



Multifamily Selling and Servicing Guide

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Section 502 Environmental Matters

→ Guidance

Any environmental conditions or risks impacting the Property should be fully understood and considered in the underwriting.

502.01 Environmental Site Assessments

☑ Requirements

You must comply with the Environmental Due Diligence Requirements (Form 4251), which include obtaining a Phase I Environmental Site Assessment (Phase I ESA) of the entire Property. The Phase I ESA must:

- be performed per the instructions in Form 4251, including meeting the current requirements of ASTM E1527;
- be prepared by an environmental professional as that term is defined in 40 C.F.R. § 312.10 (an Environmental Professional);
- identify all environmental conditions and risks that may potentially impact resident safety, marketability, or value of the Property; and
- clearly identify how to properly mitigate those conditions and risks, including where applicable,
 - the Environmental Professional's recommendations regarding additional investigation, or requirements of government authority or regulatory agency, or
 - action to remediate or abate any Recognized Environmental Condition (REC)/Controlled Recognized Environmental Condition (CREC), as those terms are defined in ASTM E1527.

If the Phase I ESA identified any RECs/CRECs, you must obtain Fannie Mae's approval before Rate Lock.

→ Guidance

You may rely on a preliminary or draft Phase I ESA to obtain a Commitment.

502.02 Lender's Responsibilities

☑ Requirements

You must:



- Obtain all investigations recommended or indicated by the Phase I ESA.
- Conduct a thorough review and analysis of the Phase I ESA.
- Provide the Environmental Professional with all available prior Phase I ESAs, investigations, and any relevant and readily available environmental materials.
- Provide the appraiser with any documentation from the Phase I ESA that is necessary to accurately assess the value of the Property.
- Identify whether the state where the Property is located has an environmental “super-lien” statute and, if so, confirm that conditions on the Property are not likely to result in the imposition of such a Lien.
- Disclose to Fannie Mae your knowledge of any actual or suspected environmental conditions affecting the Property, whether or not disclosed in the Phase I ESA.
- Ensure that any required Operations and Maintenance Plans (O&M Plans) are obtained and located on the site throughout the loan term.
- Assess the Borrower’s ability to carry out any O&M Plan. A Mortgage Loan is ineligible for purchase if the Borrower or its agents are not financially or organizationally capable of satisfying the requirements of the O&M Plan.
- Evaluate the potential risk of loss and liability to the Property, the Borrower, you, or Fannie Mae posed by any
 - REC/CREC,
 - Business Environmental Risk, or
 - other environmental condition, whether or not disclosed in the Phase I ESA.

If you become aware of any REC/CREC, you must:

- Obtain a Remediation Plan from the Borrower that
 - is prepared by an Environmental Professional, as required by [Form 4251](#),
 - will protect the health and safety of the residents and bring the Property into regulatory compliance, and
 - includes a cost estimate and schedule for completing the work.
- Add the estimated cost of the Remediation Plan to the Completion/Repair Escrow requirement of the Loan Documents.

Guidance

The amount funded into the Completion/Repair Escrow on the Mortgage



Loan Origination Date should be at least 125% of the estimated cost of the Remediation Plan.

502.03 Environmental Indemnity Agreement

Requirements

You must consider revisions to the Environmental Indemnity Agreement (Form 6085) to protect you and Fannie Mae from liability associated with any REC/CREC (including the cost to investigate/remediate any such condition) and any violation of Environmental Laws by the Borrower. You must document your evaluation of potential revisions, including at a minimum, whether the following revisions are appropriate:

- additional representation and warranty where the Borrower disclaims responsibility for any REC/CREC, if appropriate and accurate;
- additional covenant(s) requiring
 - implementation of the Remediation Plan,
 - compliance with any Environmental Activity and Use Limitations and/or institutional or engineering controls, and
 - maintenance of Borrower eligibility for applicable liability protection status;
- specifically identifying any liability associated with the REC/CREC in the indemnification provisions; and
- other terms and conditions as may be required based on Fannie Mae environmental counsel review.



Glossary

A

ASTM American Society for Testing Materials

B

Borrower Person who is the obligor under the Note.

Synonyms

- Borrowers
- Borrower's

Business Environmental Risk Risk of material environmental or environmentally-driven impact on the business or property associated with a Property or the past, current or planned use of a Property, including all “non-scope considerations” under current ASTM E 1527, asbestos or asbestos-containing materials, radon, lead-based paint, lead in drinking water, wetlands, regulatory compliance, health and safety, indoor air quality, biological agents, mold, etc.

Synonyms

- Business Environmental Risks

C

Commitment Contractual agreement between Fannie Mae and the Lender where Fannie Mae agrees to buy a Mortgage Loan from the Lender at a future date in exchange for an MBS, or at a specific price for a Cash Mortgage Loan, and the Lender agrees to Deliver that Mortgage Loan to Fannie Mae.

Synonyms

- Committed
- Commitments



Completion/Repair Escrow

Custodial Account established by the Lender and initially funded by an escrow deposit from the Borrower on the Mortgage Loan Origination Date to complete Completion/Repairs or other capital improvements at the Property.

E

Environmental Activity and Use Limitations

Legal or physical restrictions or limitations on the use of, or access to, all or any portion of a site, facility, groundwater, soils, or other media at, on, about or under a site or facility to reduce or eliminate potential exposure to Hazardous Materials or to prevent activities that could interfere with the effectiveness of a Hazardous Materials removal, response or remediation.

Environmental Laws

All current federal, state, and local laws, ordinances, regulations, standards, rules, policies, and other governmental requirements, administrative rulings, court judgments, and decrees, and all amendments thereto, relating to pollution or protection of human health, wildlife, wetlands, natural resources or the environment (including ambient air, surface water, ground water, land surface, or subsurface strata) including such laws governing or regulating the use, generation, storage, removal, remediation, recovery, treatment, handling, transport, disposal, control, release, discharge of, or exposure to, Hazardous Materials, and voluntary cleanup programs and/or brownfields programs.

Environmental Site Assessment

Report (either a Phase I ESA or a Phase II ESA) identifying whether a Property is subject to Recognized Environmental Conditions or Business Environmental Risks.

Synonyms

- ESA

L



Lien Lien, mortgage, bond interest, pledge, security interest, charge, or encumbrance of any kind.

Synonyms

- Liens

Loan Documents All documents evidencing, securing, or guaranteeing the debt obligation executed for a Mortgage Loan and approved by Fannie Mae.

Synonyms

- Loan Document
- Mortgage Loan Document
- Mortgage Loan Documents

M

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 Origination Date Date the Lender funds a Mortgage Loan to the Borrower.

Synonyms

- Mortgage Loan's Origination Date
- Origination Date

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

R

Rate Lock

Agreement between the Lender and the Investor containing the terms of the Lender-Arranged Sale or Multifamily Trading Desk trade of the Mortgage Loan and the MBS terms and conditions relating to the underlying MBS, if applicable, which may be documented via a recorded telephone conversation.

Synonyms

- Rate Locks