

**Chapter 374-30 WAC
RESERVES**

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WAC

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WAC 374-30-010 Authority and purpose. This chapter is promulgated under the authority conferred by RCW 70.148.040. The purpose of this chapter is to implement those provisions of chapter 70.148 RCW as amended by Substitute House Bill No. 2609 (chapter 64, Laws of 1990) relating to the establishment of reserves for the pollution liability insurance program.

[Statutory Authority: RCW 70.148.040. WSR 90-14-020 (Order 90-5), § 374-30-010, filed 6/27/90, effective 8/1/90.]

WAC 374-30-020 Definitions. Unless the context requires otherwise, the following definitions shall apply:

(1) "Claim" means a properly filed request for insurance benefits made by the holder of a pollution liability insurance policy issued by an insurer with whom the pollution liability insurance program has executed a contract for reinsurance.

(2) "Director" means the director of the pollution liability insurance agency and program appointed by the governor pursuant to chapter 70.148 RCW, or a person designated to act on the director's behalf.

(3) "Insurer" means a commercial property and casualty insurance company, risk retention group, or group of insurance companies or risk retention groups.

(4) "Loss reserve" means the amount traditionally set aside by insurers for costs and expenses related to claims that have been made.

(5) "Program" means the pollution liability insurance program created in chapter 70.148 RCW.

(6) "Surplus reserve" means the amount traditionally set aside by insurers to provide financial protection from unexpected losses and to serve, in part, as a measure of an insurer's net worth.

(7) "Unrestricted trust account balance" means the cash balance in the pollution liability insurance program trust account created in RCW 70.148.020 less reserves established under this chapter.

[Statutory Authority: RCW 70.148.040. WSR 90-14-020 (Order 90-5), § 374-30-020, filed 6/27/90, effective 8/1/90.]

WAC 374-30-030 Loss reserves—Establishment and adjustment. (1) When the director is notified by an insurer with whom a reinsurance contract has been entered into that claims have been made by policyholders, the director shall order the establishment of a loss reserve for each claim. The loss reserves will consist of an accounting transfer from the unrestricted trust account balance of funds sufficient to

cover the program's estimated reinsurance reimbursement obligation for costs and expenses for each claim as reported by the insurer.

(2) In the event that the costs and expenses associated with a claim change during the claim adjustment and settlement process, the director shall order that the loss reserve established for that claim be adjusted to reflect changes in the program's reinsurance reimbursement obligation. Such adjustments shall consist of additional transfers of funds from or to the unrestricted trust account balance as required in each case.

[Statutory Authority: RCW 70.148.040. WSR 90-14-020 (Order 90-5), § 374-30-030, filed 6/27/90, effective 8/1/90.]

WAC 374-30-040 Loss reserves—Use and disposition. (1) When the adjustment and settlement of claims for which the program has provided reinsurance has been completed, the insurer shall notify the director of the terms of final settlement and shall provide such documentation as the director may require. The director shall order that the insurer be reimbursed for those costs and expenses in excess of the insurer's contractual net retention that are properly due to the insurer under the the reinsurance contract. Such payments will be made from the funds set aside as loss reserves for the pertinent claim.

(2) In the event that the program's final reinsurance obligation for any claim differs from the amount set aside as a loss reserve for that claim, adjustment shall be made as follows:

(a) If the program's reinsurance obligation is greater than the amount set aside as a loss reserve, the additional funds required shall be withdrawn from the unrestricted trust account balance.

(b) If the program's reinsurance obligation is less than the amount set aside as a loss reserve, the unutilized funds shall be restored to the unrestricted trust account balance.

[Statutory Authority: RCW 70.148.040. WSR 90-14-020 (Order 90-5), § 374-30-040, filed 6/27/90, effective 8/1/90.]

WAC 374-30-050 Surplus reserves—Establishment and adjustment. The director shall establish a surplus reserve, consisting of an accounting segregation of funds from the unrestricted trust account balance, for the program in order to protect the program and the state against unexpected catastrophic losses and in order to establish a financial foundation for the program that will be acceptable to commercial insurers and insurance industry regulatory authorities. The surplus reserve shall be established as soon as practicable following the effective date of this rule, and shall be adjusted by the director from time to time as needed. In establishing and adjusting the surplus reserve, the director shall consider the following:

(1) The required minimum capitalization for insurers and reinsurers established in chapter 48.05 RCW.

(2) Similar requirements set forth in the laws and rules of the state or states in which the insurer or insurers for whom the program is providing reinsurance are domiciled.

(3) Generally accepted standards of financial soundness and solvency applicable to insurance and reinsurance.

(4) Actuarial analysis and information concerning likely levels of reinsurance cost and expense exposure of the program over time.

(5) Advice and information from the Washington insurance commissioner, insurance industry advisors, the pollution liability insurance program technical advisory committee, and other knowledgeable persons.

(6) The actual loss and expense experience of insurers and the program as this develops over time.

(7) Any additional information that the director may deem pertinent and relevant.

[Statutory Authority: RCW 70.148.040. WSR 90-14-020 (Order 90-5), § 374-30-050, filed 6/27/90, effective 8/1/90.]

WAC 374-30-060 Surplus reserves—Use and reestablishment. Funds set aside as surplus reserves shall be used only for payment of reinsurance costs and expenses resulting from natural disasters, catastrophes, or other conditions not foreseen or expected. Such payments may be made only by order of the director. In the event that such use is made of any or all of the surplus reserves established by this rule, the surplus reserve balance shall be restored to required levels out of program revenues as expeditiously as possible.

[Statutory Authority: RCW 70.148.040. WSR 90-14-020 (Order 90-5), § 374-30-060, filed 6/27/90, effective 8/1/90.]