



Fannie Mae®

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# Multifamily Selling and Servicing Guide

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## Section 109 Oil/Gas Wells and Mineral Exploration

### 109.01 Active Oil and Gas Wells

#### Requirements

You must ensure that the Property has no evidence of any surface entry related to active mineral, oil, or gas activities.

For Properties with mineral, oil, or gas exploration on an adjacent property, you must:

- Identify whether the mineral, oil, or gas exploration is active or inactive.
- Deliver a Phase I ESA for the Property reporting no Recognized Environmental Conditions.
- Confirm:
  - all mineral, oil, or gas equipment is located more than 600 feet from any Property boundary line;
  - the mineral, oil, or gas exploration on the adjacent property does not impact the health or safety of the Property's tenants or have a material adverse impact to its marketability;
  - the adjacent property is not owned by an Affiliate of the Borrower; and
  - either:
    - there is no history of spills or leaks; or
    - if spills or leaks have occurred, all applicable permits are in place.

#### Guidance

Evidence of active mineral, oil, or gas activities on the Property may include:

- wells associated with mineral, oil, or gas production, exploration, or extraction;
- actively storing or processing mineral, oil, or gas; or
- pits, ponds, or lagoons associated with oil and gas exploration or production.

### 109.02 Inactive Oil and Gas Wells

#### Requirements



You must ensure that the Property has no evidence of inactive mineral, oil, or gas equipment, unless:

- the Property's Phase I ESA is acceptable;
- if the Property is subject to an oil and gas lease, the lease complies with [Part II, Chapter 1: Attributes and Characteristics, Section 108.02B: Non-Material Commercial Lease Types](#); and
- for a refinance, all mineral, oil, or gas equipment has been removed, capped, and closed per regulatory requirements before closing, and you have a permit or closure letter from the governing authority; or
- for an acquisition, you:
  - require the mineral, oil, or gas equipment/wells to be removed, capped, and closed per regulatory requirements within 180 days after the Mortgage Loan closing;
  - escrow the applicable cost to remove equipment, close wells, and remediate the site per regulatory requirements;
  - receive a permit or closure letter from the governing authority; and
  - modify the Environmental Indemnity Agreement as required by Fannie Mae.



# Glossary

## A

### Affiliate

When referring to an affiliate of a Lender, any other Person or entity that Controls, is Controlled by, or is under common Control with, the Lender.

When referring to an affiliate of a Borrower or Key Principal:

- any Person that owns any direct ownership interest in Borrower or Key Principal;
- any Person that indirectly owns, with the power to vote, 20% or more of the ownership interests in Borrower or Key Principal;
- any Person Controlled by, under common Control with, or which Controls, Borrower or Key Principal;
- any entity in which Borrower or Key Principal directly or indirectly owns, with the power to vote, 20% or more of the ownership interests in such entity; or
- any other individual that is related (to the third degree of consanguinity) by blood or marriage to Borrower or Key Principal.

#### **Synonyms**

- Affiliates

## B

### Borrower

Person who is the obligor per the Note.

#### **Synonyms**

- Borrowers
- Borrower's

## M



## Material Commercial Lease

Lease, sublease, license, concession, grant, or other possessory interest for commercial purposes that comprises 5% or more of the Property's annual EGI, or relates to:

- solar power, thermal power generation, or co-power generation, or for the installation of solar panels or any other electrical power generation equipment, and any related power purchase agreement; or
- any Property dwelling units leased to an Affiliate of the Borrower, any Key Principal, or any Principal.

### **Synonyms**

- Material Commercial Leases

## Mortgage Loan

Mortgage debt obligation evidenced, or when made will be evidenced, by the Loan Documents or a mortgage debt obligation with a Fannie Mae credit enhancement.

### **Synonyms**

- Mortgage Loans
- Mortgage Loan's

## **P**

## Phase I ESA

Environmental report and site assessment performed according to the process described in current ASTM E 1527, including any report summarizing the conclusions of the assessment.

### **Synonyms**

- Phase I Environmental Site Assessment
- Phase I ESAs



## Property

Multifamily residential property securing the Mortgage Loan and including the land (or Leasehold interest in land), Improvements, and personal property (as defined in the Uniform Commercial Code).

### **Synonyms**

- Properties
- Property's