

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT  
DIVISION OF ENVIRONMENT  
BUREAU OF WASTE MANAGEMENT  
TOPEKA, KS 66620-0001

**GUIDANCE FOR COMPLETING THE  
BUSINESS CONCERN DISCLOSURE STATEMENT FORM II  
FOR HAZARDOUS WASTE PERMIT APPLICANTS**

**HAZARDOUS WASTE  
FORM II**

**General Guidance**

- A. The Business Concern Disclosure Statement Form II (BCDS Form II - Hazardous Waste) must be completed by the controlling entity ("**Parent**") of an **Applicant** for a permit to operate a hazardous waste treatment, storage or disposal facility in Kansas. (Pursuant to the rule at K.S.A. 65-3437(c) requiring the Secretary, Kansas Department of Health and Environment (KDHE) to conduct a background investigation of the **Applicant**.) As used herein, the term "**Parent**" shall mean a business concern of any description, a natural person, or a natural family, which can exercise "effective management control" of the **Applicant**. Effective management control can always be exercised where **Parent** ownership equals 51% or more, but may be exercised with less or no direct ownership of the **Applicant**, down through tiers of controlled business concerns. The BCDS Form II must be completed whether or not the **Parent** actually exercises the control made available by its ownership of the **Applicant**.
- B. The **Parent** responsible for completion of the form may be a corporation, a partnership, a joint venture, a sole proprietorship, a trust, or any other legal form of organization for the purpose of controlling another business enterprise which may acquire and hold interim status or a permit to operate a hazardous waste treatment, storage, or disposal facility in accordance with rules at K.S.A. 65-3430 et seq., K.A.R. 28-31-1 et seq., and adopted portions of 40 CFR Parts 264 and 265 (Resource Conservation and Recovery Act, as amended - commonly referred to as RCRA Subtitle C regulations).
- C. The information entered on the form must be for the **Parent** business concern, itself, unless the direct meaning of the question indicates otherwise. The "**Parent business concern**" means the legal entity which has effective management control over an **Applicant** for a permit to operate the facility at which the activity being permitted, or to be granted interim status, will be conducted. The

**Applicant** is the entity named as operator in the RCRA Part A Permit Application.

- D. Every question on the BCDS Form II must be answered completely. If the volume of data required is too large for the space provided for a response, you may create numbered or lettered Appendices to be filed following the last (signature) page of the form, in the order of the identification series chosen. Enter a reference to the applicable Appendix in the space provided on the form for a response.
- E. If any question does not apply to the **Parent**, or if a question is applicable but the answer is "None", the **Parent** must enter either "Not Applicable" or "None" in the space provided for answer. **The answer chosen must be representative of the actual facts.** For instance, if the **Parent** is a business corporation, the answer "Not Applicable" is correct for questions directed to a partnership form of organization. However, the answer "Not Applicable" is not correct for a question requesting the former names of the business enterprise, since it is possible that other names could have been used. If no former names have been used, the correct answer to the question is "None". **Do not enter the contraction "N/A" in place of "Not Applicable"**, because the meaning may not be clear.
- F. Any question (or series of questions) may be answered in a separate Appendix in your desired format, so long as all of the information requested is supplied in a manner that can be readily understood. Provide a reference to the applicable Appendix on the form in the space provided for a response following each question so answered.
- G. Use numbered notes to further explain any responses entered on the form which may otherwise be unclear.
- H. Where individual persons are required to be identified, and the question requests social security numbers, the social security numbers may be omitted. The rest of the question must be answered completely.
- I. The Affidavit of Author section of the form must be signed by a person with upper-level responsibility as an owner, officer, director, or other key management employee of the **Parent**, who is in charge of collecting and entering the responses to the questions on the form. The Affidavit must be attested by a notary public who holds a currently valid license.
- J. Number each page of the form consecutively before filing with KDHE. Be sure that no page of the form is omitted, even if it contains no responses. Number each page of each Appendix consecutively.

- K. Consider attaching a recent Annual Financial Report or other published and non-confidential materials of the **Parent** with the completed BCDS Form II, to assist KDHE in understanding your business concern.
- L. Your complete and competent response to every question will facilitate processing at KDHE, reducing the time needed for review and approval of your application for a permit. Forms filed with incomplete or incompetent responses will be returned to the **Parent** for correction. **For assistance, contact the Kansas Department of Health and Environment, Bureau of Waste Management, Hazardous Waste Permits Section. The main telephone number of the Bureau of Waste Management is (785) 296-1600.**

**Specific Guidance for Part I (Must be completed by all Parents)**

- 1. Enter the exact legal name of the **Parent** as it appears in the current articles of incorporation, or as it appears in other legal identification documents if the **Parent** is not a corporation. Do not enter the name of the **Applicant** in this space.
- 2. Enter the exact legal names used in the past by the **Parent**, and the years during which the names were used. Do not list trade names in this space. If a corporate **Parent**, this question may be answered instead at Question 3a. Enter a reference to Question 3a in the space provided for a response to this Question 2.
- 3. Enter the exact physical address of the **Parent's** principal office, including number, street, town, state, and Zip Code. Do not enter a post office box number in the answer to the first part of this question. In the second part of the question, enter the name and address where official mail from KDHE should be sent, if different from the principal office address. If the **Parent** receives mail at a post office box, enter the post office box number and the Zip Code for the box number.
- 4. Enter the exact address of past principal offices of the **Parent** if different from the current address listed in response to Question 3. Enter only past principal office locations of the **Parent**, not other locations where some of the activities of the **Parent** may have been conducted.
- 5. Enter the telephone number of the **Parent** at the principal office address. Supplement your response with any other important telephone numbers which should be used in case of a KDHE call concerning official notice to the **Parent**.
- 6. Enter the Federal Employer Identification Number (FEIN) of the **Parent**.

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7. Enter the form of business organization used by the **Parent**. Explain fully any form of business described in the response as “other”, and provide relevant documentation in an Appendix. A description of the business form listed as “other” may instead be provided in answer to Question 2c. Enter a reference to Question 2c in the space provided for a description in this Question 7.
8. Enter the first date the **Parent** was organized in its present business form.
9. Enter the names, addresses, types of facilities, EPA I.D. numbers (for hazardous waste facilities) or Kansas solid waste permit numbers (for non-hazardous waste facilities), for all hazardous and non-hazardous waste facilities owned or operated in the State of Kansas by the **Parent, or by an any other entity controlled by the Parent**. As used in this question, the term “solid waste or hazardous waste business” means any location or facility where hazardous or non-hazardous waste is treated, stored, or disposed of; transfer stations; terminals or business offices of collector/haulers or transporter operations; sanitary landfills; dumps; etc. Your response to this question may be combined with responses to Questions 10, 11, and 12 in a separate Appendix. Be sure to include all of the information requested in this Question 9. Enter a reference to the Appendix in which the answers are presented, in the space provided for a response to this Question 9.
10. Enter the same information requested in Question 9 for all the hazardous and non-hazardous waste facilities formerly owned or operated by the **Parent, or by any other entity controlled by the Parent**, or by any predecessor of the **Parent** (refer to your answer to Question 3a if a corporation), or by any owner, partner, director, officer, or key employee of the **Parent**, or by a stockholder owning more than 5% of the **Parent’s** equity, in the State of Kansas. Include in your response any hazardous or non-hazardous waste management activities (as detailed in this guidance provided for Question 9) which are no longer permitted or were never permitted. Your response to this question may be combined with responses to Questions 9, 11, and 12 in a separate Appendix. Be sure to include all of the information requested in this Question 10. Enter a reference to the Appendix in which the answers are presented, in the space provided for a response to this Question 10.
11. Enter the same information requested in Question 9 for all the hazardous and non-hazardous waste facilities owned or operated by the **Parent, or by any other entity controlled by the Parent**, in any jurisdictions other than the State of Kansas, either domestic or foreign. Your response to this question may be combined with responses to Questions 9, 10, and 12 in a separate Appendix. Be sure to include all of the information requested in this Question 11. Enter a reference to the Appendix in which the answers are presented, in the space

provided for a response to this Question 11.

12. Enter the same information requested in Question 9 for all former hazardous and non-hazardous waste facilities owned or operated by the **Parent, or by any other entity controlled by the Parent**, or by any predecessor of the **Parent** (refer to your answer to Question 3a if a corporation), or by any owner, partner, director, officer, or key employee of the **Parent**, or by a stockholder owning more than 5% of the **Parent's** equity, in any jurisdictions other than the State of Kansas. Include in your response any solid or hazardous waste management activities (as detailed in this guidance provided for Question 9) which are no longer permitted or were never permitted. Your response to this question may be combined with responses to Questions 9, 10, and 11 in a separate Appendix. Be sure to include all of the information requested in this Question 12. Enter a reference to the Appendix in which the answers are presented, in the space provided for a response to this Question 12.

**Specific Guidance for Part IA (Must be completed by all corporate Parents)**

- 1a. Repeat the response to Question 1.
- 2a. Enter the name and complete address of the Registered Agent for the **Parent** corporation in the state of incorporation.
- 3a. Enter any and all other legal names the **Parent** corporation has used in the past, and list the years during which the names were used. This question may be answered instead at Question 2, if the information required by this question was provided there. Enter a reference to Question 2 in the space provided for a response to this Question 3a.
- 4a. Enter any and all trade names the **Parent** corporation uses or has used, including names of divisions or "trading as" or "doing business as" names. Do not include brand names of products or services, unless they are derived from, or closely associated with, the type of names referenced in the sentence above.
- 5a. For the **Parent** corporation, enter the date and state of incorporation, and the reference number used to obtain the incorporation file from the Secretary of State in the incorporating state.
- 6a. From the Certificate of Authority to Transact Business in Kansas, enter the date of the certificate, the name of the **Parent's** Registered Agent for the State of Kansas, folder number, and the address of the **Parent's** Registered Agent for the State of Kansas.

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- 7a. Enter the name, business address, first election date, and date of birth for every current member of the board of directors of the **Parent** corporation. The business address entered should be the place of usual business residence of the director, not the **Parent's** address, unless the director is also a full-time employee of the **Parent** corporation.
- 8a. Enter the name, business address, position held, first date elected to the position, and date of birth for every current officer of the **Parent** corporation.
- 9a. Enter the name, last known business address other than the **Parent's** address, position held, beginning and ending dates of the terms of office, and birth dates for every past officer and director of the **Parent** corporation. If any of the requested information is unknown and cannot be obtained from sources available to the **Parent** corporation, enter "unknown". However, failure to answer this question completely may delay your application for a permit if KDHE determines that the information not provided is necessary.

### **Specific Guidance for Part IB (Must be completed by all partnership/joint venture Parents)**

- 1b. Repeat the response to Question 1.
- 2b. Enter a mark beside the best description of the **Parent's** form of organization. A joint venture is a legal entity, usually formed for a single business purpose by two or more business concerns. A partnership may be formed among natural persons or business concerns. A general partnership does not limit the investment, earnings, losses, or business liability of any partner. A limited partnership grants, among other things, limited business liability to one or more partners. A "limited liability partnership" or LLP, is a partnership for the purpose of a response to this question. A "limited liability corporation" or LLC, is a corporation which should be entered in Part IA.
- 3b. Enter the name, business address, position held in the **Parent** organization, and date of birth for every general partner, limited partner, and joint venturer holding an ownership interest in the **Parent**. The business address entered should be the place of usual business residence of the partner or joint venturer, not the **Parent's** address, unless the partner or joint venturer is also a full-time employee of the **Parent** organization. If the partner or joint venturer is a business enterprise, enter its FEIN number.

**Specific Guidance for Part IC (Must be completed by all Parents other than corporations, partnerships, and joint ventures)**

- 1c. Repeat the response to Question 1.
- 2c. Enter a description of the form of business organization of the **Parent**. Examples may be a sole proprietorship, a trust, or a quasi-governmental organization. The response should provide enough detail to fully describe the **Parent's** form of organization. An issue of concern to KDHE will be the method by which the organization assumes environmental liability for the activity to be permitted. An Appendix containing relevant organizing documents should be attached. This question may instead be answered at Question 7. Enter a reference to Question 7 in the space provided for a response to this Question 2c.
- 3c. Enter the names and business addresses of all officers and persons and/or organizations holding an ownership interest in the **Parent**. Enter the position held and date of birth for all natural persons. Enter the FEIN for all organizations listed.

**Specific Guidance for Part II (Must be completed by all Parents)**

**Answer EITHER Question 13a and b, OR Question 14a, b, and c, depending upon the "privately held" or "publicly held" status of the Parent, BUT NOT BOTH. Enter "Not Applicable" in the space provided for a response to the question which does not apply.**

- 13.a). The **Parent** is a "privately held concern" for the purposes of this question if it is a privately held business enterprise, which may be a C or S corporation not traded on a public stock exchange, an LLC, a partnership, an LLP, a sole proprietorship, or any other form of business organization not a publicly traded corporation. Enter the name, business address, and birth date of any natural person owning or otherwise controlling an interest totaling more than 5% of total equity, if the **Parent** is a privately held concern. Enter the type of ownership equity held by each natural person, and the percentage it represents of the total equity of the **Parent**. Ownership includes both direct and beneficially owned shares. Debt should be excluded from the calculation of total equity. Preferred stock should be included.
- 13.b). The **Parent** is a "privately held concern" for the purposes of this question if it is a privately held business enterprise, which may be a C or S corporation not traded on a public stock exchange, an LLC, a partnership, an LLP, a sole proprietorship, or any other form of business organization not a publicly traded corporation. Enter the name, business address, and FEIN for each business concern holding or

otherwise controlling an interest totaling more than 5% of total equity, if the **Parent** is a privately held business concern. Enter the type of ownership equity held by each business concern, and the percentage it represents of the total equity of the **Parent**. Ownership includes both direct and beneficially owned shares. Debt should be excluded from the calculation of total equity. Preferred stock should be included.

- 14.a). The **Parent** is a “publicly traded corporation” if its common capital stock is listed on any public stock exchange, whether it is a regional, national or foreign stock exchange, and the **Parent** is subject to the periodic reporting rules of the U. S. Securities and Exchange Commission (SEC). Enter the listing symbol used in public trading and the stock exchanges on which the **Parent’s** common capital stock is listed, if the **Parent** is a publicly traded corporation. Include a copy of the **Parent’s** latest completed Annual Financial Report to stockholders, and a copy of the **Parent’s** latest Form 10-K filed with the SEC.
- 14.b). The **Parent** is a “publicly traded corporation” if its common capital stock is listed on any public stock exchange, whether it is a regional, national or foreign stock exchange, and the **Parent** is subject to the periodic reporting rules of the U. S. Securities and Exchange Commission (SEC). Enter the name, business address, and birth date of any natural person owning or otherwise controlling an interest totaling more than 5% of total equity, if the **Parent** is a publicly traded corporation. Enter the type of ownership equity held by each natural person, and the percentage it represents of the total equity of the **Parent**. Ownership includes both direct and beneficially owned shares. Debt should be excluded from the calculation of total equity. Preferred stock should be included. Include a copy of the **Parent’s** latest completed Annual Financial Report to stockholders, and a copy of the **Parent’s** latest Form 10-K filed with the SEC.
- 14.c). The **Parent** is a “publicly traded corporation” if its common capital stock is listed on any public stock exchange, whether it is a regional, national or foreign stock exchange, and the **Parent** is subject to the periodic reporting rules of the U. S. Securities and Exchange Commission (SEC). Enter the name, business address, and FEIN for each business concern holding or otherwise controlling an interest totaling more than 5% of total equity, if the **Parent** is a publicly traded corporation. Enter the type of ownership equity held by each business concern, and the percentage it represents of the total equity of the **Parent**. Ownership includes both direct and beneficially owned shares. Debt should be excluded from the calculation of total equity. Preferred stock should be included. Include a copy of the **Parent’s** latest completed Annual Financial Report to stockholders, and a copy of the **Parent’s** latest Form 10-K filed with the SEC.
15. Enter the name and address of every lending institution chartered by an agency



of a state or of the Federal government from which the **Parent** has an outstanding loan. Enter the type of debt (revolving credit, notes, mortgages, etc.), the date on which the debt was created, the original or highest amount borrowed, and the present balance outstanding. If independently audited financial statements for the **Parent** are provided to KDHE with this form, this question may be answered by referencing the applicable note to financial statements which describes the outstanding debt of the enterprise.

**Answer EITHER Question 16a and b, OR Question 17a and b, depending upon the “privately held” or “publicly held” status of the Parent, BUT NOT BOTH. Enter “Not Applicable” in the space provided for a response to the question which does not apply.**

- 16.a). The **Parent** is a “privately held concern” for the purposes of this question if it is a privately held business enterprise, which may be a C or S corporation not traded on a public stock exchange, an LLC, a partnership, an LLP, a sole proprietorship, or any other form of business organization not a publicly traded corporation. Enter the name and business address of any natural person holding debt of the **Parent** totaling more than 5% of total debt, if the **Parent** is a privately held business concern. Enter the type of debt held by each natural person (notes, bonds, mortgages, etc.), the date the debt was created, the original or highest amount, and the current balance outstanding. If independently audited financial statements for the **Parent** are provided to KDHE with this form, this question may be answered by referencing the applicable note to financial statements which describes the outstanding debt of the enterprise.
- 16.b). The **Parent** is a “privately held concern” for the purposes of this question if it is a privately held business enterprise, which may be a C or S corporation not traded on a public stock exchange, an LLC, a partnership, an LLP, a sole proprietorship, or any other form of business organization not a publicly traded corporation. Enter the name, business address, and FEIN for each business concern holding or otherwise controlling debt of the **Parent** totaling more than 5% of total debt, if the **Parent** is a privately held business concern. Enter the type of debt held by each business concern (notes, bonds, mortgages, etc.), the date the debt was created, the original or highest amount, and the current balance outstanding. Do not list any debt listed in response to Question 15. If audited financial statements for the **Parent** are provided to KDHE with this form, this question may be answered by referencing the applicable note to financial statements which describes the outstanding debt of the enterprise.
- 17.a). The **Parent** is a “publicly traded corporation” if its common capital stock is listed on any public stock exchange, whether it is a regional, national or foreign stock exchange, and the **Parent** is subject to the periodic reporting rules of the U. S.

Securities and Exchange Commission (SEC). Enter the name and business address of any natural person holding debt of the **Parent** totaling more than 5% of total debt, if the **Parent** is a publicly traded corporation. Enter the type of debt held by each natural person (notes, bonds, mortgages, etc.), the date the debt was created, the original or highest amount, and the current balance outstanding. If independently audited financial statements for the **Parent** are provided to KDHE with this form, this question may be answered by referencing the applicable note to financial statements which describes the outstanding debt of the enterprise.

- 17.b). The **Parent** is a “publicly traded corporation” if its common capital stock is listed on any public stock exchange, whether it is a regional, national or foreign stock exchange, and the **Parent** is subject to the periodic reporting rules of the U. S. Securities and Exchange Commission (SEC). Enter the name, business address, and FEIN for each business concern holding or otherwise controlling debt of the **Parent** totaling more than 5% of total debt, if the **Parent** is a publicly held corporation. Enter the type of debt held by each business concern (notes, bonds, mortgages, etc.), the date the debt was created, the original or highest amount, and the current balance outstanding. Do not list any debt listed in response to Question 15. If independently audited financial statements for the **Parent** are provided to KDHE with this form, this question may be answered by referencing the applicable note to financial statements which describes the outstanding debt of the enterprise.

### **Specific Guidance for Part III (Must be completed by all Parents)**

**A combined response for Questions 18, 19, and 20 may be provided in a separate Appendix in the form of a complete organization chart of the entire organization, from ultimate parent down to last subsidiary business concern. Include in the combined response all of the information required by each question. Enter a reference to the Appendix in the space provided for a response to each question.**

18. Enter the name, business address and FEIN of any hazardous or non-hazardous waste business concern in which the **Parent** owns an equity interest, in any jurisdiction of the U. S. or of a foreign country. For each business concern listed, enter the type of equity held and the percentage the **Parent’s** holding represents to the total equity of the listed concern. Equity holdings of the **Parent** are to be listed here even if they represent less than 5% of the total equity of the concern.
19. Enter the name, business address and FEIN of any business concern not listed in response to Question 18 which is more than 49% owned by the **Parent**. For each business concern listed, enter the type of equity held and the percentage the

**Parent's** holding represents to the total equity of the listed concern.

20. In a separate Appendix, provide an organization chart which details the relationships within the organization, level by level down from the ultimate parent, of the corporate group in which the **Parent** is a member. Include all subsidiaries of the ultimate parent, not just the subsidiaries engaged in hazardous or non-hazardous waste activities. If the **Parent** is the member of a group of companies, and the **Parent** is owned or controlled 25% or more by a natural person or members of one natural family, provide a chart identifying the natural person or family and identifying the other business concerns the natural person or family also owns or controls.

**Affidavit of Author and Certification Signatures (Must be completed by all Parents)**

21. The Affidavit of Author form must be signed by the individual acting for the **Parent** who compiled and entered, or was in charge of compiling and entering, the responses to the foregoing 20 questions. The signature of the individual must be attested by a notary public.
22. The truthfulness of responses entered on the Business Concern Disclosure Statement Form II and accompanying notes, schedules and Appendices must be certified by the signatures of:

For a corporation:

President  
Chairman of the Board of Directors  
Secretary  
Treasurer

For a partnership:

All general partners

For a sole proprietorship:

The owner

For any other form of business concern:

Chief executive officer  
Secretary  
Treasurer