



Ohio Revised Code

Section 3734.22 Agreement with owner prior to cleanup.

Effective: September 29, 2011

Legislation: House Bill 153 - 129th General Assembly

Before beginning to clean up any facility 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 facility is located, or with the owner of the facility, specifying the measures 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 measures.

Each agreement may contain provisions for the reimbursement of the state for the costs of the cleanup.

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. Such easements shall be for a specified period of years and may be extinguished by agreement between the owner and the director. When necessary 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 cleanup at the office of the county recorder of the county in which the facility is located. The costs so recorded constitute a lien against the property on which



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the facility is located until discharged. Upon written request of the director, the attorney general shall institute a civil action to recover the unreimbursed portion of the costs of cleanup. 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.