

Environmental Requirements

SBA requires an Environmental Investigation of all commercial Property upon which a security interest such as a mortgage, deed of trust, or leasehold deed of trust is offered as security for a loan or debenture.

Basic requirements – all 504 loans:

Environmental Questionnaire & Records Search with Risk Assessment Results

- If the Environmental Questionnaire reveals it is unlikely that there is environmental contamination at the Property and that no further investigation is warranted, and the Records Search with Risk Assessment concludes that the Property is a low risk for Contamination, MCFC will submit the results of the Environmental Investigation to SBA with recommendations and seek SBA's concurrence.
- If the Records Search with Risk Assessment concludes that the Property is an "elevated risk" or "high risk" for Contamination, a Phase I ESA will then be required.

Further requirements – as needed:

Transaction Screen Results

- If the Environmental Professional conducting the Transaction Screen concludes that no further investigation is warranted, MCFC must submit the results of the Environmental Investigation to SBA with recommendations and seek SBA's concurrence.
- If the Environmental Professional conducting the Transaction Screen concludes that further investigation is warranted, the MCFC must obtain a Phase I ESA.

Phase I ESA Results

- If the Environmental Professional conducting the Phase I ESA concludes that no further investigation is warranted, MCFC must submit the results of the Environmental Investigation to SBA with recommendations and seek SBA's concurrence.

Definitions:

"Environmental Questionnaire" means the questionnaire used by a Lender to determine the likelihood that Contamination may be present at Property offered to secure an SBA guaranteed loan. Environmental Questionnaires must be completed or reviewed by a Lender that has made at least one site visit to the Property and a good faith effort to conduct an interview with the current owner or operator of the Property. An Environmental Questionnaire may be considered if it was completed up to one year prior to submission. The current owner or operator of the Property must sign the Environmental Questionnaire. If the current owner or operator of the Property will not sign the Environmental Questionnaire it cannot be used and lender must then, at a minimum, obtain a Transaction Screen.

"Phase I Environmental Site Assessment" (Phase I ESA) means an AAI compliant Phase I ESA conducted by an Environmental Professional in accordance with the most recently adopted standard for a Phase I ESA established by ASTM International, currently ASTM E1527-05.

A Phase I ESA must contain an opinion by the Environmental Professional as to whether the inquiry has identified conditions indicative of Releases or threatened Releases at the Property. Additionally, SBA requires that all Phase I ESAs contain a conclusion by the Environmental Professional that performs the assessment that either: (1) the risk of Contamination at the

Property is so minimal that no further investigation is warranted; or (2) there is risk sufficient to warrant additional investigation. Alternatively, the Environmental Professional may include a similar statement to this effect.

“Phase II Environmental Site Assessment” (Phase II ESA) means an Environmental Investigation, which at a minimum, is conducted by an Environmental Professional in accordance with the most recently adopted standard for a Phase II ESA process established by ASTM International, currently ASTM E1903-97 (2002). SBA will recognize a Phase II ESA conducted in accordance with generally-accepted industry standards of practice and consisting of a scope of work that would be considered reasonable and sufficient to identify the presence, nature and extent of a Release.

“Records Search with Risk Assessment” means and includes (1) a search of the government databases for an AAI compliant Phase I as well as a search of historical use records (for example, aerial photography, city directories, reverse directories and/or fire insurance maps) pertaining to the Property and Adjoining Properties; and (2) a risk assessment by an Environmental Professional based on the results of the records search as to whether the Property is either “low risk” or “elevated risk” or “high risk” for Contamination. The choice of historical records to be reviewed on any particular site is at the discretion of the Environmental Professional. The report must identify by name the Environmental Professional that performed the risk assessment. (Note that this report need not be addressed to the SBA and need not be accompanied by a Reliance Letter.) A Records Search with Risk Assessment may be considered if it was completed up to one year prior to submission.

“Transaction Screen” means an Environmental Investigation pursuant to the most recently adopted standard practice for limited environmental due diligence established by ASTM International, currently ASTM E1528-06. The basic elements of a Transaction Screen include: (1) an interview with the owner or operator of the Property; (2) a visit to the Property; (3) completion of an environmental questionnaire, and (4) a review of government records and historical sources. Additionally, SBA requires that an Environmental Professional supervise the site reconnaissance and conclude either (a) the risk of contamination at the site is so minimal that no further investigation is warranted; or (b) there is risk sufficient to warrant additional investigation. Alternatively, the Environmental Professional may include a similar statement to this effect. If further investigation is warranted, the Environmental Professional should provide a detailed description of the recommendation. A Transaction Screen may be considered if it was completed up to one year prior to submission.