

**RCW 70A.330.040 Duties of director. (Expires July 1, 2030.)** The director shall:

(1) Design and implement a process to close out existing claims under the heating oil pollution liability insurance program. During this process, the director has authority to maintain the program providing pollution liability insurance for heating oil tanks that provides up to sixty thousand dollars per occurrence coverage and aggregate limits, not to exceed fifteen million dollars each calendar year. Claims received under the existing policy, which would result in payment in excess of fifteen million dollars in a calendar year may be paid out in the next calendar year. The heating oil pollution liability insurance program shall not register heating oil tanks for coverage under the heating oil pollution liability insurance program after July 1, 2020;

(2) Administer, implement, and enforce the provisions of this chapter. To assist in administration of the program, the director is authorized to appoint up to two employees who are exempt from the civil service law, chapter 41.06 RCW, and who shall serve at the pleasure of the director;

(3) Administer the heating oil pollution liability trust account, as established under RCW 70A.330.060;

(4) Employ and discharge, at his or her discretion, agents, attorneys, consultants, companies, organizations, and employees as deemed necessary, and to prescribe their duties and powers, and fix their compensation;

(5) Adopt rules under chapter 34.05 RCW as necessary to carry out the provisions of this chapter;

(6) Have the authority to provide reinsurance through the pollution liability insurance program trust account;

(7) Implement a program to provide advice and technical assistance on the administrative and technical requirements of this chapter and chapter 70A.305 RCW to persons who are conducting or otherwise interested in independent remedial actions at facilities where there is a suspected or confirmed release from the following petroleum storage tank systems: A heating oil tank; a decommissioned heating oil tank; an abandoned heating oil tank; or a petroleum storage tank system identified by the department of ecology based on the relative risk posed by the release to human health and the environment, as determined under chapter 70A.305 RCW, or other factors identified by the department of ecology.

(a) Such advice or assistance is advisory only, and is not binding on the pollution liability insurance agency or the department of ecology. As part of this advice and assistance, the pollution liability insurance agency may provide written opinions on whether independent remedial actions or proposals for these actions meet the substantive requirements of chapter 70A.305 RCW, or whether the pollution liability insurance agency believes further remedial action is necessary at the facility. As part of this advice and assistance, the pollution liability insurance agency may also observe independent remedial actions.

(b) The agency is authorized to collect, from persons requesting advice and assistance, the costs incurred by the agency in providing such advice and assistance. The costs may include travel costs and expenses associated with review of reports and preparation of written opinions and conclusions. Funds from cost reimbursement must be deposited in the heating oil pollution liability trust account.

(c) The state of Washington, the pollution liability insurance agency, and its officers and employees are immune from all liability, and no cause of action arises from any act or omission in providing, or failing to provide, such advice, opinion, conclusion, or assistance;

(8) Establish a public information program to provide information regarding liability, technical, and environmental requirements associated with active and abandoned heating oil tanks;

(9) Monitor agency expenditures and seek to minimize costs and maximize benefits to ensure responsible financial stewardship;

(10) Study if appropriate user fees to supplement program funding are necessary and develop recommendations for legislation to authorize such fees;

(11) Establish requirements, including deadlines not to exceed ninety days, for reporting to the pollution liability insurance agency a suspected or confirmed release from a heating oil tank, including a decommissioned or abandoned heating oil tank, that may pose a threat to human health or the environment by the owner or operator of the heating oil tank or the owner of the property where the release occurred;

(12) Within ninety days of receiving information and having a reasonable basis to believe that there may be a release from a heating oil tank, including decommissioned or abandoned heating oil tanks, that may pose a threat to human health or the environment, perform an initial investigation to determine at a minimum whether such a release has occurred and whether further remedial action is necessary under chapter 70A.305 RCW. The initial investigation may include, but is not limited to, inspecting, sampling, or testing. The director may retain contractors to perform an initial investigation on the agency's behalf;

(13) For any written opinion issued under subsection (7) of this section requiring an environmental covenant as part of the remedial action, consult with, and seek comment from, a city or county department with land use planning authority for real property subject to the environmental covenant prior to the property owner recording the environmental covenant; and

(14) For any property where an environmental covenant has been established as part of the remedial action approved under subsection (7) of this section, periodically review the environmental covenant for effectiveness. The director shall perform a review at least once every five years after an environmental covenant is recorded. [2020 c 310 s 2; 2020 c 20 s 1387; 2018 c 194 s 3; 2017 c 23 s 4; 2009 c 560 s 11; 2007 c 240 s 1; 2004 c 203 s 1; 1997 c 8 s 1; 1995 c 20 s 4. Formerly RCW 70.149.040.]

**Reviser's note:** This section was amended by 2020 c 20 s 1387 and by 2020 c 310 s 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Intent—Effective date—Disposition of property and funds—Assignment/delegation of contractual rights or duties—2009 c 560:** See notes following RCW 18.06.080.

**Application—2007 c 240:** See note following RCW 70A.330.100.