



FEMA

W-14035

June 26, 2014

MEMORANDUM FOR: Write Your Own (WYO) Principal Coordinators and the National Flood Insurance Program (NFIP) Direct Servicing Agent (DSA)

FROM: David L. Miller  
Associate Administrator  
Federal Insurance and Mitigation Administration

SUBJECT: October 1, 2014 Refund Procedures – Sections 3 and 5 of the Homeowner Flood Insurance Affordability Act of 2014 (HR 3370)

The purpose of this memorandum is to provide notification of the refund procedures that the NFIP will implement beginning October 1, 2014, pursuant to Section 3 of the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA), Pub. L. No. 113-89 (March 21, 2014). Refund amounts will be determined using rates made available in Bulletin W-14026 issued on May 29, 2014. Section 3 of HFIAA requires FEMA to restore Pre-Flood Insurance Rate Map (FIRM) subsidized rates and issue refunds of excess premiums collected above the subsidized rate for:

- Pre-FIRM properties not insured when the Biggert-Waters Flood Insurance Act of 2012 (Biggert-Waters) was enacted;
- Pre-FIRM properties purchased after Biggert-Waters was enacted; and
- Policies for Pre-FIRM properties that were rated full-risk under Biggert-Waters due to a lapse in coverage, but only for policies where the lapse was due to a property owner no longer being required to purchase flood insurance.

The effective date of rate tables that implement premium changes required by Section 3 of HFIAA is July 6, 2012, which is the date Biggert-Waters was enacted.

With some exceptions, Section 5 of HFIAA prohibits FEMA from increasing premiums more than 15 percent a year within a single risk class and more than 18 percent for any individual policyholder. These exceptions include:

- Properties receiving Pre-FIRM subsidized rates subject to the 25 percent increases mandated by Biggert-Waters for non-primary residences, businesses, Severe Repetitive Loss properties (including cumulative loss properties), and substantially damaged or improved properties;
- Properties located in a community that loses its Community Rating System (CRS) standing;
- Increases in premium due to a decrease in the deductible or an increase of coverage; or
- Misrated properties.

Section 5 was effective on March 21, 2014, the date HFIAA was enacted. Prior to HFIAA, FEMA was authorized to increase rates within a single risk class by no more than 20 percent over a 12-month period, with no individual policy cap. Consequently, as of March 21, 2014, some rates contained in the October 1, 2013 rate tables may have exceeded the premium increase caps mandated by Section 5 of HFIAA for some Pre-FIRM subsidized policyholders, as well as some Post-FIRM and other full-risk-rated policyholders.

On April 15, 2014, FEMA issued Bulletin W-14014 requiring the NFIP DSA and WYO insurers to restore Pre-FIRM subsidized rates for Section 3 properties where policies were purchased or renewed after May 1, 2014. Bulletin W-14014 required that insurers use the October 1, 2013 Pre-FIRM subsidized rate tables for those policies.

On May 29, 2014, FEMA issued Bulletin W-14026 providing Section 5 compliant rates that are the same or lower than the October 1, 2013 premium rates for both Pre-FIRM subsidized policies and other policies. Bulletin W-14026 required the NFIP DSA and WYO insurers to use the Section 5–compliant rates for new and renewal business issuing effective October 1, 2014.

Today, FEMA is issuing a bulletin providing guidance to provide refunds required by Section 3 of HFIAA for policies eligible for Pre-FIRM subsidized rates issued on or after October 1, 2013, and on or before September 30, 2014. The refund procedures will also apply to policies not receiving Pre-FIRM subsidized rates that were effective on or after March 21, 2014, and on or before September 30, 2014, where the October 1, 2013 premium rates exceeded the premium increase caps mandated by Section 5 of HFIAA. The premium rates provided in Bulletin W-14026 on May 29, 2014, will continue to be used for new and renewal policies effective on or after October 1, 2014. In every case, these rates are the same or lower than the October 1, 2013 rates. FEMA will also utilize these same rate tables to calculate premium refunds to comply with Sections 3 and 5 of the HFIAA. Refunds will begin on October 1, 2014, and all refunds must be generated by December 31, 2014.

Detailed information is attached regarding the HFIAA premium refund process, including underwriting and accounting guidelines, the rate tables to be used to determine refund amounts, and modifications to the Transaction Record Reporting and Processing (TRRP) Plan, the Accounting Exhibits, and the Edit Specifications document.

For questions, please contact Joe Cecil at (202) 212-2067.

#### Attachments

cc: Vendors, IBHS, FIPNC, Government Technical Representative

Required Routing: Accounting, Data Processing, Underwriting, Marketing

**ATTACHMENT A**

**UNDERWRITING GUIDELINES**  
**OCTOBER 1, 2014 REFUND PROCEDURES**

**Underwriting Guidelines for**  
**HFIAA Section 3 and Section 5 Refund Procedures**

**Background**

**Section 3** of HFIAA requires FEMA to restore Pre-Flood Insurance Rate Map (FIRM) subsidized rates for:

- Pre-FIRM properties not insured when the Biggert Waters Flood Insurance Reform Act of 2012 (Biggert-Waters) was enacted;
- Pre-FIRM properties purchased after Biggert-Waters was enacted; and
- Policies for Pre-FIRM properties that were full-risk rated under Biggert-Waters due to a lapse in coverage, but only for policies where the lapse was due to a property owner no longer being required to purchase flood insurance (collectively referred to as “Section 3 properties”).

Section 3 of HFIAA also requires FEMA to refund premiums collected in excess of the Pre-FIRM subsidized rate for properties covered by Section 3. The effective date of Section 3 of HFIAA is July 6, 2012, which is the date Biggert-Waters was enacted.

**Section 5** of HFIAA prohibits FEMA from increasing premiums more than 15 percent a year within a single risk class and more than 18 percent for any individual policyholder, with some exceptions. These exceptions include:

- Properties receiving Pre-FIRM subsidized rates subject to the mandatory 25 percent increases mandated by Biggert-Waters for non-primary residences, businesses, Severe Repetitive Loss properties (including cumulative loss properties), and substantially damaged or improved properties;
- Properties located in a community that loses its Community Rating System (CRS) standing;
- Increases in premium due to a decrease in the deductible or an increase of coverage; or
- Misrated properties.

Section 5 became effective on March 21, 2014, the date HFIAA was enacted. Prior to HFIAA, FEMA was prohibited from increasing rates within a single risk class by more than 20 percent over a 12-month period, with no policy cap. Consequently, as of March 21, 2014, some rates contained in the October 1, 2013 rate tables may have exceeded the premium increase caps mandated by Section 5 of HFIAA for some Pre-FIRM and Post-FIRM policyholders.

**Underwriting Guidelines for**  
**HFIAA Section 3 and Section 5 Refund Procedures**

**Replacement Rate/Premium Tables**

On May 29, 2014, FEMA issued Bulletin W-14026, which contained rate tables that are to be used to calculate premium refunds required under Section 3 of HFIAA. We provided a revised Rate Table 2A in Bulletin W-14031 dated June 19, 2014. To the extent a policyholder was charged a premium in excess of the premium increase caps mandated under Section 5 of HFIAA, FEMA will use these same rate tables to calculate refunds.

The chart below lists the rate and premium tables for replacement in the NFIP Flood Insurance Manual (FIM), or the Specific Rating Guidelines (SRG) used for “Submit for Rate” policies. The effective date of each table for calculating the refunds is provided, and the tables are included in Attachment B to this bulletin.

<b>Rate/Premium Table</b>	<b>Table and Page Number</b>	<b>Table effective date</b>
Emergency Program Rates	Table 1 – FIM Rate 1	October 1, 2013
Regular Program – Pre-FIRM	Table 2A – FIM Rate 2	October 1, 2013
Regular Program – Post-FIRM	Table 3A – FIM Rate 5	March 21, 2014
	Table 3B – FIM Rate 6	March 21, 2014
	Table 3C – FIM Rate 7	March 21, 2014
	Table 5 – FIM Rate 12	March 21, 2014
Regular Program – Pre-FIRM Condo	Table 3A – FIM Condo 10	October 1, 2013
	Table 4A – FIM Condo 14	October 1, 2013
Regular Program – Post-FIRM Condo	Table 4C – FIM Condo 16	March 21, 2014
	Table 4E – FIM Condo 18	March 21, 2014
Regular Program – Post-FIRM PRP	Table 4A – FIM PRP 8	March 21, 2014
	Table 4B – FIM PRP 9	March 21, 2014
	Table 4C – FIM PRP 10	March 21, 2014
Regular Program – Submit for Rate	SRG – Page 1-1	March 21, 2014
	SRG – Page 1-2	March 21, 2014
	SRG – Page 1-3	March 21, 2014
	SRG – Page 1-10	March 21, 2014
	SRG – Page 1-11	March 21, 2014
	SRG – Page 1-14	March 21, 2014
	SRG – Page 1-16	March 21, 2014

**Underwriting Guidelines for**  
**HFIAA Section 3 and Section 5 Refund Procedures**

**HFIAA Section 3 Premium Refund Requirements**

The following policies are eligible for a premium refund based on Section 3 of HFIAA (restoration of Pre-FIRM subsidized rates). Refunds for policies that are eligible for HFIAA Section 3 refunds are for policy terms that are effective October 1, 2013, or later.

- New policies effective on or after October 1, 2013, covering Pre-FIRM buildings newly insured on or after the date of enactment of BW-12 (July 6, 2012), that were charged full-risk rates, tentative rates, or provisional rates on or after October 1, 2013.

Requirements:

Policy Type: 11A – New Business

New/Rollover/Transfer Indicator: N

Original New Business Date: On or after October 1, 2013

Policy Effective Date: On or after October 1, 2013

Rated Flood Zone: Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30, D

Post-FIRM Indicator: N

Risk Rating Method: 1, 2, 6, 8, B, W, E, or S.

Property Purchase Date: Not applicable

Policy Assignment Type: Not applicable

Applicable Rate Table: Refer to FIM Chart

- Renewal policies covering Pre-FIRM buildings that were newly insured with Pre-FIRM subsidized rates on or after July 6, 2012, and before October 1, 2013, and that renewed on or after October 1, 2013, with full-risk rates, tentative rates, or provisional rates.

Requirements:

Policy Type: 17A – Renewal

New/Rollover/Transfer Indicator: N, T, R, or Z.

Original New Business Date: On or after July 6, 2012 and prior to October 1, 2013

Policy Effective Date: On or after October 1, 2013

Rated Flood Zone: Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30, D

Post-FIRM Indicator: N

Risk Rating Method: 1, 2, 6, 8, B, W, E, or S.

Property Purchase Date: Not applicable

Policy Assignment Type: Not applicable

Applicable Rate Table: Refer to FIM Chart

**Underwriting Guidelines for**  
**HFIAA Section 3 and Section 5 Refund Procedures**

- Policies covering Pre-FIRM buildings where the building was insured with Pre-FIRM subsidized rates prior to July 6, 2012, and the building was newly purchased on or after July 6, 2012, and where the policy was endorsed upon assignment, and was charged full-risk rates, tentative rates, or provisional rates effective on or after October 1, 2013.

Requirements:

Policy Type: 11A – New Business; 17A – Renewal; 20A – Endorsement;  
23A – Policy Correction used for Endorsement

New/Rollover/Transfer Indicator: N, R, Z or T

Original New Business Date: Prior to July 6, 2012

Policy Effective Date: After October 1, 2012 and before October 1, 2013 (for New Business and Renewal only)

Endorsement Effective Date: On or after October 1, 2013 (for Endorsement only)

Rated Flood Zone: Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30, D

Post-FIRM Indicator: N

Risk Rating Method: 1, 2, 6, 8, B, W, E, or S.

Property Purchase Date: On or after July 6, 2012

Policy Assignment Type: P

Applicable Rate Table: Refer to FIM Chart

OR

Requirements:

Policy Type: 11A – New Business; 17A – Renewal; 20A – Endorsement;  
23A – Policy Correction used for Endorsement

New/Rollover/Transfer Indicator: N, R, Z or T

Original New Business Date: Prior to July 6, 2012

Policy Effective Date: On or after October 1, 2013 (for New Business and Renewal only)

Endorsement Effective Date: On or after July 6, 2012 (for Endorsement only)

Rated Flood Zone: Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30, D

Post-FIRM Indicator: N

Risk Rating Method: 1, 2, 6, 8, B, W, E, or S.

Property Purchase Date: On or after July 6, 2012

Policy Assignment Type: P

Applicable Rate Table: Refer to FIM Chart

**Underwriting Guidelines for**  
**HFIAA Section 3 and Section 5 Refund Procedures**

- Policies covering Pre-FIRM buildings with Pre-FIRM subsidized rates prior to July 6, 2012, where the policy lapsed and was reinstated with a reinstatement effective date on or after October 4, 2012, and was subsequently charged full-risk rates, tentative rates, or provisional rates on or after October 1, 2013.

Requirements:

Policy Type: 17A – Renewal

New/Rollover/Transfer Indicator: N, R, Z or T

Original New Business Date: Prior to July 6, 2012

Policy Reinstatement Effective Date: On or after October 4, 2012

Policy Effective Date: On or after October 1, 2013

Rated Flood Zone: Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30, D

Post-FIRM Indicator: N

Risk Rating Method: 1, 2, 6, 8, B, W, E, or S.

Property Purchase Date: Not applicable

Policy Assignment Type: Not applicable

Applicable Rate Table: Refer to FIM Chart

- Policies renewing with Pre-FIRM subsidized rates effective on or after October 1, 2013, covering Pre-FIRM primary residence buildings originally insured before July 6, 2012, where continuous coverage with Pre-FIRM subsidized rates has been maintained.

Requirements:

Policy Type: 17A – Renewal

New/Rollover/Transfer Indicator: N, R, Z or T

Original New Business Date: Prior to July 6, 2012

Policy Effective Date: On or after October 1, 2013

Rated Flood Zone: Unnumbered A, AE, A1-A30, AH, AO, V, VE, V1-V30, D

Post-FIRM Indicator: N

Risk Rating Method: 1, 2, 6, 8, B, W, E, or S.

Property Purchase Date: Not applicable

Policy Assignment Type: Not applicable

Applicable Rate Table: Refer to FIM Chart



**Underwriting Guidelines for**  
**HFIAA Section 3 and Section 5 Refund Procedures**

**HFIAA Section 5 Premium Refund Requirements**

Policies meeting the following criteria are eligible for a premium refund based on Section 5 of HFIAA (policies exceeding the premium increase caps) for policy terms that are effective March 21, 2014, or later.

Requirements:

Policy Type: 11A New Business or 17A – Renewal

Policy Effective Date: On or after March 21, 2014

Post-FIRM Indicator: Y or N

Risk Rating Method: 1, 2, 6, 8, B, W, E, S, P, Q, or R

Applicable Rate Table: Refer to replacement rate/premium tables for changes

**Refund Procedures**

Section 3 and Section 5 HFIAA premium refunds may be completed by either a policy change endorsement, or by canceling and rewriting a policy. WYO insurers and the NFIP Direct Servicing Agent can begin issuing HFIAA refunds beginning October 1, 2014, and must complete issuing refunds by December 31, 2014. Insurers are required to refund any overpayment amount of \$1.00 or greater and must issue a revised Declaration page that shows the original premium amount and the new premium amount. Attached at the end of this procedure is a sample letter to be used to provide an explanation for the refund. Declarations must be mailed to the policyholder and any mortgagee. Refunds generated by the process must be mailed to the named insured on the policy, regardless of the payor.

**TRRP/Edit Specification HFIAA Premium Refund Requirements**

Transactions related to HFIAA premium refund processing (endorsement, cancellation, or rewritten new business) must be identified and reported through the Transaction Record Reporting and Processing (TRRP) Plan with a new HFIAA Indicator. Transactions reported with a “Y” in the HFIAA Indicator field will provide information for the financial reporting and Accounting Exhibits and will provide a means to identify transactions to track expense allowance and agent commission adjustments.

For HFIAA refunds being issued by the cancel/rewrite transaction process, in addition to the new HFIAA Indicator, a new cancellation reason code “25” is to be used for the cancellation itself. A policy that is canceled using reason code 25 will be required to have a rewritten policy issued. The full cancellation premium refund will be applied towards the rewritten policy. The HFIAA premium refund will be issued as an overpayment on the rewritten policy. The WYO expense allowance, including Unallocated Loss Adjustment Expenses (ULAE) and agent commission will be retained on the cancellation transaction, and will not be earned on the rewritten new business transaction. Cancel/rewrite transactions using reason code 25 must be effective on or after October 1, 2013. The rewritten policy (11A transaction) must be reported with a “Y” in the HFIAA Indicator field, allowing the insurer to report “zero amount” for expense allowance and agent commission on these transactions. See the Accounting Exhibits in Attachment C.

**Underwriting Guidelines for**  
**HFIAA Section 3 and Section 5 Refund Procedures**

For HFIAA refunds being issued by an endorsement transaction process, the new HFIAA Indicator will be used to identify those transactions. The WYO expense allowance and agent commission, including ULAE will be retained on the endorsement transaction. Endorsement transactions that have a HFIAA Indicator of “Y” must have an endorsement effective date on or after October 1, 2013.

Insurers may use standard business practices in determining whether to process HFIAA refunds by means of the cancel/rewrite or endorsement transaction processes. For HFIAA premium refunds that were issued between May 1, 2014, and October 1, 2014, using the subsidized rates for October 1, 2013, insurers may resubmit the transaction with the HFIAA Indicator of “Y” to obtain the expense allowance.

Updated TRRP and Edit Specification requirements (including requirements for the new HFIAA Indicator and examples of the new cancellation reason code) are attached to this Bulletin as Attachment D.

**Accounting Exhibits/Financial Reporting**

The insurer will not be compensated for issuing HFIAA premium refunds. However, compensation already earned through the implementation of BW-12 may be retained, including ULAE. Insurers will process the HFIAA premium refunds as they do other premium refunds. To retain the WYO Expense Allowance, use Exhibit IV, Line Number 427. The WYO insurer should attach a reconciliation worksheet with the monthly submissions disclosing the retained expense allowance due to HFIAA premium refund transactions reported in Line Number 427. The NFIP Direct Servicing Agent must complete a similar worksheet to disclose retained expense allowance and agent commission. Updated Accounting Exhibits and worksheets are provided in Attachment C to this Bulletin.

**HFIAA Premium Refunds for Canceled Policies**

If an HFIAA premium refund is due for the earned premium of a canceled policy, the refund may be issued on the earned premium. To process an HFIAA premium refund for a canceled policy, the request should be submitted to the NFIP Bureau (iService). The insurer may contact iService for guidance for submitting the transaction using the form provided at the end of Attachment C, Accounting Procedures.

**HFIAA Premium Refunds for Policies with Prior Claims**

If there is a pending or closed claim with a date of loss after October 1, 2013, on a policy eligible for an HFIAA premium refund, the claim must be stripped from the policy record prior to the change to the policy record. The claim must be reapplied to the endorsed or rewritten policy after the appropriate refund has been issued. A new HFIAA loss indicator must be used when the claim is resubmitted, indicating that the policy has been issued an HFIAA refund.

WYO companies can refer to the TRRP Plan – Part 10 (NFIP/WYO System Archiving) regarding procedures for the following:

**Underwriting Guidelines for**  
**HFIAA Section 3 and Section 5 Refund Procedures**

- Procedures to back out a claim transaction
- Procedures to back out a claim and restore claim history under a new policy number
- Procedures to back out an endorsement transaction

Unless applying Pre-FIRM subsidized rates to a policy that has been tentatively rated, when processing a refund by means of either an endorsement or a cancel/rewrite, coverage may not be increased retroactively by means of the endorsement, even when additional coverage was requested at the time of application. Increases in coverage are subject to the 30-day waiting period required by law (42 U.S.C. 4013 (c)), except when requested in connection with the making, increasing, extension, or renewal of a loan, or when requested during the 13-month period following a map revision.

**Coverage for Tentatively Rated Policies**

For policies effective on or after October 1, 2013, that are tentatively rated and are eligible for HFIAA premium refunds, coverage may be increased to the amount of coverage that was originally requested without the 30-day waiting period. Increases in coverage on policies that were not rated using tentative rates are subject to the 30-day waiting period.

**Optional Rating**

When the full-risk premium is more favorable to the insured than the Pre-FIRM subsidized rate (due to annual increases of no less than 5 percent, and no more than 25 percent for certain groups of policies), the Risk Rating Method must be changed to a “B” if the elevation of the lowest floor is at or above the Base Flood Elevation (BFE), or a “W” if the elevation of the lowest floor is below the BFE. Special Rate Consideration provided to certain buildings with the lowest floor below BFE should be reported with a Risk Rating Method of “E” as outlined in the Specific Rating Guidelines.

Because HFIAA continues to phase-out Pre-FIRM subsidies over time, insurers must retain elevation information provided by a policyholder and compare the full-risk premium to the Pre-FIRM subsidized premium at each policy transaction, until full-risk premium rates are achieved.

**Other TRRP Changes**

- Claim Reserves

A new data element for Claim Reserves will become effective October 1, 2014.

- Valid Policy Data Element

The effective date for the Valid Policy Indicator data element has been changed from October 1, 2014, to January 1, 2015.

IMPORTANT NOTICE REGARDING YOUR  
NATIONAL FLOOD INSURANCE PROGRAM (NFIP) POLICY

Thank you for purchasing and maintaining flood insurance to protect your property and your financial well-being. As a result of recent changes to the law, you are eligible for a refund of a portion of the flood insurance premium increase you have been paying.

The Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) was signed into law by President Obama on March 21, 2014. This law makes changes to the National Flood Insurance Program (NFIP) by repealing and modifying some provisions of previous legislation, the Biggert-Waters Flood Insurance Reform Act of 2012, including repealing certain rate increases that already went into effect. As a result, you are eligible for a flood insurance premium refund on your NFIP policy.

The refund of premium is due to policyholders where the Homeowner Flood Insurance Affordability Act:

- Restores the subsidized rate for flood policies covering Pre-Flood Insurance Rate Map (FIRM) buildings whose owners were required to pay the full-risk rate because the building was newly insured or newly purchased effective on or after July 6, 2012, or for coverage effective on or after October 4, 2012, that reinstated a policy covering a Pre-FIRM building.
- Reduces the premium for most flood policies that increased more than 18 percent effective on or after March 21, 2014.

Notes:

- (1) The National Flood Insurance Act of 1968 authorized the use of rates that were less than the full-risk premium rate determined by actuarial principles for buildings constructed before a community adopted the initial Flood Insurance Rate Map into local building ordinance. These discounted rates are considered subsidized.
- (2) The 18-percent cap on flood insurance premium increases does not apply to certain subsidized flood policies covering buildings in the following categories: (1) Non-Primary residences, (2) Businesses, or (3) Severe Repetitive Loss properties.

Refunds will not apply to those policies where the full-risk rate is less than the subsidized rate.

*Either [determined by WYO]:*

Enclosed is your premium refund as required by the Homeowner Flood Insurance Affordability Act and as instructed by the Federal Insurance and Mitigation Administration (FIMA) of the Federal Emergency Management Agency (FEMA). A revised flood insurance policy declarations page is also enclosed, indicating the premium refund and the revised annual premium.

*Or:*

Enclosed is your premium refund as required by the Homeowner Flood Insurance Affordability Act and as instructed by the Federal Insurance and Mitigation Administration (FIMA) of the Federal Emergency Management Agency (FEMA). You will also receive a revised flood policy declarations page indicating the premium refund and the revised annual premium.

If you have questions, please contact your agent or Write Your Own Insurance Company.

cc: agent & mortgagee (if applicable)

SAMPLE

# Questions and Answers Regarding the Rates for October 1, 2014 and Refunds

## Questions and Answers Regarding Section 3 of HFIAA

### **1. What does Section 3 of the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) require of FEMA?**

On March 21, 2014, President Obama signed the Homeowner Flood Insurance Affordability Act of 2014 (HFIAA), Pub. L. No. 113-89 (March 21, 2014). Section 3 of HFIAA repeals and amends Section 100205(g) of the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12), Pub. L. 112-141 (July 6, 2012).

HFIAA requires FEMA to restore Pre-Flood Insurance Rate Map (FIRM) subsidized rates for: (a) Pre-FIRM properties not insured when the BW-12 was enacted; (b) Pre-FIRM properties purchased after BW-12 was enacted; and (c) policies for Pre-FIRM properties that were rated full-risk under BW-12 due to a lapse in coverage, but only for policies where the lapse was due to a property owner no longer being required to purchase flood insurance.

The effective date of Section 3 of HFIAA is retroactive to the date BW-12 was enacted – July 6, 2012. However, the provisions that Section 3 repeals were first implemented with policies effective October 1, 2013. Section 3 requires FEMA to refund premiums collected in excess of the Pre-FIRM subsidized rate for properties covered by Section 3. The refunds will be effective on the policy effective date on or after October 1, 2013. The date that the refunds will begin to be released is October 1, 2014, and refunds must be issued by December 31, 2014.

### **2. How is Section 3 of HFIAA, as described above, related to the rates for October 1, 2014?**

The premium rates for new and renewal policies effective on or after October 1, 2014, will also be used to determine the refund amounts required by Section 3 of HFIAA.

### **3. Has FEMA already stopped requiring Elevation Certificates for new Flood Insurance purchased for Pre-FIRM buildings and stopped charging full-risk rates for applications for Pre-FIRM properties?**

On April 15, 2014, FEMA issued Bulletin W-14014, providing interim guidance to insurers to stop charging full-risk rates for all types of Pre-FIRM properties covered by Section 3 of HFIAA. That Bulletin permitted the use of the October 1, 2013, Pre-FIRM subsidized rates for Pre-FIRM buildings being newly purchased or newly insured or renewing coverage on or after May 1, 2014. Pre-FIRM subsidized rates allow a premium calculation without the use of the Elevation Certificate. Policies receiving subsidized rates that have lapsed and are reinstated on or after May 1, 2014, by a payment received within 90 days of expiration may also use the subsidized rates.

On May 29, 2014, FEMA issued Bulletin W-14026, providing the rates for new and renewal policies effective October 1, 2014. In every case, the rates for October 1, 2014, are the same or lower than the rates for October 1, 2013.

## Questions and Answers Regarding the Rates for October 1, 2014 and Refunds

The refund procedures required by Section 3 of HFIAA will allow FEMA to restore subsidized rates and reimburse those who already paid full-risk rates between October 1, 2013 and April 30, 2014. However, FEMA received no authorization or funding to reimburse the policyholders the cost of obtaining an Elevation Certificate.

### **4. Who will receive the refunds under Section 3?**

Owners of Pre-FIRM buildings newly purchased or newly insured on or after July 6, 2012, may be entitled to a refund for the policy year beginning on or after October 1, 2013 (the date that FEMA implemented Section 100205(g) of BW-12). The rates for October 1, 2014, will be used to determine refund amounts for those policyholders affected by Section 100205(g) for whom the full-risk rates produced a higher premium than the amount of premium that would be determined using the October 1, 2014, Pre-FIRM subsidized rate tables.

In implementing Section 100205(g) of BW-12, which required full-risk rates when a policy deliberately lapsed and was reinstated 90 days or more after the enactment of BW-12 (October 4, 2012), FEMA applied the full-risk rates to all reinstatements of coverage by a payment received after the 30-day grace period, but less than 90 days after the expiration that resulted in a lapse. No procedure was developed to determine whether mandatory purchase was a factor in the reinstatement of coverage. Moreover, no procedures have been developed to determine if a new business application reinstates coverage for a property owner who allowed coverage to expire more than 90 days prior. Thus, FEMA will use the rate tables for October 1, 2014, to determine if refunds are due using subsidized rates for policies effective on or after October 1, 2013, that had lapsed and were originally reinstated on or after October 4, 2012, by a payment received within 90 days of expiration. The procedure to identify the reinstatement of coverage following a lapse that was due to a property owner no longer being required to purchase flood insurance will be implemented at a later date, and such reinstatements will be subject to full-risk rating.

Additionally, some of the Pre-FIRM subsidized rates and full-risk rates for October 1, 2013, when compared to the rates for October 1, 2012, exceed new premium caps imposed by Section 5 of HFIAA. Section 5 will be addressed more fully in subsequent questions. However, some policyholders who will receive refunds were not impacted by subsidy elimination under Section 100205(g) of BW-12 and are not covered by Section 3 of HFIAA, but did exceed the revised cap imposed by Section 5 of HFIAA.

### **5. If an NFIP policy cancelled or expired prior to the implementation of the refund procedure, will a policyholder who would have been eligible for a refund receive a refund for the earned portion of the premium eligible for refund? For example, if a policy effective in October of 2013 was cancelled due to property sold in January of 2014, will there be a refund for the period the property was covered between October of 2013 and January of 2014?**

## **Questions and Answers Regarding the Rates for October 1, 2014 and Refunds**

Yes. A refund for the earned portion of the premium will be generated if a policy otherwise eligible for a refund was cancelled or expired prior to the implementation of the refund procedure.

### **6. Why are refunds scheduled for October 1, 2014, through December 31, 2014, if the rates used to determine the refunds were already available on May 29, 2014?**

In addition to developing the rates used to determine the refund, FEMA must develop guidance for insurers to ensure that the refunds are issued accurately and in a timely manner. This guidance includes underwriting and accounting guidelines, and involves modifications to the procedures used by the insurers to report policy and financial information to FEMA.

### **7. Why aren't refunds scheduled to begin until October 1, 2014?**

The law provides FEMA 6 months to develop the underwriting and accounting guidelines to WYO Insurance Companies, including modifications to the procedures used by the insurers to report policy and financial information to FEMA. FEMA has worked aggressively to shorten the timeline to develop these procedures. While FEMA released refund guidance on June 26, 2014, the insurance companies require time to update their systems and provide notice to policyholders.

### **8. Will insurance companies be compensated for implementing Section 3 of HFIAA?**

Insurers will not be compensated for implementing Section 3 of HFIAA. However, in exchange for implementing Section 3 of HFIAA in a timely manner, insurers will not be required to return the compensation received for implementing those provisions of BW-12 that HFIAA repeals.

### **9. If a policy was issued with reduced coverage based on full-risk premium rates, should coverage be restored to the original requested amount before issuing a refund based on the restoration of Pre-FIRM subsidized rates?**

No. If coverage was reduced on the basis of the premium amount submitted under full-risk rating, the refund should be determined on the basis of the coverage amount issued. The refund may be applied to a coverage increase at the policyholder's request, with a standard 30-day waiting period, as required by law.

### **10. What rate increases were included in the rates for October 1, 2014?**

The rates for October 1, 2014, are the same or lower than the rates for October 1, 2013. There are no increases in the rates for October 1, 2014, compared to October 1, 2013.



# Questions and Answers Regarding the Rates for October 1, 2014 and Refunds

## Questions and Answers Regarding Section 5 of HFIAA

### **11. What is required by Section 5 of HFIAA?**

Section 5 of HFIAA changes the maximum premium increases that can be applied for most NFIP policies. With some exceptions, Section 5 of HFIAA prohibits FEMA from increasing premiums more than 15 percent per year within a single risk class and more than 18 percent for any individual policyholder. These exceptions include:

- Some properties receiving Pre-FIRM subsidized rates are subject to the 25-percent annual increases mandated by Biggert Waters – non-primary residences, businesses, Severe Repetitive Loss properties (including cumulative loss properties), and substantially damaged or improved;
- Properties that are located in a community that loses its Community Rating System standing;
- Premium increase that result from a decrease in the deductible or an increase of coverage; or
- A property that was misrated.

Section 5 became effective on March 21, 2014, the date HFIAA was enacted.

### **12. Does Section 5 of HFIAA only apply to Pre-FIRM subsidized premium rates?**

No. BW-12 allowed average premium increases up to 20 percent for all rating classes, with no per policy cap. While many of the October 1, 2013 premium rates were consistent with Section 5 of HFIAA, some premiums exceeded the new 18-percent-per-policy premium cap. As revised to comply with HFIAA, rates provided for October 1, 2014, are the same or lower than the October 1, 2013 rates developed under BW-12. For policies with premiums exceeding the premium cap effective on after the enactment of HFIAA (March 21, 2014), a refund will be issued.

### **13. What are Severe Repetitive Loss (SRL) properties and “cumulative loss” properties?**

The Flood Insurance Reform Act of 2004, Public L. 108-264, Section 102, as amended, and Title 44 of the Code of Federal Regulations, Part 79.2, provide the authority for SRL properties. An SRL property is defined in the SRL Section of the NFIP Flood Insurance Manual as an NFIP-insured property that meets at least one of the following criteria since 1978, regardless of ownership:

- Four or more separate claim payments of more than \$5,000 (including building and contents payments); or
- Two or more separate claim payments (building payments only) where the total of the payments exceeds the current value of the property.

In either scenario, two of the claim payments must have occurred within 10 years of each other. Multiple losses at the same location within 10 days of each other are counted as one loss, with the payment amounts added together.

## Questions and Answers Regarding the Rates for October 1, 2014 and Refunds

A “cumulative loss” property is a property meeting the criteria of the second bullet above, and is considered a subset of the SRL properties.

**14. The Pre-FIRM subsidized rates have decreased in the non-residential category on Table 2A for October 1, 2014, compared to October 1, 2013. This category includes businesses. Why have the rates decreased?**

Effective October 1, 2013, rates for non-residential structures, including businesses, were increased 25 percent. Until business structures are separated from other non-residential structures within the category, the subsidized premiums for policies within the non-residential category will comply with the 18-percent-per-policy cap on premium increases outlined in Section 5 of HFIAA. We expect guidance on business identification to be released in Fall 2014.

**15. Will the premium surcharges required by Section 8 of HFIAA apply to new and renewal policies after October 1, 2014?**

The premium surcharges required by Section 8 of HFIAA will not be implemented on October 1, 2014, but will be implemented when annual premium increases are resumed in early 2015. The surcharge is \$25 for primary residences and \$250 for all other properties. The surcharge is not subject to the premium caps imposed by Section 5 of HFIAA.

**16. Can premiums increase more than 18 percent for a policy that is not receiving Pre-FIRM subsidized rates?**

Yes. Under Section 5 of HFIAA, the 18-percent per policy cap on premium increases does not apply to the correction of a misrating, a downgrade in the Community Rating System class, or premium increases associated with changes to coverage amounts or deductibles.

**17. Is a property insured with a Preferred Risk Policy (PRP) that becomes ineligible for the PRP due to loss history subject to the 18-percent-per-policy premium cap when converting to standard X-zone rating?**

No. A renewal under the PRP for a property that does not meet loss history requirements is considered a misrating and must be corrected.