

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1631

Second Edition Engrossed 7/27/90

House Committee Substitute Favorable With Floor Amendments 7/28/90

Short Title: Haz. Waste Facility Inspectors Req.

(Public)

Sponsors:

Referred to:

July 27, 1990

A BILL TO BE ENTITLED

AN ACT TO REQUIRE RESIDENT INSPECTORS AT COMMERCIAL
HAZARDOUS WASTE FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Part 2 of Article 9 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-295.02. Resident inspectors required at commercial hazardous waste facilities; recovery of costs for same.

(a) The Division shall employ full-time resident inspectors for each commercial hazardous waste facility located within the State. Such inspectors shall be employed and assigned so that at least one inspector is on duty at all times during which any component of the facility is in operation, is undergoing any maintenance or repair, or is undergoing any test or calibration. Resident inspectors shall be assigned to commercial hazardous waste management facilities so as to protect the public health and the environment, to monitor all aspects of the operation of such facilities, and to assure compliance with all laws and rules administered by the Division and by any other division of the Department. Such inspectors may also enforce laws or rules administered by any other agency of the State pursuant to an appropriate memorandum of agreement entered into by the Secretary and the chief administrative officer of such agency. The Division may assign additional resident inspectors to a facility depending upon the quantity and toxicity of waste managed at a facility, diversity of types of waste managed at the facility, complexity of management technologies utilized at the facility,

1 the range of components which are included at the facility, operating history of the
2 facility, and other factors relative to the need for on-site inspection and enforcement
3 capabilities. The Division, in consultation with other divisions of the Department, shall
4 define the duties of each resident inspector and shall determine whether additional
5 resident inspectors are needed at a particular facility to meet the purposes of this
6 section.

7 (b) The Division shall establish requirements pertaining to education, experience,
8 and training for resident inspectors so as to assure that such inspectors are fully
9 qualified to serve the purposes of this section. The Division shall provide its resident
10 inspectors with such training, equipment, facilities, and supplies as may be necessary to
11 fulfill the purposes of this section.

12 (c) As a condition of its permit, the owner or operator of each commercial
13 hazardous waste facility located within the State shall provide and maintain such
14 appropriate and secure offices and laboratory facilities as the Department may require
15 for the use of the resident inspectors required by this section.

16 (d) Resident inspectors assigned to a commercial hazardous waste facility shall
17 have unrestricted access to all operational areas of such facility at all times. For the
18 protection of resident inspectors and the public, the provisions of G.S. 143-
19 215.107(a)(7) and G.S. 143-215.107(f) shall not apply to commercial hazardous waste
20 facilities to which a resident inspector is assigned.

21 (e) No commercial hazardous waste facility shall be operated, undergo any
22 maintenance or repair, or undergo any testing or calibration unless an inspector
23 employed by the Division is present at the facility.

24 (f) The requirements of this section are intended to enhance the ability of the
25 Department to protect the public health and the environment by providing the
26 Department with the authority and resources necessary to maintain a rigorous inspection
27 and enforcement program at commercial hazardous waste management facilities. The
28 requirements of this section are intended to be supplementary to other requirements
29 imposed on hazardous waste facilities. This section shall not be construed to relieve
30 either the owner or the operator of any such facility or the Department from any other
31 requirement of law or to require any unnecessary duplication of reporting or monitoring
32 requirements.

33 (g) For the purpose of enforcing the laws and rules enacted or adopted for the
34 protection of the public health and the environment, resident inspectors employed
35 pursuant to this section may be commissioned as special peace officers as provided in
36 G.S. 113-28.1. The provisions of Article 1A of Chapter 113 of the General Statutes
37 shall apply to resident inspectors commissioned as special peace officers pursuant to
38 this subsection.

39 (h) The Department shall determine the full cost of the employment and
40 assignment of resident inspectors at each commercial hazardous waste facility located
41 within the State. Such costs shall include, but are not limited to, costs incurred for
42 salaries, benefits, travel, training, equipment, supplies, telecommunication and data
43 transmission, offices and other facilities other than those provided by the owner or
44 operator, and administrative expenses. The Department shall establish and revise as

1 necessary a schedule of fees to be assessed on the users of each such facility to recover
2 the actual cost of the resident inspector program at that facility. The operator of each
3 such facility shall serve as the collection agent for such fees, shall account to the
4 Department on a monthly basis for all fees collected, and shall deposit with the
5 Department all funds collected pursuant to this section within 15 days following the last
6 day of the month in which such fees are collected.

7 (i) A resident inspector shall be assigned to a commercial hazardous waste
8 facility for a maximum of 12 consecutive months or 18 months in a 24-month period. A
9 resident inspector who has been assigned to a commercial hazardous waste facility for
10 the maximum period allowed by this subsection shall not be reassigned to that facility
11 within 12 months of the time he was previously assigned to that facility. For purposes
12 of this subsection, 'commercial hazardous waste facility' means that facility and any
13 other commercial hazardous facility which is operated by the same business entity or by
14 a parent, subsidiary, or affiliate of that business entity. As used in this subsection, the
15 words 'affiliate,' 'parent,' and 'subsidiary' have the same meaning as in 17 Code of
16 Federal Regulations § 240.12b-2 (1 April 1990 Edition).

17 (j) The Commission may adopt rules establishing reasonable times and
18 frequencies for the presence of a resident inspector on less than a full-time basis at
19 special purpose commercial hazardous waste facilities which manage limited quantities
20 of hazardous waste. Rules providing for resident inspectors on less than a full-time
21 basis shall be based on such factors as the smallness of the facility, the type of treatment
22 being performed, the nature and volume of waste being treated, the uniformity,
23 similarity, or lack of diversity of the waste streams, the predictability of the nature of
24 the waste streams and their treatability, the fact that reclamation is being performed at
25 the facility, and the compliance history of the facility and its operator."

26 Sec. 2. The Department of Environment, Health, and Natural Resources shall
27 report quarterly to the Joint Legislative Commission on Governmental Operations and
28 the Environmental Review Commission beginning 1 April 1991 on the implementation
29 of the resident inspectors program. The receipts and expenditures provided for by this
30 act shall appear as a separate expansion budget request for the 1991-93 biennium.

31 Sec. 3. This act shall become effective 1 January 1991 as to the assessment
32 and collection of fees and shall become effective 1 March 1991 as to all other
33 provisions.