

WAC 173-446-050 Covered and opt-in entity registration. (1) Any reporter under chapter 173-441 WAC reporting at least 25,000 metric tons of CO₂e covered emissions per calendar year for 2015 or any year thereafter other than a waste to energy facility or a railroad that meets the applicability conditions in WAC 173-446-030 or 173-446-060 will receive written notice from ecology that it must register as a covered entity in Washington's cap and invest program. That notice will be sent to the designated representative and alternate designated representative as established under WAC 173-441-060 of each covered entity. To register, each covered entity must follow the registration process provided in subsection (5) of this section.

(2) The owner or operator of any reporter under chapter 173-441 WAC that is not a covered entity may request to be registered in Washington's cap and invest program as an opt-in entity. To register, the opt-in entity must follow the registration process provided in subsection (5) of this section. Upon registration, opt-in entities incur compliance obligations for the GHGs they emit and are subject to the same program requirements as covered entities.

(3) Any party who is not a reporter but is responsible for GHG emissions in Washington may voluntarily participate in the cap and invest program as an opt-in entity. To participate, these opt-in entities must:

(a) Report their GHG emissions to ecology under the voluntary reporting requirements in WAC 173-441-030(5);

(b) Request to be registered in the cap and invest program as an opt-in entity;

(c) Follow the registration process provided in subsection (5) of this section;

(d) Incur compliance obligations for the GHGs they emit and are subject to the same program requirements as covered entities;

(e) Except as provided in (f) of this subsection, consent to regulation by ecology and the jurisdiction of the courts and administrative tribunals of the state of Washington with respect to any judicial or administrative enforcement action commenced by ecology to ensure compliance with the requirements of chapter 70A.65 RCW, RCW 70A.15.2200, chapter 173-441 WAC, and this chapter; and

(f) For federally recognized tribes who elect to participate as opt-in entities pursuant to RCW 70A.65.090(5), enter into a written agreement, negotiated on an individual basis between ecology and the tribal government, that establishes a dispute resolution process and/or other compliance mechanisms in order to ensure the enforceability of all program requirements applicable to the tribe in its role as an opt-in entity.

(4) Any party receiving notice that it must register as a covered entity that believes it received the notice in error and should not be a covered entity in the program may, within 30 calendar days of receiving ecology's notice, provide a signed written request to ecology asking ecology to remove it from registration and explaining why. The final determination remains with ecology.

(5) To register, each covered or opt-in entity must comply with the requirements in WAC 173-446-105 through 173-446-130, and provide the following information to ecology electronically in a format specified by ecology:

(a) Name, contact information, and physical address of the party;

(b) Tracking system identification number, if applicable;

(c) Names and addresses and contact information of the party's directors and officers with authority to make legally binding decisions on behalf of the party, and partners with over 10 percent of control over the partnership, including any individual or entity doing business as the limited partner or general partner;

(d) Names and contact information for individuals or parties controlling over 10 percent of the voting rights attached to all the outstanding voting securities of the party;

(e) Business number, if one has been assigned by a Washington state agency;

(f) A government issued taxpayer identification number or employer identification number, or for parties located in the United States, a U.S. federal tax employer identification number, if assigned;

(g) Place and date of incorporation, if applicable;

(h) Names and contact information for all employees of the party with knowledge of the party's market position (an employee who has knowledge of both the party's current and/or expected holdings of compliance instruments and the party's current and/or expected covered emissions).

[Statutory Authority: RCW 70A.65.220. WSR 22-20-056 (Order 21-06), § 173-446-050, filed 9/29/22, effective 10/30/22.]