

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.*)