

WAC 374-70-090 Third-party claims. Coverage for a third-party claim under the heating oil pollution liability insurance program shall be in excess of other valid insurance and warranties. Payment of a third-party claim will be made only if the cleanup of contamination resulting from an accidental release is not covered by other valid insurance and warranties. Corrective action will be accomplished by the most cost-effective method available. For a third party to receive payment from the heating oil pollution liability insurance program for covered corrective action costs, the following actions are required:

(1) The third-party claim must be for corrective action resulting from an accidental release from a heating oil tank which has been registered with PLIA prior to the accidental release;

(2) The claim must satisfy all requirements and restrictions established for third-party claims by chapter 70A.330 RCW and this chapter. Any failure to satisfy all requirements and restrictions may be a basis for denial of claim;

(3) The third-party claimant must provide notice to PLIA that a potential third-party claim may exist as soon as practicable after discovery that damage may have occurred from an accidental release from a named insured's heating oil tank;

(4) The claim must be submitted to PLIA as soon as practicable but no later than 180 days after the date a registered heating oil tank is abandoned or decommissioned;

(5) Upon receipt of notice of a potential claim, PLIA will commence completion of the notice of claim;

(6) If an accidental release from a named insured's heating oil tank has been confirmed as impacting the third-party claimant, PLIA, as designated representative of the insurer will initiate an investigation to determine the source of the contamination. Investigation will be performed by PLIA or a designated representative approved by the insurer. PLIA may also assist the named insured heating oil tank owner in determining if the insured's homeowner's insurance provides coverage for third-party damage. The third-party claimant shall cooperate fully with the investigator and provide any information or access necessary to complete the investigation;

(7) If the claim is determined by PLIA to be valid, the third-party claimant will be notified by PLIA to select an approved heating oil tank service provider to perform corrective action;

(8) The heating oil tank service provider will notify PLIA of selection by the third-party claimant. PLIA will then inform the heating oil tank service provider of the following forms to be used and which are accessed through the online community:

(a) Scope of work proposal. This form will provide the third-party claimant and PLIA the site characterization and a proposal of the extent and elements of corrective action to include analytical samples, as well as a specific cost proposal;

(b) Change order. This form provides a proposal for change or deviation from the scope of work proposal;

(c) Project field report. This form provides a record of all corrective action and work elements, as well as a record of detailed costs. The project field report must include color photographs of the project at commencement, completion, and any significant steps in between, as well as appropriate project sketches and/or plans; and

(d) Closeout report. This form will include a project closeout report, final cleanup report, and corrective action cost claim. The closeout report may serve as the closure of the claim under this program;

(9) The heating oil tank service provider will submit for approval to the third-party claimant and then to PLIA a scope of work proposal for corrective action at the heating oil tank site;

(10) Upon receipt of approval by the third-party claimant and PLIA of the scope of work proposal, the heating oil tank service provider may commence work to accomplish corrective action(s);

(11) All work performed by the heating oil tank service provider on behalf of the third-party claimant and PLIA must be within the terms of the contract and the approved scope of work proposal and shall not exceed costs included in the scope of work proposal. Any change(s) or deviation(s) from the approved scope of work proposal must be accomplished through a change order request which must be approved in advance by the third-party claimant and then PLIA. Any work performed by the heating oil tank service provider that has not been approved, prior to performance, by the third-party claimant and PLIA, or is beyond the terms of the scope of work proposal or change order(s), or is in excess of costs approved in the scope of work proposal or change order(s), will not be paid or reimbursed under the heating oil pollution liability insurance program. Such work or excess costs will be the responsibility of the third-party claimant and/or heating oil tank service provider;

(12) Corrective action activities and costs must be recorded by the heating oil tank service provider on the project field report form provided in the online community;

(13) Upon completion of all corrective action, the third-party claimant must sign the project closeout report indicating approval of and satisfaction with all work performed by the heating oil tank service provider;

(14) Upon completion of corrective action and approval by the third-party claimant, the heating oil tank service provider must submit to PLIA a complete claim report;

(15) Upon completion of corrective action that appears to satisfy the requirements of all applicable state and local statutes, the director will certify that the third-party claim has been closed;

(16) Approval of claims and payment of covered costs are contingent upon the availability of revenue. The director reserves the right to defer payment at any time that claim demands exceed the statutory limit provided in RCW 70A.330.040(1) and to develop a plan on resuming payments;

(17) PLIA will maintain all records associated with a claim for a period of 10 years; and

(18) In the case of an emergency, the director may authorize deviation from this procedure to the extent necessary to adequately respond to the emergency.

[Statutory Authority: RCW 70A.330.040. WSR 23-05-006, § 374-70-090, filed 2/2/23, effective 3/5/23. Statutory Authority: RCW 70A.01.010 and 70A.01.020. WSR 22-01-069, § 374-70-090, filed 12/9/21, effective 1/9/22. Statutory Authority: RCW 70.149.040. WSR 08-20-013, § 374-70-090, filed 9/18/08, effective 1/1/09. Statutory Authority: Chapter 70.149 RCW. WSR 97-06-080, § 374-70-090, filed 3/3/97, effective 4/3/97; WSR 96-01-101, § 374-70-090, filed 12/19/95, effective 1/19/96.]