

## Civil Actions – Non-State

### Section 324.XXXXX Civil Actions – Non-State

- (1) Except as otherwise provided in this part, the following persons may commence a civil action under this part:
  - (a) A person, including a local unit of government on behalf of its citizens, whose health or enjoyment of the environment is or may be adversely affected by a release from a facility or threat of release from a facility.
  - (b) A liable person in accordance with section xxxxx [*Claims - General*].
- (2) A civil action may be brought against the following persons for the relief included in this subsection:
  - (a) A person who is liable, under sections xxxxx or xxxxx [*Causation and Contribution Liability or Failing to Conduct Inquiry*] or for any other obligation under this part, for injunctive relief necessary to prevent irreparable harm to the public health, safety, or welfare, or the environment from a release or threatened release in relation to that facility.
  - (b) A person who is liable under sections xxxxx or xxxxx [*Causation and Contribution Liability or Failing to Conduct Inquiry*] or for any other obligation under this part, for the recovery of response activity costs, fines, and penalties, and premiums.
  - (c) A person who is liable under sections xxxxx or xxxxx [*Causation and Contribution Liability or Failing to Conduct Inquiry*] or for any other obligation under this part, for a violation of this part, a rule promulgated under this part, a demand written under this part, or an order issued under this part in relation to the facility for which that person has liability.
  - (d) One or more of the directors if it is alleged that one or more of the directors failed to perform a nondiscretionary act or duty under this part.
- (3) The circuit court has jurisdiction in actions brought under subsection (2)(a) to grant injunctive relief necessary to protect the public health, safety, or welfare, or the environment from a release or threatened release. The circuit court has jurisdiction in actions brought under subsection (2) to enforce this part, a rule promulgated, demand written or order issued under this part by ordering such action as may be necessary to correct the violation, and to impose any civil fine provided for in this part for the violation. A civil fine recovered under this section shall be deposited in the fund. The circuit court has jurisdiction in actions brought under subsection (2)(d) to order one or more of the department directors to perform the nondiscretionary act or duty concerned.
- (4) An action shall not be filed under subsection (2)(a), (b), or (c) unless both of the following conditions exist:
  - (a) The plaintiff has given at least a 60-day notice in writing of the plaintiff's intent to sue, the basis for the suit, and the relief to be requested to each of the following:
    - (i) The department.
    - (ii) The attorney general.
    - (iii) The proposed defendants.
  - (b) The state has not commenced and is not diligently prosecuting an action under this part or under other appropriate legal authority to obtain injunctive relief concerning the facility, or to require compliance with this part or a rule or an order under this part.

- (5) An action shall not be filed under subsection (2)(d) until the plaintiff has given in writing at least a 60-day notice to the department directors of the plaintiff's intent to sue, the basis for the suit, and the relief to be requested.
- (6) In issuing a final order in an action brought pursuant to this section, the court may award costs of litigation, including reasonable attorney and expert witness fees to the prevailing or substantially prevailing party if the court determines that an award is appropriate.
- (7) This section does not affect or otherwise impair the rights of any person under federal, state, or common law.
- (8) An action under subsection (2)(a), (b), or (c) shall be brought in the circuit court for the circuit in which the alleged release, threatened release, or other violation occurred. An action under subsection (2)(d) shall be brought in the circuit court for Ingham county.
- (9) In considering objections raised under this section for the recovery of response activity costs, the court may award reasonable costs and premiums even in the event of failure to comply with the notice requirements or alleged procedural errors, so long as the errors and related matters were not of central importance.