

A GUIDE TO THE BACKGROUND INVESTIGATION DISCLOSURE REQUIREMENTS

Applicants for and holders of Ohio solid waste, infectious waste or hazardous waste licenses or permits, and prospective owners of Ohio off-site waste facilities (referred to as “Applicants” throughout the rest of this guide) are required by law to file disclosure statements with the Attorney General’s Environmental Background Investigation Unit.

Following disclosure, the Environmental Background Investigation Unit conducts an independent background investigation on each Applicant. The Attorney General transmits the findings of the investigation to the Director of the Ohio Environmental Protection Agency in the form of an investigative report. This investigative report contains factual information relating to the Applicant’s competence, reliability and expertise. A portion of the investigative report may also contain confidential advice to the Director regarding the Applicant’s disqualifying criteria, if such exists. The Director uses the investigative report in the permit or license review process.

This Guide is a resource to assist Applicants filing disclosure statements. This Guide does not replace the statutes and rules governing environmental background investigation disclosures or relieve an individual or business concern of its responsibilities under those statute and rules.

The rules governing background investigation disclosures are Ohio Administrative Code 109:6-1-02 through 109:6-1-05 (<http://codes.ohio.gov/oac/109%3A6>); they are based on Sections 3734.41 through 3734.47 of the Ohio Revised Code (<http://codes.ohio.gov/orc/3734>).

DISCLOSURE STATEMENTS

The Environmental Background Investigation Unit uses six disclosure documents to complete its investigation. These forms are available to all applicants either on-line through the Attorney General’s website or by mail, upon request. To access the information on-line, please visit the Attorney General’s web page at <http://www.ohioattorneygeneral.gov/files/Forms/Forms-for-Business/Environment>.

The six forms include the:

1. Applicant Disclosure Form
2. Non-Applicant Business Concern Disclosure Form
3. Applicant Disclosure & Non-Applicant Business Concern Disclosure Forms Affidavit
4. Personal History Disclosure Form
5. Combined Personal History Disclosure Affidavit and Information Release Authorizations
6. Fingerprint Card Request Form

Not all Applicants will be required to complete all forms. Please refer to the instructions below to determine which forms must be completed.

Within 180 days after receiving a “call-in letter” (or at least 180 days prior to a proposed change of ownership), an Applicant is required to complete the forms and file the disclosure statements with the Attorney General.

In addition to submitting the required disclosure statements, an Applicant may submit any additional information which is pertinent to its disclosure. The submission of this additional information does not relieve the individual or business concern of its obligation to file complete disclosure statements.

INITIAL FILING OF DISCLOSURE STATEMENTS - WHO MUST FILE AND WHEN

NEW FACILITY

Every Applicant for a permit (other than a permit modification or renewal) is required to file disclosure statements with the Attorney General:

1. At the same time the Applicant files its application with the Director of the Ohio Environmental Protection Agency; or
2. On or before a date specified in a written notice sent by the Attorney General.

EXISTING FACILITY

1. Call-In

Every permit holder who has not already filed disclosure statements with the Attorney General (for each of its facilities) is required to do so on or before a date specified in a written notice sent by the Attorney General.

2. Change of Ownership

If there is to be a change of ownership of an existing facility, the new owner is required to file disclosure statements with the Attorney General at least 180 days prior to the change of ownership.

WHAT MUST BE FILED

APPLICANT DISCLOSURE FORM

Each Applicant must initially submit an Applicant Disclosure Form (this statement replaces the Main Disclosure Form and Business Concern Disclosure Form).

After submitting an Applicant Disclosure Form, each year an Applicant must submit an Applicant Disclosure & Non-Applicant Business Concern Disclosure Forms Affidavit, which serves as an annual update, reporting any changes to information previously disclosed in its

Applicant Disclosure Form. In the alternative, the Applicant can opt to complete a new Applicant Disclosure Form annually. This may be preferable when the Applicant is reporting many changes to its previously disclosed information.

NON-APPLICANT DISCLOSURE FORM

A business concern must complete a Non-Applicant Business Concern Disclosure Form if it is not the Applicant:

1. Directly holds, or are able to control through a subsidiary or holding company, any equity in or debt liability of the Applicant, if the Applicant is a privately held business concern;
2. Directly holds, or are able to control through a subsidiary or holding company, more than five (5) percent equity in or debt liability of the Applicant, if the Applicant is a publicly traded corporation;
3. Is a partner of the Applicant;
4. Is a subsidiary of the Applicant and collects, transfers, transports, treats, stores, or disposes of solid waste, infectious waste, or hazardous waste;
5. Is the operator of an off-site facility for which the Applicant is a government entity; or
6. Is a partner of the operator of an off-site facility for which the Applicant is a government entity and the operator is not an employee of the government entity.

After submitting a Non-Applicant Disclosure Form, each year a Non-Applicant must submit an Applicant Disclosure & Non-Applicant Business Concern Disclosure Forms Affidavit, which serves as an annual update reporting any changes to information previously disclosed in its Non-Applicant Disclosure Form. In the alternative, the Non-Applicant can opt to complete a new Non-Applicant Disclosure Form annually. This may be preferable when the Non-Applicant is reporting many changes to its previously disclosed information.

PERSONAL HISTORY DISCLOSURE FORM

The Personal History Disclosure Form must be completed by:

1. Sole proprietors;
2. Officers, directors, partners, or key employees of an Applicant;
3. Individuals who own or control the Applicant;
4. Officers, directors, and partners of a business concern that owns or controls the Applicant;
5. Officers, directors, partners, and key employees of an operator of an off-site facility if the Applicant is a government entity.

After submitting a Personal History Disclosure Form, each year an individual must submit a Combined Personal History Disclosure Affidavit and Information Release Authorization, reporting any changes to information previously disclosed in its Personal History Disclosure Form. An individual can opt to complete a new Personal History Disclosure Form annually. This may be preferable when the individual is reporting many changes to its previously disclosed information.

In the event an individual decides to provide a new Personal History Disclosure Form as his/her annual update he or she will still be required to complete the Combined Personal History Disclosure Affidavit and Information Release Authorization for the year. This is because many of the sources from which the Attorney General obtains investigative information require current release authorizations.

FINGERPRINTING

The individuals completing Personal History Disclosure Forms must also submit fingerprints. Fingerprints may be submitted electronically or by the ink and paper method. Fingerprints need only be submitted one time as long as they are and remain readable.

1. Fingerprints submitted electronically. An individual who wishes to submit fingerprints electronically may do so by going to any of the vendors identified on the Attorney General's website who are able to take **both** BCI&I and FBI fingerprints. The individual must submit electronic fingerprints that will be transmitted by the vendor to both the Ohio BCI&I and FBI in order to meet his statutory obligations. The Attorney General's website identifying electronic fingerprint vendors is:

<http://www.ohioattorneygeneral.gov/Services/Business/WebCheck/Webcheck-Community-Listing>.

- * All individuals who provide electronic fingerprints are responsible for ensuring that the results are returned to the Environmental Background Investigation Unit. Processing time may take up to thirty (30) days. Be sure to account for this time when submitting fingerprints electronically.
- * Individuals submitting electronic fingerprints must be sure to list the name and address of the Environmental Background Investigation Unit on the fingerprint form which they provide to the electronic fingerprint vendor. Please list the entity receiving the fingerprint results as: Environmental Background Investigation Unit, 30 E. Broad Street, 25th Floor, Columbus, Ohio, 43215.
- * All individuals who provide electronic fingerprints are responsible for paying the electronic fingerprinting fee charged by the vendor.
- * In the event that an individual's fingerprints are not or can not be taken electronically, he or she will be required to submit ink and paper fingerprints.

2. Fingerprints submitted by the ink and paper method. Individuals may choose to provide fingerprints by the traditional ink and paper method of fingerprinting. All individuals who choose to provide traditional ink and paper fingerprints must do so on the forms provided by the Attorney General. If an individual resides out-of-state he or she must provide traditional ink and paper fingerprints, unless the Attorney General determines the out-of-state electronic fingerprint vendor he or she proposes to use qualifies to submit electronic fingerprints.

FILING OF MAINTENANCE DISCLOSURE STATEMENTS

After the Applicant has completed its initial submission of disclosure statements to the Attorney General, and the Attorney General has completed an investigation and transmitted the investigative report to the Director of the Ohio Environmental Protection Agency, the Applicant must periodically update its disclosure.

PERIODIC UPDATE REQUIREMENTS

1. The Applicant must submit a Personal History Disclosure Form and fingerprint card on behalf of any individual, listed in *Attachment A*, within 90 days after hiring.
2. The Applicant must submit a Non-Applicant Business Concern Form on behalf of any new business concern, listed in *Attachment B*, within 90 days after the acquisition or formation of one of the business concern.
3. The Applicant must submit information regarding any new criminal conviction within 90 days after the judgment entry of a conviction of any individual or business concern required to report convictions in a disclosure form. See *Attachment C*.

ANNUAL UPDATE REQUIREMENTS

On or before the date specified in a written notice sent by the Attorney General, the Applicant must submit annually Applicant Disclosure & Non-Applicant Business Concern Disclosure Forms Affidavits for all of the disclosure forms submitted on behalf of the Applicant. These affidavits must report any changes to information previously disclosed.

In the alternative, the Applicant and any Non-Applicant Business Concerns can opt to complete new disclosure statements. This may be preferable when the individual or entity is reporting many changes to its previously disclosed information.

All applicants are required to submit an updated organizational chart depicting the relationship between the applicant and all non-applicant business concerns.

Individuals, having completed a Personal History Disclosure Form, must submit Combined Personal History Disclosure Affidavit and Information Release Authorizations because many of the sources from which the Attorney General obtains investigative information require current release authorizations.

SUBMISSION OF FEES WITH DISCLOSURE DOCUMENTS

Ohio Administrative Code 109:6-1-04 requires each Applicant filing disclosure statements to pay to the Attorney General's Office, a fee based upon the type of facility and the amount of waste handled by the respective facility. The fees are described in the referenced section are required to be submitted with the disclosure statements. The Environmental Background Investigation Unit should be contacted if there are any questions about the fees.

ATTACHMENT A

Within 90 days after hiring one of the individuals listed below, the applicant must submit a Personal History Disclosure Form and both State and Federal fingerprint cards.

1. New key employees of the Applicant;
2. New partners of the Applicant;
3. New officers and/or directors of related corporations;
4. Any new individual who owns or controls the Applicant;
5. Any new partner of a business concern which owns or controls the Applicant;
6. If the Applicant is a government entity, each new key employee whose primary duties concern the operation of the subject facility; or,
7. If the Applicant is a government entity, but the operator of the facility is a business concern:
 - a. Each new individual who is the operator;
 - b. Each new key employee of the operator;
 - c. Each new partner of the operator;
 - d. Each new officer of the operator; and
 - e. Each new director of the operator.

ATTACHMENT B

Within 90 days after the addition of one of the following business concerns, the Applicant must submit, on behalf of the business concern, a Non-Applicant Business Concern Form, completed in full.

WHO MUST DISCLOSE

1. A business concern which is a new partner of the Applicant;
2. Each business concern which owns or controls the Applicant; or,
3. If the Applicant is a government entity but the operator is a business concern, the operator.

ATTACHMENT C

Any individual or business concern required to report criminal convictions must report new criminal convictions to the Attorney General within ninety days of a judgment entry of conviction for an offense set forth in division (B) of Section 3734.44 of the Revised Code.

The criminal conviction may be reported on a newly submitted Personal History Disclosure Form or on a Combined Personal History Disclosure Affidavit and Information Release Authorization.

If applicable, the Applicant must also submit a new Applicant Disclosure Form or Applicant Disclosure & Non-Applicant Business Concern Disclosure Forms Affidavit reporting the criminal conviction.