

Frequently Asked Questions DISCLOSURE STATEMENTS

Q: Who is the applicant (DISC-01)?

A: “Applicant” is defined in the Virginia Waste Management Act §10.1-1400 as the person or persons seeking or holding the facility permit. A “person” can be an individual, corporation, partnership, association, government body, or any other legal entity.

(Note: The name of a non-government owner/operator business entity must match their SCC certification per Submission Instruction No. 1.)

Q: Who are key personnel?

A: "Key personnel" means the applicant and any person employed by or under contract with the applicant in a managerial capacity, or empowered to make discretionary decisions, with respect to the solid waste operations of the applicant in Virginia.

Key personnel include the chief executive officer of any governmental body or legal entity that operates a landfill or other solid waste management facility.

If the applicant has not previously conducted solid or hazardous waste operations in Virginia, the term also includes any officer, director, partner of the applicant, or any holder of 5% or more of the equity or debt of the applicant.

If any holder of 5% or more of the equity or debt of the applicant is an entity and not a natural person, the term includes all key personnel of that entity.

Key personnel do not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid waste.

Q: Is a licensed waste management facility operator considered a key personnel?

A: Virginia Waste Management Act §10.1-1408.2 requires that all solid waste management facilities operate under the direct supervision of a waste management facility operator (WMFO) licensed by the Board for Waste Management Facility Operators. Therefore at least one person listed as key personnel must be a licensed WMFO. Key personnel are persons employed in a managerial capacity or empowered to make discretionary decisions. Depending on job position and responsibilities, a licensed WMFO may or may not be key personnel. Employees with no managerial responsibilities who are exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid waste are not considered key personnel.

Q: I am a key personnel for a facility. What violations must I list on DEQ form DISC-02?

A: Provide a 10-year history of any notices of violation, prosecution, administrative orders, license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal, or local authority, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the collection, transportation, treatment, storage or disposal of solid or hazardous waste.

Include both matters that are pending or have concluded with a finding of violation or entry of a consent agreement for any facility at which you were key personnel.

In addition, furnish a list of all convictions within 10 years of any of the crimes listed in the definition of "Disclosure Statement" in Section 10.1-1400, Virginia Waste Management Act, punishable as felonies under the laws of the Commonwealth or any other jurisdiction.

Q: Do I have to include my social security number on the form?

A: No. Previously, disclosure statements required the social security number of key personnel. HB2255, passed in 2009, eliminated the requirement that applicants for permits issued under the Virginia Waste Management Act (VWMA) provide the social security numbers of their key personnel in disclosure statements that are submitted to the DEQ.

Q: How often does the disclosure statement need to be updated?

A: The Code of Virginia, §10.1-1408.1.C.3, requires permitted solid waste facilities to update their Disclosure Statement quarterly when there is any change of condition or information that renders any portion of the statement materially incomplete or inaccurate. Quarterly updates are only required when there is any material change to permits, licenses, and regulatory responsibility, or to report any enforcement action, conviction, or other action as included in the definition of "Disclosure Statement" in § 10.1-1400, Virginia Waste Management Act. If there are no changes to report, a quarterly update is not required and should not be submitted to the DEQ.

Q: What types of changes are considered "material" and require a disclosure statement update?

A: Material changes may be for a facility or an individual. Typical changes or information that would require an update include 1) a change in key personnel; 2) a new, suspended, or revoked permit or license; 3) a change in regulatory responsibility; or 4) any notice of violation, administrative order, enforcement action, criminal conviction, or other action as included in the definition of "Disclosure Statement" in §10.1-1400.

It is not necessary to submit a quarterly update for an alleged violation that is resolved without enforcement action (i.e., letter of agreement, consent or administrative order, consent decree, or court order). It is not necessary to submit a quarterly update to report a renewal of an existing WMFO license.

Q: How do I report a quarterly update to DEQ?

A: Send updates to the Land Protection Manager at your DEQ Regional Office. <http://www.deq.virginia.gov/regions/homepage.html>. Depending upon the change being reported, a facility may submit complete, revised Forms DISC-01 and/or DISC-02, or use Form DISC-03. The following examples are offered as guidelines for using DISC-03:

- 1) *To report that a key personnel no longer employed at facility:* Use Form DISC-03 (section labeled “Key Personnel Update”) indicating the change and effective date.
- 2) *To add a key personnel to the list previously submitted on DISC-01:* Use Form DISC-03 (section labeled “Key Personnel Update”) and attach a complete DISC-02 for that individual, covering a 10-year history.
- 3) *To report a material change such as a new permit, a license suspension, or an enforcement action:* Use Form DISC-03 (section labeled “Other Change in Condition or Information”), and indicate whether the information change is for the facility or for an individual key personnel.

For questions or clarifications about whether a quarterly update is required, or how to report a change, contact Lyn Richardson at Linda.richardson@deq.virginia.gov.

Code of Virginia, § 10.1-1400. Definition.

"**Disclosure statement**" means a sworn statement or affirmation, in such form as may be required by the Director, which includes:

1. The full name and business address of all key personnel;
2. The full name and business address of any entity, other than a natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of five percent or more;
3. A description of the business experience of all key personnel listed in the disclosure statement;
4. A listing of all permits or licenses required for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past 10 years;
5. A listing and explanation of any notices of violation, prosecutions, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal or local authority, within the past 10 years, which are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by any key personnel, and an itemized list of all convictions within 10 years of key personnel of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 (§ [54.1-3400](#) et seq.) of Title 54.1; racketeering; or violation of antitrust laws;
6. A listing of all agencies outside the Commonwealth which have regulatory responsibility over the applicant or have issued any environmental permit or license to the applicant within the past 10 years, in connection with the applicant's collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste;
7. Any other information about the applicant and the key personnel that the Director may require that reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and
8. The full name and business address of any member of the local governing body or planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility.

§ 10.1-1408.1. Permit required; open dumps prohibited.

C.3. Every applicant shall update its disclosure statement quarterly to indicate any change of condition that renders any portion of the disclosure statement materially incomplete or inaccurate.