

WAC 173-446-055 General market participants registration. (1) A party not identified as a covered entity or opt-in entity that intends to hold Washington compliance instruments may apply to ecology for approval to participate as a general market participant.

(a) The following parties may be general market participants:

(i) An individual, or a party that does not meet the requirements to be a covered entity or an opt-in entity, that intends to purchase, hold, sell, or voluntarily retire compliance instruments;

(ii) An offset project operator that is registered with ecology pursuant to WAC 173-446-520(1). Parties qualifying as general market participants under this subparagraph may hold offset credits without needing to fulfill the requirements of WAC 173-446-120. Parties qualifying as general market participants under this subparagraph may also hold allowances, but only after fulfilling the requirements of WAC 173-446-120.

(b) An individual registering as a general market participant must have primary residence in the United States.

(c) Registration and consulting activities. An individual who provides cap and invest consulting services as described in WAC 173-446-056 and who registers as a general market participant in the tracking system must disclose to ecology all parties for which the individual is providing consulting services.

(i) The disclosure must be made when the individual registers as a general market participant, or within 30 calendar days of initiating the consulting activity if the individual is already registered.

(ii) If the individual is associated with a party providing cap and invest consulting services so that in the course of the individual's duties the individual gains access to the market position of another registered entity, then the individual must provide a notarized letter from the associated party providing the cap and invest consulting services, stating that it is aware of the individual's plans to apply as a general market participant in the cap and invest program and attesting that it has conflict of interest policies and procedures in place that prevent the individual from using information gained from the relationship with the party for personal gain in the cap and invest program. Failure to provide a letter with such assurances by the applicable deadline described above in (c)(i) of this subsection will result in suspension, modification, or revocation of the individual's tracking system account.

(d) An individual who is already registered in the tracking system and intends to provide cap and invest program advisory services to other registered entities must disclose to ecology the proposed relationship with the other registered entities and comply with the requirements of (c)(ii) of this subsection prior to providing the advisory services. Failure to provide the letter required by (c)(ii) of this subsection by the deadline will result in suspension, modification, or revocation of the individual's tracking system account.

(e) A party registering as a general market participant must be located in the United States, as documented in the registration information provided pursuant to subsection (3) of this section.

(f) Parties not eligible to be general market participants include individuals identified by registered entities pursuant to:

(i) WAC 173-446-120 (1)(c), (d), or (h);

(ii) WAC 173-446-130; WAC 173-446-140; or

(iii) WAC 173-446-056, unless disclosed pursuant to (c) of this subsection; and

(iv) An individual who is an employee of a party subject to the requirements of this chapter or chapter 173-441 WAC.

(2) Restrictions on other parties. The following parties do not qualify to hold compliance instruments and cannot be registered entities:

(a) An offset verifier accredited pursuant to WAC 173-446-535;

(b) An offset verification body accredited pursuant to WAC 173-446-535;

(c) Offset project registries; and

(d) An emissions reporting verifier accredited pursuant to chapter 173-441 WAC.

(3) General market participant registration.

(a) Any party wishing to register as a general market participant must comply with the requirements of WAC 173-446-105 through 173-446-130 and provide the following information to ecology in a format specified by ecology:

(i) Name, physical and mailing addresses, contact information, party type, date and place of business incorporation, and government ID numbers associated with the business;

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

(iii) Names and contact information for persons controlling more than 10 percent of the voting rights attached to all the outstanding voting securities of the party;

(iv) A business number, if one has been assigned to the party by a Washington state agency;

(v) A government issued taxpayer or employer identification number, or a U.S. federal tax employer identification number, if assigned;

(vi) Disclosure of all other parties with whom the party has a direct corporate association or indirect corporate association that must be reported pursuant to WAC 173-446-120 and a brief description of the association. Parties qualifying as general market participants under subsection (1)(a)(ii) of this section must complete this disclosure before they may hold allowances;

(vii) Names and contact information for all employees, directors and officers of the party that will have access to or knowledge of the party's market position (current and/or expected holdings of compliance instruments and current and/or expected covered emissions);

(viii) Information required pursuant to WAC 173-446-056 for individuals serving as cap and invest consultants and advisors for registered entities participating in the cap and invest program.

(b) Except as provided in (c) of this subsection, any party registering as a general market participant must 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 and this chapter.

(c) For federally recognized tribes who elect to participate as general market participants pursuant to RCW 70A.65.090(5), the tribe must 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 en-

sure the enforceability of all program requirements applicable to the tribe in its role as a general market participant.

[Statutory Authority: RCW 70A.65.220. WSR 22-20-056 (Order 21-06), § 173-446-055, filed 9/29/22, effective 10/30/22.]