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3737-1-03 **Definitions.**

(A) The following definitions are provided for the purposes of clarifying the meaning of certain terms as they appear in sections 3737.90 to 3737.98 of the Revised Code and rules 3737-1-01 to ~~3737-1-22~~3737-1-23 of the Administrative Code.

(1) "Applicant" means the responsible person for an underground storage tank system who submits a board-prepared application for fund payment of, or reimbursement for, corrective action costs for an accidental release of petroleum or compensation paid or to be paid to third parties for bodily injury or property damages.

(2) "Board" means the petroleum underground storage tank release compensation board.

(3) "Bodily injury" means injury to the body or sickness or disease contracted by a person as the result of an accidental release of petroleum and recoverable pursuant to division (C) of section 3737.92 of the Revised Code. Bodily injury does not include the negligent infliction of emotional distress.

(4) "Costs" means actual expenses incurred, paid, and documented.

(5) "Debt service account or accounts" means an account or accounts established for the purpose of making bond principal and interest payments on a regular basis and as may be required by bond covenants.

(6) "Debt service reserve account or accounts" means a reserve account or accounts established for the purpose of making bond principal and interest payments on a non regular, emergency basis and as may be required by bond covenants.

(7) "Deductible" means the standard, non-reduced amount which is deducted from the responsible person's assurance coverage pursuant to division (D)(3) of section 3737.91 of the Revised Code and established through division (E) of section 3737.92 of the Revised Code.

(8) "Director" means the director of the petroleum underground storage tank financial assurance fund.

(9) "Fee" means:

(a) The annual petroleum underground storage tank financial assurance fee;

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(b) The supplemental petroleum underground storage tank financial assurance fee; ~~or~~

(c) ~~Any other fee as established by the board.~~Late payment fees;

(d) Transfer fee;

(e) Any and all costs for the collection of delinquent accounts; or

(f) Any other fee as established by the board.

(10) "Financial audit" means an examination of the books, vouchers, and records of a responsible person by the director to determine compliance with this chapter.

(11) "Financial responsibility" means proof of financial accountability as a condition to acquiring eligibility to the fund in accordance with rule 1301:7-9-05 of the Administrative Code adopted by the fire marshal pursuant to section 3737.882 of the Revised Code.

(12) "Fire marshal" means the fire marshal of the state of Ohio.

(13) "Fiscal year" means the time period July first through June thirtieth.

(14) "Imminent hazard" means the appearance of threatened and impending risk or peril.

(15) "Indemnify" means to restore or save harmless the board from a loss by payment or replacement to the board any monies advanced or received from any other party, including, but not limited to, the other parties' insurer or the responsible person's insurer, for the payment of corrective action costs or third party compensation for which the board has reimbursed or will reimburse the responsible person or has compensated or will compensate any third party for bodily injury or property damage.

~~(15)~~(16) "Markup" means an amount charged by contractors or consultants beyond the actual cost of labor, equipment, or materials, for management, supervision, or administration of the corrective action activities performed.

~~(16)~~(17) "Obligated account" means monies segregated and maintained, on a year by year basis, for reimbursing necessary corrective action costs.

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~~(17)~~(18) "Obligations" mean undertakings by the board to reimburse or pay a responsible person or the designee of the responsible person.

~~(18)~~(19) "Primary consultant" means a person or organization hired, by or through the responsible person, for principal control of corrective action activities at the release site.

~~(19)~~(20) "Primary contractor" means a person or organization hired, by or through the responsible person, for principal control of corrective action activities at the release site.

~~(20)~~(21) "Program task" means one of the tasks defined by rule 3737-1-12 of the Administrative Code.

~~(21)~~(22) "Property damage" means actual and reasonable, incurred or pending expenses for damage to property as the result of an accidental release of petroleum that are not covered by insurance and are recoverable pursuant to division (C) of section 3737.92 of the Revised Code. The following items are a non exhaustive list of items specifically excluded from property damage: loss of profits, loss of business, taxes, utility expenses, punitive damages, exemplary damages, telephone, television, internet, or cable and/or satellite fees, attorney fees or all costs of litigation, including but not limited to court costs, depositions, experts and attorney fees.

~~(22)~~(23) "Reduced deductible" means the reduced amount which is deducted from the responsible person's assurance coverage pursuant to division (D)(3) of section 3737.91 of the Revised Code and established through division (F) of section 3737.92 of the Revised Code.

~~(23)~~(24) "Release" means a "release" as defined in rule 1301:7-9-13 of the Administrative Code.

~~(24)~~(25) "Responsible person" means a "responsible person" as defined in division (N) of section 3737.87 of the Revised Code.

~~(25)~~(26) "Subcontractor" means a person or organization, other than the primary contractor or primary consultant or a subsidiary thereof, which, at the request of the primary contractor or primary consultant, has undertaken one or more corrective action activities for corrective action at the release site under direction of the primary contractor or primary consultant. Subcontractors do not include persons or entities whose only involvement related to the corrective action is the supply of material or equipment.

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(27) "Subrogation" means the board's right to recover costs of corrective actions and compensation to third parties for bodily injury or property damage that the board has paid or will pay to a responsible person or a third party from any other party, including, but not limited to, the other party's insurer and the responsible person's insurer.

~~(26)~~(28) "Suspected release" means a "suspected release" as defined in rule 1301:7-9-13 of the Administrative Code.

~~(27)~~(29) "Tank population" means the number of tanks as defined by division (O) of section 3737.87 of the Revised Code in existence in the state of Ohio at any given time.

~~(28)~~(30) "Technical audit" means an examination of the books, vouchers, and records of a responsible person to determine if the work performed was necessary to meet the requirements of the fire marshal or an order of the director.

(31) "Unclaimed monies trust account" means a trust account established pursuant to section 9.39 of the Revised Code for holding monies unclaimed by the rightful owner.

~~(29)~~(32) "Unobligated balance" means monies which have not been placed in the obligated account, the debt service account or accounts, the debt service reserve account or accounts, the unclaimed monies trust account, or used to purchase certificates of deposit for linked deposits. The unobligated balance includes the balance of monies which may be used to retire bonds, pay third-party bodily injury or property damage claims related to the accidental release of petroleum, to purchase certificates of deposit for linked deposits, to fund the obligated account, to fund the debt service account or accounts, to fund the debt service reserve account or accounts, or for various other expenses the board may incur related to administering sections 3737.90 to 3737.98 of the Revised Code.

~~(30)~~(33) "Year" means twelve consecutive months.