 3  
RESIDENT INSPECTOR PROGRAM**

**Commercial Hazardous Waste Facilities  
ANNUAL HAZARDOUS WASTE TONNAGE RECEIVED REPORT  
(FY 2009/2010)**

<b>COMMERCIAL FACILITY</b>	<b>Tons Received 2009/2010</b>	<b>Tons Received 2008/2009</b>	<b>Tons Received 2007/2008</b>	<b>Tons Received 2006/2007</b>	<b>Tons Received 2005/2006</b>
<b>ASHLAND</b>	1,853.71	2,460.74	3,029.10	2,986.51	3,933.47
<b>CLEAN HARBORS</b>	3,003.33	5,250.33	15,770.00	14,784.00	10,561.87
<b>DETREX</b>	611.88	601.85	1,108.13	1,030.17	742.13
<b>ECOFLO</b>	3,070.44	2,921.15	1,872.66	1,790.19	3,961.10
<b>HERITAGE E. S.</b>	423.95	510.70	189.22	21.66	5.85
<b>SK-ARCHDALE</b>	225.20	267.60	307.88	374.39	435.90
<b>SK-CHARLOTTE</b>	186.60	250.20	298.92	352.78	411.20
<b>SK-RALEIGH</b>	228.90	263.90	308.78	335.66	391.60
<b>SK-ST. PAULS</b>	140.80	174.80	215.03	258.34	288.80
<b>VEOLIA E. S.</b>	1,126.15	935.44	1,396.70	1,503.45	1,530.00
<b>TOTAL</b>	10,870.96	13,636.71	24,496.42	26,432.81	29,607.66

**ATTACHMENT 4  
RESIDENT INSPECTOR PROGRAM**

**Commercial Hazardous Waste Facilities  
INSPECTION TOTALS**

**(FY 2009/2010)**

<b>FACILITY</b>	<b>REQUIRED INSPECTIONS</b>	<b>ACTUAL INSPECTIONS</b>
Ashland Distribution Co.	48	49
Clean Harbors	72	72
Detrex Chemical / Parts Cleaning Tech.	48	50
ECOFLO, Inc.	72	73
Heritage Environmental Services	72	73
Safety-Kleen / Archdale	24	24
Safety-Kleen / Charlotte	24	25
Safety-Kleen / Raleigh	24	26
Safety-Kleen / St. Pauls	24	24
Veolia Environmental Services	48	48
<b>TOTAL</b>	<b>456</b>	<b>464</b>

**ATTACHMENT 5  
RESIDENT INSPECTOR PROGRAM**

**ENFORCEMENT OVERVIEW at  
COMMERCIAL HAZARDOUS WASTE FACILITIES  
(7/1/91 through 6/30/10)**

<b>FACILITY</b>	<b>NOVs FY 08-09</b>	<b>NOVs To Date</b>	<b>Compliance Orders FY 08-09</b>	<b>Compliance Orders To Date</b>
<b>ASHLAND</b>	<b>1</b>	<b>15</b>	<b>0</b>	<b>1</b>
<b>CLEAN HARBORS <sup>1</sup></b>	<b>0</b>	<b>15</b>	<b>0</b>	<b>0</b>
<b>DETREX</b>	<b>1</b>	<b>14</b>	<b>0</b>	<b>1</b>
<b>ECOFLO</b>	<b>1</b>	<b>10</b>	<b>0</b>	<b>0</b>
<b>ENVIROCHEM <sup>2</sup> CLOSED</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>1</b>
<b>EQ-North Carolina<sup>2</sup> CLOSED</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>2</b>
<b>HERITAGE ES</b>	<b>0</b>	<b>30</b>	<b>0</b>	<b>3</b>
<b>SK-ARCHDALE <sup>3</sup></b>	<b>0</b>	<b>14</b>	<b>0</b>	<b>0</b>
<b>SK-CHARLOTTE <sup>3</sup></b>	<b>0</b>	<b>17</b>	<b>0</b>	<b>0</b>
<b>SK-RALEIGH <sup>3</sup></b>	<b>0</b>	<b>11</b>	<b>0</b>	<b>0</b>
<b>SK-ST. PAULS <sup>3</sup></b>	<b>0</b>	<b>17</b>	<b>0</b>	<b>0</b>
<b>VEOLIA ES <sup>4</sup></b>	<b>0</b>	<b>11</b>	<b>0</b>	<b>1</b>
<b>GIANT <sup>5</sup> CLOSED</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>0</b>
<b>SOLITE <sup>6</sup> CLOSED</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>1</b>
<b>TOTALS</b>	<b>2</b>	<b>186</b>	<b>0</b>	<b>10</b>

<sup>1</sup> Clean Harbors (formerly owned by Safety-Kleen Technical Services; formerly owned by Laidlaw)

<sup>2</sup> EQ-North Carolina (formerly owned by EnviroChem E S, Inc.) - CLOSED February 2008

<sup>3</sup> SK = Safety-Kleen Corporation

<sup>4</sup> Veolia Environmental Services (formerly known as ONYX)

<sup>5</sup> Giant Resource Recovery (formerly owned by Oldover Corp.) - CLOSED September 2004

<sup>6</sup> Solite Corporation has ceased operation as a hazardous waste burner - CLOSED January 2003