Summary of Chapter 9 Updates

90% of the proposed Chapter 9 MAP changes incorporate established policy into the guide (e.g. including the OEE “Balcony Memo” that allows balconies at a noise impacted site and updating the radon section with the latest radon standards as per Pat Burke’s 2018 memo) or clarify issues with no policy change. The remaining 10% are proposed policy changes. This summary document highlights the proposed policy changes along with some of the clarifications.

HEROS

Proposed MAP update makes it mandatory for lenders and third parties to submit their environmental reports directly into HEROS. It is currently strongly encouraged but optional.

Aggregation

Proposed MAP update includes new language on aggregation to set a national approach on what should be defined as the project for Multifamily FHA applications.

New language added to the section on Phase 1 reports for non-collateral aggregated parts of the project. “Remediation would be required for non-collateral areas only to the extent the hazard could affect the health and safety of occupants or conflict with the intended utilization of the property.”

Levels of Review

Proposed MAP update expands the levels of review section to include all types of Multifamily insurance; to clarify that 221(d)(4) substantial rehab projects are not always an EA level review; and to incorporate guidance that 223(f) projects are CEST even if they include ground disturbance.

Choice Limiting Actions

Proposed MAP update moves the federal nexus for Choice Limiting Actions from ‘initial contact’ to the application date (or pre-application if lenders are using the 2-step application process). At the same time, the proposed update clarifies that no construction activities can take place on the site after the concept meeting. This section also clarifies that ‘early starts’ are only allowed after a HEROS review.

Proposed MAP update removes acquisition from the list of choice limiting activities.

Proposed MAP update adds provision for existing multifamily properties to continue normal operations during the FHA application process.

ECO Review and Comment

Proposed MAP update removes the requirement for review and comment for sites in the normally unacceptable noise zone.

ECO Technical Assistance for Sites with Contamination or Floodways

Proposed MAP update strongly encourages MF staff to consult with OEE field staff on projects that have site contamination and/or include a floodway. This consultation is different from the ‘review and comment’ requirement and would take place as early as possible in project processing. These two
issues are the most complex for HUD staff to assess and are the riskiest for residents and to the insurance fund.

**Alternatives**

Proposed MAP updates clarify that alternative analysis for federal agencies considering applications consists of the action as proposed, modifications within the site controlled by the applicant, or no action (i.e. rejection of the application).

**Reconfiguring of MAP Chapter 9**

Proposed MAP updates reorder sections 9.3, 9.4 and 9.5 to more clearly show that contamination is a part of the HEROS review, not a separate requirement.

**Contamination**

The proposed MAP update includes a new section for projects on or adjacent to Superfund NPL sites. The new language was crafted with input from EPA and seeks to give additional guidance on NPL site characterization and the types of documents EPA can provide.

The Proposed MAP update includes a new requirement for Under Ground Storage Tank testing. This requirement will bring the MAP guide in line with the 232 Handbook.

**Asbestos**

Proposed MAP update to replace the current requirement to remove friable or damaged asbestos with a more flexible risk-based approach. This change would align MAP with industry standards as well as with the 232 Handbook.

Proposed updates to bring MAP guidance in line with EPA requirements including removing the 1978 threshold date for Asbestos Testing and requiring pre-construction surveys for substantial rehabilitation, not just demolition.

**Radon**

Proposed MAP update to remove the exemption to the testing requirement for 223(f) projects located in EPA Zone 3. There are four reasons to make this change in policy.

a. Radon concentrations are site specific and the risk cannot be adequately determined based on EPA radon zones. EPA specifically notes that the zone designations should not be used as a determinate in the testing decision.

b. Freddie Mac does not allow EPA Zone 3 testing exemptions. Freddie Mac guidance states: “We generally expect radon to be tested on every property. While there may be limited legitimate reasons that Freddie Mac will consider for waiving radon testing, location in a particular EPA zone is not among them.”

c. The 232 Program does not allow EPA Zone 3 testing exemptions. Updating the MAP guide would align the two Housing programs.

d. The data submitted by Jane Malone, National Policy Director at the American Association of Radon Scientists and Technologists, suggests that HUD’s Zone 3 exemption may miss up to 33% of projects with radon over 4 pci/l—a gap that poses a health risk to our residents.
Proposed MAP update to eliminate the 25% sampling exception and require 100% ground floor testing as per the ANSI-AARST MAMF standard. This proposed change is based on data from the Jan 8, 2019 Antonio Neri paper “Evaluation of percentage-based radon testing requirements for federally funded multi-family housing projects” and the preliminary data from the HUD-funded Michael Kitto study “Evaluating and Assessing Radon Testing in Housing with multifamily federal financing (EARTH Study).”

**Historic Preservation**

Housing and the Office of Environment and Energy are working on details of a delegation of authority to lenders and their authorized representatives to initiate consultation with SHPOS (but not tribes) in certain circumstances, including requirements for some submissions to be prepared by qualified historic preservation professionals. The language in Sections 9.6.D.5-7 will change accordingly when the delegation memo is finalized. A draft delegation memo for public review is posted on the drafting table as Chapter 9 Appendix B.

**Flood Insurance**

The MAP guide requires flood insurance for projects in the Special Flood Hazard Area (100-year floodplain or SFHA). A project located in the 100-year flood zone has a 26% chance of flooding over the life of a 30-year mortgage. A project located in the 500-year floodplain has a 6% chance of flooding over the life of a 30-year mortgage. According to FEMA, 20 - 25% of claims nationally are for properties located outside of the SFHA. MF Production Directors have seen extensive flooding in their regions and have requested discretion to require flood insurance for projects outside of the SFHA.

Proposed MAP update to require flood insurance for projects where a preliminary flood map or Advisory Base Flood Elevation (ABFE) indicates it will be in a Special Flood Hazard Area. Additionally, update to allow Housing Approving Officials the option to require flood insurance for buildings located:

- in the moderate flood hazard area (FEMA zones B or shaded X),
- on a parcel that includes a SFHA (including those considered incidental for floodplain management),
- in a coastal area subject to storm surge, and
- where topography or past flooding create a high risk for flood events.

The MAP guide will also increase the minimum amount of flood insurance required for properties located in the SFHA. This change will align the MAP guide with guidance already in the MF Asset Management Handbook and with the approach in HUD’s 232 and 242 programs. This change is in Chapter 3 of the MAP guide. The proposed new required is as follows:

- HUD requires flood insurance in an amount at least equal to the greater of:
  - The maximum flood insurance available for that type of property under the NFIP or
  - An amount equal to the replacement cost of the bottom two stories above grade, as determined by form HUD-92329 or equivalent.
Floodplain

1) Currently, the MAP Guide requires new construction in the 100-year floodplain to elevate 1 foot above base flood elevation (aka “1 foot of freeboard”). Proposed MAP update to revise this standard to require 2 feet of freeboard for both new construction and substantial improvement projects. This would not change the types of actions that would require elevation, as these actions already trigger elevation under National Flood Insurance Program regulations; the only change would be the height to which structures would be required to elevate.

Freeboard is currently required by 20 States plus the District of Columbia, Puerto Rico, and 596 localities. Due to the familiarity that many communities have with higher elevation standards, freeboard is seen as a very practical approach with documented history of application. The states and localities have a mix of 1-foot and 3-foot requirements; however, because HUD has required 2 feet of freeboard for Disaster Recovery-assisted projects for since 2013, this level of freeboard has been applied throughout all states that have received HUD disaster assistance for recent flood disasters.

2) Currently, the MAP guide discourages purchase or refinance if the lowest floor and/or the life support facilities, or ingress or egress of the existing building are more than 12 inches below the 100-year floodplain line. The proposed MAP update would eliminate the 12-inch qualifier. HUD still retains discretion in these cases; but this change would help MF staff more appropriately consider the risks from projects located in or surrounded by the floodplain.

3) Proposed MAP update adds restrictions to development in the FEMA Limit of Moderate Wave Action (LiMWA).

Noise

The proposed MAP updates add new language for sites Railroad Vibration, Noise and Location. This language brings the MAP guide in line with the 232 Handbook.

Explosive and Flammable Hazards.

The proposed MAP updates incorporate the new final rule conforming the ASD standards for residential propane tanks to industry standards.

All Laws and Authorities Included

The proposed MAP update removes existing section 9.5.O “Other Federal and State Laws” and replaces this with new sections on Wild and Scenic Rivers, Farmland, and the Clean Air Act. The state information is already covered in Section 9.1.B; and the language about mitigation on additional nuisances and hazards is moved to section 9.6.R (The old 9.5.P).
Pipelines

The 2016 MAP guide included confusing and impractical language on assessing pipeline hazards. The proposed updates include a clearer path for HUD staff and our partners with clear exemptions; a table projects can use to assess risk; and a requirement for a professional assessment for the riskiest pipelines. The table is included as Chapter 9 Appendix A.

Fall Distance

The proposed MAP update allows HUD to consider an exemption to the fall distance requirements for existing housing projects. The proposed language also states that for towers with a lattice structure, the maximum fall distance is 50% of the height of the tower.

Fracking

The proposed MAP update changes the fracking language to tie the risk to the distance from the fracking well pad (the location where the drilling takes place and the gas/oil extracted.) The fracking language also inserts a minimum distance of 300 feet from a well pad.

Environmental Assessments

Proposed MAP update expands the Environmental Assessment section of the MAP guide to provide clearer guidance on HEROS EA requirements.