(Please note that O.R.C. Sections 5501.32, 5501.34 and 5501.45 in this section appear as they have been revised. They are currently awaiting signing for official enactment. Some sections or sub-parts do not appear in their entirety)

**Ohio Revised Code**

**Sec. 5501.32.** The director of transportation may purchase property in fee simple in the name of the state by warranty deed, and all or any part of a tract of land when the acquisition of a part of the land needed for highway purposes will result in substantial damages to the residue by severance, controlled access, or isolation. The warranty deed shall contain a description of the property suitable for platting on tax maps. Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

**Sec. 5501.34.** (A) In the event that circumstances alter the highway requirements after the director of transportation has acquired property, so that the real property, or part thereof, is no longer required for highway purposes, the director, in the name of the state, may sell all the right, title, and interest of the state in any of the real property. After determining that a parcel of real property is no longer required for highway purposes, the director shall have the parcel appraised by a department prequalified appraiser.

(B) except as otherwise provided in this section, the director shall advertise the sale of real property that is no longer required for highway purposes in a newspaper of general circulation in the county in which the real property is situated for at least two consecutive weeks prior to the date set for the sale. The real property may be sold at public auction to the highest bidder for not less than two-thirds of its appraised value, but the director may reject all bids that are less than the full appraised value of the real property. However, if no sale has been effected after an effort to sell under this division, the director may set aside the appraisal, order a new appraisal, and, except as otherwise provided in this section, readvertise the property for sale.

(C) if real property no longer required for highway purposes is appraised or reappraised as having a current fair market value of twenty thousand dollars or less, the director may sell the land real property to the sole abutting owner through a private sale at a price not less than the appraised value. If there is more than one abutting owner, the director may invite all of the abutting owners to submit sealed bids and may sell the land real property to the highest bidder at not less than its appraised value.

(D) if real property no longer required for highway purposes is appraised or reappraised as having a fair market value of two thousand dollars or less, and no sale has been effected after an effort to sell to the abutting owner or owners, the director may advertise the sale of such real property in accordance with division (b) of this section. The director may sell the land at public auction to the highest bidder without regard to its appraised value, but the director may reject all bids that are less than the full appraised value of the real property.
(E) the department shall pay all expenses incurred in the sale of a parcel of real property out of the proceeds of the sale and shall deposit the balance of the proceeds in the highway fund used to acquire that parcel of real property.

(F) upon a determination that real property previously acquired within a highway improvement project corridor no longer is needed for highway purposes, the director may offer the unneeded property to another landowner located within that project’s corridor as full or partial consideration for other real property to be acquired from the landowner. If the landowner accepts the offer, the director shall convey the unneeded property directly to the landowner at the full fair market value determined by the department by appraisal. The director shall credit the value of the unneeded property against the acquisition price of the property being acquired by the department, and the landowner shall pay the department the difference if the value of the unneeded property exceeds the acquisition price of the property being acquired.

(G) conveyances of real property under this section shall be by deed executed by the governor, shall bear the great seal of the state of ohio, and shall be in the form as prescribed by the attorney general. Section 5301.13 of the revised code, relating to the sale of public lands, shall not apply to conveyances made pursuant to this section. The director shall keep a record of all such conveyances. This section applies to all real property acquired by the department, regardless of how or from whom the property was acquired.

Sec. 5501.45. (A) The director of transportation may convey or transfer the fee simple estate or any lesser estate or interest in, or permit the use of, for such period as the director shall determine, any lands owned by the state and acquired or used for the state highway system or for highways or in connection with highways or as incidental to the acquisition of land for highways, provided that the director determines, after consulting with the director of natural resources, that the property or interest conveyed or made subject to a permit to use is not needed by the state for highway or recreation purposes. Such conveyance, transfer, or permit to use may be to the grantee or permittee or to the grantee or permittee and the grantee's or its successors and assigns and shall be of such portion of such lands as the director shall determine, which shall be described in the deed, transfer, or other instrument or conveyance and in any permit to use, and may include or be limited to areas or space on, above, or below the surface, and also may include the grant of easements or other interests in any such lands for use by the grantee for buildings or structures or for other uses and purposes, and for the support of buildings or structures constructed or to be constructed on or in the lands or areas or space conveyed or made subject to a permit to use.

(B) Whenever pursuant to this section separate units of property are created in any lands, each unit shall for all purposes constitute real property and shall be deemed real estate within the meaning of all provisions of the Revised Code, shall be deemed to be a separate parcel for all purposes of taxation and assessment of real property, and no other unit or other part of such lands shall be charged with the payment of such taxes and assessments.

(C) With respect to any portion of the state highway system not owned in fee simple by the state, the director may permit the use of any portion thereof in perpetuity or for such period of time as the director shall specify, including areas or space on, above, or beneath the surface, together with rights for the support of buildings or structures constructed or to be constructed thereon or therein, provided that the director determines that the portion made subject to a right to use is not needed by the state for highway purposes.
The director shall require, as either a condition precedent or a condition subsequent to any conveyance, transfer, or grant or permit to use, that the plans and specifications for all such buildings or structures and the contemplated use thereof, be approved by the director as not interfering with the use of the state highway system and not unduly endangering the public. The director may require such indemnity agreements in favor of the director and the public as shall be lawful and as shall be deemed necessary by the director. The director shall not unreasonably withhold approval of such plans, specifications, and contemplated use.

All such conveyances, transfers, grants, or permits to use that are made to state institutions, agencies, commissions, instrumentalities, political subdivisions, or taxing districts of the state, and institutions receiving financial assistance from the state, shall be upon such consideration as shall be determined by the director to be fair and reasonable, without competitive bidding, and sections 5301.13 and 5515.01 of the Revised Code, relating to the sale or use of public lands shall not apply to conveyances, grants, transfers, or permits to use made pursuant to this Division. An institution receiving financial assistance from the state shall provide the director with acceptable documentary evidence of the state loan, grant, or other state financial assistance.

As used in this division, "institution receiving financial assistance from the state" includes any public or private organization, especially one of a charitable, civic, or educational character, in receipt of a state loan, grant, or other type of state financial assistance.

Except as provided in division (E) of this section, all conveyances, grants, or permits to use that are made to private persons, firms, or corporations shall be conducted in accordance with the procedure set forth in section 501.311 OR 5501.34 of the Revised Code, as applicable.

In any case where the director has acquired or acquires, for the state highway system, easements in or permits to use areas or space on, above, or below the surface, the director may extinguish them in whole or in part or subordinate them to uses by others, provided that the director determines that the easements or permit to use so extinguished or subordinated are not needed by the state for highway purposes. The director shall make any extinguishment to the current underlying fee owner of record at no cost.

No conveyance, transfer, easement, lease, permit, or other instrument executed pursuant to the authorization given by this section shall prejudice any right, title, or interest in any lands affected thereby which at the date thereof existed in any person, firm, or corporation, other than the state and other than members of the general public having no specific rights in said lands, unless the right, title, or interest was expressly subject to the right of the state to make such conveyance or transfer, grant such right, or execute such instrument, and unless the state by such instrument expressly exercises such right, nor shall any public utility be required to move or relocate any of its facilities that may be located in or on the areas described in any such conveyance, transfer, easement, lease, permit, or other instrument.

Sec. 5501.50. (A) As used in this section, "agricultural purposes" means commercial animal or poultry husbandry, or the production for a commercial purpose of field crops, tobacco, fruits, or vegetables.
(B) Whenever the director of transportation acquires real property as provided in section 5501.32 of the Revised Code or otherwise acquires real property in fee simple in the name of the state for highway purposes and subsequently finds the property is not needed for such purposes, or will not be needed for such purposes for a period of two years or more following the date of acquisition of the property, and the property is adjacent to or in the near vicinity of property used for agricultural purposes, the director may, at the director's discretion, offer to lease the property for agricultural purposes for one year at a price consistent with rentals of adjacent agricultural lands in the manner provided in divisions (C), (D), (E), (F), (G), (H), and (I) of this section before conveying or transferring the fee simple estate or any lesser estate or interest in the property, or permitting its use by another.

(C) Real property shall be offered for lease by mailing a notice, in writing, to each person who owns or leases property being used for agricultural purposes that adjoins or is in the near vicinity of the property. The notice shall include a general description of the property offered for lease, the cost of the lease, the manner in which the lease will be made, the requirements of this section, a statement that the person shall notify the director in writing within no more than four weeks following mailing of the notice if the person is interested in leasing the property, and such other information as the director considers necessary.

(D) If the director receives information in writing from two or more persons who are interested in leasing the real property, one of whom is the owner of real property that adjoins the property offered for lease, the director may lease the property to that person. If the director receives such information from two or more persons, two or more of whom are owners of real property that adjoins the property offered for lease, the director shall lease the property to the person whose information is contained in the envelope bearing the earliest postmark.

(E) Any lease made under this section shall be conditioned upon the lessee's written agreement to maintain weed control on the property. If the director has reasonable cause to believe that such an agreement is violated, the director, or any of the director's authorized agents, may, at the director's or authorized agent's discretion, do either of the following:

(1) Provide necessary weed control. The expense of providing weed control shall be paid by the director out of any appropriation to the department of transportation available for the establishment, use, maintenance, or repair of highways and the amount thereof shall be reimbursed by the lessee to the department and if not reimbursed the amount thereof shall be certified to the attorney general for collection by civil action against the lessee of the property.

(2) File a complaint by petition in the court of common pleas of the county in which the property is located. Upon a finding by the court that a violation of the agreement exists as alleged in the petition, the court shall enter an order of abatement against the lessee of the property.
(F) If real property offered for lease as provided in this section is located near a highway where the use of the property for crops such as corn and wheat will obstruct the view of any part of the highway from a person operating a vehicle on the highway or on an intersecting highway or private road, or near an airport where such use of the property may interfere with airport safety, any lease made shall be conditioned upon the lessee's written agreement to use the property for only crops that will not create such an obstruction of the view of the highway or interference with airport safety. If the director has reasonable cause to believe that such an agreement is violated, the director, or any of the director's authorized agents, may, at the director's or authorized agent's discretion, do either of the following:

(1) Remove the crop or such part thereof as may be necessary to ensure that the view of the highway will not be obstructed, or that airport safety will not be reduced. The expense of the removal shall be paid by the director out of any appropriation to the department of transportation available for the establishment, use, maintenance, or repair of highways and the amount thereof shall be reimbursed by the lessee to the department and if not reimbursed the amount thereof shall be certified to the attorney general for collection by civil action against the lessee of the property.

(2) File a complaint by petition in the court of common pleas of the county in which the property is located. Upon a finding by the court that a violation of the agreement exists as alleged in the petition, the court shall enter an order of abatement against the lessee of the property.

(G) The director may offer to renew annually any lease of real property made under this section to the current lessee or may offer the opportunity to lease to others in the manner and subject to the requirements and limitations as provided for in this section.

(H) The requirements of sections 5501.32, 5501.34, and 5501.45 of the Revised Code relating to the appraisal, advertisement, manner of sale, and minimum sale price of property not needed for highway purposes and the requirements of sections 5501.34, and 5501.45 of the Revised Code relating to the use of property not needed for highway purposes for recreation purposes, do not apply to a lease or renewal of a lease of real property made in accordance with this section.

(I) Except as provided in divisions (E)(1) and (F)(1) of this section, all expense incurred in the lease of real property under this section shall be paid out of the proceeds of the lease and the balance shall be deposited in the highway fund from which the purchase of the real property giving rise to the proceeds was made.

(J) Nothing in this section shall be construed to permit the director to acquire real property by appropriation for the purpose of leasing it for agricultural purposes.
5511.07 Procedure for vacating highway.

In pursuance of section 5501.31 of the Revised Code, the director of transportation, in vacating any highway or portion thereof on the state highway system that the director finds is no longer necessary for the purposes of a public highway, shall issue such a finding, which shall contain a description of the highway or part thereof to be vacated. Notice of such finding shall be published once a week, for two consecutive weeks, in a newspaper of general circulation in the county in which the highway, or part thereof, to be vacated lies, and a copy of the notice shall be served as in civil cases, or by registered first class mail, return receipt requested, upon each owner of property abutting on the portion of the highway to be vacated, and upon the director of natural resources. Any owner whose place of residence is unknown, or who is a nonresident of the state, shall be specifically named in the notice of publication and shall be directed in the finding to take due notice of the contents thereof.

The notice shall fix a date, not less than twenty days after the date of the final publication of the notice, and shall contain a determination that on or before that date claims for compensation and damage, or either, by reason of the vacation proceedings, must be filed in writing, in duplicate, with the district deputy director of transportation in whose district lies any portion of the highway to be vacated. Failure to file claims in that manner is a waiver of any claim for damage by reason of the vacation.

After considering any claims filed, the director shall make awards as the director considers just and equitable, and if, within ten days, the amount so awarded has not been accepted and waivers therefor signed, that amount shall be deposited in the probate court or court of common pleas of the county in which the vacation lies, wholly or in part, and the procedure to adjudicate such claims shall be that provided under section 5519.01 of the Revised Code.

No final determination shall be made by the director in vacating such highway or portion thereof until all awards are accepted, or deposit therefor made, in the probate court or court of common pleas.

5513.04 Disposition of property unfit for use or not needed by department.

(A) Notwithstanding sections 125.12, 125.13, and 125.14 of the Revised Code, the director of transportation, after notice as provided in section 5513.01 and 5513.02 of the Revised Code with respect to purchase, may sell any structure, machinery, tools, equipment, parts, material, office furniture, or supplies unfit for use or not needed by the department of transportation. The director may sell or transfer any item specified in this division to any agency of the state or a political subdivision of the state without notice of the proposed disposal and upon any mutually agreed upon terms. The director may exchange any such item, in the manner provided for in this chapter, and pay the balance of the cost of such new item from any funds appropriated to the department. The director also may accept a credit voucher in an amount mutually agreed upon between a vendor and the department. The amount of the credit voucher shall be applied to future purchases from that vendor.
(B) Notwithstanding sections 125.12, 125.13, and 125.14 of the Revised Code, the director, after notice as provided in this chapter with respect to purchase, may sell any passenger vehicle, van, truck, trailer, or other heavy equipment unfit for use or not required by the department. Prior to such sale, the director shall notify each county, municipal corporation, township, and school district of the sale. The director shall similarly notify the board of trustees of any regional water and sewer district established under Chapter 6119. of the Revised Code, when the board has forwarded to the director the district's name and current business address. For the purposes of this division, the name and current business address of a regional water and sewer district shall be forwarded to the director once each year during any year in which the board wishes the notification to be given. The notice required by this division may be given by the most economical means considered to be effective, including, but not limited to, regular mail, electronic mail, electronic bulletin board, and publication in a periodical or newspaper. If after seven days following mailing or other issuance of the director's notice, no county, municipal corporation, township, regional water and sewer district, educational service center, or school district has notified the director that it wishes to purchase any such vehicle or other heavy equipment, the director may proceed with the sale under division (D) of this section. The director may exchange such vehicles and other heavy equipment for new vehicles or other heavy equipment, in the manner provided for in sections 5513.01 to 5513.04 of the Revised Code, and pay the balance of the cost of such new vehicles or other heavy equipment from the funds appropriated to the department. The director also may elect to accept a credit voucher from a vendor in an amount mutually agreed to by the department and the vendor. The director shall apply the credit voucher to future purchases from that vendor.

In an emergency situation as determined by the director, the director may transfer any vehicles or other heavy equipment that is unfit for use or not needed by the department to any agency of the state or political subdivision of the state without advertising for bids and upon mutually agreed to terms.

(C) The director may sell or otherwise dispose of any structure or structural materials salvaged on the state highway system that in the director's judgment are no longer needed by the department, or that, through wear or obsolescence, have become unfit for use. The director may transfer the structure or materials to counties, municipal corporations, or other governmental subdivisions without advertising for bids and upon mutually agreed to terms. The director may transfer the structure or structures to a nonprofit corporation upon being furnished a copy of a contract between the nonprofit corporation and a county, municipal corporation, or other governmental subdivision to which the structure is to be moved pursuant to which the nonprofit corporation must make the structure or structures available for rent or sale within a period of three months after becoming available for occupancy to an individual or family which has been displaced by governmental action or which occupies substandard housing as certified by such governmental subdivision, without advertising for bids. Any such transfers shall be for such consideration as shall be determined by the director to be fair and reasonable, and shall be upon such terms and specifications with respect to performance and indemnity as shall be determined necessary by the director.

When, in carrying out an improvement that replaces any structure or materials, it is advantageous to dispose of the structure or materials by providing in the contract for the improvement that the structure or materials, or any part thereof, shall become the property of the contractor, the director may so proceed.
(D)(1) Any item specified in division (A), (B), or (C) of this section that has an estimated market value greater than one thousand dollars and that has not been sold or transferred as provided in those divisions may be sold at public sale. The director may authorize such sale by the district deputy directors of transportation, and the proceedings of such sale shall be conducted in the same manner as provided for sales by the director.

Before making any sale under division (D)(1) of this section, the director shall give notice of the sale by posting, for not less than ten days, a written, typed, or printed invitation to bidders on a traditional or electronic bulletin board in the offices of the department. The bulletin board shall be located in a place open to the public during normal business hours. At least ten days before bids are to be received, the director also shall publish one notice of the sale in a periodical or newspaper of general circulation in the region in which the items are located. The invitation to bidders and the published notice of the sale shall contain a brief description of the items to be sold and a statement of the time and place where bids will be received. The director may receive bids and make such sale on any basis the director determines is most advantageous to the department. A sale under division (D)(1) of this section shall be made to the highest responsible bidder. If, after invitations are issued, it develops that any public authority has use for any of the items, the director may reject all bids and dispose of the items as set out in this section.

(2) If, in the opinion of the director, any item specified in division (A), (B), or (C) of this section has an estimated fair market value of one thousand dollars or less, the director is not required to advertise the proposed sale except by notice posted on a traditional or electronic bulletin board in one or more offices of the department. The bulletin board shall be located in a place open to the public during normal business hours. The notice shall be posted for at least five working days and shall contain a brief description of the items to be sold and a statement of the time and place where bids will be received. The director may receive bids and make such sale on any basis the director determines is most advantageous to the department. Sale of any item using this method of advertising shall be made to the highest responsible bidder. If it develops that any public authority has use for any of the items, the director may reject all bids and dispose of the items as set out in this section.

(E) Proceeds of any sale described in this section shall be paid into the state treasury to the credit of the state highway operating fund or any other fund of the department as determined by the director.

(F) As used in this section, "school district" means any city school district, local school district, exempted village school district, cooperative education school district, and joint vocational school district, as defined in Chapter 3311. of the Revised Code. Once each year, the state board of education shall provide the director with a current list of the addresses of all school districts and educational service centers in the state.
5521.01 Establishment and improvement of state highways within municipal corporation.

Text of Statute

The director of transportation, upon the request by and the approval of the legislative authority of a village, shall maintain, repair, and apply standard longitudinal pavement marking lines as the director considers appropriate, or may establish, construct, reconstruct, improve, or widen any section of a state highway within the limits of a village. The director also may erect regulatory and warning signs, as defined in the manual adopted under section 4511.09 of the Revised Code, on any section of a state highway within the limits of a village. The director may establish, construct, reconstruct, improve, widen, maintain, or repair any section of state highway within the limits of a city, including the elimination of railway grade crossings, and pay the entire or any part of the cost and expense thereof from state funds, but in all cases the director first shall obtain the consent of the legislative authority of the municipal corporation, except that the director need not obtain the consent of the municipal corporation if the existing highway being changed or the location of an additional highway being established was not within the corporate limits of the municipal corporation at the time the director determines the establishment or change should be made, or if the director is acting pursuant to section 5501.49 of the Revised Code.

Except as provided in section 5501.49 of the Revised Code, when in the opinion of the director there is urgent need to establish a state highway, which is to be designated a federal aid highway, or a federal aid interstate highway within a municipal corporation or, in the opinion of the director, any federal aid highway or interstate federal aid highway is in urgent need of repair, reconstruction, widening, improvement, or relocation, so as to accommodate the traveling public, the director shall submit a written request to the legislative authority of the municipal corporation for its consent to the desired establishment or improvement. The legislative authority, within sixty days after the written request has been received from the director, either shall grant its consent to the establishment or improvement or refuse consent by filing in writing with the director a statement of its reasons for refusing consent and any alternate proposals it considers reasonable. If the legislative authority fails to act or refuses consent, the director, upon consideration of the reasons for rejection, may make a resolution declaring the necessity of the establishment or improvement, and then proceed in the same manner as if consent had been given. A certified copy of the resolution shall be served upon the municipal legislative authority, which, within twenty days from the date of service, may appeal to the court of common pleas of the county in which the municipal corporation is situated, upon the reasonableness and necessity of the action provided for in the resolution. In the hearing upon appeal, the director shall introduce the record of the director's proceedings, including the director's findings with respect to factors referred to in section 5521.011 [5521.01.1] of the Revised Code, and such other competent evidence as the director desires in support of the director's resolution, and the municipality likewise may introduce competent evidence opposing the resolution, and findings. The court may affirm or revoke the resolution. The decision of the common pleas court may be appealed to the court of appeals and the supreme court as in other cases. If the court affirms the resolution, the director may proceed with the establishment or improvement with or without the cooperation of the municipal corporation. Any such municipal corporation may cooperate with the director in the work and pay such portion of the cost as is agreed upon between the municipal corporation and the
director. The legislative authority of any municipal corporation desiring to cooperate, by resolution, may propose such cooperation to the director, and a copy of the resolution, which shall set forth the proportion of the cost and expense to be contributed by the municipal corporation, shall be filed with the director. The director shall cause to be prepared the necessary surveys, plans, profiles, cross sections, estimates, and specifications and shall file copies of them with the legislative authority of the municipal corporation. After the legislative authority has approved the surveys, plans, profiles, cross sections, estimates, and specifications, and after the municipal corporation has provided the funds necessary to meet the portion of the cost of the work assumed by it, the municipal corporation shall enter into a contract with the state providing for payment by the municipal corporation of the agreed portion of the cost. The form of the contract shall be prescribed by the attorney general, and such contracts shall be submitted to the director and approved before advertising for bids. Section 5705.41 of the Revised Code applies to such contract to be made by the municipal corporation, and a duplicate of the certificate of the chief fiscal officer of the municipal corporation shall be filed in the office of the director. That part of the cost of the work assumed by the municipal corporation shall be paid from the proceeds of taxes or special assessments, or both, or from the proceeds of notes or bonds issued and sold in anticipation of the collection of the taxes and assessments. For the purpose of providing funds for the payment of that part of the cost of the work assumed by the municipal corporation, the municipal corporation has the same authority to make special assessments, levy taxes, and issue bonds or notes, in anticipation of the collection of the same, as it has with respect to improvements constructed under the sole supervision and control of the municipal corporation. All such assessments shall be made, taxes levied, and bonds or notes issued and sold under such conditions and restrictions as may be provided with respect to assessments, taxes, bonds, or notes made, levied, issued, or sold in connection with improvements of the same class and character constructed under the sole supervision and control of the municipal corporation. The improvement shall be constructed under the sole supervision of the director. The proportion of the cost and expense payable by the municipal corporation shall be paid by the proper officers thereof, upon the requisition of the director, and at times during the progress of the work as may be determined by the director or as may be otherwise provided by law.

5529.01 Lands vacated or abandoned available as roadside parks.

Text of Statute

When the director of transportation, in the construction, maintenance, or repair of a road on the state highway system outside the limits of municipal corporations, relocates the road or relocates or constructs a bridge, culvert, underpass, overpass, or other structure or improvement, the highway or portion thereof from which it is proposed to divert the travel shall not thereby be deemed to be vacated or abandoned, nor shall the title or easement of the state therein be vacated or abandoned, but shall remain in effect until the road or portion thereof is vacated or otherwise disposed of. Such highway portion not vacated or abandoned shall be available to the director for use as roadside parks, for the benefit of the traveling public, or such other use as may be incident to the construction, maintenance, and repair of the system.
Petition by director of transportation for vacation of public road.

Text of Statute

When in the construction or improvement of a state highway, in the opinion of the director of transportation, it is in the public interest to vacate or close a public highway or any portion thereof under the jurisdiction of the county commissioners, said director may petition the county commissioners to vacate or close such highway in the same manner the freeholders may petition under sections 5553.04 to 5553.11 of the Revised Code.

The county commissioners shall act upon said petition within thirty days and in the event they refuse to vacate or close said highways as requested shall show such action by a proper resolution. The director or an owner of property abutting on the portion of the highway to be vacated or closed may within thirty days appeal to the court of common pleas of the county in which such highway is located upon the reasonableness of the action of the commissioners and the court may affirm or revoke the action of the commissioners and may direct the commissioners to proceed with said vacation or closing as petitioned for. At said hearing before said common pleas court evidence may be introduced for or against the reasonableness and necessity for said requested vacation or closing. The decision of the common pleas court may be appealed to the court of appeals and the supreme court as in other cases.

When the vacation or closing is approved in accordance with the above procedure, the compensation and damages, if any, due any property owners abutting the portion of the highway to be vacated or closed shall be paid by the director as part of the costs of acquiring the right-of-way for the state highway improvement and pursuant to procedures provided by law relating to the director. Such payment by the director shall be in lieu of any payment required to be paid by the county under sections 5553.10 and 5553.11 of the Revised Code.

Jurisdiction in forcible entry and detainer; definitions.

Text of Statute

(A) As provided in this chapter, any judge of a county or municipal court or a court of common pleas, within the judge's proper area of jurisdiction, may inquire about persons who make unlawful and forcible entry into lands or tenements and detain them, and about persons who make a lawful and peaceable entry into lands or tenements and hold them unlawfully and by force. If, upon such inquiry, it is found that an unlawful and forcible entry has been made and the lands or tenements are detained, or that, after a lawful entry, lands or tenements are held unlawfully and by force, a judge shall cause the plaintiff in an action under this chapter to have restitution of the lands or tenements.

(B) An action shall be brought under this chapter within two years after the cause of action accrues.

(C) As used in this chapter:
(1) "Tenant" means a person who is entitled under a rental agreement to the use or occupancy of premises, other than premises located in a manufactured home park as defined in section 3733.01 of the Revised Code, to the exclusion of others.

(2) "Landlord" means the owner, lessor, or sublessor of premises, the agent or person the landlord authorizes to manage premises or to receive rent from a tenant under a rental agreement, except, if required by the facts of the action to which the term is applied, "landlord" means a park operator.

(3) "Park operator," "manufactured home," "mobile home," "manufactured home park," and "resident" have the same meanings as in section 3733.01 of the Revised Code.

(4) "Residential premises" has the same meaning as in section 5321.01 of the Revised Code, except, if required by the facts of the action to which the term is applied, "residential premises" has the same meaning as in section 3733.01 of the Revised Code.

(5) "Rental agreement" means any agreement or lease, written or oral, that establishes or modifies the terms, conditions, rules, or any other provisions concerning the use or occupancy of premises by one of the parties to the agreement or lease, except that "rental agreement," as used in division (A)(11) of section 1923.02 of the Revised Code and where the context requires as used in this chapter, means a rental agreement as defined in division (D) of section 5322.01 of the Revised Code.

(6) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

1923.02 Persons subject to forcible entry and detainer action.

Text of Statute

(A) Proceedings under this chapter may be had as follows:

(1) Against tenants or manufactured home park residents holding over their terms;

(2) Against tenants or manufactured home park residents in possession under an oral tenancy, who are in default in the payment of rent as provided in division (B) of this section;

(3) In sales of real estate, on executions, orders, or other judicial process, when the judgment debtor was in possession at the time of the rendition of the judgment or decree, by virtue of which such sale was made;

(4) In sales by executors, administrators, or guardians, and on partition, when any of the parties to the complaint were in possession at the commencement of the action, after such sales, so made on execution or otherwise, have been examined by the proper court and adjudged legal;

(5) When the defendant is an occupier of lands or tenements, without color of title, and the complainant has the right of possession to them;

(6) In any other case of the unlawful and forcible detention of lands or tenements. For purposes of this division, in addition to any other type of unlawful and forcible detention of lands or tenements, such a detention may be determined to exist when both of the following apply:

(a) A tenant fails to vacate residential premises within three days after both of the following occur:
(i) His landlord has actual knowledge of or has reasonable cause to believe that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation of Chapter 2925. or 3719. of the Revised Code, or of a municipal ordinance that is substantially similar to any section in either of those chapters, which involves a controlled substance and which occurred in, is occurring in, or otherwise was or is connected with the premises, whether or not the tenant or other person has been charged with, has pleaded guilty to or been convicted of, or has been determined to be a delinquent child for an act that, if committed by an adult, would be a violation as described in this division. For purposes of this division, a landlord has "actual knowledge of or has reasonable cause to believe" that a tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in this division if a search warrant was issued pursuant to Criminal Rule 41 or Chapter 2933. of the Revised Code; the affidavit presented to obtain the warrant named or described the tenant or person as the individual to be searched and particularly described the tenant's premises as the place to be searched, named or described one or more controlled substances to be searched for and seized, stated substantially the offense under Chapter 2925. or 3719. of the Revised Code or the substantially similar municipal ordinance that occurred in, is occurring in, or otherwise was or is connected with the tenant's premises, and states the factual basis for the affiant's belief that the controlled substances are located on the tenant's premises; the warrant was properly executed by a law enforcement officer and any controlled substance described in the affidavit was found by that officer during the search and seizure; and, subsequent to the search and seizure, the landlord was informed by that or another law enforcement officer of the fact that the tenant or person has or presently is engaged in a violation as described in this division and it occurred in, is occurring in, or otherwise was or is connected with the tenant's premises.

(ii) The landlord gives the tenant the notice required by division (C) of section 5321.17 of the Revised Code;

(b) The court determines, by a preponderance of the evidence, that the tenant, any person in the tenant's household, or any person on the premises with the consent of the tenant previously has or presently is engaged in a violation as described in division (A)(6)(a)(i) of this section.

(7) In cases arising out of Chapter 5313. of the Revised Code. In such cases, the court has the authority to declare a forfeiture of the vendee's rights under a land installment contract and to grant any other claims arising out of the contract.

(8) Against tenants who have breached an obligation that is imposed by section 5321.05 of the Revised Code, other than the obligation specified in division (A)(9) of that section, and that materially affects health and safety. Prior to the commencement of an action under this division, notice shall be given to the tenant and compliance secured with section 5321.11 of the Revised Code.

(9) Against tenants who have breached an obligation imposed upon them by a written rental agreement;

(10) Against manufactured home park residents who have defaulted in the payment of rent or breached the terms of a rental agreement with a manufactured home park operator;
(11) Against manufactured home park residents who have committed two material violations of the rules of the manufactured home park, of the public health council, or of applicable state and local health and safety codes and who have been notified of the violations in compliance with section 3733.13 of the Revised Code.

(12) Against occupants of self-service storage facilities, as defined in division (A) of section 5322.01 of the Revised Code, who have breached the terms of a rental agreement or violated section 5322.04 of the Revised Code.

(B) If a tenant or manufactured home park resident holding under an oral tenancy is in default in the payment of rent, he forfeits his right of occupancy, and the landlord may, at his option, terminate the tenancy by notifying the tenant, as provided in section 1923.04 of the Revised Code, to leave the premises, for the restitution of which an action may then be brought under this chapter.

(C) This chapter does not apply to a student tenant as defined by division (H) of section 5321.01 of the Revised Code when the college or university proceeds to terminate a rental agreement pursuant to section 5321.031 [5321.03.1] of the Revised Code.

1923.03 Judgment not a bar.

Text of Statute
Judgments under this chapter are not a bar to a later action brought by either party.

1923.04 Notice; service.

Text of Statute
(A) Except as provided in division (B) of this section, a party desiring to commence an action under this chapter shall notify the adverse party to leave the premises, for the possession of which the action is about to be brought, three or more days before beginning the action, by certified mail, return receipt requested, or by handing a written copy of the notice to the defendant in person, or by leaving it at his usual place of abode or at the premises from which the defendant is sought to be evicted. Every notice given under this section by a landlord to recover residential premises shall contain the following language printed or written in a conspicuous manner: "You are being asked to leave the premises. If you do not leave, an eviction action may be initiated against you. If you are in doubt regarding your legal rights and obligations as a tenant, it is recommended that you seek legal assistance."

(B) The service of notice pursuant to section 5313.06 of the Revised Code constitutes compliance with the notice requirement of division (A) of this section. The service of the notice required by division (C) of section 5321.17 of the Revised Code constitutes compliance with the notice requirement of division (A) of this section.
1923.05 Complaint filed and recorded.

Text of Statute

The summons shall not issue in an action under this chapter until the plaintiff files his complaint in writing with the court. The complaint shall particularly describe the premises so entered upon and detained, and set forth either an unlawful and forcible entry and detention, or an unlawful and forcible detention after a peaceable or lawful entry of the described premises. The complaint shall be copied into, and made a part of the record.

[§§ 1923.05.1] §§ 1923.051 Procedure when restitution sought on basis of drug offenses.

Text of Statute

(A) Notwithstanding the time-for-service of a summons provision of division (A) of section 1923.06 of the Revised Code, if the complaint described in section 1923.05 of the Revised Code that is filed by a landlord in an action under this chapter states that the landlord seeks a judgment of restitution based on the grounds specified in divisions (A)(6)(a) and (b) of section 1923.02 of the Revised Code, then the clerk of the municipal court, county court, or court of common pleas in which the complaint is filed shall cause both of the following to occur:

(1) The service and return of the summons in the action in accordance with the Rules of Civil Procedure, which service shall be made, if possible, within three working days after the filing of the complaint;

(2) The action to be set for trial on the thirtieth working day after the date that the tenant is served with a copy of the summons in accordance with division (A)(1) of this section.

(B) The tenant in an action under this chapter as described in division (A) of this section is not required to file an answer to the complaint of the landlord, and may present any defenses that he may possess at the trial of the action in accordance with section 1923.061 [1923.06.1] of the Revised Code.

(C) No continuances of an action under this chapter as described in division (A) of this section shall be permitted under section 1923.08 of the Revised Code, and if the tenant in the action does not appear at the trial and the summons in the action was properly served in accordance with division (A)(1) of this section, then the court shall try the action in accordance with section 1923.07 of the Revised Code.

(D) All provisions of this chapter that are not inconsistent with this section shall apply to an action under this chapter as described in division (A) of this section.

1923.06 Summons; service of process.

Text of Statute

(A) Any summons in an action, including a claim for possession, pursuant to this chapter shall be issued, be in the form specified, and be served and returned as provided in this section. Such service shall be at least seven days before the day set for trial.
(B) Every summons issued under this section to recover residential premises shall contain the following language printed in a conspicuous manner: "A complaint to evict you has been filed with this court. No person shall be evicted unless the person's right to possession has ended and no person shall be evicted in retaliation for the exercise of the person's lawful rights. If you are depositing rent with the clerk of this court you shall continue to deposit such rent until the time of the court hearing. The failure to continue to deposit such rent may result in your eviction. You may request a trial by jury. You have the right to seek legal assistance. If you cannot afford a lawyer, you may contact your local legal aid or legal service office. If none is available, you may contact your local bar association."

(C) The clerk of the court in which a complaint to evict is filed shall mail any summons by ordinary mail, along with a copy of the complaint, document, or other process to be served, to the defendant at the address set forth in the caption of the summons and to any address set forth in any written instructions furnished to the clerk. The mailing shall be evidenced by a certificate of mailing which the clerk shall complete and file.

In addition to this ordinary mail service, the clerk also shall cause service of that process to be completed under division (D) or (E) of this section or both, depending upon which of those two methods of service is requested by the plaintiff upon filing the complaint to evict.

(D)(1) If requested, the clerk shall deliver sufficient copies of the summons, complaint, document, or other process to be served to, and service shall be made by, one of the following persons:

(a) The sheriff of the county in which the premises are located when the process issues from a court of common pleas or county court;

(b) The bailiff of the court for service when process issues from a municipal court;

(c) Any person who is eighteen years of age or older, who is not a party, and who has been designated by order of the court to make service of process when process issues from any of the courts referred to in divisions (D)(1)(a) and (b) of this section.

(2) The person serving process shall effect service at the premises that are the subject of the forcible entry and detainer action by one of the following means:

(a) By locating the person to be served at the premises to tender a copy of the process and accompanying documents to that person;

(b) By leaving a copy of the summons, complaint, document, or other process with a person of suitable age and discretion found at the premises if the person to be served cannot be found at the time the person making service attempts to serve the summons pursuant to division (D)(2)(a) of this section;

(c) By posting a copy in a conspicuous place on the subject premises if service cannot be made pursuant to divisions (D)(2)(a) and (b) of this section.

(3) Within five days after receiving the summons, complaint, document, or other process from the clerk for service, the person making service shall return the process to the clerk. The person shall indicate on the process which method described in division (D)(2) of this section was used to serve the summons. The clerk shall make the appropriate entry on the appearance docket.
(E) If requested, the clerk shall mail by certified mail, return receipt requested, a copy of the summons, complaint, document, or other process to be served to the address set forth in the caption of the summons and to any address set forth in any written instructions furnished to the clerk.

(F) Service of process shall be deemed complete on the date that any of the following has occurred:

(1) Service is made pursuant to division (D)(2)(a) or (b) of this section.

(2) Both ordinary mail service under division (C) and service by posting pursuant to division (D)(2)(c) of this section have been made.

(3) For service performed pursuant to division (E) of this section, on the date of mailing, if on the date of the hearing either of the following applies:

(a) The certified mail has not been returned for any reason other than refused or unclaimed.

(b) The certified mail has not been endorsed, and the ordinary mail has not been returned.

(G)(1) The claim for restitution of the premises shall be scheduled for hearing in accordance with local court rules, but in no event sooner than the seventh day from the date service is complete.

(2) Answer day for any other claims filed with the claim for possession shall be twenty-eight days from the date service is deemed complete under this section.

[§§ 1923.06.1] §§ 1923.061 Defenses and counterclaims.

Text of Statute

(A) Any defense in an action under this chapter may be asserted at trial.

(B) In an action for possession of residential premises based upon nonpayment of the rent or in an action for rent when the tenant or manufactured home park resident is in possession, the tenant or resident may counterclaim for any amount he may recover under the rental agreement or under Chapter 3733. or 5321. of the Revised Code. In that event, the court from time to time may order the tenant or resident to pay into court all or part of the past due rent and rent becoming due during the pendency of the action. After trial and judgment, the party to whom a net judgment is owed shall be paid first from the money paid into court, and any balance shall be satisfied as any other judgment. If no rent remains due after application of this division, judgment shall be entered for the tenant or resident in the action for possession. If the tenant or resident has paid into court an amount greater than that necessary to satisfy a judgment obtained by the landlord, the balance shall be returned by the court to the tenant or resident.

1923.07 Proceedings if defendant fails to appear.

Text of Statute

If the defendant does not appear in action under this chapter and the summons was properly served, the court shall try the cause as though the defendant were present.
1923.08 Continuance and bond.

Text of Statute
No continuance in an action under this chapter shall be granted for a period longer than eight days, unless the plaintiff applies for the continuance and the defendant consents to it, or unless the defendant applies for the continuance and gives a bond to the plaintiff, with good and sufficient surety, that is approved by the court and conditioned for the payment of rent that may accrue, if judgment is rendered against the defendant.

1923.08.1 §§ 1923.081 Joinder of causes of action.

Text of Statute
A trial in an action for forcible entry and detainer for residential premises, or for a storage space at a self-service storage facility, as defined in division (A) of section 5322.01 of the Revised Code, pursuant to this chapter may also include a trial on claims of the plaintiff for past due rent and other damages under a rental agreement, unless for good cause shown the court continues the trial on those claims. For purposes of this section, good cause includes the request of the defendant to file an answer or counterclaim to the claims of the plaintiff or for discovery, in which case the proceedings shall be the same in all respects as in other civil cases. If, at the time of the trial, the defendant has filed an answer or counterclaim, the trial may proceed on the claims of the plaintiff and the defendant.

1923.09 Suit tried by county court judge.

Text of Statute
If an action under this chapter is not continued, the place of trial is not changed, and neither party demands a jury on the return day of the summons, a judge of the court shall try the cause. After hearing the evidence, if he concludes that the complaint is not true, he shall enter judgment against the plaintiff for costs. If he finds the complaint to be true, he shall render a general judgment against the defendant, in favor of the plaintiff, for restitution of the premises and costs of suit. If the judge finds the complaint true in part, he shall render a judgment for restitution of such part only, and the cost shall be taxed as he deems just.

1923.10 Trial by jury.

Text of Statute
If a jury is demanded by either party in an action under this chapter, until the impanneling of the jury, the proceedings shall be in all respects as in other cases. The jury shall be sworn to try and determine whether the complaint, naming the plaintiff, about to be presented to them, is true according to the evidence. If the jury finds that the complaint is true, it shall render a general verdict against the
defendant. If the jury finds that the complaint is not true, it shall render a general verdict in favor of the defendant. If the jury finds that the complaint is true in part, it shall render a verdict setting forth the facts that it finds are true.

[§§ 1923.10.1] §§ 1923.101 Fee of jury.

Text of Statute

In actions under this chapter before a county court, a party demanding a jury shall first deposit money with the court sufficient to pay the jury fee.

1923.1 Entry and judgment.

Text of Statute

The court shall enter the verdict rendered by a jury under section 1923.10 of the Revised Code upon the docket, and render judgment in the action as if the facts, authorizing the finding of such verdict, had been found by the court itself.

1923.13 Execution; form.

Text of Statute

When a judgment of restitution is entered by a court in an action under this chapter, at the request of the plaintiff or his agent or attorney, that court shall issue a writ of execution on the judgment, in the following form, as near as practicable:

The state of Ohio, . . . . . . . county: To any constable or police officer of . . . . . . . township, city, or village; or to the sheriff of . . . . . . . . . . . . . county; or to any authorized bailiff of the . . . . . . . . . . . . . . . . . : (Name of court)

Whereas, in a certain action for the forcible entry and detention (or the forcible detention, as the case may be), of the following described premises, to wit: . . . . . . , lately tried before this court, wherein . . . . . . was plaintiff, and . . . . . . was defendant, . . . . . . judgment was rendered on the . . . day of . . . . . . , that the plaintiff have restitution of those premises; and also that he recover costs in the sum of . . . . . . . . . . . . . . . . . . You therefore are hereby commanded to cause the defendant to be forthwith removed from those premises, and the plaintiff to have restitution of them; also, that you levy of the goods and chattels of the defendant, and make the costs previously mentioned and all accruing costs, and of this writ make legal service and due return.

Witness my hand, this . . . . . . day of . . . . . . , A.D. . . . . . . . . . . . . . . . . . . . . . . . . . Judge, . . . . (Name of court).
1923.14 Writ of execution enforced.

**Text of Statute**

Except as otherwise provided in this section, within ten days after receiving the writ of execution described in section 1923.13 of the Revised Code, the sheriff, police officer, constable, or bailiff shall execute it by restoring the plaintiff to the possession of the premises, and shall levy and collect the costs and make return, as upon other executions. If an appeal from the judgment of restitution is filed and if, following the filing of the appeal, a stay of execution is obtained and any required bond is filed with the court of common pleas, municipal court, or county court, the judge of that court immediately shall issue his order to the sheriff, police officer, constable, or bailiff commanding him to delay all further proceedings upon the execution. If the premises have been restored to the plaintiff, the sheriff, police officer, constable, or bailiff shall forthwith place the defendant in possession of them, and return the writ with his proceedings and the costs taxed thereon.

1923.15 Inspection of premises; correcting conditions.

**Text of Statute**

During any proceeding involving residential premises under this chapter, the court may order an appropriate governmental agency to inspect the residential premises. If the agency determines and the court finds conditions which constitute a violation of section 3733.10 or 5321.04 of the Revised Code, and if the premises have been vacated or are to be restored to the landlord, the court may issue an order forbidding the re-rental of the property until such conditions are corrected. If the agency determines and the court finds such conditions, and if the court finds that the tenant or manufactured home park resident may remain in possession, the court may order such conditions corrected. If such conditions have been caused by the tenant or resident, the court may award damages to the landlord equal to the reasonable cost of correcting such conditions.
Ohio Administrative Code

1501-1-01 Notice of public hearing.

(A) The director of natural resources shall publish notice of public hearings to be conducted for the purpose of adopting, amending or rescinding rules under sections of the Revised Code at least once in five newspapers published in different counties and of general circulation in the state.

(B) The notice shall be given at least thirty days, but not more than fifty days, prior to the hearing. The notice shall state the department's intention to adopt, amend or rescind a rule; shall include a synopsis of the proposed rule, amendment, or rule to be rescinded; shall state the reason for adopting, amending or rescinding the rule; and shall enumerate the date, time, and place of the hearing. The notice shall also state the manner in which copies of the proposed rule, amendment, or rule to be rescinded may be obtained.

(C) The director shall furnish the public notice required under section 119.03 of the Revised Code and as detailed by paragraph (B) of this rule to any person who requests notice in writing and pays a reasonable fee, not to exceed the cost of copying and mailing.

1509-1-01 Official address of the oil and gas commission.

The oil and gas commission, state of Ohio, shall maintain its official office at "Oil and Gas Commission, Benita S. Kahn, Secretary, Vorys, Sater, Seymour & Pease, 52 E. Gay Street, Columbus, Ohio 43216.

1509-1-02 Quorum, concurrence, etc.

Three members of the oil and gas commission shall constitute a quorum to transact business and to take any action of the commission, and any vacancy shall not impair the right of the remaining members to exercise all the powers of the commission so long as three members remain and concur. All investigations, inquiries, acts, hearings and decisions of the commission, when concurred in by the commission, shall be deemed to be the action or order, as the case may be of the oil and gas commission. Concurrence by a member of the commission may be given orally or in writing, and by telephone, letter, telegram, or other written or oral means of communication.

1509-1-03 Filing with the oil and gas commission, etc.

Each appeal or other document required or permitted to be filed with the oil and gas commission under section <JL:JUMP,"1509.36","1_PORC"1509.36 of the Revised Code, and each notice of appeal or other document required or permitted to be filed with the oil and gas commission under section <JL:JUMP,"1509.37","1_PORC"1509.37 of the Revised Code, shall be filed at the official office of the oil and gas commission; and the filing thereof shall mean the actual delivery to the official office of the oil and gas commission of said appeal, notice of appeal or other document. If a person filing such appeal, notice of appeal or other document uses the United States mail as a means of filing such appeal, notice of appeal of other document, he assumes the risk that the appeal, notice of appeal of other document may be lost of that delivery thereof to the oil and gas commission may be delayed beyond the final filing date. All notices required in sections
1509-1-04 Appeals to the oil and gas commission.

All appeals from orders of the chief of the division of oil and gas to the oil and gas commission shall be made by filing written notice to such effect with the oil and gas commission within thirty days after the date upon which the appellant received actual or constructive notice by registered or certified mail of the making of the order complained of; one copy of such written notice shall also be mailed by the appellant within such time by registered or certified mail, return receipt requested, to each interested person as defined in rule 1509-1-14 of the Administrative Code hereof. Such appeal must be in writing, either printed legibly or typewritten, on white paper; it must state clearly the order appealed from, relief sought, a statement of the facts involved in the appeal, the specific grounds which are the basis for the appeal, and the statutory authority of the oil and gas commission to grant such relief. An original and one conformed copy of all papers filed with the oil and gas commission shall be submitted and must contain the address of appellant, the name and address of the attorney representing the appellant, if any, the name and address of the appellee, if any, and the names and addresses of all interested persons as defined in rule 1509-1-14 of the Administrative Code. All such appeals shall be signed by the appellant or his attorney, and the signature thereon constitutes a certificate that to the best of his knowledge it is true.

1509-1-05 Meetings and calendar.

The oil and gas commission will meet from time to time as it deems necessary, at either its official office or at other locations selected by the commission. The chairman of the commission will, from time to time, as directed by the commission, cause to be prepared a calendar of the proceedings to be heard. At adjudication hearings the commission shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure except as determined by the commission, and all such hearings shall be conducted in an orderly manner.

1509-1-06 Notice of adjudication hearing.

When a proceeding has been placed upon the calendar the commission will, not less than fifteen days in advance, notify the appellant and the chief of the place where, and the date when, it will be called for hearing. The appellant shall be responsible for notifying all interested persons as defined in rule 1509-1-13 of the Administrative Code of the place where, and the date and time when, the hearing will be held, and such notice shall be given by appellant by registered or certified mail, return receipt requested, not less than ten days in advance of hearing unless otherwise determined by the oil and gas commission; the appellant shall furnish to the oil and gas commission at the hearing return receipts or other sufficient proof of rendering such notice to all interested persons. Notice of hearing sent by registered or certified mail to an appellant of the chief at the last known address of such person shall be deemed sufficient notice of hearing if mailed at least seventeen days prior to the date set for the hearing.
1509-1-07 Continuances and adjournments.
Continuances and adjournments may be ordered by the commission on its own motion, or may be
granted by it in its discretion, or upon application of either party, filed in writing and showing good
and sufficient cause therefor; although if such application is made by either party, it must be made
seasonably and in any event not later than five days prior the date set for hearing. An application for
continuance or adjournment must be directed to the commission and not to an individual commission
member, and may be acted upon only by the commission. This rule shall be without prejudice to the
right of the commission, a member thereof, or an examiner hearing a case, to continue a hearing to
a later date.

1509-1-08 Call of calendar and assignment for hearing.
Calendar of proceedings to be heard at Columbus will be called at ten a.m., Columbus, Ohio, time,
unless some other hour therefor is indicated in the notice of hearing. The calendar of proceedings
to be held elsewhere will be called at the time indicated in the notice of hearing.

1509-1-09 Substitution of parties and withdrawal and dismissal.
In the event of the death of appellant or other party, or for other proper cause, the commission may
order the substitution of the proper parties. Upon application of appellant or the chief for withdrawal
of an appeal of the oil and gas commission and the concurrence of the commission, an appeal may
be withdrawn with or without prejudice, as determined by the commission. In the event the
commission determines that an appeal is deficient in that it does not comply with rule 1509-1-04 of
the Administrative Code, or for other reason, the commission may advise appellant that unless the
deficiency is corrected within ten days the appeal will be dismissed with or without prejudice as
determined by the commission, and the commission is authorized to take such action of dismissal
thereafter if said order is not complied with.

1509-1-10 Stipulation of facts.
The parties may, by stipulation in writing in duplicate, filed with the commission or presented at a
hearing, agree on any or all facts involved in proceedings before the commission; provided, however,
that the commission may thereafter require development of any fact it may deem necessary to a
proper determination of a controversy.

1509-1-11 Depositions.
Depositions may be taken, and if taken must be filed with the oil and gas commission, and used by
any part in the same manner and to the same extent as is permissible in the common pleas court in
this state. The party taking the deposition shall have the obligation of paying the costs thereof.
1509-1-12 Subpoenas.

If a party to a proceeding pending before the oil and gas commission desires to secure the attendance of a witness to testify in this behalf, said party shall, at least eight days prior to the date of hearing hereon, unless such time is lessened by the commission, file with the oil and gas commission a praecipe therefor comparable to like praecipe used in proceedings pending before a common pleas court. The full name and address, including street name and number and county of residence, of the witness must be given; and if the praecipe is for a subpoena duces tecum, the specific books and records which the witness is required to bring with him shall be described in detail. Witness fees, if any, shall be paid by the party filing the praecipe therefor directly to said witness.

1509-1-13 Briefs.

In any matter or cause pending before the oil and gas commission, the commission may request that briefs be furnished by parties and by any interested person as defined in rule 1509-1-14 of the Administrative Code appearing before the commission within the time limited by the commission, but not less than ten days after request therefor; responsive briefs may be filed as determined by, and within the time limited by, the commission. Upon motion made and leave time limited by, the commission, amicus curiae briefs may be filed. Any application for an extension of rule days will be denied unless there is incorporated therein a good and sufficient reason for any such extension. Briefs which are filed shall be in triplicate and shall all be legible and conform in all other appropriate respects to the requirements of rule 1509-1-04 of the Administrative Code herein.

1509-1-14 Appearances before the commission.

Appearances before the oil and gas commission shall be by parties, parties being deemed the appellant and the chief, in person, or in the event the party is a partnership, then by a member of said partnership, or if a party is a corporation, then by an officer of said corporation, or if the party is a board or other entity, then by a member of said board of entity, and by the attorney for said person, partnership, corporation, board or other entity. Any person, partnership, corporation, board or other entity having a pecuniary or proprietary interest directly affected by an appeal is deemed an interested person in such appeal and may appear before the commission in person, or in the event the interested person is a partnership, then by a member of said partnership, or if an interested person is a corporation, then by an officer of said corporation, or if the interested person is a board or other entity, then by a member of said board or entity. In the event a question arises concerning whether a person, partnership, corporation, board or other entity is an interested person in an appeal, the commission may decide whether such person, partnership, corporation board or other entity is an interested person in such appeal.

1509-1-15 Notice of public hearing.

Public notice of hearing for the purpose of promulgating rules to be conducted by the oil and gas commission shall be advertised in five newspapers of general circulation in the state at least thirty days, but not more than sixty days, prior to the hearing. The notice shall state the commission's intention to consider adopting, amending, or rescinding a rule, shall include a synopsis of the proposed rule, amendment, or rule to be rescinded, or a general statement of the subject matter to
which such rule relates, and the date, time, and place of a hearing on said proposed action. The notice shall also state the place from which copies of the proposed rule, amendment, or rule to be rescinded may be obtained.

1509-1-16 Notice of public meetings ("Sunshine Rule").

Notice of all public meetings of the oil and gas commission shall be given in accordance with the following procedure:

(A) Any person may determine (be informed of) the time and place of regularly scheduled meetings or the time and place of regularly scheduled meetings or the time, place, and purpose of any special meeting by calling on the telephone the office of the chief of the division of oil and gas.

(B) Any person may obtain advance notice of all meetings at which any specific type of public business is to be discussed by identifying the type of public business for which he desires to be notified and by supplying the chief of the division of oil and gas with stamped self-addresses envelopes. The chief will mail to such person a notice of the time, place, and type of business to be discussed at the meeting at least four calendar days before the meeting is scheduled unless the meeting is an emergency meeting.

(C) The chief of the division of oil and gas will maintain a list of representatives of the news media who have requested in writing notice of special or emergency meetings. The chief shall mail such representatives notice at least four days before special meetings or shall telephone notice at least twenty-four hours before special meetings. In the event of an emergency meeting the representatives of the news media who have requested notification of emergency meetings shall be notified immediately of the time, place, and purpose of the meeting. News media requesting notice pursuant to this paragraph shall supply the chief with the name, mailing address, and telephone number of the representative to be contacted.

(D) The oil and gas commission shall provide the chief of the division of oil and gas with the time, place and purpose of meetings requiring public notice under the provision of this rule within sufficient time to enable the chief to comply with the provisions of this rule.

1509-1-17 Minutes.

Minutes of all meetings of the oil and gas commission will be promptly recorded and shall be open to public inspection during working hours at the office of the chief of the division of oil and gas.

3745-20-01 Definitions.

(A) Except as otherwise provided in paragraph (B) of this rule, the definitions in rule 3745-15-01 of the Administrative Code shall apply to this chapter.

(B) The following definitions shall apply exclusively to this chapter:

(1) "Active waste disposal site" means any disposal site of asbestos materials other than an inactive disposal site.

(2) "Adequately wet" means sufficiently mix or penetrate or coat with liquid to prevent dust emissions.
(3) "Asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.

(4) "Asbestos-containing waste materials" means any waste that contains commercial asbestos and is generated by a source subject to the provisions of this chapter. This term includes asbestos waste from control devices, filters from control devices, friable asbestos-containing material, and bags or containers that previously contained commercial asbestos. As applied to demolition and renovation operations, this term includes nonfriable asbestos waste that has been crumbled, pulverized, or reduced to powder in the course of demolition and renovation operations covered by this chapter, and materials contaminated with asbestos including equipment and clothing.

(5) "Asbestos material" means asbestos or any material containing asbestos.

(6) "Asbestos waste from control devices" means any waste material that contains asbestos and is collected by a pollution control device.

(7) "Commercial asbestos" means any material containing asbestos that is extracted from ore.

(8) "Demolition" means the wrecking, or taking out of any load-supporting structural member of a facility together with any related handling operations.

(9) "Emergency demolition" means any demolition conducted under a written order issued by a state or local governmental agency because a facility is structurally unsound and in danger of imminent collapse.

(10) "Emergency renovation operation" means a renovation operation that was not planned but results from a sudden, unexpected event that creates an unsafe condition. This term includes operations necessitated by nonroutine failures of equipment.

(11) "Encapsulate" means to coat, bind or resurface walls, ceilings, pipes or other structures or asbestos-containing materials with suitable products to prevent friable asbestos from becoming airborne.

(12) "Facility" means any institutional, commercial, public, or industrial structure, installation, or building (excluding apartment buildings having no more than four dwelling units).

(13) "Facility component" means any pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a facility; or any structural member of a facility.

(14) "Friable asbestos material" means any material containing more than one per cent asbestos by area, that hand pressure can crumble, pulverize, or reduce to powder when dry. Asbestos content shall be determined by the USEPA Interim Method EPA-600/M4-82-020 for bulk analysis of asbestos with polarized light microscopy and dispersion staining; or an alternative analytical method approved by the director.

(15) "General ventilation device" means any air moving device specifically designed for increasing air flow through an area and exhausting the air through a HEPA filter in such a way that there is no bypass of air around the filter.

(16) "HEPA filter" means a high efficiency particulate air filter certified by the manufacturer to have a collection efficiency of not less than ninety-nine and ninety-seven one hundreds per cent as
determined by ASTM Method D-2986-71.

(17) "Inactive waste disposal site" means any disposal site or portion of it where additional asbestos-containing waste material has not been deposited for one year and where the surface is not disturbed by vehicular traffic.

(18) "Local exhaust ventilation and collection system" means equipment designed to collect or capture particulate material at the point of generation and which exhausts air through a HEPA filter so that there is no bypass of air around the filter.

(19) "Ohio EPA field office" means any Ohio environmental protection agency district office or local air agency.

(20) "Owner or operator" means any person who owns, leases, operates, controls, or supervises a facility, or any waste disposal, demolition or renovation operation.

(21) "Particulate asbestos material" means finely divided particles of asbestos material.

(22) "Planned renovation operations" means any renovation operation, or a number of such operations, in which the amount of friable asbestos material that will be removed or stripped within a given period of time can be predicted. Individual nonscheduled operations are included if a number of such operations can be predicted to occur during a given period of time, not to exceed one year, based on operating experience.

(23) "Remove" means to take out asbestos material from any facility.

(24) "Renovation" means altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or taken out are excluded.

(25) "Roadways" means surfaces on which motor vehicles travel. This term includes highways, roads, streets, parking areas, and driveways.

(26) "Strip" means to take off friable asbestos material from any part of a facility or facility components.

(27) "Structural member" means any load-supporting member of a facility, such as beams and load supporting walls; or any nonload-supporting member such as ceilings and nonload-supporting walls.

(28) "Visible emissions" means any emissions from friable asbestos material that are visually detectable without the aid of instruments. This does not include condensed uncombined water vapor.

3745-20-02 Standard for demolition and renovation applicability.

(A) The requirements of rules 3745-20-03 to 3745-20-05 of the Administrative Code apply to each owner or operator of a demolition or renovation operation as follows:

(1) If the amount of friable asbestos materials in a facility being demolished is at least two hundred sixty linear feet on pipes or at least one hundred sixty square feet on other facility components, all the requirements of rules 3745-20-03 to 3745-20-05 of the Administrative Code apply except as provided in paragraph (a)(3) of this rule.

(2) If the amount of friable asbestos materials in a facility being demolished is less than two hundred sixty linear feet on pipes or less than one hundred sixty square feet on other facility components,
including those facilities which contain no friable asbestos, only the requirements of rule 3745-20-03 of the Administrative Code apply.

(3) If the operation is an emergency demolition, only the requirements of rule 3745-20-03, paragraphs (A)(4), (A)(5), (A)(6), (B) and (C) of rule 3745-20-04 and rule 3745-20-05 of the Administrative Code apply.

(4) If at least two hundred sixty linear feet of friable asbestos materials on pipes or at least one hundred sixty square feet of friable asbestos materials on other facility components, are to be stripped or removed at a facility being renovated, all the requirements of rules 3745-20-03 to 3745-20-05 of the Administrative Code apply.

(a) To determine whether paragraph (A)(4) of this rule applies to planned renovation operations involving individual nonscheduled operations, predict the additive amount of friable asbestos materials to be removed or stripped over the maximum period of time a prediction can be made, not to exceed one year.

(b) To determine whether paragraph (A)(4) of this rule applies to emergency renovation operations, estimate the amount of friable asbestos materials to be removed or stripped as a result of the sudden unexpected event that necessitated the renovation.

(B) Each owner or operator of a demolition or renovation operation which is exempt from all or any portion of this chapter, shall comply with all applicable environmental law.

3745-20-03 Standard for notification.

(A) Each owner or operator to whom this rule applies shall:

(1) Provide the director of Ohio EPA with written notice of intention to demolish or renovate.

(2) Postmark or deliver the notice to the Ohio EPA field office having jurisdiction in the county where the demolition is to occur as follows:

(a) At least ten days before any demolition operation begins at a facility if the operation is described in paragraph (A)(1) of rule 3745-20-02 of the Administrative Code;

(b) At least twenty days before any demolition operation begins if the operation is described in paragraph (A)(2) of rule 3745-20-02 of the Administrative Code;

(c) As early as possible before any emergency demolition operation begins;

(d) At least five days before any planned renovation operation begins; or

(e) As early as possible before any emergency renovation operation begins.

(3) Include the following information in the notice, except the information in paragraphs (A)(3)(i) and (A)(3)(j) of this rule need not be submitted for operations described in paragraph (A)(2) of rule 3745-20-02 of the Administrative Code:

(a) Name, address, and telephone number of owner.

(b) Name, address, telephone number, and Ohio asbestos hazard abatement contractor license number (if applicable) of the operator.
(c) Location and address of the facility being demolished or renovated. Attach to the notification, any site plans, floor plans or other information that may be necessary to enable the operations to be located for inspection.

(d) Description of the facility including the size (square feet, and number of floors), age, and present or prior use of the facility.

(e) Estimate of the amount of friable asbestos material to be removed from the facility in terms of length of pipe in linear feet, and surface area in square feet on other facility components.

(f) Description of the procedures employed to detect the presence, and to estimate the quantity of friable asbestos materials in the facility.

(g) Starting and completion dates of asbestos removal work in the demolition or renovation.

(h) Description of the demolition or renovation work to be performed and method(s) to be employed including demolition or renovation techniques to be used.

(i) Description of work practices and engineering controls to be used to comply with the requirements of this chapter, including asbestos removal and waste handling emission control procedures.

(j) Name and location of the waste disposal site where the asbestos containing waste material will be deposited.

(B) In addition to the information required in paragraph (A)(3) of this rule, each owner or operator of an emergency renovation shall supply the date and hour that the emergency occurred, a description of the sudden unexpected event, and an explanation of how the event relates to the need to restore equipment vital to safety or health.

(C) In addition to the information required in paragraph (A)(3) of this rule, each owner or operator of an emergency demolition shall provide the name, title, and authority of the state or local government authority who has ordered the demolition, the date that the order was issued, and the date on which the demolition is ordered to begin.

(D) Each owner or operator shall immediately inform the appropriate Ohio EPA field office concerning any changes to information provided by the notice. An amended written notification shall be submitted to that office within two days following the change. The changes requiring amended written notification are:

1. Any friable asbestos materials to be removed during the demolition or renovation that exceeds the amounts identified in the original notice, including nonfriable asbestos which unexpectedly becomes friable during those operations;

2. Any deviation in the demolition or renovation schedule or in the methods to be used for asbestos removal or disposal;

3. Any change in the owner or operator; and

4. Any change in the name and location of the selected waste disposal site.

(E) All notifications required by this rule shall identify the name and title of the person submitting the notification, and shall be signed and dated by the person submitting the notification.
Demolition and renovation procedures for asbestos emission control.

(A) Each owner or operator of a demolition or renovation operation to whom this rule applies shall comply with the following procedures:

1. Remove friable asbestos materials from a facility being demolished or renovated before any wrecking or dismantling that would break up the materials or preclude access to the materials for subsequent removal; however, friable asbestos materials need not be removed before demolition if:
   a) They are on a facility component that is encased in concrete or other similar material; and
   b) These materials are adequately wetted whenever exposed during demolition.

2. When a facility component covered, coated or containing friable asbestos is being taken out of the facility as units or in sections:
   a) Adequately wet friable asbestos materials exposed during cutting or disjointing operations; and
   b) Carefully lower the units or sections to ground level not dropping, throwing, sliding or otherwise damaging them.

3. Adequately wet friable asbestos materials when they are being stripped from facility components before the components are removed from the facility. In renovation operations, wetting that would unavoidably damage equipment or cause an unreasonable safety hazard, is not required if the following conditions are met:
   a) The owner or operator submits a written request no less than thirty days prior to the starting date of such operations, asking the director to determine whether wetting to comply with this rule would unavoidably damage equipment or present an unreasonable safety hazard, and supplies the director with adequate information to make this determination; and
   b) The director issues a written determination that equipment damage or an unreasonable safety hazard would be unavoidable; and
   c) The owner or operator uses alternative emission controls in accordance with the terms of the determination. At a minimum the owner or operator shall use a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos materials produced by the stripping and removal of friable asbestos materials. The system shall exhibit no visible emissions.

4. After a facility component covered with, coated or containing friable asbestos materials has been taken out of the facility as units or in sections:
   a) Adequately wet friable asbestos materials when they are being stripped from facility components; or
   b) Encase the friable asbestos materials on the component with a suitable leak-tight container in accordance with paragraph (C) of rule 3745-20-05 of the Administrative Code.

5. For friable asbestos materials that have been removed or stripped:
(a) Adequately wet the materials to ensure that the materials remain adequately wet until collected for disposal in accordance with rule 3745-20-05.

(b) Carefully lower the materials to the ground level or a lower floor without dropping, throwing, sliding or otherwise damaging them; and

(c) Transport the materials to the ground via leak-tight chutes, HEPA equipped vacuum transport system, or in leak-tight containers if the materials have been removed or stripped more than fifty feet above ground level and were not removed as units or in sections.

(6) When the temperature at the location of wetting is below zero degrees Centigrade or thirty-two degrees Fahrenheit:

(a) Comply with paragraphs (A)(4) and (A)(5) of this rule. The owner or operator need not comply with the other wetting requirements of this rule; and

(b) Use a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos materials produced by the stripping and removal of friable asbestos material. The system shall exhibit no visible emissions; and

(c) Remove facility components coated or covered with friable asbestos materials as units or sections to the maximum extent possible.

(B) Each owner or operator of any demolition or renovation operation, shall ensure all asbestos-containing materials which have been damaged or made friable by demolition, renovation or adjacent stripping operations are repaired, encapsulated, or removed for disposal in accordance with rule 3745-20-05 of the Administrative Code, prior to the removal of emission controls.

(C) For emergency demolition operations, adequately wet the portion of the facility that contains friable asbestos materials during the wrecking operation and ensure that the materials remain adequately wet until collected for disposal in accordance with rule 3745-20-05 of the Administrative Code.

3745-20-05 Standard for asbestos waste handling.

(A) Each owner or operator of any demolition or renovation operation to whom this rule applies, shall dispose of asbestos containing waste material at an active waste disposal site operated in accordance with rule 3745-20-06 of the Administrative Code.

(B) Each owner or operator of any demolition or renovation operation to whom this rule applies, shall discharge no visible emissions during the collection, processing, packaging, transporting, or deposition of any asbestos-containing waste material, and shall use one of the methods below:

(1) Adequately wet asbestos-containing waste material and seal the material into durable leak-tight disposal containers or enclosure system in accordance with paragraph (C) of this rule; or

(2) For facilities demolished in accordance with paragraph (A)(1)(a) of rule 3745-20-04 or paragraph (C) of rule 3745-20-04 of the Administrative Code, where asbestos was not removed prior to demolition, keep asbestos-containing demolition debris adequately wet or encapsulated until collected for disposal in accordance with paragraph (C)(5) of this rule; or
(3) Process friable asbestos-containing waste material into nonfriable forms, such as nonfriable pellets or other shapes.

(C) Each owner or operator of a demolition or renovation operation to whom this rule applies shall seal all friable asbestos-containing waste material into durable leak-tight disposal containers or use an approved alternative disposal system in accordance with the following provisions:

(1) All containers of asbestos-containing waste material shall be labeled with the following information: DANGER CONTAINS ASBESTOS FIBERS AVOID CREATING DUST CANCER AND LUNG DISEASE HAZARD R.Q. Hazardous Substance N.O.S. asbestos ORM-E 9188

(2) Asbestos-containing waste materials shall be sealed in plastic bags having a thickness of at least 0.006 inch (six-mils). A second clean, leak-tight plastic bag having a thickness of at least 0.006 inch (six-mils) shall fully contain the first bag; or

(3) Whenever necessary to prevent any asbestos-containing waste material from penetrating a container, the materials shall be sealed into a combination of a 0.006 inch (six-mils) plastic bag and a leak-tight steel, plastic, or fiber drum, or reinforced disposal box, leak-tight polypropylene woven fabric bag, or similar suitable and durable container. Drums shall be fitted with a matching lid and lock-rims, and boxes shall be banded and sealed with reinforced tape or in accordance with manufacturers recommendations; or

(4) Facility components coated with, covered or containing friable asbestos materials and removed in units or sections, shall be sealed with at least 0.012 inch (twelve mils) of leak-tight plastic or at least 0.010 inch (ten mils) of leak-tight polypropylene woven fabric; or

(5) Asbestos-containing waste materials, facility components, and contaminated debris may be disposed of using an alternative disposal system which has received the prior written approval of the director.

(A) To obtain approval for an alternative asbestos waste disposal system, the applicant must submit:

(i) Complete details regarding the reason that an alternative disposal system is requested or why materials could not be separated prior to waste disposal; and

(ii) The estimated quantity of materials to be disposed using this system; and

(iii) A description of the disposal system and an operating plan describing the methods which are to be utilized to ensure no visible emissions during the collection, treatment, transport and disposal of the asbestos-containing waste materials; and

(iv) The name(s) and address(es) of the waste disposal site(s) where the system will be utilized contingent upon the director's approval.

(v) Indicate if the system is intended for continued general use.

(b) Any owner or operator using an approved alternative waste disposal system shall operate the system in accordance with the conditions of the director's approval.

(D) When removing or transporting asbestos-containing waste material to a disposal site, each owner or operator of any demolition or renovation operation to whom this rule applies shall prepare and secure any load of asbestos-containing waste material in a manner that prevents any visible
emissions, load loss, and spillage or leakage of liquids.

3745-20-06 Standard for active asbestos waste disposal sites.

(A) Each owner or operator of an active asbestos waste disposal site shall cause or permit no visible emissions to the outside air; or shall comply with the requirements of paragraph (B) of this rule.

(B) Rather than meet the no visible emissions requirement of paragraph (A) of this rule, each owner or operator of an active asbestos waste disposal site shall comply with the following:

(1) There shall be no visible emissions from asbestos-containing waste materials during the on-site transportation, transfer, deposition or compacting operations.

(2) Deposition and burial operations shall be conducted in a manner which prevents handling by equipment or persons that causes asbestos-containing waste materials to be broken-up or dispersed before the materials are buried.

(3) As soon as practicable after deposition of the asbestos-containing waste materials but no later than at the end of each operating day, the asbestos-containing waste material deposited at the site during the operating day shall be buried with at least twelve inches of compacted nonasbestos-containing material. Alternatively, an owner or operator of an active waste disposal site may apply for approval of the director to utilize alternative control methods to bind dust, control wind erosion or convert asbestos to nonfriable forms.

(4) During the unloading, deposition, burial and initial compaction of asbestos containing waste materials, the owner or operator of the active waste disposal site shall establish a restricted area adequate to deter the unauthorized entry of the general public and any unauthorized personnel from any location within one hundred feet of the operations, and shall display the following information on a sign not less than twenty by fourteen inches, so that it is visible before entering the restricted area: ASBESTOS DUST HAZARD Do Not Remain In Area Unless Your Work Requires It Breathing Asbestos Dust is Hazardous To Your Health

3745-20-07 Standard for inactive asbestos waste disposal sites.

(A) Each owner or operator of an inactive waste disposal site shall either:

(1) Discharge no visible emissions from an inactive waste disposal site; or

(2) Cover the asbestos-containing waste material with at least six inches of compacted nonasbestos-containing material, and grow and maintain a cover of vegetation on the area adequate to prevent exposure of the asbestos containing waste material; or

(3) Cover the asbestos-containing waste material with at least two feet of compacted nonasbestos-containing material, and maintain the cover to prevent exposure of the asbestos containing waste material.

(B) Unless a natural barrier adequately deters access by the general public, each owner or operator of an inactive asbestos waste disposal site shall install and maintain warning signs and fencing as follows, or comply with paragraph (A)(2) or (A)(3) of this rule.

(1) Display warning signs at all entrances and at intervals of three hundred feet or less along the
property line of the site or along the perimeter of the sections of the site where asbestos-containing waste material was deposited. The warning signs must:

(a) Be posted in such a manner and location that a person can easily read the legend; and

(b) Conform to the requirements for a twenty inch by fourteen inch upright format warning sign and display the following legend in the lower panel with letter sizes of at least one inch sans serif. Spacing between any two lines must be at least equal to the height of the upper of the two lines:

ASBESTOS WASTE DISPOSAL SITE DO NOT CREATE DUST BREATHING ASBESTOS IS HAZARDOUS TO YOUR HEALTH

(2) Fence the perimeter of the site in a manner adequate to deter access by the general public.

(3) Upon request and submission of appropriate information, the director will determine whether a fence or a natural barrier adequately deters access by the public.

(C) The owner or operator may use an alternative control method that has received prior approval of the director rather than comply with the requirements of paragraph (A) or (B) of this rule.

(D) Each owner or operator of an inactive asbestos waste disposal site shall notify the director in writing prior to disturbing or removing any asbestos-containing waste material. The notice shall contain the reason for disturbing the waste, the procedures to be used to control emissions, the duration of the operation and the location of the final disposal site.

3745-20-08 Certification and permit application requirements.

(A) Any owner or operator of any active asbestos waste disposal site subject to rule 3745-20-06 of the Administrative Code shall certify in writing to the director that such source is in full compliance with all requirements of Chapter 3745-20 of the Administrative Code. Such certification shall include: equipment description, Ohio EPA permit application number (if assigned), and all necessary data (consistent with the appropriate permit application appendices) and calculations which confirm the compliance status. The certification shall also include an application for a permit to operate such source in accordance with rule 3745-35-02 of the Administrative Code if such source does not possess an effective permit to operate that expressly permits asbestos disposal operations.

(B) No person shall operate a new source regulated under Chapter 3745-20-06 of the Administrative Code unless the owner or operator applies for and obtains from the Ohio EPA a permit to install in accordance with the requirements of Chapter 3745-31 of the Administrative Code and a permit to operate in accordance with the requirements of Chapter 3745-35 of the Administrative Code.
Code of Federal Regulations

Sec. 710.101 Purpose. The primary purpose of the requirements in this part is to ensure the prudent use of Federal funds under title 23 of the United States Code in the acquisition, management, and disposal of real property. In addition to the requirements of this part, other real property related provisions apply and are found at 49 CFR part 24.

Sec. 710.103 Applicability. This part applies whenever Federal assistance under title 23 of the United States Code is used. The part applies to programs administered by the Federal Highway Administration. Where Federal funds are transferred to other Federal agencies to administer, those agencies' procedures may be utilized. Additional guidance is available electronically at the FHWA Real Estate services website: http://www.fhwa.dot.gov/realestate/index.htm

Sec. 710.105 Definitions. (a) Terms defined in 49 CFR part 24, and 23 CFR part 1 have the same meaning where used in this part, except as modified in this section. (b) The following terms where used in this part have the following meaning:

Access rights means the right of ingress to and egress from a property that abuts a street or highway.

Acquisition means activities to obtain an interest in, and possession of, real property.

Air rights means real property interests defined by agreement, and conveyed by deed, lease, or permit for the use of airspace. Airspace means that space located above and/or below a highway or other transportation facility's established grade line, lying within the horizontal limits of the approved right-of-way or project boundaries.

Disposal means the sale of real property or rights therein, including access or air rights, when no longer needed for highway right-of-way or other uses eligible for funding under title 23 of the United States Code.

Easement means an interest in real property that conveys a right to use a portion of an owner's property or a portion of an owner's rights in the property.

Right-of-way means real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.

Uneconomic remnant means a remainder property which the acquiring agency has determined has little or no utility or value to the owner.

Sec. 710.401 General. This subpart describes the acquiring agency's responsibilities to control the use of real property required for a project in which Federal funds participated in any phase of the project. Prior to allowing any change in access control or other use or occupancy of acquired property along the Interstate, the STD shall secure an approval from the FHWA for such change or use. The STD shall specify in the State's ROW operations manual, procedures for the rental, leasing, maintenance, and disposal of real property acquired with title 23 of the United States Code. The State shall assure that local agencies follow the State's approved procedures, or the local agencies own procedures if approved for use by the STD.

Sec. 710.403 Management. (a) The STD must assure that all real property within the boundaries of a federally-aided facility is devoted exclusively to the purposes of that facility and is preserved free.
of all other public or private alternative uses, unless such alternative uses are permitted by Federal regulation or the FHWA. An alternative use must be consistent with the continued operation, maintenance, and safety of the facility, and such use shall not result in the exposure of the facility's users or others to hazards. (b) The STD shall specify procedures in the State manual for determining when a real property interest is no longer needed. These procedures must provide for coordination among relevant STD organizational units, including maintenance, safety, design, planning, right-of-way, environment, access management, and traffic operations. (c) The STD shall evaluate the environmental effects of disposal and leasing actions requiring FHWA approval as provided in 23 CFR part 771. (d) Acquiring agencies shall charge current fair market value or rent for the use or disposal of real property interests, including access control, if those real property interests were obtained with title 23 of the United States Code funding, except as provided in paragraphs (d) (1) through (5) of this section. Since property no longer needed for a project was acquired with public funding, the principle guiding disposal would normally be to sell the property at fair market value and use the funds for transportation purposes. The term fair market value as used for acquisition and disposal purposes is as defined by State statute and/or State court decisions. Exceptions to the general requirement for charging fair market value may be approved in the following situations: (1) With FHWA approval, when the STD clearly shows that an exception is in the overall public interest for social, environmental, or economic purposes; nonproprietary governmental use; or uses under 23 U.S.C. 142(f), Public Transportation. The STD manual may include criteria for evaluating disposals at less than fair market value. Disposal for public purposes may also be at fair market value. The STD shall submit requests for such exceptions to the FHWA in writing. (2) Use by public utilities in accordance with 23 CFR part 645. (3) Use by Railroads in accordance with 23 CFR part 646. (4) Use for Bikeways and pedestrian walkways in accordance with 23 CFR part 652. (5) Use for transportation projects eligible for assistance under title 23 of the United States Code. (e) The Federal share of net income from the sale or lease of excess real property shall be used by the STD for activities eligible for funding under title 23 of the United States Code. Where project income derived from the sale or lease of excess property is used for subsequent title 23 projects, use of the income does not create a Federal-aid project. (f) No FHWA approval is required for disposal of property which is located outside of the limits of the right-of-way if Federal funds did not participate in the acquisition cost of the property. (g) Highway facilities in which Federal funds participated in either the right-of-way or construction may be relinquished to another governmental agency for continued highway use under the provisions of 23 CFR 620, subpart B.

Sec. 710.405 Air rights on the Interstate. (a) The FHWA policies relating to management of airspace on the Interstate for non-highway purposes are included in this section. Although this section deals specifically with approval actions on the Interstate, any use of airspace contemplated by a STD must assure that such occupancy, use, or reservation is in the public interest and does not impair the highway or interfere with the free and safe flow of traffic as provided in 23 CFR 1.23. (1) This subpart applies to Interstate facilities which received title 23 of the United States Code assistance in any way. (2) This subpart does not apply to the following: (i) Non-Interstate highways. (ii) Railroads and public utilities which cross or otherwise occupy Federal-aid highway right-of-way. (iii) Relocations of railroads or utilities for which reimbursement is claimed under 23 CFR part 140, subparts E and H. (iv) Bikeways and pedestrian walkways as covered in 23 CFR part 652. (b) A STD may grant rights for temporary or permanent occupancy or use of Interstate system airspace if the STD has acquired sufficient legal right, title, and interest in the right-of-way of a federally assisted highway to permit the use of certain airspace for non-highway purposes; and where such airspace is not required presently or in the foreseeable future for the safe and proper operation and maintenance of the highway facility. The STD must obtain prior FHWA approval, except for paragraph (c) of this section. (c) An STD may make lands and rights-of-way available without charge to a publicly owned mass transit authority for public transit purposes whenever the public
interest will be served, and where this can be accomplished without impairing automotive safety or future highway improvements (d) An individual, company, organization, or public agency desiring to use airspace shall submit a written request [[Page 342]] to the STD. If the STD recommends approval, it shall forward an application together with its recommendation and any necessary supplemental information including the proposed airspace agreement to the FHWA. The submission shall affirmatively provide for adherence to all policy requirements contained in this subpart and conform to the provisions in the FHWA's Airspace Guidelines at: http://www.fhwa.dot.gov/realestate/index.htm.

Sec. 710.407 Leasing. (a) Leasing of real property acquired with title 23 of the United States Code, funds shall be covered by an agreement between the STD and lessee which contains provisions to insure the safety and integrity of the federally funded facility. It shall also include provisions governing lease revocation, removal of improvements at no cost to the FHWA, adequate insurance to hold the State and the FHWA harmless, nondiscrimination, access by the STD and the FHWA for inspection, maintenance, and reconstruction of the facility. (b) Where a proposed use requires changes in the existing transportation facility, such changes shall be provided without cost to Federal funds unless otherwise specifically agreed to by the STD and the FHWA. (c) Proposed uses of real property shall conform to the current design standards and safety criteria of the Federal Highway Administration for the functional classification of the highway facility in which the property is located.

Sec. 710.409 Disposals. (a) Real property interests determined to be excess to transportation needs may be sold or conveyed to a public entity or to a private party in accordance with Sec. 710.403(c). (b) Federal, State, and local agencies shall be afforded the opportunity to acquire the opportunity to acquire real property interests considered for disposal when such real property interests have potential use for parks, conservation, recreation, or related purposes, and when such a transfer is allowed by State law. When this potential exists, the STD shall notify the appropriate resource agencies of its intentions to dispose of the real property interests. The notifications can be accomplished by placing the appropriate agencies on the States' disposal notification listing. (c) Real property interests may be retained by the STD to restore, preserve, or improve the scenic beauty and environmental quality adjacent to the transportation facility. (d) Where the transfer of properties to other agencies at less than fair market value for continued public use is clearly justified as in the public interest and approved by the FHWA, the deed shall provide for reversion of the property for failure to continue public ownership and use. Where property is sold at fair market value no reversion clause is required. Disposal actions described in 23 CFR 710.403(d)(1) for less than fair market value require a public interest determination and FHWA approval, consistent with that section.
TITLE VI of the Civil Rights Act of 1964

ODOT Policy

It is the policy of the Ohio Department of Transportation that all transit services are made available to and are fairly and adequately distributed among beneficiaries without regard to race, color, religion, sex, national origin, age or disability, that the location of existing or proposed facilities and the provision of transit services, regardless of funding source, shall not deny access to any person on the basis of prohibited discrimination; that persons in the affected communities are not differently or adversely impacted; that the opportunity and ability of persons to participate in transit planning, programming and implementation is not limited; and that corrective remedial and affirmative action is taken to eliminate and prevent discriminatory treatment based on race, color, religion, sex, national origin, age or disability.

ODOT Real Estate Policy

In all matters relating to Property Management, no person or persons shall be excluded from participation in or otherwise discriminated against on the grounds of race, color, religion, sex, national origin, age or disability.