

RESIDENT INSPECTOR PROGRAM
2009 ANNUAL REPORT

Presented to

The Environmental Review Commission

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HAZARDOUS WASTE SECTION

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RESIDENT INSPECTOR PROGRAM 2009 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, 2008 through June 30, 2009.

I. OVERVIEW

The Resident Inspector Program has been operating for more than 18 years in the North Carolina 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 North Carolina Department of Environment and Natural Resources. 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 2008-2009, 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 18 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 Part IV & 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" permitted commercial hazardous waste treatment, storage and disposal facilities (CTSDF) has diminished from 12 (plus one "interim status" facility) 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 & 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 are under review and will impact the ranking calculation necessitating the addition of categories 4 and 5 which would specify minimum inspection frequencies of 8 and 10 times per month, respectively. The Resident Inspector Program's minimum required number of inspection has averaged approximately 470 and is currently 456. (See Attachment 2 for current category rankings and primary waste treatment activities for these facilities.)

VI. FUNDING & EXPENSES

The Resident Inspector Program is intended to be funded solely by fees collected from the commercial hazardous waste facilities. 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 15 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 44 percent. The Clean Harbors facility (which in recent years accounted for more than half the hazardous waste tonnage received in North Carolina) had a tonnage decrease of 67 percent due to the curtailing of all but some transfer operations at this facility and this facility's received tonnage is projected to decrease an additional 83

percent for FY 2009-2010. 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 2008-2009, the budget was developed using anticipated revenues from Resident Inspector Program fees of approximately \$295,000. (A detailed list of the individual tonnages received by each of the commercial hazardous waste facilities in FY 2008-2009 can be found in Attachment 3.) The actual Resident Inspector Program receipts in FY 2008-2009 totaled \$255,000, (a shortfall of \$40,000) and the Resident Inspector Program expenses were held to \$245,000 only through assistance provided by other Compliance Branch staff that is funded by other sources of revenue.

VII. INSPECTION GOALS & ACHIEVEMENT

During FY 2008-2009, the Resident Inspector Program staff conducted a total of 478 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. Many of 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 2008-2009 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).

Due to the requirements added by Session Law 2007-107, the commercial hazardous waste treatment, storage and disposal facilities have expended funds to meet these additional security requirements such as 24-hour facility monitoring.

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.

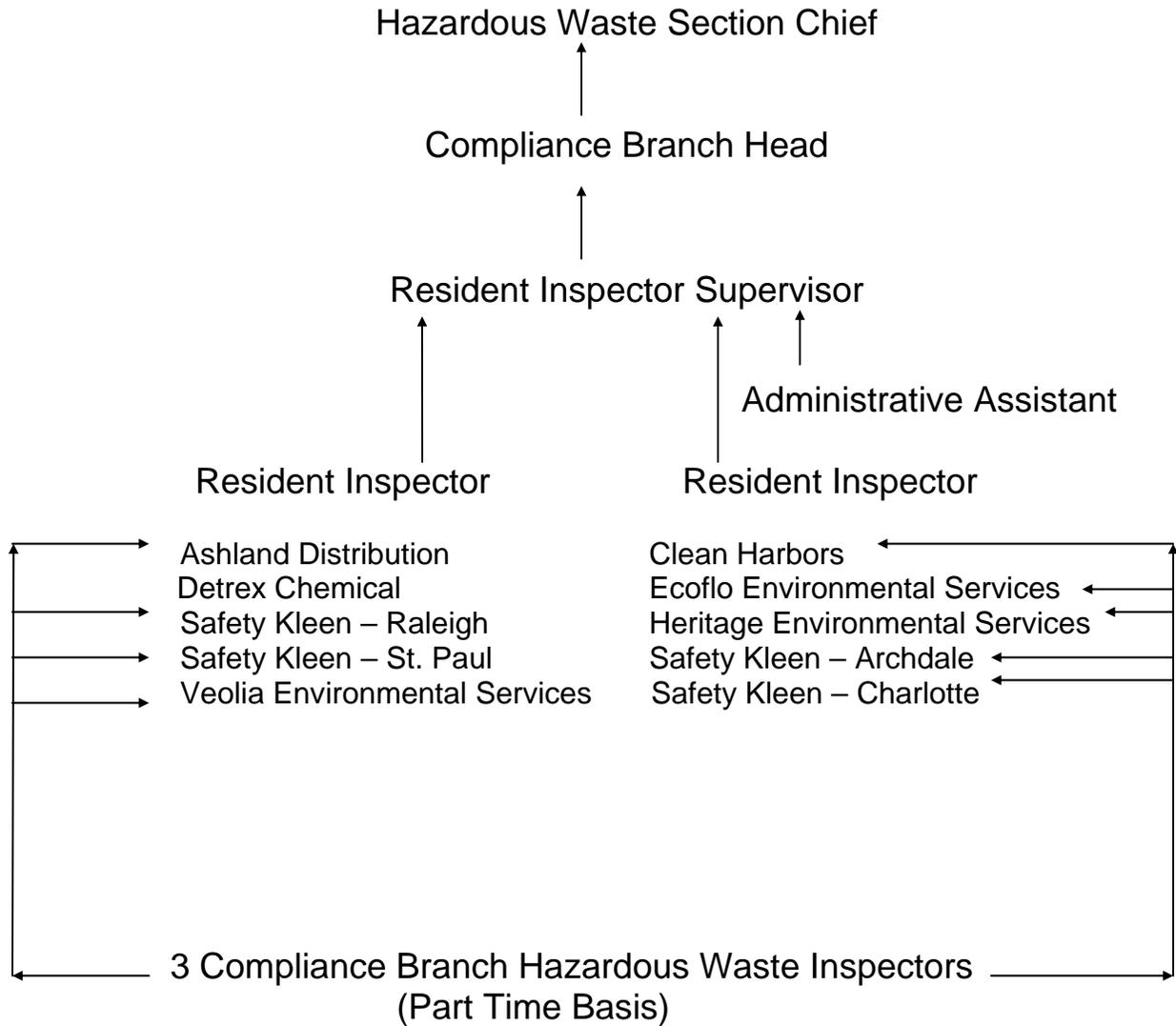
X. SUMMARY

At the conclusion of the program's 18th 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 2008-2009)**

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 2008/2009)**

COMMERCIAL FACILITY	Tons Received 2008/2009	Tons Received 2007/2008	Tons Received 2006/2007	Tons Received 2005/2006	Tons Received 2004/2005
ASHLAND	2,460.74	3,029.10	2,986.51	3,933.47	3,624.00
CLEAN HARBORS	5,250.33	15,770.00	14,784.00	10,561.87	8,593.29
DETREX	601.85	1,108.13	1,030.17	742.13	522.68
ECOFLO	2,921.15	1,872.66	1,790.19	3,961.10	4,938.21
HERITAGE E. S.	510.70	189.22	21.66	5.85	0.00
SK-ARCHDALE	267.60	307.88	374.39	435.90	474.00
SK-CHARLOTTE	250.20	298.92	352.78	411.20	423.00
SK-RALEIGH	263.90	308.78	335.66	391.60	406.60
SK-ST. PAULS	174.80	215.03	258.34	288.80	317.80
VEOLIA E. S.	935.44	1,396.70	1,503.45	1,530.00	1,248.24
TOTAL	13,636.71	24,496.42	26,432.81	29,607.66	27,174.79

**ATTACHMENT 4
RESIDENT INSPECTOR PROGRAM**

**Commercial Hazardous Waste Facilities
INSPECTION TOTALS**

(FY 2008/2009)

FACILITY	REQUIRED INSPECTIONS	ACTUAL INSPECTIONS
Ashland Distribution Co.	48	50
Clean Harbors	72	74
Detrex Chemical / Parts Cleaning Tech.	48	53
ECOFLO, Inc.	72	77
Heritage Environmental Services	72	74
Safety-Kleen / Archdale	24	25
Safety-Kleen / Charlotte	24	25
Safety-Kleen / Raleigh	24	24
Safety-Kleen / St. Pauls	24	25
Veolia Environmental Services	48	51
TOTAL	456	478

**ATTACHMENT 5
RESIDENT INSPECTOR PROGRAM**

**ENFORCEMENT OVERVIEW at
COMMERCIAL HAZARDOUS WASTE FACILITIES
(7/1/91 through 6/30/09)**

FACILITY	NOVs FY 08-09	NOVs To Date	Compliance Orders FY 08-09	Compliance Orders To Date
ASHLAND	1	15	0	1
CLEAN HARBORS ¹	0	15	0	0
DETREX	0	13	0	1
ECOFLO	0	9	0	0
ENVIROCHEM ² CLOSED	0	10	0	1
EQ-North Carolina ² 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	1	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	184	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