

Unregulated Heating Oil Tank Program Guidance

 nj.gov/dep/srp/unregulatedtanks/uhot_guidance.htm

Site Remediation Program

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[Unregulated Heating Oil Tank Program \(UHOT\) UHOT Guidance](#)

Scope and Intent

The Unregulated Heating Oil Tank (UHOT) Program allows pre-qualified environmental professionals to investigate and remediate Unregulated Heating Oil Tanks with limited oversight by the New Jersey Department of Environmental Protection (NJDEP). All such sites are subject to possible audit by NJDEP.

NJDEP will rely on pre-qualified environmental professionals to investigate and remediate unregulated underground and above ground storage tanks with limited, direct NJDEP oversight. By establishing and strictly enforcing the requirements of the UHOT Program, NJDEP will ensure that the remediation of contaminated sites is completed in full compliance with the [Heating Oil Tank System Remediation Rules](#) ("HOTS", N.J.A.C. 7:26F), [Administrative Requirements for the Remediation of Contaminated Sites](#) ("ARRCS"), and other applicable standards. The terms "remediation" or "remediate" are defined for the purpose of the UHOT program exactly as they are defined in the Technical Requirements, at N.J.A.C. 7:26E-1.8. NJDEP will audit documents submitted by a participant to ensure compliance and integrity.

NJDEP and the pre-qualified environmental professionals will not form an agency relationship through this program and no such relationship is to be presumed. A person pre-qualified under the Unregulated Heating Oil Tank Program is not an instrumentality of the State.

Eligibility

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To pre-qualify to remediate Unregulated Heating Oil Tanks, environmental professionals must either be a:

1. Certified Subsurface Evaluator, in accordance with the Underground Storage Tanks rules, N.J.A.C. 7:14B, by:
 - a. Holding a valid New Jersey Underground Storage Tank (UST) certification in Subsurface Evaluation. This certification must be maintained in full force and effect. The loss or lapse of this certification shall be grounds for immediate removal from the UHOT Program; and
 - b. Being employed by a firm that holds a valid New Jersey UST certification in Subsurface Evaluation. This certification must be maintained in full force and effect. The loss or lapse of this certification shall be grounds for immediate removal from the UHOT Program. Or
2. Licensed Site Remediation Professional (LSRP), in accordance with the Regulations of the New Jersey Site Remediation Professional Licensing Board, N.J.A.C. 7:26I.

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Universe of Cases/Sites

Subject to the limitations described below, NJDEP's UHOT Program will apply to tank cases for which remediating parties are seeking an Area of Concern (AOC) No Further Action (NFA) determination for a residential unregulated heating oil tank or one or more unregulated heating oil tanks on the same non-residential property with an aggregate capacity of 2,000 gallons or less. NJDEP will not issue an entire site No Further Action determination (NFA-E) under the UHOT Program. An unregulated heating oil tank can be either an above ground or a below ground tank. Gasoline and diesel tanks are not unregulated heating oil tanks and are not included in the UHOT program.

Properties and Tanks That May be Transferred to Other Offices

Unregulated Heating Oil Tank cases with an Immediate Environmental Concern (IEC), as defined by NJDEP's [IEC Guidance](#) document will be assigned to the Bureau of Environmental Measurement and Site Assessment - Immediate Concern Unit.

Once the remediation of the IEC has been completed, the final Remedial Action Report will be submitted to the UHOT program.

Depending on the complexity of the case, some cases may be transferred to other offices within the Site Remediation and Waste Management Program. Regardless of the complexity, all documents related to UHOT cases must be submitted through the Bureau of Case Assignment and Initial Notice.

Unregulated Heating Oil Tank Program Process

Homeowners or other responsible parties may select any pre-qualified environmental professional listed as a certified Subsurface Evaluator or an LSRP. The directory for certified Subsurface Evaluators is now available via [NJDEP's Data Miner](#) reports. Under the "Underground Storage Tanks" section, choose either "DEP certified UST Firms" for a complete list of all certified Subsurface Evaluators or "DEP Certified UST firms by County" for a list of certified Subsurface Evaluators located in the specific county selected. It is necessary to make sure that the firm is certified in Subsurface Evaluation in the "Cert Type" column on the right side of the report. The directory for LSRPs is also available via [NJDEP's Data Miner](#). Under the "Licensed Site Remedial Professional Information" section, choose "Licensed Site Remedial Professional List" for a complete list of all LSRPs. To obtain a No Further Action ("NFA") letter under the UHOT Program, a pre-qualified environmental professional or the homeowner shall submit the following to the NJDEP/Bureau of Case Assignment and Initial Notice:

1. A completed **Unregulated Heating Oil Tank (UHOT) System Remediation Form**.
(These forms replace the prior UHOT Questionnaire.)
 - o [Form](#) Version 1.7 - 01/18/2022
 - o [Instructions](#) Version 1.7 - 01/18/2022
 - o [Update Log](#) Version 1.7 - 01/18/2022
2. Pay \$400 electronically by e-check or credit card, using <http://www.nj.gov/dep/online/> with the option of '[Pay a Paper Invoice](#)'. Please note that while paying by E-check is free of transaction charges, there is a convenience fee of 2.0% for the amount being charged + \$0.50 for payment by credit card. As an additional option, a non-refundable check in the amount of \$400 may be sent by mail, payable to the "Treasurer, State of New Jersey", but time delays may occur.
3. A copy of all appropriate Remediation Documents prepared in accordance with the reporting requirements contained in [Heating Oil Tank System Remediation Rules](#) ("HOTS", N.J.A.C. 7:26F).

Notice: Starting January 16, 2021 Electronic submission of Unregulated Heating Oil Tank (UHOT) forms, applications, and documents will become mandatory. Please see the

Department's [Listserv](#) for details.

Audits

NJDEP has developed auditing requirements and other safeguards to ensure that public health and environmental standards are rigorously enforced in the UHOT Program. Pre-qualified environmental professionals who routinely fail to meet the highest standards may be removed by NJDEP from the UHOT Program.

All UHOT Program Forms will be reviewed by NJDEP. Further detailed audits will be conducted on a percentage of cases prior to issuance of an NFA. Selection of cases for audit will be at the sole discretion of NJDEP. Audits may consist of complete document and data package reviews, as well as field audits and sampling or other data gathering, solely at the discretion of NJDEP. Following an audit by NJDEP, the auditor will issue a report detailing the results and a recommendation as to whether to issue an NFA determination, or whether further remediation is required. At the discretion of NJDEP, additional information may be required to address deficiencies detected in the audit.

NJDEP Review

NJDEP will review the Unregulated Heating Oil Tank (UHOT) System Remediation Form (UHOT Form) as follows:

1. If NJDEP determines that the UHOT Form is administratively incomplete, NJDEP will notify the pre-qualified environmental professional and the remediating party of the deficiencies in the UHOT Form. NJDEP will provide the pre-qualified environmental professional and the remediating party a time frame for correction of the UHOT Form deficiencies. This review is for administrative completeness only; additional reviews and audits for technical issues will be at the sole discretion of NJDEP.
2. Upon receipt of what NJDEP determines is an administratively complete UHOT Form, including all executed certifications, if NJDEP determines that an audit will not be conducted, NJDEP will issue the appropriate NFA determination based upon the pre-qualified environmental professional's certification for the remediation conducted;

3. Upon receipt of what NJDEP determines is an administratively complete UHOT form, if NJDEP determines that an audit will be conducted, then upon completion of the audit, NJDEP will notify the pre-qualified environmental professional and the remediating party that either:
 - a. An NFA determination is issued; or
 - b. Further remediation or information is required for an NFA determination and the NJDEP's basis for that determination.

Continued Participation in the Unregulated Heating Oil Tank Program

A pre-qualified environmental professional must maintain active status as a certified Subsurface Evaluator under the New Jersey UST Certification Program or as a Licensed Site Remediation Professional. **NJDEP is not responsible for providing notification to any pre-qualified environmental professional or employer that any certifications, training or insurance required for participation in the Program are to expire or have expired.**

Legal Compliance and Professional Conduct

A pre-qualified certified Subsurface Evaluator warrants that in performing responsibilities under the UHOT Program, he or she will comply with all local, State and Federal laws, rules and regulations applicable to the Program and to the work to be completed thereunder, as well as with any other applicable laws and regulations. Pre-qualified certified Subsurface Evaluators understand and agree that NJDEP's determination of a failure to comply with this requirement will be grounds for their removal from the Program. NJDEP reserves its right to remove an individual from the Program on the basis of persistent complaints respecting poor workmanship or other unsatisfactory behavior. A Licensed Site Remediation Professional will abide by the statutory requirements of the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq., and the Regulations of the New Jersey Site Remediation Professional Licensing Board, N.J.A.C. 7:26l.

Disclaimer of Agency Relationship

A pre-qualified environmental professional's status shall be that of any independent principal and not as an agent, employee, or contractor of NJDEP or the State. Nothing relating to the UHOT Program shall be construed or asserted to create, either expressly or by implication, a contractual relationship between the State and the pre-qualified environmental professional. NJDEP has no responsibility for

ensuring the quality of work performed by pre-qualified environmental professionals or guaranteeing payment to pre-qualified environmental professionals by parties who retain them. Nothing in this guidance or the UHOT Program shall create rights or causes of action against NJDEP or the State on behalf of pre-qualified environmental professional or parties retaining pre-qualified environmental professionals.

Program Duration

A pre-qualified environmental professional taking part in this UHOT Program understands and acknowledges that this is a voluntary program and that approved participation is not guaranteed to any environmental professional. Moreover, a pre-qualified environmental professional acknowledges that its participation in the UHOT Program is not required in order to conduct, manage, or oversee remediation projects in New Jersey. It is also understood that NJDEP may terminate the UHOT Program at any time.
