

RCW 90.56.270 Enforcement of contingency plans. (1) The provisions of contingency plans approved by the department under RCW 90.56.210 and prevention plans approved by the department pursuant to RCW 90.56.200 shall be legally binding on those persons submitting them to the department and on their successors, assigns, agents, and employees. The superior court shall have jurisdiction to restrain a violation of, compel specific performance of, or otherwise to enforce such plans upon application by the department. The department may issue an order pursuant to chapter 34.05 RCW requiring compliance with a contingency plan or a prevention plan and may impose administrative penalties under RCW 43.21B.300 for failure to comply with a plan. An order under this section is not subject to review by the pollution control hearings board as provided in RCW 43.21B.110.

(2) (a) Any person responsible or potentially responsible for a discharge, all of the agents and employees of that person, the operators of all vessels docked at an onshore or offshore facility that is a source of a discharge, and all state and local agencies shall carry out response and cleanup operations in accordance with applicable contingency plans, unless directed otherwise by the director or the coast guard. Except as provided in (b) of this subsection, the responsible party, potentially responsible parties, their agents and employees, the operators of all vessels docked at an onshore or offshore facility that is the source of the discharge, and all state and local agencies shall carry out whatever direction is given by the director in connection with the response, containment, and cleanup of the spill, if the directions are not in direct conflict with the directions of the coast guard.

(b) If a responsible party or potentially responsible party reasonably, and in good faith, believes that the directions or orders given by the director pursuant to (a) of this subsection will substantially endanger the public safety or the environment, the party may refuse to act in compliance with the orders or directions of the director. The responsible party or potentially responsible party shall state, at the time of the refusal, the reasons why the party refuses to follow the orders or directions of the director. The responsible party or potentially responsible party shall give the director written notice of the reasons for the refusal within forty-eight hours of refusing to follow the orders or directions of the director. In any civil or criminal proceeding commenced pursuant to this section, the burden of proof shall be on the responsible party or potentially responsible party to demonstrate, by clear and convincing evidence, why the refusal to follow the orders or directions of the director was justified under the circumstances. [1991 c 200 § 206; 1990 c 116 § 7. Formerly RCW 90.48.375.]

Findings—Severability—1990 c 116: See notes following RCW 90.56.210.