

RCW 70A.305.050 Enforcement. (1) With respect to any release, or threatened release, for which the department does not conduct or contract for conducting remedial action and for which the department believes remedial action is in the public interest, the director must issue orders or agreed orders requiring potentially liable persons to provide the remedial action. Any liable person, or prospective purchaser who has entered into an agreed order under RCW 70A.305.040(6), who refuses, without sufficient cause, to comply with an order or agreed order of the director is liable in an action brought by the attorney general for:

(a) Up to three times the amount of any costs incurred by the state as a result of the party's refusal to comply; and

(b) A civil penalty of up to twenty-five thousand dollars for each day the party refuses to comply.

The treble damages and civil penalty under this subsection apply to all recovery actions filed on or after March 1, 1989.

(2) Any person who incurs costs complying with an order issued under subsection (1) of this section may petition the department for reimbursement of those costs. If the department refuses to grant reimbursement, the person may within thirty days thereafter file suit and recover costs by proving that he or she was not a liable person under RCW 70A.305.040 and that the costs incurred were reasonable.

(3) The attorney general must seek, by filing an action if necessary, to recover the amounts spent by the department for investigative and remedial actions and orders, and agreed orders, including amounts spent prior to March 1, 1989.

(4) The attorney general may bring an action to secure such relief as is necessary to protect human health and the environment under this chapter.

(5) (a) Any person may commence a civil action to compel the department to perform any nondiscretionary duty under this chapter. At least thirty days before commencing the action, the person must give notice of intent to sue, unless a substantial endangerment exists. The court may award attorneys' fees and other costs to the prevailing party in the action.

(b) Civil actions under this section and RCW 70A.305.070 may be brought in the superior court of Thurston county or of the county in which the release or threatened release exists.

(6) Any person who fails to provide notification of releases consistent with RCW 70A.305.110 or who submits false information is liable in an action brought by the attorney general for a civil penalty of up to five thousand dollars per day for each day the party refuses to comply.

(7) Any person who owns real property or lender holding a mortgage on real property that is subject to a lien filed under RCW 70A.305.060 may petition the department to have the lien removed or the amount of the lien reduced. If, after consideration of the petition and the information supporting the petition, the department decides to deny the request, the person may, within ninety days after receipt of the department's denial, file suit for removal or reduction of the lien. The person is entitled to removal of a lien filed under RCW 70A.305.060(2)(a) if they can prove by a preponderance of the evidence that the person is not a liable party under RCW 70A.305.040. The person is entitled to a reduction of the amount of the lien if they can prove by a preponderance of the evidence:

(a) For liens filed under RCW 70A.305.060(2)(a), the amount of the lien exceeds the remedial action costs the department incurred related to cleanup of the real property; and

(b) For liens filed under RCW 70A.305.060(2)(c), the amount of the lien exceeds the remedial action costs the department incurred related to cleanup of the real property or exceeds the increase of the fair market value of the real property solely attributable to the remedial action conducted by the department.

(8) The expenditure of moneys under the model toxics control operating, capital, and stormwater accounts created in RCW 70A.305.180 through 70A.305.200 does not alter the liability of any person under this chapter, or the authority of the department under this chapter, including the authority to recover those moneys. [2020 c 20 § 1309; 2019 c 422 § 402; 2013 2nd sp.s. c 1 § 8; 2005 c 211 § 2; 2002 c 288 § 4; 1994 c 257 § 12; 1989 c 2 § 5 (Initiative Measure No. 97, approved November 8, 1988). Formerly RCW 70.105D.050.]

Effective date—Intent—2019 c 422: See notes following RCW 82.21.010.

Findings—Intent—Effective date—2013 2nd sp.s. c 1: See notes following RCW 70A.305.020.

Effective date—2002 c 288 §§ 2-4: See note following RCW 70A.305.110.

Severability—2002 c 288: See note following RCW 70A.305.010.

Severability—1994 c 257: See note following RCW 36.70A.270.