Chapter 10. EPCRA Section 326: Civil Actions

EPCRA Section 326(a): Authority to bring civil actions.

(1) Citizen suits

Except as provided in subsection (e), any person may commence a civil action on his own behalf against the following:

(A) An owner or operator of a facility for failure to do any of the following:
   (i) Submit a followup emergency notice under section 304(c) of this title.
   (ii) Submit a material safety data sheet or a list under section 311(a) of this title.
   (iii) Complete and submit an inventory form under section 312(a) of this title containing tier I information as described in section 312(d)(1) of this title unless such requirement does not apply by reason of the second sentence of section 312(a)(2) of this title.
   (iv) Complete and submit a toxic chemical release form under section 313(a) of this title.

(B) The Administrator for failure to do any of the following:
   (i) Publish inventory forms under section 312(g) of this title.
   (ii) Respond to a petition to add or delete a chemical under section 312(e)(1) of this title within 180 days after receipt of the petition.
   (iii) Publish a toxic chemical release form under 313(g) 1 of this title.
   (iv) Establish a computer database in accordance with section 313(j) of this title.
   (v) Promulgate trade secret regulations under section 322(c) of this title.
   (vi) Render a decision in response to a petition under section 324(d) of this title within 9 months after receipt of the petition.

(C) The Administrator, a State Governor, or a State emergency response commission, for failure to provide a mechanism for public availability of information in accordance with section 324(a) of this title.

(D) A State Governor or a State emergency response commission for failure to respond to a request for tier II information under section 312(e)(3) of this title within 120 days after the date of receipt of the request.

EPCRA Section 326 allows citizens to initiate civil actions against EPA, SERCs or TERCs, and the owner or operator of a facility for failure to meet the EPCRA requirements. Citizens may bring civil actions against the owner or operator of a facility for failure to comply with certain requirements under EPCRA Section 326(a)(1)(A).

In addition, citizens may also bring civil action against the EPA Administrator; the state governor or the SERC; or the chief executive officer of the tribe or TERC for failure to fulfill certain requirements under the law, including not providing a mechanism for public availability of information as provided in EPCRA Section 324(a). The citizens may also bring civil action against the state governor or a SERC for failure to respond to a request for Tier II information under Section 312(e)(3). (See Section 326(a)(1)(D), cited above.)