

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1165

Environment & Natural Resources Committee Substitute Adopted 6/14/93

Corrected Copy 6/16/93

Short Title: Resident Inspector Prgm. Amends.

(Public)

Sponsors:

Referred to: Finance.

May 12, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A PARTIAL CREDIT OR REFUND OF FEES IN EXCESS OF THE AMOUNT NEEDED TO OPERATE THE COMMERCIAL HAZARDOUS WASTE FACILITIES RESIDENT INSPECTORS PROGRAM, TO REVISE THE METHOD BY WHICH RESIDENT INSPECTORS ARE ASSIGNED, AND TO PROVIDE THAT CERTAIN FACILITIES THAT BURN HAZARDOUS WASTE AS A FUEL ARE SUBJECT TO THE RESIDENT INSPECTORS PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-295.02 reads as rewritten:

"§ 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

1 of agreement entered into by the Secretary and the chief administrative officer of such
2 agency. The Division may assign additional resident inspectors to a facility depending
3 upon the quantity and toxicity of waste managed at a facility, diversity of types of waste
4 managed at the facility, complexity of management technologies utilized at the facility,
5 the range of components which are included at the facility, operating history of the
6 facility, and other factors relative to the need for on-site inspection and enforcement
7 capabilities. The Division, in consultation with other divisions of the Department, shall
8 define the duties of each resident inspector and shall determine whether additional
9 resident inspectors are needed at a particular facility to meet the purposes of this
10 section.

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

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

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

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

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

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

43 (h) The Department shall determine the full cost of the employment and
44 assignment of resident inspectors at each commercial hazardous waste facility located

1 within the State. Such costs shall include, but are not limited to, costs incurred for
2 salaries, benefits, travel, training, equipment, supplies, telecommunication and data
3 transmission, offices and other facilities other than those provided by the owner or
4 operator, and administrative expenses. The Department shall establish and revise as
5 necessary a schedule of fees to be assessed on the users of each such facility to recover
6 the actual cost of the resident inspector program at that facility. The operator of each
7 such facility shall serve as the collection agent for such fees, shall account to the
8 Department on a monthly basis for all fees collected, and shall deposit with the
9 Department all funds collected pursuant to this section within 15 days following the last
10 day of the month in which such fees are collected. All fees collected under this section
11 shall be deposited in a separate nonreverting account within the Department to be used
12 solely to support the resident inspectors program. The Department may issue a partial
13 credit or refund of fees to commercial hazardous waste facilities on a pro rata basis if
14 the Department determines that the total of all fees collected exceeds the actual cost of
15 the resident inspectors program. If the Department issues a credit or refund to a
16 commercial hazardous waste facility, the commercial hazardous waste facility shall
17 issue credits or refunds on a pro rata basis to users of the facility that have paid a fee.

18 (i) ~~A resident inspector shall be assigned to a commercial hazardous waste~~
19 ~~facility for a maximum of 12 consecutive months or 18 months in a 24-month period. A~~
20 ~~resident inspector who has been assigned to a commercial hazardous waste facility for~~
21 ~~the maximum period allowed by this subsection shall not be reassigned to that facility~~
22 ~~within 12 months of the time he was previously assigned to that facility. For purposes~~
23 ~~of this subsection, 'commercial hazardous waste facility' means that facility and any~~
24 ~~other commercial hazardous facility which is operated by the same business entity or by~~
25 ~~a parent, subsidiary, or affiliate of that business entity. As used in this subsection, the~~
26 ~~words 'affiliate,' 'parent,' and 'subsidiary' have the same meaning as in 17 Code of~~
27 ~~Federal Regulations § 240.12b-2 (1 April 1990 Edition). The Division shall establish~~
28 ~~and revise as necessary a program for assigning resident inspectors to commercial~~
29 ~~hazardous waste facilities so that scheduled rotation or equivalent oversight procedures~~
30 ~~ensure that each resident inspector will maintain objectivity.~~

31 (j) For purposes of this subsection, special purpose commercial hazardous waste
32 facilities include: a facility that manages limited quantities of hazardous waste; a facility
33 that limits its hazardous waste management activities to reclamation or recycling,
34 including energy or materials recovery or a facility that stores hazardous waste
35 primarily for use at such facilities; or a facility that is determined to be low risk under
36 rules adopted by the Commission pursuant to this subsection. The Commission shall
37 adopt rules establishing reasonable times and frequencies for the presence of a resident
38 inspector on less than a full-time basis at special purpose commercial hazardous waste
39 facilities. Rules adopted pursuant to this subsection shall establish classifications of
40 special purpose hazardous waste facilities based on factors including, but not limited to,
41 the size of the facility, the type of treatment or storage being performed, the nature and
42 volume of waste being treated or stored, the uniformity, similarity, or lack of diversity
43 of the waste streams, the predictability of the nature of the waste streams and their
44 treatability, whether the facility utilizes automated monitoring or safety devices that

1 adequately perform functions that would otherwise be performed by a resident
2 inspector, the fact that reclamation or recycling is being performed at the facility, and
3 the compliance history of the facility and its operator. Special purpose commercial
4 hazardous waste facilities shall be subject to inspection at all times during which the
5 facility is in operation, undergoing any maintenance or repair, or undergoing any test or
6 calibration. Rules adopted pursuant to this subsection shall specify a minimum number
7 of inspections during such times as the facility is subject to inspection. ~~Commercial~~
8 Special purpose commercial hazardous waste facilities that utilize hazardous waste as a
9 fuel source shall be inspected a minimum of 40 hours per week. The Department shall
10 maintain records of all inspections at special purpose commercial hazardous waste
11 facilities. Such records shall contain sufficient detail and shall be arranged in a readily
12 understandable format so as to facilitate determination at any time as to whether the
13 special purpose commercial hazardous waste facility is in compliance with the
14 requirements of this subsection and of rules adopted pursuant to this subsection.

15 (k) For purposes of this section, a facility that utilizes hazardous waste as a fuel
16 or that has used hazardous waste as a fuel within the preceding calendar year, and that is
17 an affiliate of and adjacent or contiguous to a commercial hazardous waste facility, shall
18 be subject to inspection as a special purpose commercial hazardous waste facility under
19 subsection (j) of this section as if the facility that utilizes hazardous waste as a fuel were
20 a part of the commercial hazardous waste facility.

21 (l) As used in this section, the words 'affiliate', 'parent', and 'subsidiary' have the
22 same meaning as in 17 Code of Federal Regulations § 240.12b-2 (1 April 1990
23 Edition)."

24 Sec. 2. This act becomes effective 30 June 1993.