



ADMINISTRATIVE RULES OF MONTANA

17.58.311 DEFINITIONS

Unless the context clearly indicates otherwise, the following definitions, in addition to those in 75-11-302, MCA, apply throughout this chapter:

- (1) "Act" means Title 75, chapter 11, part 3, and 17-7-502, MCA.
- (2) "Actually incurred," for purposes of reimbursing eligible costs caused by a release from a petroleum storage tank, means:
 - (a) costs actually expended to complete the work required to prepare or implement a corrective action plan, in an amount less than or equal to the corrective action plan budget, as shown by a dated invoice and receipt; or
 - (b) documented compensation made to a third party for bodily injury or property damage caused by a release.
- (3) "Belonging to the federal government," with respect to determining eligibility of a petroleum storage tank, means:
 - (a) currently under the possession and control of a federal agency, or
 - (b) located on land held by a federal agency if the petroleum storage tank is operated by a contractor for the primary benefit of a federal agency. However, if the contract binds the operator to hold the federal agency harmless from liability for any release from the petroleum storage tank and the federal agency required its contractor to make this commitment prior to March 31, 1990, the petroleum storage tank is not considered as belonging to the federal government.
- (4) "Board staff" means those employees of the Petroleum Tank Release Compensation Board hired by the board pursuant to 75-11-318, MCA.
- (5) "Bodily injury," as defined in 75-11-302, MCA, requires proof to a reasonable degree of medical certainty based on competent evidence as opposed to conjecture or speculation.
- (6) "Consumptive use" means any use which burns or otherwise consumes heating oil.
- (7) "Consultant" means a professional person or organization of such persons who advise petroleum storage tank owners or operators with respect to planning and implementing corrective action.
- (8) "Corrective action plan" means a written plan approved by the department specifying all corrective actions necessary to respond to a release. Each corrective action plan must include the cost of each corrective action specified in the plan.

- (9) "Corrective action plan budget" means the costs listed in the corrective action plan and preliminarily approved in writing by the board staff for obligation by the board pursuant to 75-11-309(5), MCA.
- (10) "Day" means a calendar day, including weekends and holidays. Whenever a period of days specified in the Act or this chapter ends on a day state offices are not open for business, the period ends on the next day state offices are open.
- (11) "De minimis" means that amount of a hazardous substance, as defined in this rule, which when mixed with a petroleum product does not alter the detectability of the petroleum product, effectiveness of corrective action, or toxicity of the petroleum product to any significant degree.
- (12) "Department" means the Department of Environmental Quality.
- (13) "Farm tank" is defined at ARM 17.56.101.
- (14) "Hazardous substance" means:
 - (a) a substance that is defined as a hazardous substance by section 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601(14), as amended;
 - (b) a substance identified by the administrator of the United States Environmental Protection Agency as a hazardous substance pursuant to section 102 of CERCLA, 42 USC 9602, as amended; or
 - (c) a substance that is defined as a hazardous waste pursuant to section 1004(5) of the Resource Conservation and Recovery Act of 1976, 42 USC 6903(5), as amended, including a substance listed or identified in 40 CFR 261.
- (15) "Heating oil" is defined at ARM 17.56.101.
- (16) "Hydraulic lift tank" is defined at ARM 17.56.101.
- (17) "Inactive tank" is defined at ARM 17.56.101.
- (18) "Motor fuel" is defined at ARM 17.56.101.
- (19) "Necessarily incurred," for purposes of reimbursing eligible costs caused by a release from a petroleum storage tank, means:
 - (a) only those costs incurred that are needed to prepare or implement a corrective action plan, in an amount less than or equal to the costs listed in the corrective action plan budget;
 - (b) costs incurred to complete work, approved by the department in writing, to respond to an emergency at the site of a release, in order to prevent more extensive damage or injury than would have occurred without such approval; or
 - (c) in the case of third party damages, payment for damages that are a direct and proximate consequence of the release.
- (20) "Noncommercial purposes" is defined at ARM 17.56.101.
- (21) "Oil/water separator" is defined at ARM 17.56.101.
- (22) "Out of service" is defined at ARM 17.56.101.

- (23) "Reasonably incurred," for purposes of reimbursing eligible costs caused by a release from a petroleum storage tank, means:
- (a) the costs incurred:
 - (i) to complete the work required to prepare or implement an approved corrective action plan, in an amount less than or equal to the costs listed in the corrective action plan budget;
 - (ii) to complete work, approved by the department in writing, to respond to an emergency at the site of a release in order to prevent more extensive damage or injury than would have occurred without such approval; or
 - (iii) in accordance with ARM 17.58.341 and 17.58.342 and that are not presumed to be unreasonable by those rules; or
 - (b) compensation paid to third parties for bodily injury or property damage when it is more likely than not that such injury or damage was caused by a release.
- (24) "Release discovery date" means the earliest of:
- (a) the date of discovery by an owner or an operator of any of the conditions set forth in ARM 17.56.502(1), provided that a release is confirmed in any manner provided in ARM 17.56.504 or 17.56.506 after the condition is discovered and has been identified and assigned a unique identification number, as provided in ARM 17.56.508;
 - (b) the date that the owner or operator had actual knowledge of a release; or
 - (c) the date that the release is confirmed in any manner provided in ARM 17.56.504.
- (25) "Residential tank" is defined at ARM 17.56.101.
- (26) "Site/facility" means a complex of petroleum storage tanks under the same ownership on a contiguous piece of property.
- (27) "Stored for noncommercial purposes", with respect to motor fuel, means any type of storage, except the following:
- (a) storing for resale under license from the Weights and Measures Bureau, Department of Commerce (82-15-105, MCA); or
 - (b) storing for later removal to another location where the fuel will be resold.
- (28) "Subcontractor" means a person who performs billable labor in association with a corrective action at the release site when that person is under contract with the contractor/consultant. Subcontractor services do not include delivery or pickup services.
- (29) "Tank," as used in 75-11-302(21), MCA, means a fully enclosed stationary device designed to contain an accumulation of petroleum or petroleum products of more than 60 gallons (227L) and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.
- (30) "Vendor" means a person who provides materials necessary for corrective action at the release site or services away from the release site.

Implementing statute(s): 75-11-318, MCA

History: NEW, 1990 MAR p. 516, Eff. 3/16/90; AMD, 1990 MAR p. 1784, Eff. 9/14/90; AMD, 1991 MAR p. 2036, Eff. 11/1/91; AMD, 1993 MAR p. 2678, Eff. 11/11/93; TRANS, from DHES, and AMD, 1996 MAR p. 3125, Eff. 12/6/96; AMD, 1999 MAR p. 2279, Eff. 10/8/99; AMD, 2003 MAR p. 557, Eff. 1/17/03; AMD, 2004 MAR p. 3018, Eff. 12/17/04; AMD, 2011 MAR p. 377, Eff. 3/25/11; AMD, 2021 MAR p. 1771, Eff. 12/11/21; AMD, 2025 MAR, Notice No. 2025-195, Eff. 1/1/26.