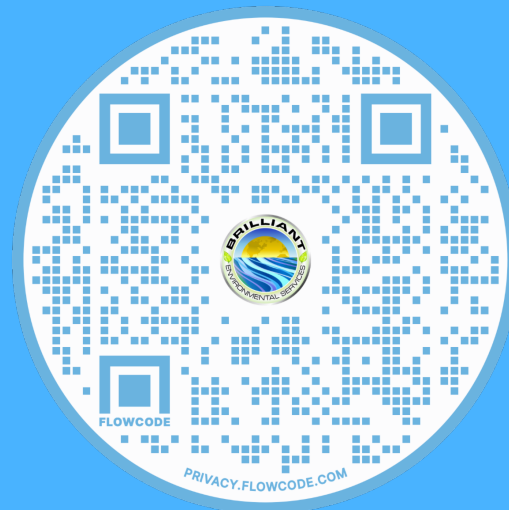




**Brilliant Environmental Services, LLC (Brilliant)** is a full-service environmental consulting firm, integrating today's technologies for tomorrow's solutions. Headquartered in Jackson, New Jersey with a satellite office in Haddonfield, New Jersey, *Brilliant* specializes in investigation, remediation,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

What's old is new and what's new is old! *Brilliant's* QR Code is back. Check us out!



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**Brilliant Makes the List:**  
**NJBIZ Names Top 250 Privately Held Companies of 2021**

Every day is a grind as a small business, more challenging today due to economic times, COVID and competition, however *Brilliant* has continue to rebuild and has been recognized by NJBIZ for their efforts. NJBIZ has included *Brilliant* on their 2021 list of Top Privately Owned Businesses. Based upon a 14% increase in revenue (2019 to 2020), *Brilliant* comes in at number 241 on the list. The struggle is real and *Brilliant* appreciates the recognition and will continue to strive towards bigger numbers in 2021!

**Congrats to all at *Brilliant*!! Well Done!!**

## Why Do I Need a Phase I and Preliminary Assessment in New Jersey?

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?

### **EASY ANSWER: NO! WHY?**

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 the Phase I standard.

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. In a January 14, 2016 court ruling, a party buying property in New Jersey after 1993 must obtain a PAR 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 Salem 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 PAR; thus, no innocent purchaser protection was afforded them under the Spill Act, and they were liable for the contamination identified at their property.

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 PAR. *Brilliant* in addition to performing standalone Phase I & Phase II, as well as Preliminary Assessments and Site Investigations, we provide a hybrid PA/Phase I that satisfies by Federal and State requirements for Innocent Party Defense. One investigation, one report but double the protection!

If you have any questions regarding real estate due diligence in New Jersey, or would like a quote contact [Brian Babcock, LSRP](#) or [Sara Hodl](#). Check our our [Real Estate Due Diligence](#) webpage.

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### **NJDEP Issues Frequently Asked Questions on the Amended Remediation Standards**

The New Jersey Department of Environmental Protection (Department) Site Remediation and Waste Management Program has posted a Frequently Asked Questions(FAQ) regarding the Remediation Standards. These FAQs focus on 1) Order of magnitude evaluation and phase-in issues for sites or areas of concern that have a final remediation document and a remedial action permit, and 2) vapor intrusion remediation reports that are equivalent to a remedial action workplan and a remedial action report. The FAQ is available at [FAQ](#).

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### **NJDEP Reinstating Subsurface Evaluator Certification Exam**

NJDEP is evaluating offering opportunities for licensing individuals and firms for unregulated heating oil tanks subsurface evaluation in a manner which benefits both the Department and the individuals/firms who are interested in obtaining this license.

Subsurface evaluation of unregulated heating oil tank systems includes all activities regarding site investigation, remedial investigation, and remedial action, and/or the evaluation for selection of release detection monitoring systems, as follows:

1. For site investigation, remedial investigation and/or remedial action, subsurface evaluation activities required pursuant to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, inspecting the excavation for contamination, performing (or overseeing) necessary field screening tests, selecting soil and ground water sampling locations, and submitting or reviewing of the report(s) required under NJAC 7:26E.
2. Site investigation, remedial investigation and/or remedial action activities include, but are not limited to, the development, implementation, or review of soil and/or ground water sampling plans, Quality

Assurance/Quality Control plans, and health and safety plans; overseeing field screening activities; determining the horizontal and vertical extent of contamination; assessing the actual or potential effect of a discharge on receptors; determining appropriate remedial activities for soil and/or ground water contamination; the submittal or review of appropriate site investigation, remedial investigation and or remedial action reports; and recommendations for no further action;

3. Release detection monitoring system selection activities include selecting locations for soil borings, characterizing soils, and determining soil permeability and depth to ground water as may be applicable.

To be Eligible for the Subsurface Evaluator License:

1. Complete the DEP application and pay the \$50 application fee.
2. Provide a copy of a bachelor's degree from an accredited institution in a natural, physical, or chemical science or appropriate engineering discipline.
3. Provide a list of experience working under an SSE or Licensed Site Remediation Professional (LSRP) for:
4. Provide documentation of completion of a health and safety class (OSHA 40 hour or 8-hour refresher)

If you or members of your staff are interested in obtaining the subsurface evaluation license, please complete the survey by September 30. The survey consists of only five (5) questions and takes two or three minutes to complete. The survey can be found at

[https://rutgers.ca1.qualtrics.com/jfe/form/SV\\_9ymHtMhyrLHMdIG](https://rutgers.ca1.qualtrics.com/jfe/form/SV_9ymHtMhyrLHMdIG).

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**Site Remediation Licensing Board Announces Date and Application Period for the Next Exam**

The New Jersey Site Remediation Professional Licensing Board (the Board) will administer the next Licensed Site Remediation Professional (LSRP) exam on Thursday, April 28, 2022. The Board anticipates that the exam will be administered in person at a facility in East Windsor, New Jersey. If conditions related to COVID 19 result in restrictions on public gatherings or other measures that would impact the ability to administer an in-person exam on April 28, 2022, the exam may be administered in a remotely-proctored format.

The Board will accept exam applications beginning December 1, 2021, and all applications are due by January 15, 2022. The application (Version 2.5, dated September 21, 2021) has been posted on the Board website (see below for link). The \$300.00 application fee must be submitted with the exam application. Applicants are advised to carefully read the instructions and eligibility requirements, and then to submit to the Board a complete application with all required documents, including the \$300.00 application fee made payable to "Treasurer, State of New Jersey." In addition, applicants must arrange to have their official transcript(s) sent to the Board, and to have three individuals provide references by completing and emailing a Reference Form to the Board, as directed in the instructions. The Board advises applicants to request transcripts and references early in the application process.

The Board will review applications and notify applicants that meet all requirements that they are approved to sit for the exam. Individuals that achieve a passing score on the exam will be notified that they have passed and will be issued an invoice for the initial licensing fee. Upon payment of the fee, the Board will issue the new LSRP a certificate and wallet card. LSRPs are required to renew their license every three years by submitting an application for license renewal, which includes proof that the LSRP has obtained 36 continuing education credits within the 3-year license term. LSRPs are required to know and abide by the Regulations of the New Jersey Site Remediation Professional Licensing Board, N.J.A.C. 7:26I.

Click this link to review the Regulations of the New Jersey Site Remediation Professional Licensing Board, N.J.A.C. 7:26I:

<https://www.nj.gov/lrspboard/board/rules/>

Click this link to review exam eligibility requirements:

[https://www.nj.gov/lrspboard/board/licensure/lrsp\\_eligibility\\_qualifications.html](https://www.nj.gov/lrspboard/board/licensure/lrsp_eligibility_qualifications.html)

Click this link to read the exam application instruction and apply for the exam:

[https://www.nj.gov/lrspboard/board/licensure/lrsp\\_licensure\\_info\\_forms.html](https://www.nj.gov/lrspboard/board/licensure/lrsp_licensure_info_forms.html)

For more information see the Frequently Asked Questions at:

[https://www.nj.gov/lrspboard/board/licensure/licensure\\_faqs.pdf](https://www.nj.gov/lrspboard/board/licensure/licensure_faqs.pdf)

Direct any additional questions to the Board at 609-984-3424 or via email at [SRPLBoardContact@dep.nj.gov](mailto:SRPLBoardContact@dep.nj.gov).

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## **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](#).

***Brilliant* introduces its own YouTube channel.**  
**[Check us out!](#) Frequent Updates.**

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



**LEARN MORE**

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