



North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

November 10, 2011

MEMORANDUM

To: ENVIRONMENTAL REVIEW COMMISSION
The Honorable David Rouzer, Chair
The Honorable Mitch Gillespie, Co-Chair
The Honorable Ruth Samuelson, Co-Chair

FROM: Kari Barsness *KB*
Director of Legislative and Intergovernmental Affairs

SUBJECT: Resident Inspector Program Report (Division of Waste Management)

DATE: November 10, 2011

Pursuant to G. S. 130A-295.02(m) and S. L. 2006-79, the Division of Waste Management shall submit to the Environmental Review Commission a report on the Resident Inspector Program by October 1st of each year. Please consider the Resident Inspector's Program's 2011 Annual Report attached as the formal submission of this report.

If you have any questions or need additional information, please contact me by phone at (919) 715-4189 or via e-mail at Kari.Barsness@ncdenr.gov.

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RESIDENT INSPECTOR PROGRAM

2011 ANNUAL REPORT

Presented to

The Environmental Review Commission

October 1, 2011



Division of Waste Management
Hazardous Waste Section
Resident Inspector Program

North Carolina Department of Environment and Natural Resources

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TABLE OF CONTENTS

<i>I. EXECUTIVE SUMMARY</i>	1
<i>II. OVERVIEW</i>	1
<i>III. PROGRAM STAFFING</i>	1
<i>IV. THE RESIDENT INSPECTOR</i>	2
<i>V. SUBJECT FACILITIES</i>	2
<i>VI. FACILITY CATEGORY RANKINGS</i>	2
<i>VII. FUNDING & RELATED ISSUES</i>	2
<i>VIII. INSPECTION GOALS & ACHIEVEMENT</i>	3
<i>IX. ENFORCEMENT & COMPLIANCE</i>	3
Enforcement Activities	3
Compliance Assistance Activities	3
<i>X. PUBLIC MEETINGS / HEARINGS & PERMIT RENEWALS</i>	4
<i>XI. SUMMARY</i>	4

LIST OF ATTACHMENTS

1. Organizational Chart	i
2. Category Rankings & Inspection Frequencies - Commercial Hazardous Waste Facilities	ii
3. Facility Hazardous Waste Tonnage Received Totals	iii
4. Facility Inspection Totals	iv
5. Enforcement Activities at Commercial Hazardous Waste Facilities	v

RESIDENT INSPECTOR PROGRAM

2011 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, 2010 through June 30, 2011.

I. EXECUTIVE SUMMARY

The Resident Inspector Program has been operating for more than 20 years in the North Carolina Department of Environment and Natural Resources' (NCDENR) Division of Waste Management. The Program continues to inspect the state's ten permitted commercial hazardous waste treatment, storage and disposal facilities. For fiscal year 2010-2011, the Resident Inspector Program operated with a staff of 3.5 positions plus the equivalent of one additional field position supplied by the Hazardous Waste Section's Compliance Branch. The Program's operating fee-based budget collected \$249,000 and expenses were held to \$246,000. Program staff conducted 456 multi-media inspections and achieved a compliance rate of 99.5% with only two Notices of Violation issued. This year, the Program amended the hazardous waste rules in compliance with Session Law 2007-107 and General Statute 130A-295.02(f)&(h).

II. PROGRAM OVERVIEW

The Resident Inspector Program monitors all aspects of the commercial hazardous waste facilities in North Carolina and assures compliance with 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 that receive and process a wide variety of hazardous waste are inspected at least twice a month. This level of inspection presence helps to ensure a high compliance rate and reduces the risk of an accident that could threaten public health and safety.

Hazardous waste facilities can be inspected more frequently than twice a month depending on the type of facility and other factors. In response to the explosion and fire at a hazardous waste facility in Apex, the General Assembly specifically required the Division of Waste Management to consider population density/sensitive land use within one quarter mile of a commercial facility as an additional factor in determining the frequency of inspection at each facility. (Session Law 2007-107). Rules implementing the session law went into effect on January 1, 2011 (amending 15A NCAC 13A.0116).

III. PROGRAM STAFFING

The Resident Inspector Program resides within the Hazardous Waste Section's Compliance Branch. For the fiscal year 2010-2011, the program was comprised of two resident inspectors, one administrative assistant, and one (half-time) program supervisor and required the assistance of three part-time Compliance Branch hazardous waste inspectors (one third each to equal one inspector). (See Attachment 1 for the Organization Chart).

IV. THE RESIDENT INSPECTOR

Most state agencies perform inspections only for compliance with rules implemented by the agency. The Resident Inspector Program, however, is unique in its multimedia approach. The resident inspector can do a single inspection and cover all DENR regulatory responsibilities such as hazardous waste management and treatment requirements, air emissions, and wastewater treatment and disposal.

DENR's regulatory authority also overlaps to some extent with rules administered by other departments. Two examples include the North Carolina Department of Labor's rules implementing the federal Occupational Safety & Health Act; and the Department of Transportation's hazardous materials transportation rules. Violation of these regulations can threaten public health and the environment and cause the facility to be out of compliance with air, water or hazardous waste management regulations. DENR's resident inspectors also check hazardous waste facilities for potential violations in these other regulatory areas; when necessary they recommend corrections and/or make referrals to the agency or agencies with direct enforcement authority.

V. 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 20 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.

VI. 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. 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, 3, 4 or 5 correspond to a minimum inspection frequency of two, four, six, eight or 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.)

VII. 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 the 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. During the past year, a mild economic recovery has occurred and the commercial hazardous waste facilities' total received tonnage increased this year by approximately 13 percent. Although revenue from the tonnage received by the facilities has increased slightly, facility rankings remain unchanged and therefore still have the same level of inspection requirements under the program

For FY 2010-2011, the budget was developed using anticipated revenues from Resident Inspector Program fees of approximately \$299,000. (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 2010-2011 totaled \$249,000, and the Resident Inspector Program expenses were held to \$246,000 only through assistance provided by the Compliance Branch supplying equipment and staff that are funded by other sources of revenue.

In FY 2010-2011, it remained necessary for the Resident Inspector Program supervisor to conduct some of the required inspections and also receive assistance from other Compliance Branch staff to meet program requirements. On April 1, 2011 a fee increase went into effect (by amendment to 15A NCAC 13A.0117) in compliance with G.S. 130A-295.02(h). This was the first fee increase assessed to the commercial facilities since the initiation of the Resident Inspector Program in 1991. The additional fees generated by the amended rule 15A NCAC 13A .0117 will increase the Resident Inspector Program revenue by 25 percent for the next fiscal year (additional increases will be implemented over the next two years,). With the additional fees, the program will be able to adequately staff for the projected minimum number of inspections.

VIII. INSPECTION GOALS & ACHIEVEMENT

During FY 2010-2011, the Resident Inspector Program staff conducted a total of 456 inspections, just equaling the state-mandated minimum of 456 inspections. (A detailed list of the inspections performed by program staff at the commercial hazardous waste facilities in FY 2010-2011 can be found in Attachment 4.)

IX. ENFORCEMENT & COMPLIANCE

Enforcement Activities

The commercial hazardous waste facilities continue to be cooperative and, in general, have rapidly responded to the new requirements set out in Session Law 2007-107. The facilities have also generally been quick to take corrective action when DWM has identified a deficiency or made recommendations with respect to facility operation and maintenance. If a facility fails to maintain compliance or fails to respond to a notice of deficiency in a timely way, DWM may need to take enforcement action, 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

DWM offers compliance assistance routinely during the inspectors' site visits. Since the inspectors visit these facilities at least twice a month, they become very familiar with the operations of each facility and can easily identify trouble areas and work with that facility towards a permanent solution. If a facility begins to have compliance problems, the inspector reviews 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 permit conditions and current regulatory requirements, the reasons for the requirements, and the potential risks of noncompliance.

If a facility repeats a violation, the primary inspector and program supervisor sets up an informal enforcement conference that may include the local facility compliance managers, the plant manager, and in some cases corporate compliance officers. During this conference, Resident Inspector Program staff and facility personnel discuss the facility's current compliance issues and work together to find a permanent solution (which may include formal enforcement).

X. PUBLIC MEETINGS / HEARINGS & PERMIT RENEWALS

The Resident Inspector Program staff continues to observe and assist with public meetings that concern the operation and permitting of commercial hazardous waste facilities. A continuing program goal is for the inspectors to be fully aware of public concerns and to be conscious of these concerns during oversight efforts at commercial hazardous waste facilities. The Resident Inspector Program also continues to assist with facility compliance audits by generators, consultants, other agencies and the public.

The Resident Inspector Program staff continues to work with permitting staff in the Hazardous Waste Section during the permit renewal/application process for commercial hazardous waste facilities; other compliance reviews (such as closure of a storage tank, processing area, container storage area, or other permitted unit) and implementation of Session Law 2007-107. The purpose of this joint effort is to have a consistent interpretation of regulatory requirements; address areas of concern; and assist in ensuring the permit application accurately reflects the facility as it is operated.

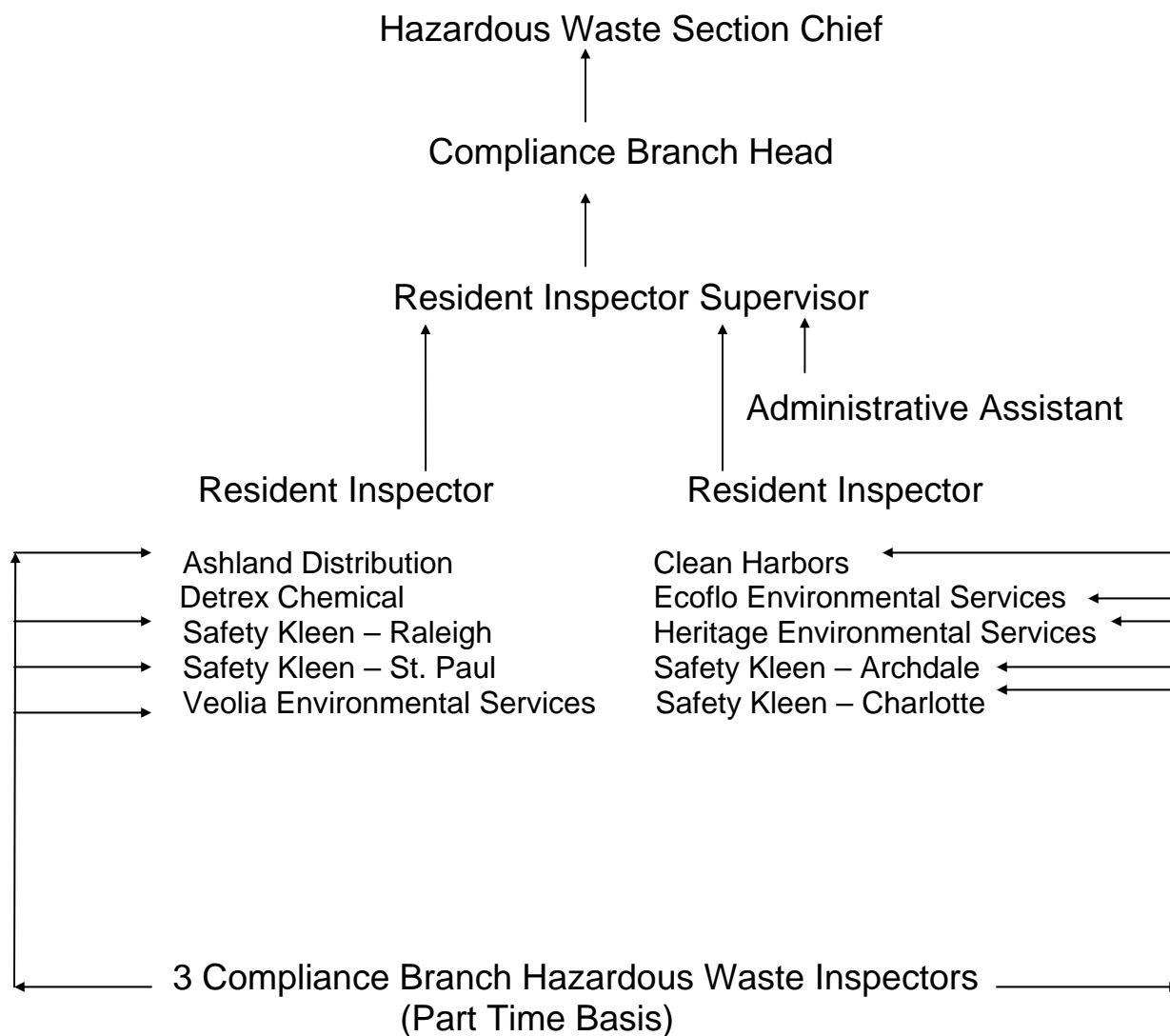
XI. SUMMARY

At the conclusion of the program's 20th year, the Resident Inspector Program staff continues to provide rigorous oversight of commercial hazardous waste facilities in the state. This is reflected in the facilities' overall compliance rate of 99.5 percent. The staff constantly seeks new approaches and initiatives to work ensure that commercial hazardous waste facilities can operate in a way that protects public health and the environment. The Resident Inspector Program staff has also worked with the commercial facilities to maintain compliance in a weak economy; the economic downturn has forced many hazardous waste facilities to operate with fewer staff and employees with less training, all of which can lead to noncompliance. 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 2010-2011)**

FACILITY	CURRENT CATEGORY RANKING	Primary Waste Treatment
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 2010-2011)**

COMMERCIAL FACILITY	Tons Received 2010/2011	Tons Received 2009/2010	Tons Received 2008/2009	Tons Received 2007/2008	Tons Received 2006/2007
ASHLAND	1,934.05	1,853.71	2,460.74	3,029.10	2,986.51
CLEAN HARBORS	4,570.42	3,003.33	5,250.33	15,770.00	14,784.00
DETREX	661.99	611.88	601.85	1,108.13	1,030.17
ECOFLO	3,031.54	3,070.44	2,921.15	1,872.66	1,790.19
HERITAGE E. S.	361.77	423.95	510.70	189.22	21.66
SK-ARCHDALE	172.89	225.20	267.60	307.88	374.39
SK-CHARLOTTE	154.63	186.60	250.20	298.92	352.78
SK-RALEIGH	152.30	228.90	263.90	308.78	335.66
SK-ST. PAULS	121.13	140.80	174.80	215.03	258.34
VEOLIA E. S.	1,136.47	1,126.15	935.44	1,396.70	1,503.45
TOTAL	12,297.19	10,870.96	13,636.71	24,496.42	26,432.81

**ATTACHMENT 4
RESIDENT INSPECTOR PROGRAM**

**Commercial Hazardous Waste Facilities
INSPECTION TOTALS
(FY 2010-2011)**

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

**ATTACHMENT 5
RESIDENT INSPECTOR PROGRAM**

**ENFORCEMENT OVERVIEW at
COMMERCIAL HAZARDOUS WASTE FACILITIES
(7/1/91 through 6/30/11)**

FACILITY	NOVs FY 09-10	NOVs To Date	Compliance Orders FY 09-10	Compliance Orders To Date
ASHLAND	0	15	0	1
CLEAN HARBORS ¹	0	15	0	0
DETREX	2	16	0	1
ECOFLO	0	10	0	0
ENVIROCHEM ² CLOSED	0	10	0	1
EQ-North Carolina² CLOSED	0	2	0	2
HERITAGE ES	0	30	0	3
SK-ARCHDALE ³	0	14	0	0
SK-CHARLOTTE ³	0	17	0	0
SK-RALEIGH ³	0	11	0	0
SK-ST. PAULS ³	0	17	0	0
VEOLIA ES ⁴	0	11	0	1
GIANT ⁵ CLOSED	0	12	0	0
SOLITE ⁶ CLOSED	0	8	0	1
TOTALS	2	188	0	10

¹ Clean Harbors (formerly owned by Safety-Kleen Technical Services; formerly owned by Laidlaw)

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

³ SK = Safety-Kleen Corporation

⁴ Veolia Environmental Services (formerly known as ONYX)

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

⁶ Solite Corporation has ceased operation as a hazardous waste burner - CLOSED January 2003