

109:6-1-02

Disclosure statements.**(A) Who must file. Timing of filing.**

- (1) Every applicant for a permit other than a permit modification or renewal shall file with the attorney general a disclosure statement in accordance with these rules:
 - (a) At the same time he files his application for a permit with the director of environmental protection, applies on or after one hundred eighty days after the effective date of this rule;
 - (b) On or before the date specified in a written notice sent by the attorney general pursuant to division (E) of section 3734.42 of the Revised Code, if the applicant applied before effective dated of this rule September 3, 1989.
- (2) Every permittee who has not already filed a disclosure statement for the subject facility shall file a disclosure statement with the attorney general on or before the date specified in a written notice sent by the attorney general, pursuant to division (E) of section 3734.42 of the Revised Code.
- (3) If there is a change of ownership of an off-site facility, a prospective owner shall file a disclosure statement with the attorney general, as required by division (F) of section 3734.42 of the Revised Code, containing the information otherwise required of an applicant or permittee under this rule, at least one hundred eighty days prior to a proposed change in ownership as a change of ownership is defined in division (F) of section 3734.42 of the Revised Code.
- (4) The requirements of paragraphs (A)(1) to (A)(3) of this rule, apply regardless of whether the permittee, the applicant, pursuant to division (A)(1) of section 3734.42 of the Revised Code, or the prospective owner, pursuant to division (F) of section 3734.42 of the Revised Code, has prior to September 3, 1989 provided to the attorney general the information required in divisions (D)(1) to (D)(7) of section 3734.41 of the Revised Code.

(B) Contents of disclosure statement. A disclosure statement shall contain:

- (1) A general narrative, in which the applicant or permittee describes the operations of the applicant or permittee in terms of tonnage of wastes received, number of facilities operated, and any other aspect which the applicant or permittee believes will accurately represent the operations of the applicant or permittee.

The applicant or permittee may supplement its general narrative with recent photographs, statistics, reports or other materials;

- (2) If the applicant or permittee is a sole proprietor or other business concern:
- (a) The information required by paragraphs (C)(1) to (C)(19) of this rule for the sole proprietor, for each individual who is an officer, director, partner, or key employee of the applicant or permittee, for each individual who owns or controls the applicant or permittee, and for each individual who is an officer, director, or partner of, or owns or controls, a business concern which owns or controls the applicant or permittee;
 - (b) The information required by paragraphs (D)(1) to (D)(22) of this rule for the applicant or permittee, and for each business concern which is a partner of the applicant or permittee, and for each business concern which owns or controls the applicant or permittee;
 - (c) The full name, date of birth, business address and social security number of each individual holding any equity in or debt liability of the applicant or permittee, where the applicant or permittee is not a publicly traded corporation;
 - (d) The full name, business address and federal tax identification number of each business concern holding any equity in or debt liability of the applicant or permittee, where the applicant or permittee is not a publicly traded corporation;
 - (e) The full name, date of birth, business address and social security number of each individual holding more than five per cent of the equity in or debt liability of the applicant or permittee, where the applicant or permittee is a publicly traded corporation;
 - (f) The full name, business address and federal tax identification number of each business concern holding more than five per cent of the equity in or debt liability of the applicant or permittee, where the applicant or permittee is a publicly traded corporation;
- (3) For any listed business concern, the full name, date of birth, business address and social security number of each individual who:
- (a) Is an officer, director or partner of the listed business concern;

- (b) Holds any equity in or debt liability of the listed business concern, where the listed business concern is not a publicly traded corporation; or
 - (c) Holds more than five per cent of the equity in or debt liability of the listed business concern, where the listed business concern is a publicly traded corporation;
- (4) For any listed business concern, the full name, business address and federal tax identification number of each business concern which:
 - (a) Is a partner of the listed business concern;
 - (b) Holds any equity in or debt liability of the listed business concern, where the listed business concern is not a publicly traded corporation; or
 - (c) Holds more than five per cent of the equity in or debt liability of the listed business concern, where the listed business concern is a publicly traded corporation;
- (5) The full name, business address and federal tax identification number of any business concern in which the applicant or permittee holds an equity interest and which collects, transfers, transports, treats, stores, or disposes of solid, infectious, or hazardous waste;
- (6) If the applicant or permittee is a governmental entity:
 - (a) The information required by paragraphs (C)(1) to (C)(19) of this rule for each key employee of the applicant or permittee whose primary duties concern the operation of the subject facility; and
 - (b) The name, address, and telephone number of the applicant or permittee and information required by paragraphs (D)(11) to (D)(16) and (D)(21) of this rule for the applicant or permittee;
- (7) If the applicant or permittee is a governmental entity but the operator of the facility is a business concern or an individual who is not an employee of the governmental entity:
 - (a) The information required by paragraphs (C)(1) to (C)(19) of this rule, for the operator, if the operator is an individual and the information

required by paragraphs (D)(1) to (D)(22) of this rule, for the operator, if the operator is a business concern; and

(b) The information required by paragraphs (C)(1) to (C)(19) of this rule for each officer, director, partner, or key employee, as key employee is defined in paragraph (M)(2) of rule 109:6-1-01 of the Administrative Code, of the operator.

(C) For each individual referred to in paragraphs (B)(2)(a), (B)(6)(a), (B)(7)(a), and (B)(7)(b) of this rule, the applicant or permittee shall as part of the disclosure statement:

(1) State or describe the individual's:

(a) Full name;

(b) Date of birth;

(c) Social security number;

(d) Home address;

(e) Business address, and mailing address if different, and business telephone number;

(f) Other names and aliases; and

(g) Driver's license number;

(2) State the name, address, telephone number, and federal employment identification number of any business concern in which the individual owns or controls more than five per cent of the outstanding equity of a publicly traded corporation or more than twenty-five per cent of any other business concern, and state the amount of equity so owned or controlled and percentage of total equity;

(3) For any business concern in which the individual in the last twenty years held any interest, participated in management, or was employed, which engaged in the business of solid, infectious, or hazardous waste collection, transportation, treatment, storage, transfer or disposal, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, during the period of

the individual's ownership or participation, state the name, address, telephone number, and federal employment identification number of the business concern, type of business, and nature and dates of participation, and reason for leaving;

- (4) For any criminal prosecution pending against the individual or a business concern which the individual owned or controlled during the time of the alleged crime, state or provide:
 - (a) The indictment, information, or complaint number;
 - (b) Date of the indictment, information, or complaint;
 - (c) A description of the crime or crimes allegedly committed;
 - (d) Name and location of court in which the individual or business concern is being prosecuted;
 - (e) Current status of the prosecution; and
 - (f) Any explanation of the prosecution or alleged violation which the individual, permittee or applicant may choose to submit;

- (5) For any criminal conviction of the individual or a business concern which the individual owned or controlled during the time of the alleged crime, state or provide:
 - (a) The indictment, information, or complaint number;
 - (b) Date of the indictment, information, or complaint;
 - (c) A description of the crime or crimes of which the individual or business concern was convicted;
 - (d) Name and location of court in which the individual or business concern was prosecuted;
 - (e) Current status of the prosecution;
 - (f) Sentence or fine imposed; and

- (g) Any explanation of the prosecution or alleged violation which the individual, permittee or applicant may choose to submit;
- (6) Provide any written evidence or arguments, pursuant to division (C) of section 3734.44 of the Revised Code, which the individual believes demonstrates rehabilitation for a conviction of a crime listed in division (B) of section 3734.44 of the Revised Code;
- (7) If the individual has ever been arrested, state the date of arrest, charge, arresting agency and location, regardless of whether the arrest led to a conviction;
- (8) Describe the individual's experience and credentials in collection, transportation, transfer, treatment, storage or disposal of solid, infectious, or hazardous waste, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires;
- (9) State the name, relation, date of birth, address, and position held by any relative of the individual, which relative is or has been employed by, or served as the officer, director, partner, or sole proprietor of, a business concern which collects, treats, stores, or disposes of solid, hazardous, infectious waste and the name and address of the facility and business concern with which the relative was or is employed or served and the dates of employment or service;
- (10) List every place where the individual resided for the past ten years, including vacation or seasonal residences, and second homes;
- (11) State for the past ten years or since the age of eighteen, all employers of the individual, beginning with the present employer and the position held by the individual with each employer;
- (12) For each business concern in which the individual participates as partner, officer, director, key employee or as paid or unpaid consultant, state the name, address, telephone number, and federal employment identification number of the business concern, and the position held;
- (13) State the creditor, type of debt, date the debt was created, initial amount owed, and present balance owed, for any debt greater than twenty-five thousand dollars, excluding credit card account balances and mortgage loans for the individual's personal residence, but including stockholder loans and loans to a company the individual owns or controls, which:

- (a) The individual owes to any person or business concern, and identify the creditor; or
 - (b) Is owed to the person, and identify the debtor;
- (14) List any solid or infectious or hazardous waste licenses or permits or equivalent documents ever held in the last ten years by the individual or by any business concern owned or controlled by the individual for the operation of a solid, infectious, or hazardous waste transportation, treatment, storage, transfer or disposal business, or, a business engaged in the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, in Ohio or in the United States or country other than the United States and for each such license, permit, or equivalent document identify the:
- (a) Identification number, type and dates held;
 - (b) Name of the holder of the license, permit, or equivalent document;
 - (c) Name and address or location of the facility for which the license, permit, or equivalent document was issued;
 - (d) Name of the agency issuing the license, permit, or equivalent document for the facility and name of division or section within that agency primarily responsible for the review of the application for the license, permit, or equivalent document; and
 - (e) For each facility located outside Ohio covered by the waste license, permit, or equivalent document described in paragraphs (C)(14)(a) to (C)(14)(d) of this rule, state whether a license, permit, or equivalent document under air or water pollution laws was also obtained for that facility and state the name of the agency issuing each air or water license, permit, or equivalent document and name of division or section within that agency primarily responsible for the review of the application for the air or water license, permit, or equivalent document;
- (15) For any administrative enforcement action (including an administrative order or notice of violation):
- (a) Which:
 - (i) Is pending against the individual or a business concern owned or

controlled by the individual;

(ii) May result in the imposition of a sanction including but not limited to a fine; a penalty; a payment which is made or work or service which is performed in lieu of a fine or penalty; or a cessation or suspension of operations; and

(iii) Concerns a violation or alleged violation of a law, rule, or regulation relating to the collection, transportation, treatment, storage, or disposal of solid, hazardous, or infectious waste, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, or relating to any environmental statute;

(b) State or provide, for the action described in paragraphs (C)(15) to (C)(15)(a)(iii) of this rule:

(i) The caption, if any, of the action;

(ii) The docket number or other identification number of the action;

(iii) The agency or tribunal issuing the action;

(iv) The current status of the action;

(v) The date of issuance or commencement of the administrative action;

(vi) A description of the alleged violation in the action, including the location and date or dates of the alleged violation; and

(vii) Any explanation of the action or alleged violation which the individual, or permittee or applicant may choose to submit;

(16) For any administrative enforcement action (including an administrative order or notice of violation):

(a) Which:

(i) Is taken against the individual or a business concern owned or controlled by the individual;

- (ii) Is resolved or dismissed in a settlement agreement or in a consent order or decree or is adjudicated or is otherwise dismissed;
 - (iii) Resulted in the imposition of a sanction including but not limited to a fine; a penalty; a payment which is made or work or service which is performed in lieu of a fine or penalty; or a cessation or suspension of operations; and
 - (iv) Concerns a violation or alleged violation of a law, rule, or regulation relating to the collection, transportation, treatment, storage, or disposal of solid, hazardous, or infectious waste, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, or relating to any environmental statute;
- (b) State or provide for the action described in paragraphs (C)(16) to (C)(16)(a)(iv) of this rule:
 - (i) The caption, if any, of the action;
 - (ii) The docket number or other identification number of the action;
 - (iii) The agency or tribunal issuing the action;
 - (iv) The disposition of the action;
 - (v) A description of the alleged violation, including the location and date or dates of the alleged violation;
 - (vi) A description of any sanction imposed; and
 - (vii) Any explanation of the action or alleged violation which the individual, or permittee or applicant may choose to submit;
- (17) For any revocation, suspension, or denial of a license or permit or equivalent authorization:
 - (a) Which revocation, suspension, or denial:
 - (i) Was issued by any governmental entity in the ten years preceding filing of the disclosure statement; and

- (ii) Was issued pursuant to a law, rule, or regulation relating to the collection, transportation, treatment, storage, or disposal of solid, hazardous, or infectious waste, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, or relating to any environmental statute;
 - (b) State or provide for the action described in paragraphs (C)(17) to (C)(17)(a)(ii) of this rule:
 - (i) The caption, if any, of the revocation, suspension or denial action;
 - (ii) The docket number or other identification number of the action;
 - (iii) The agency or tribunal issuing the revocation, suspension, or denial;
 - (iv) A description of the reason or reasons for the revocation, suspension, or denial;
 - (v) Date of revocation, suspension or denial; and
 - (vi) Any explanation of the action or alleged violation which the individual or permittee or applicant may choose to submit;
- (18) For any civil suit:
- (a) Which:
 - (i) Is pending and in which the individual or a business concern owned or controlled by the individual is a defendant to a claim, counterclaim, or cross claim; and
 - (ii) May result in liability or imposition of a sanction, in whole or part, against the individual or a business concern owned or controlled by the individual under a law, rule, or regulation relating to the collection, transportation, treatment, storage, or disposal of solid, hazardous, or infectious waste, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, or relating to any environmental statute;

(b) State or provide for the action described in paragraphs (C)(18) to (C)(18)(a)(ii) of this rule:

(i) The case caption of the suit;

(ii) The docket number of the suit;

(iii) The name and location of the court or tribunal in which the suit is brought;

(iv) Current status of the suit;

(v) Date proceedings were initiated; and

(vi) Any explanation of the action or alleged violation which the individual or permittee or applicant may choose to submit; and

(19) For any civil suit:

(a) Which:

(i) Has resulted in a judgment or consent decree or consent order; and

(ii) Resulted in liability or imposition of a sanction, in whole or part, against the individual or a business concern owned or controlled by the individual under:

(a) A local ordinance which relates to environmental protection, unfair competition, fraud, or racketeering, or a state or federal law; or

(b) A common law claim of fraud, misrepresentation breach or interference with contract, or a reckless or intentional tort;

(b) State or provide for the action described in paragraphs (C)(19) to (C)(19)(a)(ii)(b) of this rule:

(i) The case caption of the suit;

- (ii) The docket number of the suit;
 - (iii) The name and location of the court or tribunal in which the suit was brought;
 - (iv) The disposition of the suit;
 - (v) The date of judgment; and
 - (vi) Any explanation of the action or alleged violation which the individual, permittee or applicant may choose to submit
- (D) Each applicant or permittee which is a business concern and each business concern referred to in paragraphs (B)(2)(b) and (B)(7)(a) of this rule shall, at a minimum, as part of the disclosure statement:
- (1) State or describe the business concern's:
 - (a) Present name, and former names used within the last twenty years, and when each name was used;
 - (b) Form of the business organization and date and place of organization;
 - (c) Street and mailing address of the principal office and any other office;
 - (d) Past addresses of the principal office for the last twenty years, and the dates when each address was occupied; and
 - (e) Present and former facilities in Ohio, the United States, and countries other than the United States, and for each, identify the type of facility, when used, the United States environmental protection identification number, and any permits or licenses issued for the facility, which permits or licenses are issued pursuant to any environmental protection statute;
 - (2) If the applicant or permittee is a corporation, state for the corporation the:
 - (a) Name and address of the statutory agent in Ohio;

- (b) Name and address and telephone number of the corporation's accountant, if any;
 - (c) Date of and state where articles of incorporation are filed, and if incorporated under the laws of a state other than Ohio, date of license to do business in Ohio pursuant to section 1703.03 of the Revised Code;
 - (d) Name, last known address, and position of present and former officers and directors for the past ten years and describe when each held their position; and
 - (e) Attach a copy of the articles of incorporation;
- (3) If the applicant or permittee is a partnership or joint venture, state for the business concern the:
- (a) Form of business concern such as partnership, joint venture or limited partnership;
 - (b) Name, address and telephone number of its accountant and statutory agent, if any; and
 - (c) Attach, as applicable, a copy of the certificate of limited partnership, partnership agreement or agreement of joint venture;
- (4) If the applicant or permittee is a business concern other than a corporation or partnership or joint venture:
- (a) Date and form of business organization;
 - (b) Name and address and telephone number of its accountant and statutory agent, if any; and
 - (c) Attach a copy of the business agreement by which the organization was formed, if any;
- (5) State the name of any business concern which engaged in the business of solid, infectious, or hazardous waste collection, transportation, treatment, storage, transfer or disposal, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, and in which the applicant or permittee

owns or controls more than five per cent of the outstanding equity, and state the amount of equity so owned or controlled and percentage of total equity;

- (6) State the name of any business concern in which the applicant or permittee owns or controls more than five per cent of the outstanding equity of a publicly traded corporation or more than twenty-five per cent of any other business concern, and state the amount of equity so owned or controlled and percentage of total equity;
- (7) If the applicant or permittee is a subsidiary of a parent corporation, or is the parent of one or more subsidiaries, or is part of a conglomerate, provide a chart showing the names, location, and relationships of:
 - (a) All business concerns which own or control the applicant;
 - (b) All subsidiaries, as that term is defined in paragraph (E) to (E)(1)(c) of this rule, of the business concerns identified in paragraph (D)(7)(a) of this rule; and
 - (c) All subsidiaries, as that term is defined in paragraph (E) to (E)(1)(c) of this rule, of the applicant; and
 - (d) If the applicant, permittee, parent or conglomerate is privately held or is a publicly traded corporation with more than twenty-five per cent of its stock held by relatives, show on the chart all other business concerns owned or controlled by relatives, to the extent that the applicant or permittee knows of or can reasonably ascertain ownership or control by relatives.
- (8) If the permittee or applicant is a publicly traded corporation, in addition to the information required by paragraphs (D)(2) to (D)(2)(e) of this rule, state or supply:
 - (a) Any stock exchange upon which the stock is traded;
 - (b) A copy of the most recent form 10-K of the United States securities and exchange commission; and
 - (c) A copy of the most recent annual report;
- (9) If the applicant or permittee has filed a petition in bankruptcy or has had a

petition in bankruptcy filed against it in the last ten years, describe the current status or disposition of the petition;

- (10) If the applicant or permittee has had a receiver, trustee, or similar officer appointed by a court within the last ten years, describe the nature and current status or disposition of such appointment, the address and telephone number of the appointee, and the dates between which the appointee served;
- (11) List any solid, infectious, or hazardous waste licenses or permits or equivalent documents ever held by the applicant or permittee or by any business concern owned or controlled by the applicant or permittee for the operation of a solid, infectious, or hazardous waste transportation, treatment, storage, transfer or disposal business, for a business engaged in the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, in Ohio or in the United States or country other than the United States and for each identify the:
 - (a) Identification number, type, and dates held; and
 - (b) Name under which the license, permit, or equivalent document was issued and address or location of the facility and issuing agency;
- (12) For any administrative enforcement action, including an administrative order or notice of violation:
 - (a) Which:
 - (i) Is pending against the business concern;
 - (ii) May result in the imposition of a sanction including but not limited to a fine; a penalty; a payment which is made or work or service which is performed in lieu of a fine or penalty; or a cessation or suspension of operations; and
 - (iii) Concerns a violation or alleged violation of a law, rule, or regulation relating to the collection, transportation, treatment, storage, or disposal of solid, hazardous, or infectious waste, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, or relating to any environmental statute;
 - (b) State or provide, for the action described in paragraphs (D)(12) to (D)(12)(a)(iii) of this rule:

- (i) The caption, if any, of the action;
 - (ii) The docket number or other identification number of the action;
 - (iii) The agency or tribunal issuing the action;
 - (iv) The current status of the action;
 - (v) The date of issuance or commencement of the administrative action;
 - (vi) A description of the alleged violation in the action, including the location and date or dates of the alleged violation; and
 - (vii) Any explanation of the action or alleged violation which the business concern, permittee or applicant may choose to submit;
- (13) For any administrative enforcement action, including an administrative order or notice of violation:
- (a) Which:
 - (i) Is taken against the business concern;
 - (ii) Is resolved or dismissed in a settlement agreement or in a consent order or decree or is adjudicated or is otherwise dismissed;
 - (iii) Resulted in the imposition of a sanction including but not limited to a fine; a penalty; a payment which is made or work or service which is performed in lieu of a fine or penalty; or a cessation or suspension of operations; and
 - (iv) Concerns a violation or alleged violation of a law, rule, or regulation relating to the collection, transportation, treatment, storage, or disposal of solid, hazardous, or infectious waste, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, or relating to any environmental statute;
 - (b) State or provide for the action described in paragraphs (D)(13) to (D)(13)(a)(iv) of this rule:

- (i) The caption, if any of the action;
 - (ii) The docket number or other identification number of the action;
 - (iii) The agency or tribunal issuing the action;
 - (iv) The disposition of the action;
 - (v) A description of the alleged violation, including the location and date or dates of the alleged violation;
 - (vi) A description of any sanction imposed; and
 - (vii) Any explanation of the action or alleged violation which the business concern, permittee or applicant may choose to submit;
- (14) For any revocation, suspension, or denial of a license or permit or equivalent authorization:
- (a) Which revocation, suspension, or denial:
 - (i) Was issued by any governmental entity in the ten years preceding filing of the disclosure statement; and
 - (ii) Was issued pursuant to a law, rule, or regulation relating to the collection, transportation, treatment, storage, or disposal of solid, hazardous, or infectious waste, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, or relating to any environmental statute;
 - (b) State or provide for the action described in paragraphs (D)(14) to (D)(14)(a)(ii) of this rule:
 - (i) The caption, if any of the revocation, suspension or denial action;
 - (ii) The docket number or other identification number of the action;
 - (iii) The agency or tribunal issuing the revocation, suspension or denial;

- (iv) A description of the reason or reasons for the revocation, suspension, or denial;
- (v) Date of revocation, suspension or denial; and
- (vi) Any explanation of the action or alleged violation which the business concern or permittee or applicant may choose to submit;

(15) For any civil suit:

(a) Which:

- (i) Is pending and in which the business concern is a defendant to a claim, counterclaim, or cross claim; and
- (ii) May result in liability or imposition of a sanction, in whole or part, against the business concern under a law, rule, or regulation relating to the collection, transportation, treatment, storage, or disposal of solid, hazardous, or infectious waste, the collection, storage or processing of solid waste if the solid waste consisted of scrap tires, or relating to any environmental statute;

(b) State or provide for the action described in paragraphs (D)(15) to (D)(15)(a)(ii) of this rule:

- (i) The case caption of the suit;
- (ii) The docket number of the suit;
- (iii) The name and location of the court or tribunal in which the suit is brought;
- (iv) Current status of the suit;
- (v) Date proceedings were initiated; and
- (vi) Any explanation of the action or alleged violation which the business concern or permittee or applicant may choose to submit;

(16) For any civil suit:

(a) Which:

(i) Has resulted in a judgment or consent decree or consent order; and

(ii) Resulted in liability or imposition of a sanction, in whole or part, against the business concern under:

(a) A local ordinance which relates to environmental protection, unfair competition, fraud, or racketeering, or a state or federal law; or

(b) A common law claim of fraud, misrepresentation breach or interference with contract, or a reckless or intentional tort;

(b) State or provide for the action described in paragraphs (D)(16) to (D)(16)(a)(ii)(b) of this rule:

(i) The case caption of the suit;

(ii) The docket number of the suit;

(iii) The name and location of the court or tribunal in which the suit was brought;

(iv) The disposition of the suit;

(v) The date of judgment; and

(vi) Any explanation of the action or alleged violation which the business concern, permittee, or applicant may choose to submit;

(17) For any criminal prosecution pending against the business concern, state or provide:

(a) The indictment, information, or complaint number;

(b) Date of the indictment, information or complaint;

- (c) A description of the crime or crimes allegedly committed:
 - (d) Name and location of court in which the business concern is being prosecuted;
 - (e) Current status of the prosecution;
 - (f) Any explanation of the prosecution or alleged violation which the business concern, permittee, or applicant may choose to submit;
- (18) For any criminal conviction against the business concern, state or provide:
- (a) The indictment, information or complaint number;
 - (b) Date of the indictment, information, or complaint;
 - (c) A description of the crime or crimes of which the business concern was convicted;
 - (d) Name and location of court in which the business concern is being prosecuted;
 - (e) Current status of the prosecution;
 - (f) Sentence or fine imposed; and
 - (g) Any explanation of the prosecution or alleged violation which the business concern, permittee, or applicant may choose to submit;
- (19) For any felony conviction of the business concern for those crimes listed in division (B) of section 3734.44 of the Revised Code, of which the business concern obtained an expungement sealing records of conviction in accordance to division (B) of section 2953.33 of the Revised Code, state or provide:
- (a) The indictment, information, or complaint number;
 - (b) Date of the indictment, information or complaint;

- (c) Name and location of court in which the business concern was prosecuted;
 - (d) Sentence or fine imposed;
 - (e) Date of expungement sealing records of conviction;
 - (f) A description of the crime or crimes which the business concern obtained an expungement sealing records of convictions; and
 - (g) Any explanation of the prosecution or alleged violation which the business concern, permittee, or applicant may choose to submit;
- (20) Provide any written evidence or arguments, pursuant to division (C) of section 3734.44 of the Revised Code, which demonstrates rehabilitation for a conviction of a crime listed in division (B) of section 3734.44 of the Revised Code;
- (21) Describe the experience and credentials of the applicant or permittee in collection, transfer, transportation, treatment, storage, or disposal of solid, infectious, or hazardous waste;
- (22) Describe any program that the applicant, permittee, or prospective owner has instituted at the subject facility or other facilities to ensure the compliance with the environmental laws of this state or other state or of the united states. This requirement shall apply only to the applicant, permittee or prospective owner.
- (E) The enforcement and compliance history of subsidiaries shall be submitted as follows:
- (1) For purposes of paragraphs (E) to (E)(2)(b) of this rule "subsidiary" means a business concern which is owned or controlled by:
 - (a) A business concern referred to in paragraph (B)(2)(b) of this rule;
 - (b) An individual who owns or controls the applicant or permittee or prospective owner; or
 - (c) The applicant or permittee or prospective owner.

- (2) For each subsidiary, the applicant or permittee or prospective owner shall list the docket number and presiding court for:
 - (a) Each criminal charge filed against or conviction of the subsidiary or an individual who serves as an officer, director, partner, or the equivalent of a key employee for the facilities of the subsidiary for a crime listed in division (B) of section 3734.44 of the Revised Code; and
 - (b) Each civil judicial complaint filed against or judgment of liability of the subsidiary for violation of an environmental protection law resulting in a penalty of fifty thousand dollars or more.
- (F) List the name, home address, social security number, date of birth, and date of hiring of each employee, other than key employees, employed at the subject facility as of date within thirty days of the filing of the disclosure statement. The information required by this paragraph shall be updated and submitted to the attorney general once every two years, within thirty days of each two-year anniversary of the filing of the disclosure statement.
- (G) Any person supplying any information in response to a requirement of these rules may supplement the answer with a written explanation of the answer.
- (H) Notwithstanding other requirements set forth in this rule, wherever this rule requires information or disclosure statements about a business concern holding debt liability and such business concern is a chartered lending institution, the only information which must be supplied is the name and business address of the chartered lending institution.
- (I)
 - (1) A person may incorporate by reference information previously filed in a disclosure statement by identifying:
 - (a) The number of the previously filed disclosure statement in which the information was filed;
 - (b) The name of the particular individual or business concern; and
 - (c) The facility for which it was filed.

- (2) An applicant, permittee, or prospective owner who is or will be required to file disclosure statements for more than one facility located in Ohio may file all disclosure statements for all its facilities when filing its first disclosure statements for any facility. In so filing such disclosure statement, if the applicant, permittee, or prospective owner would otherwise have to file a disclosure statement for any individual or business concern for each of two or more facilities, only one disclosure statement need be filed, provided the disclosure statement describes the relationship of the individual or business concern to each such facility. Filing disclosure statements in accordance with this paragraph shall not affect the requirement to pay separate disclosure statement fees or maintenance fees for each facility.
- (J) The individual about whom information is given pursuant to paragraphs (C) to (C)(19) of this rule shall swear or affirm to the truth and accuracy of the information.
- (K) The individual or individuals who prepared or directed that the information be given or supplied on behalf of a business concern for all information required in disclosure statements, other than the information required pursuant to paragraphs (C) to (C)(19) of this rule, shall swear or affirm to the truth and accuracy of the information.
- (L) The attorney general shall comply with section 7(b) of the federal Privacy Act of 1974, 5 U.S.C. section 552(a), regarding disclosure of social security numbers.
- (M) Confidentiality.
- (1) Whenever a person submitting information in a disclosure statement believes that specific information contained in the statement is confidential and excepted from disclosure by section 149.43 of the Revised Code, the person shall:
- (a) Request in writing that specific information contained in the disclosure statement be treated as confidential and excepted from disclosure;
 - (b) Provide an explanation including citations to specific statutory, regulatory or precedential authority to support the claim of confidentiality; and
 - (c) Provide sufficient evidence necessary to meet the burden of proof that the information is excepted from disclosure.
- (2) The information specified in the request shall be kept confidential until seven

days after the date upon which the attorney general determines that the material is not within the exceptions to disclosure contained in section 149.43 of the Revised Code.

- (N) If an applicant, permittee, or prospective owner needs interpretive assistance in completing a disclosure statement, it may submit in writing to the attorney general a regulatory guidance request seeking an informal, nonbinding interpretation of a regulatory requirement imposed by sections 3734.40 to 3734.47 of the Revised Code and the rules adopted thereunder.
- (1) The submission of a regulatory guidance request shall in no way alter the obligation of an applicant, permittee or prospective owner to fully comply with all requirements imposed by sections 3734.40 to 3734.47 of the Revised Code and the rules adopted thereunder.
 - (2) There is no obligation upon the attorney general to respond to a regulatory guidance request other than as the attorney general determines in his or her sole discretion based upon available human resources and the need to employ those resources to perform the mandatory obligations imposed by sections 3734.40 to 3737.47 of the Revised Code and the rules adopted thereunder.
 - (3) The response provided by the attorney general to any regulatory guidance request shall be used by the applicant, permittee, or prospective owner solely as a guidance to assist in the preparation of a disclosure statement. The response of the attorney general shall not be binding upon anyone, including, but not limited to, the applicant, permittee or prospective owner, the attorney general, the director of environmental protection, a local board of health, or the hazardous waste facility board. The response may be accorded such deference as is usually provided to the administrative interpretation of a statutory requirement.
- (O) The information required to be submitted in the disclosure statement pursuant to this rule is intended to be the information necessary to begin the background investigation required by sections 3734.40 to 3734.47 of the Revised Code. In limiting the scope of information required to be included in the disclosure statement, it is expressly contemplated that in individual investigations the attorney general may have reasonable cause to believe that the procedures contained in section 3734.43 of the Revised Code should be employed to review additional information. Nothing contained in these rules shall be construed to restrict or limit the scope of the information the attorney general may seek pursuant to the procedures established in section 3734.43 of the Revised Code.
- (P) As required by paragraphs (P) to (BB) of this rule, an applicant or permittee shall

update information contained in a disclosure statement submitted pursuant to paragraphs (A) to (A)(3) of this rule.

(Q) Definitions. For the purposes of paragraphs (P) to (BB) of this rule:

- (1) "Fingerprint card" means a completed fingerprint form prescribed by the attorney general or a completed fingerprint form acceptable to the to the federal bureau of investigation.
- (2) "In the prior year" means in the prior twelve calendar months, except that, where there has been no disclosure of information in the prior twelve months, in the prior year means since the last disclosure of information under these rules.
- (3) "New" means hired or appointed or otherwise added since the last disclosure of information by the applicant or permittee.
- (4) "Operating corporation" means a corporation which is the permittee or applicant.
- (5) "Parent corporation" means a corporation which owns or controls the permittee or applicant.
- (6) "Private corporation" means a corporation which is not a publicly traded corporation.
- (7) "Release form" means a signed, notarized form, prescribed by the attorney general, which authorizes the attorney general to conduct a background investigation of the individual signing it or of the business concern on whose behalf it is signed, and which authorizes third parties to release information to the attorney general or a representative of the attorney general.
- (8) "Verification affidavit" means an affidavit in which an individual swears or affirms to the truth and accuracy of information required to be given by that individual pursuant to paragraphs (P) through (BB) of these rules.

(R) Within ninety days after the addition of the new individual, an applicant or permittee shall submit to the attorney general a release form, and a fingerprint card, a verification affidavit, and, on a form provided by the attorney general, any and all information required by paragraphs (C)(1) to (C)(19) of this rule, for the following new individuals:

- (1) New key employees of an applicant or permittee;
 - (2) New partners of the applicant or permittee, if and where the law allows the addition of a partner without dissolution of the old partnership;
 - (3) New officers of a public or private operating corporation;
 - (4) New officers of a private parent corporation;
 - (5) New directors of a private operating corporation;
 - (6) Any new individual who owns or controls the applicant or permittee;
 - (7) Any new partner of a business concern which owns or controls the applicant or permittee;
 - (8) If the applicant or permittee is a governmental entity, each new key employee required to file information pursuant to paragraph (B)(6)(a) of this rule; and
 - (9) If the applicant or permittee is a governmental entity but the operator of the facility is a business concern or individual who is not an employee of the governmental entity:
 - (a) Each new individual who is the operator;
 - (b) Each new key employee of the operator;
 - (c) Each new partner of the operator; and
 - (d) Each new officer of the operator.
- (S) Within ninety days after the addition of the new individual, an applicant or permittee shall submit to the attorney general a release form, and a fingerprint card, a verification affidavit, and, on a form provided by the attorney general, any and all information required by paragraphs (C)(1) to (C)(8) of this rule, for the following individuals who do not meet the definition of "key employee" as defined at paragraph (M) of section 109:6-1-01 of the Administrative Code and are not otherwise required to submit information under paragraph (R) of this rule:

- (1) New officers of a public parent corporation; and
 - (2) New directors of a public or private parent corporation or of a public operating corporation.
 - (3) If the applicant or permittee is a governmental entity but the operator of the facility is a business concern who is not an employee of the governmental entity, new directors of the operator;
- (T) Within ninety days after the addition of the new business concern, an applicant or permittee shall submit to the attorney general a release form, a fingerprint card, a verification affidavit, and on a form provided by the attorney general, any and all information required by paragraphs (D)(1) to (D)(22) of this rule, for the following business concerns:
- (1) A business concern which is a new partner of the applicant or permittee;
 - (2) Each business concern which owns or controls the applicant or permittee; and
 - (3) If the applicant or permittee is a governmental entity but the operator is a business concern, the operator.
- (U) Annually, on the anniversary date of the submittal to the director of the investigative report for a given facility, or annually on another date assigned by the attorney general, an applicant or permittee shall submit to the attorney general, a release form, a fingerprint card, verification affidavit, and on a form provided by the attorney general, any and all information which is required by paragraphs (C)(1) to (C)(19) of this rule and which has changed or been added in the prior year, for the following individuals:
- (1) Existing key employees of an applicant or permittee;
 - (2) Existing sole proprietors;
 - (3) Existing partners of the applicant or permittee;
 - (4) Any existing individual who owns or controls the applicant or permittee;
 - (5) Any existing partner of a business concern which owns or controls the applicant or permittee;

- (6) If the applicant or permittee is a governmental entity, each existing key employee required to file information pursuant to paragraph (B)(6)(a) of this rule; and
- (7) If the applicant or permittee is a governmental entity but the operator of the facility is a business concern or an individual who is not an employee of the governmental entity:
 - (a) The individual who is the operator;
 - (b) Each existing key employee of the operator; and
 - (c) Each existing partner of the operator; and
- (V) Annually, on the anniversary date of the submittal to the director of the investigative report for a given facility, or annually on another date assigned by the attorney general, an applicant or permittee shall submit to the attorney general, a release form, a fingerprint card, verification affidavit, and on a form provided by the attorney general, any and all information which is required by paragraphs (C)(1) to (C)(8) of this rule and which has changed or been added in the prior year, for the following individuals who do not otherwise meet the definition of "key employee" as defined at paragraph (M) of rule 109:6-1-01 of the Administrative Code and are not otherwise required to submit information under paragraph (U) of this rule:
 - (1) Existing officers of a public or private operating corporation or of a private parent corporation;
 - (2) Existing directors of a private operating corporation;
 - (3) If the applicant or permittee is a governmental entity but the operator of the facility is a business concern who is not an employee of the governmental entity:
 - (a) Existing officers of the operator;
 - (b) Existing directors of the operator;
- (W) Annually, on the anniversary date of the submittal to the director of the investigative report for a given facility, or annually on another date assigned by the attorney general, an applicant or permittee shall submit to the attorney general, a release

form, a fingerprint card, a verification affidavit, and on a form provided by the attorney general, any and all information which is required by paragraphs (C) to (C)(1)(g) of this rule and which has changed or been added in the prior year, for the following individuals who do not otherwise meet the definition of "key employee" as defined at paragraph (M) of section 109:6-1-01 of the Administrative Code and are not otherwise required to submit information under paragraphs (U) and (W) of this rule:

- (1) Existing directors of a public or private parent corporation or of a public operating corporation;
 - (2) Existing officers of a public parent corporation; and
 - (3) Any other individual required to file a disclosure statement pursuant to paragraphs (B)(2)(a), (B)(6)(a), (B)(7)(a), or (B)(7)(b) of this rule.
- (X) Annually, on the anniversary date of the submittal to the director of the investigative report for a given facility, or annually on another date assigned by the attorney general, an applicant or permittee shall submit to the attorney general, a release form, a verification affidavit, and on a form provided by the attorney general, any and all information which is required by paragraphs (D)(1) to (D)(22) of this rule and which has changed or been added in the prior year, for the following business concerns:
- (1) Each existing business concern which is a partner of the applicant or permittee;
 - (2) Each existing business concern which owns or controls the applicant or permittee; and
 - (3) If the applicant or permittee is a governmental entity but the operator is a business concern, the operator.
- (Y) If the applicant or permittee is a governmental entity, annually, on the anniversary date of the submittal to the director of the investigative report for a given facility, or annually on another date assigned by the attorney general, an applicant or permittee shall submit to the attorney general, a release form, a verification affidavit, and on a form provided by the attorney general, any and all information which is required by paragraphs (D)(11) to (D)(16) and (D)(21) of this rule and which has changed or been added in the prior year, for applicant or permittee.
- (Z) Annually, on the anniversary date of the submittal to the director of the investigative report for a given facility, or annually on another date assigned by the attorney

general, an applicant or permittee shall submit to the attorney general, on a form provided by the attorney general, any and all information which is required by paragraphs (B)(2)(c) to (B)(5) of this rule and which information:

- (1) Has changed or been added in the prior year, for those existing individuals, business concerns, listed business concerns of the type for which information must be reported pursuant to paragraphs (B)(2)(c) to (B)(5) of this rule; and
 - (2) Pertains to new individuals, business concerns, listed business concerns, added at any time in the prior year of the type for which information must be reported pursuant to paragraphs (B)(2)(c) to (B)(5) of this rule.
- (AA) Within ninety days from the judgment entry of conviction, the applicant or permittee shall submit to the attorney general information regarding any new criminal conviction of any individual or business concern required to report criminal convictions in a disclosure statement submitted pursuant to paragraphs (A) to (A)(3) of this rule.
- (BB) An officer, director, sole proprietor, or partner of a business concern, or other individual, any of which meet the definition of "key employee" as defined at paragraph (M) of rule 109:6-1-01 of the Administrative Code, shall be considered a key employee for purposes of these rules.
- (CC) The applicant or permittee is not required to submit a fingerprint card to the attorney general pursuant to this rule for any person for whom a completed fingerprint card previously has been submitted to the attorney general pursuant to rules 109:6-1-01 to 109:6-1-05 of the Administrative Code.
- (DD) If, in the immediately preceding year, there have been no changes or additions to the information required to be included in a disclosure statement submitted to the attorney general pursuant to rules 109:6-1-01 to 109:6-1-05 of the Administrative Code, the applicant or permittee, or prospective owner shall submit to the attorney general an affidavit stating that no such changes or additions have occurred.

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CERTIFIED ELECTRONICALLY

Certification

04/08/2005

Date

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