



## Ohio Revised Code

### Section 3734.22 Agreement with owner prior to cleanup.

Effective: October 6, 2017

Legislation: Senate Bill 2 - 132nd General Assembly

---

Before beginning activities under section 3734.21 of the Revised Code, the director of environmental protection shall endeavor to enter into an agreement with the owner of the land on which the activities will be conducted, specifying the activities to be performed and authorizing the director, employees of the agency, or contractors retained by the director to enter upon the land and perform the specified activities. The director also may enter into an agreement with any other owner of real or personal property for purposes of conducting those activities, including obtaining soil that may be used on the land where the activities will be conducted.

Each agreement may contain provisions for the reimbursement of the state for the costs of the activities. Methods of reimbursement may include the assignment of royalties or proceeds from the sale of timber or other resources present at the location.

All reimbursements and payments shall be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code, the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, or the environmental protection remediation fund created in section 3734.281 of the Revised Code, as applicable.

The agreement may require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency in accordance with the bidding procedure established in division (C) of section 3734.23 of the Revised Code may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the agreement, or to construct, maintain, repair, remove, or make any other alterations or improvements, as determined appropriate by the director. The director also may obtain an easement under this section from any other person to address the use of resources or materials for purposes of conducting activities pursuant to section 3734.20 or 3734.21 of the Revised Code. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary or appropriate to protect the public health or safety, the agreement may require the owner to enter into an environmental covenant with the director in accordance with



sections 5301.80 to 5301.92 of the Revised Code.

Upon a breach of the reimbursement provisions of the agreement by the owner of the land or facility, or upon notification to the director by the owner that the owner is unable to perform the duties under the reimbursement provisions of the agreement, the director may record the unreimbursed portion of the costs of the activities at the office of the county recorder of the county in which the land or facility is located. The costs so recorded constitute a lien against the property on which the activities were conducted.

A lien imposed under this section shall continue until it is discharged or upon a filing by the director of a release of the lien in the office of the county recorder of the county in which the property subject to the lien is located.

Upon written request of the director, the attorney general shall institute a civil action to recover the unreimbursed portion of the costs of the activities. Any moneys so recovered shall be credited to the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund, as applicable.