



Instructional Guide on Disclosure Statements (DEQ Forms DISC-01, DISC-02, and DISC-03)

Who is the applicant (DEQ Form DISC-01)?

“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 solid waste permitting [Submission Instruction No. 1 \(for new or modified Solid Waste Permits\)](#) and [Submission Instruction No. 10 \(for Permits-by-Rule\)](#).

Who are the key personnel (DEQ Forms DISC-01 and DISC-02)?

Under § 10.1-1400 of the Code of Virginia, “key personnel” is defined as:

The applicant itself and any person employed by the applicant in a managerial capacity or empowered to make discretionary decisions, with respect to the solid waste or hazardous waste operations of the applicant in Virginia, but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste and such other employees as the Director may designate by regulation. If the applicant has not previously conducted solid waste or hazardous waste operations in Virginia, the term also includes any officer, director, partner of the applicant, or any holder of five percent or more of the equity or debt of the applicant. If any holder of five percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the Federal Securities Exchange Act of 1934, the term does not include key personnel of such entity.

“No application for a new solid waste management facility permit . . . shall be deemed complete unless it is accompanied by DEQ Form DISC-01 and 02 (Disclosure Statement) for **all key personnel.**” 9 VAC 20-81-450.B.2 (emphasis added).

For whom must the applicant provide disclosure statements?

The applicant must provide disclosure statements for the following entities:

- (1) The applicant itself;
- (2) The applicant’s managers;

- (3) Any of the applicant's employees who are empowered to make discretionary decisions regarding waste operations in Virginia (but not employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste);
- (4) The applicant's officers, directors, or partners (if the applicant has not previously conducted solid waste or hazardous waste operations in Virginia);
- (5) Any individual or corporation who holds five percent or more of the applicant's equity or debt (if the applicant has not previously conducted solid waste or hazardous waste operations in Virginia); and
- (6) All of the key personnel of any corporation which holds five percent or more of the applicant's equity or debt, unless that corporation is a chartered lending institution or reporting company under the Federal Securities Exchange Act of 1934 (if the applicant has not previously conducted solid waste or hazardous waste operations in Virginia).

For applicants who are a federal, state, or local government agency, disclosure statements are also needed for the following entities:

- (7) The chief executive officer of the agency or political subdivision of the Commonwealth, and
- (8) All key personnel of any person, other than a natural person, that operates a landfill or other facility for the disposal, treatment, or storage of nonhazardous solid waste under contract with or for the agency or political subdivision.

Are the applicant's parent corporations, or the parent corporations' employees, considered key personnel?

If any corporation holds (either directly or indirectly) at least five percent of the applicant's equity or debt, that corporation (i.e. the parent corporation) is "key personnel" as defined by § 10.1-1400 of the Code of Virginia and 9 VAC 20-81-10. An application cannot be considered administratively complete until the applicant submits DEQ Form DISC-02 for each of those parent corporations. Id.; Va. Code §10.1-1408.1(B)(2); 9 VAC 20-81-450.B.2.

Furthermore, if any parent corporation holding at least five percent of the applicant's equity or debt is not a chartered lending institution or reporting company under the Federal Securities Exchange Act of 1943, then all of the parent corporation's key personnel are the applicant's key personnel too. An application cannot be considered administratively complete until the applicant submits DEQ Form DISC-02 for each of the key personnel of those parent corporations.

Thus, the applicant must provide disclosure statements (DEQ Form DISC-02) for the following entities:

- (1) The managers for all of those parent corporations;
- (2) Any persons employed by those parent corporations who are empowered to make discretionary decisions regarding waste operations **in Virginia** (but not employees

exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste); and

- (3) If any of those parent corporations have never previously conducted solid or hazardous waste management operations in Virginia, then the term key personnel also includes: (1) each corporation's officers, directors, and partners, and (2) any holder of five percent or more of the corporation's equity or debt.

Why do I need to provide an organizational or corporate structure?

An organizational structure and/or corporate structure is requested in order for DEQ to determine if the disclosure statement forms are complete and ensure individuals and entities (including directors, officers, partners, members and managing members, parent companies and subsidiaries, as applicable) are listed as key personnel.

Is a licensed waste management facility operator considered key personnel?

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.

What information are key personnel required to disclose?

Under § 10.1-1400 of the Code of Virginia, a "Disclosure Statement" must include the following information:

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 action 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.
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 application 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 planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility.

See also 9 VAC 20-81-10 (defining “disclosure statement” as “a sworn statement or affirmation as required by § 10.1-1400 of the Code of Virginia (see DEQ Form DISC-01 and 02 (Disclosure Statement))”).

What violations must key personnel list on DEQ Form DISC-02?

DEQ Form DISC-02 requires each key personnel to list and explain:

any findings or allegations of civil or criminal violation of any law, regulation, or requirement related to the collection, transportation, treatment, storage, or disposal of solid waste (pending or concluded, by the above named [key personnel] **or by any facility at which the person was key personnel**); any license or permit suspensions in any state, and convictions of any crimes specified in §10.1-1400 definition of “Disclosure Statement”, item 5. DEQ Form DISC-02 (bold emphasis added; underline emphasis in original).

Please note, key personnel are required to list and explain any findings or allegations of violations related to solid waste management by any facility at which the person was key personnel, **during the time when that person acted as key personnel for that facility**. Key personnel are required to list violations that occurred *at other facilities* at which the person acted as key personnel. However, key personnel are not required to list violations that occurred at other facilities either **before** or **after** the person acted as key personnel.

Furthermore, key personnel must 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.

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

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 provide the social security numbers of their key personnel in disclosure statements submitted to the DEQ.

How often do I need to update the disclosure statement?

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 disclosure statement materially incomplete or inaccurate. Quarterly updates should be submitted to DEQ within 3 months of any changes.

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.

What types of changes are considered “material” and require a disclosure statement update?

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 change in organizational and/or corporate structure; 3) a new, suspended, or revoked permit or license; 4) a change in regulatory responsibility; or 5) 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.

How do I report a quarterly update to DEQ?

Send updates to the Land Protection Manager (LPM) at your DEQ Regional Office. LPM contact information may be found on the [DEQ Public Website](#). Depending upon the change being reported, a facility may submit complete, revised DEQ Forms DISC-01 and/or DISC-02, or use DEQ Form DISC-03. The following examples are offered as guidelines:

- (1) *To report that a key personnel no longer employed at facility:* Use DEQ 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 DEQ Form DISC-01:* Use DEQ Form DISC-03 (section labeled “Key Personnel Update”) and attach a complete DEQ Form DISC-02 for that individual, covering a 10-year history.
- (3) *To report a material change such as a change in organizational and/or corporate structure, a new permit, a license suspension, or an enforcement action:* Use DEQ 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. A new DISC-01 and/or DISC-02 may also be required depending on the specific change.

For questions or clarifications about whether a quarterly update is required, or how to report a change, contact Priscilla Rohrer at Priscilla.Rohrer@deq.virginia.gov.