

Chapter 374-80 WAC

HEATING OIL TANKS

WAC

374-80-010	Authority and purpose.
374-80-020	Definitions.
374-80-030	Communications.
374-80-040	Procedures.
374-80-050	Reimbursement.
374-80-060	Liability.

WAC 374-80-010 Authority and purpose. The purpose of this chapter is to establish a program for providing technical assistance to the owners and operators of active or abandoned heating oil tanks if contamination resulting from a release from a heating oil tank is suspected.

[Statutory Authority: Chapter 70.148 RCW. WSR 03-06-015, § 374-80-010, filed 2/21/03, effective 3/24/03. Statutory Authority: Chapter 70.149 RCW. WSR 97-20-094, § 374-80-010, filed 9/29/97, effective 10/30/97.]

WAC 374-80-020 Definitions. Unless the context requires otherwise, the definitions in this section shall apply throughout this chapter.

(1) "Abandoned heating oil tank" means a consumptive use heating oil tank system that has been abandoned or decommissioned and is no longer in service or use.

(2) "Active heating oil tank" means a consumptive use heating oil tank that is in use.

(3) "Agency" means the Washington state pollution liability insurance agency (PLIA).

(4) "Corrective action" means those actions reasonably required to be under-taken by an owner or operator to remove, treat, neutralize, contain, or clean up an accidental release in order to comply with a statute, ordinance, rule, regulation, directive, order or similar legal requirement, at the time of an accidental release, of the United States, the state of Washington, or a political subdivision of the United States or the state of Washington.

(5) "Director" means the director of the Washington state pollution liability insurance agency.

(6) "Heating oil" means any petroleum product used for space heating in oil-fired furnaces, heaters and boilers, including stove oil, diesel fuel, or kerosene. "Heating oil" does not include petroleum products used as fuel in motor vehicles, marine vessels, trains, buses, aircraft, or any off-highway equipment not used for space heating, or for industrial processing or the generation of electrical energy.

(7) "Owner" means the person, or his or her authorized representative, legally responsible for an active or abandoned heating oil tank, its contents, and the premises upon which the heating oil tank is located.

(8) "Owner or operator" means a person in control of, or having the responsibility for, the daily operation of a heating oil tank.

(9) "Release" means any intentional or unintentional entry of heating oil into the environment.

(10) "Service provider" means an independent contractor responsible for site assessment, testing or analysis of the results of testing.

(11) "Site assessment" means an investigation of a heating oil tank site to determine if a release of heating oil has occurred.

(12) "Sampling and testing" means an approved and recognized technique(s) or procedure(s) for measuring or determining the presence and extent of hydrocarbons in soil and/or water.

[Statutory Authority: Chapter 70.149 RCW. WSR 97-20-094, § 374-80-020, filed 9/29/97, effective 10/30/97.]

WAC 374-80-030 Communications. All communications with the agency shall be addressed to:

Director
Pollution Liability Insurance Agency
1015 10th Avenue SE
P.O. Box 40930
Olympia, WA. 98504-0930
Telephone: (360) 586-5997 or (800) 822-3905

[Statutory Authority: Chapter 70.149 RCW. WSR 97-20-094, § 374-80-030, filed 9/29/97, effective 10/30/97.]

WAC 374-80-040 Procedures. (1) The agency will provide, as resources permit, technical assistance to the owners and operators of active or abandoned heating oil tanks if contamination resulting from a release from an active or abandoned heating oil tank is suspected. Technical assistance regarding administrative requirements may include observation of testing, site assessment, as well as review of the results of reports and other appropriate review activities approved by the director.

(2) Such technical assistance will be provided only upon request by the owner of a heating oil tank. If the operator of a heating oil tank is not the owner, the operator must provide the agency with specific written authorization of the owner before technical assistance is provided, or before a site is visited by a representative of the agency.

(3) To receive technical assistance under this program, the owner or operator of an active or abandoned heating oil tank must submit an application, provided by the agency, requesting advice and assistance, and agreeing to the terms of the program.

(4) Upon receipt of a request for technical assistance, the agency will provide the tank owner or operator:

(a) Information regarding procedures for the program;

(b) An application requesting technical assistance;

(c) An agreement between the tank owner and the agency regarding the procedures and reimbursement requirements of the program.

(5) Technical assistance provided under the program may include:

(a) Observation of sampling and testing, site assessment or other appropriate assessments scheduled by the tank owner;

(b) Interpretation of the results of testing and/or assessment(s);

(c) A report from PLIA to the heating oil tank owner of the results of testing and/or assessment(s); and

(d) Other appropriate activities approved by the director.

(6) The heating oil tank owner or operator will select a service provider to perform sampling and testing, site assessment or other appropriate assessments. The tank owner or operator will enter into an agreement with the service provider regarding scope or extent of work and fees for services.

(7) Technical assistance will be provided only if sampling and testing as well as site assessment are performed in accordance with sampling, testing and assessment protocol approved by the director.

(8) The original copy of the results of all testing and site assessment activities must be forwarded to the agency for review and evaluation.

(9) Upon completion of review and evaluation, the agency will, in writing, inform the heating oil tank owner of the results of review and assessment of data. The agency report will note whether it appears there is or is not contamination present at the site. If contamination is discovered, the report will note whether or not the contamination appears to be a threat to human health and the environment. If the contamination does appear to be a threat to human health and the environment, the heating oil tank owner will be advised of the requirement for corrective action. The determination as to whether or not the contamination appears to be a threat to human health and the environment will be made in accordance with the terms and requirements of the Model Toxics Control Act (chapter 70.105D RCW) and its regulations (chapter 173-340 WAC).

[Statutory Authority: Chapter 70.148 RCW. WSR 03-06-015, § 374-80-040, filed 2/21/03, effective 3/24/03. Statutory Authority: Chapter 70.149 RCW. WSR 97-20-094, § 374-80-040, filed 9/29/97, effective 10/30/97.]

WAC 374-80-050 Reimbursement. (1) The agency shall collect, from the heating oil tank owner or operator requesting technical assistance, the costs incurred in providing such advice and assistance.

(2) Funds received by the agency from cost reimbursement must be deposited in the heating oil pollution liability trust account.

(3) Costs incurred that shall be covered in reimbursement may include travel costs and expenses associated with monitoring site assessment, review of reports and analyses and preparation of written opinions and conclusions. The fee for such technical assistance will be \$350.00.

(4) The fee must be paid prior to the agency issuing its report of review and assessment of data.

[Statutory Authority: Chapter 70.148 RCW. WSR 03-06-015, § 374-80-050, filed 2/21/03, effective 3/24/03. Statutory Authority: Chapter 70.149 RCW. WSR 97-20-094, § 374-80-050, filed 9/29/97, effective 10/30/97.]

WAC 374-80-060 Liability. (1) The state of Washington and/or the pollution liability insurance agency accepts no liability, nor portion of liability, from the heating oil tank owner or operator.

(2) 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, advice, opinion, conclusion, or assistance under this program.

[Statutory Authority: Chapter 70.149 RCW. WSR 97-20-094, § 374-80-060, filed 9/29/97, effective 10/30/97.]