

## 1. Phase I Environmental Site Assessments

### A. General Requirements

Fannie Mae requires a Phase I Environmental Site Assessment (a “Phase I ESA”) for each Property securing a Mortgage Loan. The Phase I ESA must assess the entire Property, and must be prepared by an environmental professional as that term is defined at 40 C.F.R. § 312.10 (an “Environmental Professional”). The Phase I ESA must be prepared in accordance with:

- the “All Appropriate Inquiries” (“AAI”) rule, promulgated by the EPA (40 C.F.R Part 312), as amended, supplemented, or restated from time to time (“All Appropriate Inquiries”); and
- the American Society of Testing Materials (“ASTM”) Standard E1527, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process, version E1527-13 (“ASTM E1527”), as amended, supplemented, or restated from time to time.

The Phase I ESA must identify both Recognized Environmental Conditions and Business Environmental Risks.

### B. Date of Phase I ESA

The date of the Phase I ESA must not be more than one hundred eighty days prior to the Mortgage Loan Origination Date. This date is required to qualify the Lender and Fannie Mae for the safe harbor protections under the “All Appropriate Inquiries” rule.

### C. Reliance

The Phase I ESA must be addressed to, and explicitly authorize reliance by, among other Persons, the Lender, Fannie Mae and their respective successors and assigns.

### D. Executive Summary

The Phase I ESA Report must contain a Table of Contents and format as recommended by ASTM 1527, followed by an executive summary that includes, at a minimum, the following conclusions of an Environmental Professional:

- the presence or absence of Recognized Environmental Conditions and Business Environmental Risks and, if present:
  - identify and summarize each identified Recognized Environmental Condition, including any Controlled Recognized Environmental Condition (CREC), and Business Environmental Risk;
  - identify the source, if possible, including whether on the Property or off-site;
  - identify potential risks to the health, safety, and marketability of the Property, and any owner liability for each Recognized Environmental Condition;
  - address possible mitigants to address all identified environmental risks;
  - provide a conclusion as to the potential impact on tenant safety, and the marketability or value of the Property for each identified Recognized Environmental Condition or Business Environmental Risk (e.g., if soil or groundwater contamination is present, whether vapor intrusion is a potential risk to human health or the environment); and
  - determine whether a Phase II Environmental Site Assessment or any other assessment, investigation, or further action is required, recommended or has been completed with respect to that Recognized Environmental Condition or Business Environmental Risk;

- the presence of monitoring wells at, or adjacent to, the Property;
- on-going requirements of the Borrower or Borrower-related entity or Person, including controls and/or Property restrictions;
- the presence or absence of any data gaps and, if present, a summary of such data gaps, and a description of their significance to the ability of the Environmental Professional to identify Recognized Environmental Conditions and Business Environmental Risks on the Property; and
- the regulatory status of the Property (i.e., whether the Property is in compliance with Environmental Laws).

The executive summary should also state if a Historical Recognized Environmental Condition previously existed at the Property and the current regulatory status, if applicable, or Business Environmental Risk previously existed at the Property was fully remediated.

#### **E. Business Environmental Risks**

The Phase I ESA must contain an expanded evaluation of other appropriate Business Environmental Risks, including all matters identified as a “non-scope consideration” under the ASTM E1527 standards.

#### **F. Additional Requirements**

The Phase I Environmental Site Assessment must:

- address all Hazardous Substances;
- identify any Brownfield Grants or other EPA Grants awarded or grant funding potentially available to the Property owner by the EPA under CERCLA 42 U.S.C. § 9604 (k)(2)(B), as amended, supplemented, or restated from time to time;
- include within the scope of its investigation, those other substances designated by the Brownfield or EPA Grant or the cooperative agreements, which may include controlled substances as defined in the Controlled Substances Act (21 U.S.C. § 802).

The Phase I ESA Report must include a complete copy of any letter or other document from a Federal, state, or local governmental agency regarding the regulatory status of any Recognized Environmental Condition or Business Environmental Risks including, but not limited to, “no further action” or “no further remediation” letters.

If a property adjacent to the Property that is owned by any Person owning a Controlling Interest in the Borrower has been determined to have (i) a Recognized Environmental Condition, or (ii) had a Phase II Environmental Assessments performed, the Lender and the Environmental Professional preparing the Phase I Site Environmental Assessment on the Property must review and evaluate all Environmental Site Assessments performed on such adjacent property.

## **2. PHASE II ENVIRONMENTAL SITE ASSESSMENTS**

If warranted by the results of the Phase I ESA, the lack of data or information concerning the conditions on, at, or adjacent to the Property (e.g., a leaking underground storage tank) or for any other reason, the Lender must obtain and evaluate a Phase II ESA that further identifies and quantifies the scope of any actual or potential Recognized Environmental Conditions or Business Environmental Risks. The Phase II ESA must:

- conform to the ASTM Standard E1903-11, Standard Practice for Environmental Site Assessments: Phase II Environmental Site Assessment Process, as that standard may be amended, restated, modified or supplemented from time to time;
- define the scope of work required to comply with all applicable Environmental Laws; and
- provide a reasonable timeline for completion and the cost to perform that scope of work;
- conclude that:
  - no contamination above established thresholds exists and therefore no further action is warranted;
  - additional testing is warranted; or
  - a remediation plan is recommended for the Property; and
- determine whether disclosure of any contamination is required.

The findings and conclusions from the Phase II ESA must be incorporated into the final Phase I ESA Report. A copy of the Phase II ESA Report must be attached as an Appendix to the Phase I ESA Report

### 3. REMEDIATION ACTIONS

#### A. Remediation Plan

A Property that fails to meet a particular standard may, in some cases, be corrected through remedial actions. The scope of work and cost for any Remediation Plan must be recommended in writing by the Environmental Professional and, if applicable, must have received the written approval of the governmental agency or agencies having jurisdiction over the Property with regard to the Recognized Environmental Condition or Business Environmental Risk.

#### B. Operations and Maintenance Plans

The Property may have environmental or building conditions that are acceptable, but must be monitored throughout the life of the Mortgage Loan with appropriate ongoing operations and maintenance actions (an “Operations and Maintenance Plan” or an “O&M Plan”). Unless recommended by the Environmental Professional or required by Environmental Laws to be removed, remediated or abated, the presence of any of the following require an O&M Plan.

The following are the minimum O&M requirements. The Environmental Professional may include additional requirements to mitigate risk that might adversely impact human health or the environment.

<b>Any Property Containing</b>	<b>When Required</b>
Asbestos-containing materials	If the Improvements were built before 1981
Lead-based paint	If the Improvements were built before 1978
Radon	If recommended by an Environmental Professional
Underground Storage Tanks	If recommended by an Environmental Professional
History of Mold	Required at all times
Known Problematic Building Materials	If recommended by the PCA Consultant

When an O&M Plan is necessary, the following steps are required.

- An O&M Plan must be developed prior to the Mortgage Loan Origination Date. An Environmental Professional must prepare and submit the O&M Plan, stating that the provisions of the O&M Plan, if carried out with diligence, are sufficient to maintain the Property in accordance with applicable Environmental Laws and sound business practice and to protect human health.
- The O&M Plan must be readily accessible at the Property.