

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
DIVISION OF ENVIRONMENT
BUREAU OF WASTE MANAGEMENT
TOPEKA, KS 66612-1366

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

**SOLID WASTE
FORM II**

General Guidance

- A. The Business Concern Disclosure Statement Form II (BCDS Form II - Solid Waste) must be completed by the **Applicant** for a permit to operate a solid waste processing facility or a solid waste disposal area in Kansas. (Pursuant to the rule at K.S.A. 65-3407(c) requiring the Secretary, Kansas Department of Health and Environment (KDHE) to conduct a background investigation of the **Applicant**.)
- B. The **Applicant** 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 conducting a business enterprise which may acquire a permit to operate a solid waste processing facility or solid waste disposal area in accordance with rules at K.S.A. 65-3401 et seq., K.A.R. 28-29-1 et seq., which include adopted portions of 40 CFR Part 258 (Resource Conservation and Recovery Act, as amended - commonly referred to as RCRA Subtitle D regulations).
- C. The information entered on the form must be for the **Applicant** business concern, itself, unless the direct meaning of the question indicates otherwise. The "**Applicant business concern**" means the legal entity which will actually operate the facility at which the activity being permitted will be conducted. The **Applicant** is the entity named in the Application for a Solid Waste Permit.
- 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. Questions on the form which request historical information concerning the **Applicant's** environmental compliance record will require that hazardous waste

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- facilities owned or operated by the **Applicant** be included in the response, in addition to the listed solid waste processing facilities or solid waste disposal areas.
- F. If any question does not apply to the **Applicant**, or if a question is applicable but the answer is "None", the **Applicant** 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 **Applicant** 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.
- G. 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.
- H. Use numbered notes to further explain any responses entered on the form which may otherwise be unclear.
- I. 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.
- J. 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 **Applicant**, 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.
- K. 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.
- L. Consider attaching a recent Annual Financial Report or other published and non-confidential materials of the **Applicant** with the completed BCDS Form II, to assist KDHE in understanding your business concern.
- M. 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

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a permit. Forms filed with incomplete or incompetent responses will be returned to the **Applicant** for correction. **For assistance, contact the Kansas Department of Health and Environment, Bureau of Waste Management, Solid Waste Permits Section. The main telephone number of the Bureau of Waste Management is (785) 296-1600.**

- N. If the **Applicant** is a subsidiary corporation or other controlled entity, a Business Concern Disclosure Statement Form II (BCDS Form II) will be required by KDHE, to be completed by the **controlling parent corporation** or **other controlling entity**. The controlling parent corporation or other controlling entity may or may not be in the first organizational tier above the **Applicant**, depending upon where the actual point of effective management control lies within the organization. The information submitted on the BCDS Form II will be used by KDHE to determine the suitability of the ultimate parent, or other controlling entity (which may be a natural person or a natural family), to control a solid waste processing facility or a solid waste disposal area granted a permit in the State of Kansas.

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

1. Enter the exact legal name of the **Applicant** as it appears in the current articles of incorporation, or as it appears in other legal identification documents if the **Applicant** is not a corporation. The name entered here must be the same as the name entered on the Application for a Solid Waste Permit. Do not list the name of the parent corporation, or other owner of the **Applicant**, in this space.
2. Enter the exact address of the principal office of the **Applicant**. Supplement your response with any other addresses which are relevant in case official notice is provided by KDHE to the **Applicant**.
3. Enter the telephone and FAX numbers at the principal office address of the **Applicant**. Supplement your response with any other numbers which are relevant in case official notice is provided by KDHE to the **Applicant**.
4. Enter the Federal Employer Identification Number (FEIN) of the **Applicant**.
5. Enter the form of business organization used by the **Applicant**. 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 5.
6. Enter the first date the **Applicant** was organized in its present business form.

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

- 1a. Enter the name and complete address of the Registered Agent for the **Applicant** corporation in the state of incorporation.
- 2a. Enter the date of incorporation, the state in which incorporated, and the applicable state reference number.
- 3a. From the Certificate of Authority to Transact Business in Kansas, enter the date of the certificate, the name of the **Applicant's** Registered Agent for the State of Kansas, folder number, and the address of the **Applicant's** Registered Agent for the State of Kansas.
- 4a. Enter the name, business address, position held, first date elected to the position, and date of birth for every current officer of the **Applicant** corporation.

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

- 1b. Repeat the response to Question 1.
- 2b. Enter a mark beside the best description of the **Applicant'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 **Applicant** organization, and date of birth for every general partner, limited partner, and joint venturer holding an ownership interest in the **Applicant**. The business address entered should be the place of usual business residence of the partner or joint venturer, not the **Applicant's** address, unless the partner or joint venturer is also a full-time employee of the **Applicant** 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 Applicants other than corporations, partnerships, and joint ventures)

- 1c. Repeat the response to Question 1.

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- 2c. Enter a description of the form of business organization of the **Applicant**. Examples may be a sole proprietorship, a trust, or a quasi-governmental organization. The response should provide enough detail to fully describe the **Applicant'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 5. Enter a reference to Question 5 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 **Applicant**. 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 Applicants)

7. Enter the name and address of every lending institution chartered by an agency of a state or of the Federal government from which the **Applicant** 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 **Applicant** 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.
- 8.a). Enter the name and business address of any natural person holding any debt of the **Applicant**. 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 **Applicant** 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.
- 8.b). Enter the name, business address, and FEIN for each business concern holding or otherwise controlling any debt of the **Applicant**. Enter the type of debt held by each business concern (bank line, 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 7. If audited financial statements for the **Applicant** 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 Applicants)

9. Enter the title of the action, the identity and location of the court, the nature of the action, the date the action was filed, and the current status of any voluntary or involuntary bankruptcy cases filed for or against the **Applicant** during the last five years. The response to the title of the action question should include the case identifying number and the names of the petitioners. The response to the nature of the action should include the applicable state or Federal code reference under which the action was filed. The response to the status/disposition of the action should include the date the action was terminated by the court, if any.
10. Enter the name, business address, date appointed/terminated, and the identity of the court making the appointment of any receiver, fiscal agent, trustee, reorganization trustee, or similar fiscal officer appointed to manage the financial affairs of the **Applicant** during the last five years.

Specific Guidance for Part IV (Must be completed by all Applicants)

11. Enter the **Applicant business concern's** past experience in the collection, transportation, treatment, storage, or disposal of hazardous and non-hazardous waste. Include only the **Applicant's** experience in response to this question, not that of a parent or sibling company, or any other related organization, or the owners or officers of the **Applicant**. If the **Applicant** is a new company with no such history, enter "None".

Specific Guidance for Part V (Must be completed by all Applicants)

12. Enter any and all hazardous and non-hazardous waste licenses and permits ever issued to the **Applicant** by an agency of the State of Kansas or of the United States. Include licenses and permits issued by the State of Kansas and the USEPA to any other names used by the **Applicant** in the past. Enter the name on the license or permit; the type of license or permit; the number, street address and city of the facility location; the dates issued/terminated; type of facility; issuing agency; and license or permit number.

Specific Guidance for Part VI (Must be completed by all Applicants)

13. Enter and explain any notice of violation, notice of prosecution, administrative order or similar citation issued to the **Applicant**, in any of the **Applicant's** forms or under any former names of the **Applicant**, during the last 10 years by any state, federal, local or foreign government for any alleged violation of any law or regulation pertaining to the protection of the environment. For each such notice, citation or order, list the name of the facility cited; type of notice or action with issuing agency

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identification; date of issue; nature of the violation cited; location of the violation; disposition of the matter; and an explanation of the disposition. If final resolution is pending, enter "Resolution Pending" in the space provided for disposition.

14. Enter and explain any alleged violations of environmental protection laws and/or regulations, in any jurisdiction in which the **Applicant** conducts or has conducted hazardous or non-hazardous waste activities, which have been the subject of administrative proceedings before a civil court. For each proceeding, enter the title of the case; docket number; identity of the court and jurisdiction; location of the court; and disposition. If action is pending, enter "Resolution Pending" in the space provided for disposition.

Specific Guidance for Part VII (Must be completed by all Applicants)

15. Enter any criminal convictions against the **Applicant**, its officers, directors and key employees, and its more than 5% owners, for any crime or disorderly person offense involving environmental laws and/or regulations committed in the State of Kansas or any other state, Federal, or local jurisdiction. Enter the name of the person or entity; the nature of the offense; the indictment or information number; the jurisdiction in which the action was brought; and the date charged. Include indictments outstanding on the date this question is answered.

Affidavit of Author and Signature Page (Must be completed by all Applicants)

16. The Affidavit of Author form must be signed by the individual acting for the **Applicant** who compiled and entered, or was in charge of compiling and entering, the responses to the foregoing 15 questions. The signature of the individual must be attested by a notary public.

17. The truthfulness of responses entered on the Business Concern Disclosure Statement Form II, 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