



Dear Mid-Size Station Applicant:

Re: **NOTICE TO MID-SIZE STATION APPLICANTS REGARDING SUBMISSION OF A PAYMENT ELECTION**

The Department of Energy and Environmental Protection (“the Department”) is continuing to implement the revisions made to the Underground Storage Tank Petroleum Clean-Up Program (“the Program”) by Public Act 12-1 of the June 12th Special Session (“the Act”). The Department thanks each mid-size station applicant for your help and patience through this initial implementation period. With the categorization of applicants virtually complete, the Department is pleased to announce that the State Bond Commission has allocated 4.5 million dollars to the Department for payment of approved applications. Pursuant to section 261 of the Act (“Section 261”), one quarter of this 4.5 million dollars will be made available for payment of approved applications from mid-size station applicants.

Before payment can commence, the additional provisions in Section 261 related to payment from the Program to mid-size station applicants must be implemented. These provisions establish a reverse auction system implemented through the submission of a payment election form and detail how applicants in this category will be prioritized for payment.

A. **Submission of Payment Election Form**

Pursuant to Section 261, each mid-size station applicant shall submit a payment election on a form prescribed by the Commissioner. **With this letter the Commissioner hereby notifies all mid-size station applicants that for the fiscal year July 1, 2012 to June 30, 2013, each mid-size station applicant’s payment election(s) must be submitted between November 30, 2012 and December 31, 2012.** A payment election form is enclosed with this letter and is also available on the Department’s website at www.ct.gov/deep/ustcleanup or can be picked up at the Underground Storage Tank Petroleum Clean-Up Program, 4th Floor, 79 Elm Street, Hartford, Connecticut 06106. Any mid-size station applicant who does not submit a Payment Election form by 4:30 p.m. on December 31, 2012 will not be able to receive payment for any of its approved applications in the fiscal year July 1, 2012 to June 30, 2013.

B. **Establishing Priority for Payment**

Pursuant to Section 261, priority for payment will be given to those mid-size station applicants who, through the payment election process, agree to accept the greatest reduction in the amount ordered, or to be ordered, paid from the Program. For example, if one mid-size station applicant agrees to accept twenty-five cents on each dollar ordered to be paid from the Program, this applicant will receive payment before any mid-size station applicant who elects to receive greater than twenty-five cents.

Through the submission of payment elections, the priority for paying mid-size station applicants will be established.¹

C. The Reverse Auction Process

The Department will be conducting a reverse auction during the period of time that a mid-size station applicant's payment election must be submitted. The auction will begin at 9:00 a.m. on November 30, 2012 and will end on December 31, 2012 at 4:30 p.m. Before the reverse auction begins, the Department will post on its website at www.ct.gov/deep/ustcleanup the total dollar amount of approved applications awaiting payment in this category and without using an applicant's name, the amount that has been approved for each applicant in the mid-size station applicant category will also be shown. The payment elections submitted by mid-size station applicants will serve as the "bids" for this auction. Instructions for submitting a payment election are noted on the payment election form, see Part V, and are also described below.

The amount of each "bid" or payment election that is less than one dollar will be posted on the Department's website at www.ct.gov/deep/ustcleanup, and while the Department will attempt to post such information as soon as it received, mid-size station applicants are advised that updates to the payment election information received will *not* be instantaneous with the receipt of a payment election form. The Department will seek to post such information no later than the next business day after receipt of a payment election, but cannot guarantee that it will always be able to do so. As such, a mid-size station applicant may not want to wait until the last possible moment to submit its payment election.

Also, similar to bidding at an auction, **a mid-size station applicant may submit more than one payment election during the time the reverse auction is taking place.** Blank payment election forms are available on the Department's website at www.ct.gov/deep/cleanup. Once a mid-size station applicant submits a payment election, such applicant can submit another payment election noting the applicant's willingness to accept less than the amount noted in any prior payment elections, but cannot submit a payment election seeking an amount that is greater than the amount in any prior payment election. Put differently, when an applicant submits multiple payment election forms, the Commissioner will use the payment election reflecting the greatest reduction in the amount ordered, or to be ordered, paid from the Program.

D. Considerations in Submitting a Payment Election

Given that each mid-size station applicant's circumstances are unique, the Commissioner strongly encourages each applicant to review carefully Section 261 before submitting its payment election(s). While the following is not offered as advice or recommendation for any particular course of action, the Commissioner highlights the following for each mid-size station applicant's consideration.

¹ If two applicants make the same payment election, payment for those applicants will be prioritized according to the applications for which payment was ordered earliest. In the case where two applicants make the same payment election and payment was ordered on the same day, payment will be prioritized according to the applications that were received by the Department earliest.

- A payment election will apply to all of an applicant's applications, including those already submitted and those to be submitted in the future. An applicant cannot, then, have a payment election apply to only a portion of its applications.
- Section 261 provides that in the fiscal year beginning July 1, 2012, no payment shall be made to a mid-size station applicant in excess of 35 cents on each dollar ordered paid from the Program. The amount will increase by ten cents each fiscal year, beginning July 1st, until it reaches \$1.00. As such, any mid-size station applicant electing to receive more than 35 cents on each dollar ordered paid from the Program, including any election to receive full payment (Election 2), will **not** be able to receive any payment in the fiscal year July 1, 2012 to July 1, 2013. Any mid-size station applicant making such an election will not be able to receive payment until the Commissioner is authorized to make payment in the amount of such mid-size station applicant's payment election and all mid-size station applicants with greater priority have received payment.
- A payment election at or below the amount that the Commissioner is authorized to pay in a fiscal year is called a "reduced payment election." Mid-size station applicants who make a reduced payment election may, depending upon available funding and the reduced payment elections from other mid-size station applicants, receive payment from the Program in the year any such reduced payment election is made. Note also that a reduced payment election will remain in effect, even when under Section 261 the Commissioner is authorized to pay more than the amount of any such reduced payment election. For example, if a mid-size station applicant makes a reduced payment election of 35 cents, that election will remain in effect, even in later years when the Commissioner can pay a mid-size station applicant more than 35 cents.
- The prioritization for making payment to mid-size station applicants will be based upon the payment elections that are received. If there are not enough funds available to pay all mid-size station applicants who have made a reduced payment election, the priority for payment that has been established will remain in effect until additional funds are received. However, between July 1 and August 1 each year, or such other time period specified by the Commissioner, each mid-size station applicant will have an opportunity to participate in the reverse auction process and may elect to receive less than such applicant previously elected to receive. By making such an election, the priority for payment may be re-established and a mid-size station applicant can increase the likelihood of receiving payment from the Program more quickly. For example, if one year a mid-size station applicant elects to receive 30 cents on each dollar ordered, or to be ordered, paid from the Program, such applicant in a subsequent payment election may elect to receive *less* than 30 cents and through the resulting re-prioritization of mid-size station applicants awaiting payment receive payment more quickly. Note, however, that once a mid-size station applicant makes a payment election, such applicant cannot make a subsequent payment election to receive an amount that exceeds its prior payment election; having submitted a payment election for 30 cents a mid-size station applicant cannot, at any subsequent time, make a payment election to receive *more* than 30 cents.

E. Agreement to Not Submit Any Additional Applications

As was noted on the letter from the Department notifying each mid-size station applicant of the Commissioner's category determination, a mid-size station applicant is eligible to receive an additional ten cents on the amount paid from the Program to such applicant. To receive such amount, a mid-size station applicant must agree, in writing, not to submit any applications to the Program on or after October 1, 2012. To make this commitment, a mid-size station applicant can check the box in Part III of the Payment Election form or submit this commitment separately in writing to the commissioner.

A mid-size station applicant should check the box in Part III of the Payment Election form if such applicant has not submitted any applications to the Program on or after October 1, 2012 and such applicant is seeking an additional ten cents on the amount paid from the Program to such applicant. In considering this option, the Department notes that this additional ten cents will **not** be counted when determining such applicant's priority for payment; each mid-size station applicant's priority for payment will be based upon the amount specified in Part II of the Payment Election form. Also, regardless of whether this option is exercised, a mid-size station applicant cannot receive more than one dollar on each dollar ordered paid, or to be ordered paid, from the Program.

F. Submission of Payment Election forms:

Each mid-size station applicant's payment election(s) must be submitted between November 30, 2012 and December 31, 2012. A payment election form can be submitted:

- By mail (U.S., courier, etc.) or personally delivered to:

UST PETROLEUM CLEAN-UP PROGRAM
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
4th FLOOR
79 ELM STREET
HARTFORD, CT 06106-5127

In the event of mailing, the Department will use the post-mark date as the date of receipt. In the event of personal delivery, the Department will use the date of delivery as the date of receipt.

- By e-mail to DEEP.USTpayment@ct.gov. Fillable forms that can be e-mailed are available at the Department's website at www.ct.gov/deep/ustcleanup.

If you have any questions about this letter, the attached form or making a Payment Election, please call (860) 424-3370.

Sincerely,



Patrick Bowe
Director
Remediation Division