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3737-1-08 **Disbursement of the financial assurance fund.**

(A) Once eligibility of the fund has been determined in accordance with rule 3737-1-07 or 3737-1-19 of the Administrative Code and the director of the fund has determined that an application for reimbursement is complete, obligations of the fund will not occur unless and until the deductible or the reduced deductible, as applicable, set forth in rule 3737-1-06 of the Administrative Code has been met. Costs determined to be non-reimbursable pursuant to paragraph (A) of rule 3737-1-09 of the Administrative Code shall not be applied toward the responsible person's deductible or reduced deductible. Reimbursable costs covered by insurance policies or recoverable from any other party shall be applied toward the responsible person's deductible or reduced deductible.

(B) Obligations of the fund for eligible claims will be made on a first-come, first-served basis as determined by receipt of a completed application in accordance with rule 3737-1-12 of the Administrative Code, except when:

(1) The fire marshal requests approval of an accelerated review on the basis of the threat posed to human health or the environment by the release to which the claim applies;

(2) An accelerated review is granted under paragraph (D) of this rule; or

(3) The director determines that efficiency and cost savings will be better served by a non first-come, first-served review.

Notwithstanding any of the above provisions, the director may prioritize claims for releases that have received no further action status.

(C) The board may by resolution provide for the payment of claims by installments in a manner and for a period of time it deems appropriate when the board concludes that such action is necessary to maintain the financial soundness of the financial assurance fund.

(D) A responsible person may file with the board a request for an accelerated review of a claim by submitting an application for hardship status on a form prescribed by the director, and by providing financial documentation to the director that demonstrates approval of hardship status is necessary to prevent an imminent financial hardship to the responsible person.

(1) As a result of such request, the director may:

(a) Seek additional information from the responsible person to demonstrate imminent financial hardship, including but not limited to, a statement of

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assets and liabilities and/or a detailed listing of living expenses and income;

(b) Request the responsible person sign a release to allow the director to obtain or inspect federal and state tax records; and

(c) Request copies of any contracts existing between the responsible person and his/her contractors and subcontractors remediating the site.

(2) Tank owners who refuse to provide the requested information shall be denied hardship status. Any documentation received by the board for a hardship application may be a public record except if specifically exempt under section 149.43 of the Revised Code.

(3) Upon review of financial data and/or other information provided by the responsible person, the director shall recommend to the board approval or denial of the request.

The board may accept or reject the director's recommendation. Should the board's action result in the approval of hardship status, the approval shall be for one year from the date of the board's action. A responsible person may file a subsequent request for hardship status on or before the expiration of a one-year period of hardship status.

(4) The board may suspend or discontinue the hardship program when it determines that doing so is in the interest of the fund. Any hardship statuses that are currently in effect at the time the board suspends or discontinues the hardship program shall remain effective until the expiration of the ~~one year~~ one-year period from the date the application was approved.