

WAC 173-446-130 Designation and certification of account representatives. (1) Within 40 calendar days after receiving a notice to register from ecology, every registration applicant must designate at least two and at most five individuals to act as its account representatives to perform any operations within the cap and invest program on its behalf. Each registration applicant must identify one primary account representative, who is the resource person to be contacted for any information concerning the registration applicant. For the purposes of the account representative designations, the registration applicant must provide ecology with the following information and documents electronically in a format specified by ecology:

(a) The name and contact information of the registration applicant;

(b) The following information for each designated account representative:

(i) Name and contact information of the individual to include all information including the individual's home address and email address;

(ii) Copies of at least two identity documents, including at least one with a photograph, issued by a government or one of its departments or agencies, bearing the individual's name and date of birth; and at least one document that is customarily accepted by the state of Washington as evidence of the primary residence of the individual; along with an attestation from a notary completed less than three months prior to the application, stating that the notary has established the identity of the individual and verifying the authenticity of the copies of the identity documents;

(iii) The name and contact information of the individual's employer;

(iv) Confirmation from a financial institution located in the United States that the individual has a deposit account with the institution; and

(v) Any conviction for a criminal offense declared in any jurisdiction during the five years prior to designation as an account representative, or while designated as an account representative, constituting a felony under U.S. federal law or Washington law, or the equivalent thereof. The disclosure must include the type of violation, jurisdiction, and year.

(c) A declaration signed by a director or by any other officer, or a resolution of the board of directors of the registration applicant attesting that all of the account representatives have been duly designated to act on behalf of the registration applicant for the purposes of this program; and

(d) The following declaration signed by each of the account representatives: "I certify under penalty of perjury under the laws of the state of Washington that I was selected as the primary account representative or an alternate account representative, as applicable, by an agreement that is binding on all parties who have an ownership interest with respect to compliance instruments held in the account. I certify that I have all the necessary authority to carry out the duties and responsibilities contained in chapters 70A.65 RCW and 173-446 WAC on behalf of such parties and that each such party shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by ecology or a court or the pollution control hearings board regarding the account."

(2) Each registered entity must have at least two account representatives at all times, including a primary account representative.

(3) All representations, acts, errors, or omissions made by any account representative in the performance of their duties are deemed to be made by the registered entity.

(4) Each submission concerning the registered entity's account shall be submitted, signed, and attested to by the primary account representative or any alternate account representative for the party that owns the compliance instruments held in the account.

(a) Except as provided in (b) of this subsection, each such submission shall include the following attestation statement made and signed by the primary account representative or the alternate account representative making the submission: "I certify under penalty of perjury under the laws of the state of Washington that I am authorized to make this submission on behalf of the party that owns the compliance instruments held in the account. I certify under penalty of perjury under the laws of the state of Washington that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify under penalty of perjury under the laws of the state of Washington that the statements and information submitted to Ecology are true, accurate, and complete. I consent to the jurisdiction of Washington state, its courts, and the pollution control hearings board for purposes of enforcement of the laws, rules, and regulations pertaining to chapters 173-446 WAC and 70A.65 RCW. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(b) For federally recognized tribes who elect to participate as opt-in entities or general market participants pursuant to RCW 70A.65.090(5), each such submission shall include the following attestation statement made and signed by the primary account representative or the alternate account representative making the submission: "I certify under penalty of perjury under the laws of the state of Washington that I am authorized to make this submission on behalf of the tribal government that owns the compliance instruments held in the account. I certify under penalty of perjury under the laws of the state of Washington that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify under penalty of perjury under the laws of the state of Washington that the statements and information submitted to Ecology are true, accurate, and complete. The tribal government on whose behalf I am authorized to make this submission has entered 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 or a general market participant, as applicable. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment."

(5) The duties of the account representative terminates when the account representative resigns, when a request for revocation is received from the registered entity or, when a registered entity has only two designated account representatives, only after a new representative has been designated. The duties of an account representative

also terminates when all the accounts of the registered entity by whom the account representative was designated are closed.

(6) If the registered entity is an individual, any act that must be performed by an account representative in this program must be performed by the registered entity.

(7) At the written request of a registered entity, ecology may, before a request for revocation of the designation of an account representative is sent to ecology by the registered entity, where the urgency of the situation warrants it, withdraw access to the electronic system from one of its account representatives.

(8) A primary account representative or at least one alternate account representative must be a resident of Washington unless the covered entity or opt-in entity has an agent who resides in Washington or the covered or opt-in entity has previously filed a foreign registration statement pursuant to RCW 23.95.510.

(9) A registration applicant or a registered entity may not designate a party as an account representative under subsection (1) of this section or authorize a party as an account viewing agent under WAC 173-446-140, if that party was convicted, in the five calendar years prior to the notice of designation or authorization, of a criminal offense involving fraud, dishonesty, deceit, or misrepresentation, or any other criminal offense connected with the activities for which designation or authorization is requested.

(10) A registered entity must revoke designation as an account representative or account viewing agent if while acting as an account representative or an account viewing agent a party is convicted of a criminal offense involving fraud, dishonesty, deceit, or misrepresentation, or any other criminal offense connected with the activities undertaken as account representative or account viewing agent.

[Statutory Authority: RCW 70A.65.220. WSR 22-20-056 (Order 21-06), § 173-446-130, filed 9/29/22, effective 10/30/22.]