



Brilliant Environmental Services, LLC (*Brilliant*) is a full-service environmental consulting firm, integrating today's technologies for tomorrow's solutions. Headquartered in Jackson, New Jersey with a satellite office in Haddonfield, New Jersey, *Brilliant* specializes in investigation, remediation, brownfields redevelopment, and underground storage tank services. *Brilliant* is the underground storage tank compliance expert.

***Brilliant* introduces its own YouTube channel.**

[Check us out!](#) Frequent Updates.

Check out our refreshed [website](#) and read about our staff at [Our Team!](#)

**Site Remediation and Waste Management Program
Announces Availability of new UST Financial
Responsibility Insurance Brochure**

The New Jersey Department of Environmental Protection, Site Remediation and Waste Management Program (SRWMP) announced that it has created the "Private Tank Insurance - A Guide for New Jersey Underground Storage Tank Owners & Operators" brochure to provide some basic information that will help in the selection and evaluation of regulated underground storage tank (UST) insurance. According to Federal and State UST Regulations (40 CFR Part 280 and N.J.A.C. 7:14B, respectively), a person who owns or operates a regulated UST must demonstrate that they have the financial resources to clean up a discharge from their UST system and to pay compensation to third parties for damage to their property or for personal injury.

In New Jersey, private UST Financial Responsibility Insurance is the most frequently chosen mechanism to comply with the UST Regulations. While all UST insurance policies must meet certain basic requirements, differences in policy terms will affect what premium a person pays and most importantly what costs the insurer will and will not pay. The UST owner/operator should read their policy carefully and discuss it with their insurance agent or broker to make sure they fully understand what they are purchasing, whether the policy includes the exact language required by, and otherwise complies with, the UST Regulations and what their reporting responsibilities are to their insurer. All

UST insurance policies require reporting a release to the insurance company within a specified time period or the claim will likely be denied; some may require prior notice of UST system activities such as UST removal; and most will only cover claims if the UST system was in full compliance with the UST Regulations. Financial Responsibility must be maintained until a final remediation document is issued for an UST system closure or any third-party damages claims have been resolved (see N.J.A.C. 7:14B-15.1(g)).

The entire UST private insurance policy including all endorsements and certifications must be submitted via email to srpustregistration@dep.nj.gov to meet requirements pursuant to the Underground Storage Tanks rules at N.J.A.C. 7:14B-15.1(h) at the time of initial UST registration, each subsequent annual UST certificate registration renewal, and any amendment such as policy expiration. Timely submittal of UST registrations and current insurance policies is necessary to allow fuel suppliers to deliver product, and to prevent enforcement delivery bans and facility shutdowns.

A copy of this tri-fold brochure can be found at www.nj.gov/dep/srp/bust/. In addition, printed copies of the brochure will be distributed with UST registration renewals and will be available in paper copy beginning April 5th. Please contact the SRWMP Bureau of Case Assignment and Initial Notice UST Registration and Billing Unit by email at srpustregistration@dep.nj.gov or by phone at 609-292-2943 if there are any questions about the details of this listserv notification or to obtain a paper copy of the brochure.

NJEDA's Brownfields Loan Program Application Deadline is Coming Soon (April 13, 2021)

The Brownfields Loan Program provides financing to potential brownfield site purchasers and current brownfield site owners (including local government redevelopers) that intend to develop commercial (including but not limited to manufacturing), retail, mixed-use developments, expansions or reuses. The program offers low-interest financing of \$100,000 to \$5 million for all aspects of brownfields revitalization projects, including assessment, investigation, and demolition. It is one of the only funding sources available to cover pre-construction planning, demolition, asbestos, PCB removal, and lead-based paint remediation.

Loans will be awarded through a competitive application process, with projects receiving scores based on various details about the brownfield site and the proposed redevelopment project. Projects that provide beneficial end uses that promote environmental resiliency, public health, and community well-being will receive higher scores and may also qualify for interest rate reductions if approved for financing. For more information [click here](#).

All Appropriate Inquiries: Phase I vs. Preliminary Assessment

I'm buying a commercial or industrial property in New Jersey, and I've been told I need an ASTM Phase I Environmental Site Assessment (Phase I ESA).

However, I've also been told I need a NJDEP Preliminary Assessment Report (PAR) as well? Do I really need both? Won't the Phase I ESA provide me adequate innocent purchaser protection?

The short answer is **NO**, but here is why and what.

Chances are, you're conducting a Phase I ESA to satisfy one of the requirements to qualify for the innocent landowner, contiguous property owner, or bona fide prospective purchaser limitations on CERCLA liability (Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601)), and the Environmental Protection Agency (EPA) All Appropriate Inquiry (AAI) Rule, Subsection 312.10 of 40 Code of Federal Regulations 312 (40 CFR §312). However, CERCLA is a federal law, and provides landowner liability protections under that particular law. What a Phase I ESA does not necessarily do, however, and as is made clear in the Phase I standard itself (ASTM E 1527-13, section 1.1.4), is address requirements of State or local laws; users of a Phase I ESA are cautioned that federal, state, and local laws may impose environmental assessment obligations that are beyond the scope of work.

New Jersey has enacted its own innocent purchaser defense that requires a property owner to demonstrate that, at the time they acquired the property, they did not know and had no reason to know that any hazardous substance had been discharged at the property, by performing an "all appropriate inquiry" prior to purchase of the property. As stated in the New Jersey Spill Compensation and Control Act (Spill Act), any person who owns real property acquired on or after September 14, 1993 on which there has been a discharge prior to the person's acquisition of that property and who knew or should have known that a hazardous substance had been discharged at the real property, shall be strictly liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred [N.J.S.A. 58:10-23.11g(c)(3)].

New Jersey has not adopted the federal All Appropriate Inquiries rule (which can be satisfied by performing a Phase I ESA) but instead has its own unique definition for satisfying "all appropriate inquiry." Under N.J.S.A. 58:10-23.11g(d) (2), an "all appropriate inquiry" is defined as the performance of a preliminary assessment, and site investigation, if the preliminary assessment indicated that a site investigation is necessary. As was again made very clear during a January 14, 2016 court ruling, a party buying property in New Jersey after 1993 must obtain a preliminary assessment in accordance with NJDEP rules in order to have a chance of obtaining innocent purchaser protection in the state of New Jersey. The decision was affirmed regarding environmental contamination at the Accutherm mercury thermometer manufacturing property in Gloucester County, that later became a Kiddie Kollege daycare. DEP v. Navillus Group, App. Div. Dkt. No. A-4726-13T3. In this case, despite advice of counsel, the defendants merely relied on various environmental reports, instead of performing a preliminary assessment; thus, no innocent purchaser protection was afforded them under the Spill Act, and they were liable for the contamination identified at their property.

IN SUMMARY:

If you're performing real estate due diligence in New Jersey and want to qualify for both federal and state innocent purchaser liability protections, you need to perform both an ASTM Phase I ESA, as well as a NJDEP Preliminary Assessment Report. Brilliant can provide a standalone Phase I or Phase II Report, as well as a Preliminary Assessment and Site Investigation Report, if all are need, as well as a hybrid report that includes the components of both to satisfy federal and State requirements in one report.

Who performs the Phase I or Preliminary Assessment is the key to completing successful environmental due diligence. The AAI Rule defines an Environmental Professional, whereas a due diligence Preliminary Assessment in New Jersey for due diligence purposes does not require the retention of a Licensed Site Remediation Professional, though they have the most knowledge and experience. For more information or to receive a quote, contact [Brilliant](#).

Brilliant in and around the community

Brilliant to Participate in 1st Annual Michael's Feat Golf Outing Monday, May 24, 2021 at Deal Country Club

For more information or to participate [click here](#).

Brilliant to Participate in Greater Toms River Chamber of Commerce Golf Tournament, Thursday, May 27, 2021 at Ocean County Golf Course at Atlantis

For more information or to participate [click here](#).

Brilliant Owner Participates in Hot Topics and Educational Programs for Continuing Professional Education Services

On April 8, 2021 from 8AM to 9AM, Phil Brilliant, owner of Brilliant will moderate a CPES FREE Hot Topic program featuring Adam Puharic of Puharic and Associates, Inc. Adam will discuss Employer Threats in a Post-COVID World. [Register](#) today to join us!

For all of CPES courses and programs, check online at www.cpesnj.com.

Brilliant can assist with Free Product Recovery and Short Term Remedial Action

The New Jersey Department of Environmental Protection (NJDEP) have been receiving Ground Water Remedial Action Permit (RAP) applications for sites where free and residual product have not been properly remediated in accordance with the Technical Requirements for Site Remediation [N.J.A.C. 7:26E-5.1(e)]. NJDEP states, Active System Ground Water RAP Applications

have included proposals for final long-term remedies for free product recovery in the form of socks/sorbent pads, High Intensity Targeted (HIT)/ Enhanced Fluid Recovery (EFR) events, and/or manual recovery (e.g., bailing) of free product in impacted wells. These methods of free product recovery as per NJDEP are only acceptable as short-term interim remedial measures (IRMs) when source material (i.e., residual product in soil) is being investigated and remediated.

At sites where free product is present, the source area should be fully investigated and remediated. Sporadic recovery of free product is highly effective utilizing *Brilliant's* Multi-Phase Recovery (MPR), also known as HIT or EFR mobile systems, with availability today to assist you with site remedial action assistance. Whether a daily event or longer, *Brilliant* can mobilize to your project site, extract total fluids, with liquid storage of up to 500 gallons and disposal coordination possible. All vapors are treated onsite with our permitted Internal Combustion Engine.

For more information or to schedule an event today, contact [Jon Libourel](#).

BRILLIANT CAN ASSIST YOU!

Brilliant is your advocate in identifying all of the options available to you...not just what's on the surface; affording you high-quality, personalized service without the high cost. We remain available and mobile to address any size project and prepared to meet with you to discuss your environmental needs. We are making improving our company daily to better service you today and into the future. Call us today at (732) 818-3380 or [email us](#).



[LEARN MORE](#)

