



Report to the Ranking Member,
Committee on Financial Services,
House of Representatives

February 2015

FLOOD INSURANCE

Status of FEMA's Implementation of the Biggert-Waters Act, as Amended

GAO Highlights

Highlights of [GAO-15-178](#), a report to the Ranking Member, Committee on Financial Services, House of Representatives

Why GAO Did This Study

NFIP, which is administered by FEMA, has faced significant financial and management challenges over the years. The Biggert-Waters Act, enacted in July 2012, instituted provisions to help strengthen NFIP's future financial solvency and administrative efficiency. For example, it required FEMA to phase out almost all discounted insurance premiums and establish a reserve fund. As implementation proceeded, however, affected communities raised concerns about some Biggert-Waters Act requirements. HFIAA was enacted in March 2014 and sought to address affordability concerns by repealing or altering some Biggert-Waters Act requirements. GAO was asked to examine the status of FEMA's implementation of the requirements established by the Biggert-Waters Act, as amended by HFIAA.

This report describes (1) FEMA's management of the acts' implementation and associated challenges and (2) the status of FEMA's implementation of selected requirements from the acts. GAO analyzed the Biggert-Waters Act and HFIAA; reviewed FEMA information on the prioritization and tracking of implementation efforts in relation to relevant internal control standards; and reviewed data and documentation on FEMA's status in implementing the Biggert-Waters Act, as amended by HFIAA, in relation to established time frames. Finally, GAO interviewed FEMA officials and representatives from 10 organizations with flood insurance expertise who were selected based on experience and type of organization.

View [GAO-15-178](#). For more information, contact Alicia Puente Cackley at (202) 512-8678 or cackleya@gao.gov.

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What GAO Found

The Federal Emergency Management Agency (FEMA) has established some practices for managing its implementation of required changes under the Biggert-Waters Flood Insurance Reform Act (Biggert-Waters Act), as amended by the Homeowner Flood Insurance Affordability Act (HFIAA). Consistent with related federal internal control standards, FEMA has collaborated with stakeholders on prioritizing legislative requirements and developed methods to track the status of its implementation efforts. For example, FEMA formed a team of key staff to oversee these efforts and monitor progress through a tracking document that is updated regularly. However, FEMA and representatives of organizations with flood insurance expertise cited a number of challenges that FEMA faces in implementing the new requirements, including resource issues, the complexity of the legislation, and the need to balance the National Flood Insurance Program's (NFIP) financial solvency and affordability goals.

FEMA estimated that it had met requirements to complete almost half of Biggert-Waters Act sections and about one-third of HFIAA sections as of December 2014, and was taking action on others, including required studies. For example,

- FEMA prioritized and implemented important HFIAA rate changes that repealed some Biggert-Waters Act rate increases and also initiated refunds to policyholders. However, data limitations have delayed implementation of some other requirements. For example, FEMA is required to make rate changes for business properties. Currently, FEMA cannot distinguish among nonresidential property policies for businesses, nonprofits, and others. FEMA anticipates collecting more specific data in late 2015 that will allow it to make the required adjustments.
- As required by the Biggert-Waters Act, FEMA established the Technical Mapping Advisory Council (TMAC), which held its first meeting in September 2014, and anticipates implementing additional Biggert-Waters Act mapping requirements over the next several years.
- FEMA reported that it had almost fully implemented Biggert-Waters Act mitigation assistance requirements and had begun researching alternative mitigation methods, as required by HFIAA.
- FEMA had also begun implementing outreach and affordability requirements, including establishing an interim Office of the Flood Insurance Advocate.

FEMA also made progress in providing mapping-related notifications to Congress. FEMA is considering methods for providing access to any available property-level data to policyholders that would help clearly communicate flood risk. FEMA has taken some action on an affordability study that the two laws require, but data challenges have delayed progress. The study is required to analyze the impact of eliminating all discounted NFIP premiums (such as subsidized premiums), but FEMA cannot identify all properties that are receiving the discounts. In February and September 2015, the National Academy of Sciences is to deliver two reports that identify approaches for an NFIP affordability framework and nationwide affordability study, respectively.

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Abbreviations

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| BFE | base flood elevation |
| BWA | Biggert-Waters Act |
| FEMA | Federal Emergency Management Agency |
| FIMA | Federal Insurance and Mitigation Administration |
| FIRM | Flood Insurance Rate Map |
| FMA | Flood Mitigation Assistance Program |
| HFIAA | Homeowner Flood Insurance Affordability Act |
| NAS | National Academy of Sciences |
| NFIP | National Flood Insurance Program |
| RFC | Repetitive Flood Claims |
| Risk MAP | Risk Mapping, Assessment, and Planning program |
| SFHA | special flood hazard area |
| SRL | Severe Repetitive Loss |
| TMAC | Technical Mapping Advisory Council |
| Treasury | Department of the Treasury |
| WYO | Write Your Own |

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February 19, 2015

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Dear Ms. Waters:

The vast majority of natural disasters within the United States have involved flooding, making flood damage one of the most costly hazards for American homeowners. The National Flood Insurance Program (NFIP) plays a critical role in the federal government's efforts to minimize the damage and financial impact of floods. NFIP was established in 1968 as an alternative to providing direct disaster relief after floods and was intended to reduce the federal government's escalating costs for repairing flood damage after disasters.¹ The Federal Emergency Management Agency (FEMA) within the Department of Homeland Security, which administers NFIP, makes federally backed flood insurance available to property owners in qualifying communities. In fiscal year 2014, NFIP collected about \$3.8 billion in premiums and insured approximately \$1.3 trillion in property.²

NFIP has faced significant ongoing financial and management challenges over the years. In recent years, claims related to major weather events, especially the 2005 and 2012 hurricanes, have required FEMA to borrow funds from the Department of the Treasury (Treasury). As of December 31, 2014, FEMA owed Treasury \$23 billion. FEMA made a \$1 billion principal repayment at the end of December 2014—FEMA's first such payment since 2010.³ Further, our prior reports on NFIP have identified significant management challenges that FEMA faces in administering the program, including strategic and human capital planning; collaboration

¹The National Flood Insurance Act of 1968 established NFIP. Pub. L. No. 90-448, Tit. XIII, § 1301 et seq., 82 Stat. 476, 572 (1968).

²FEMA has reported that there are approximately 5.6 million policies under NFIP.

³In September 2014, FEMA's largest loan from Treasury was refinanced into three smaller loans with higher interest rates, and FEMA will have higher payments on its debt.

among offices; and records, financial, and acquisition management.⁴ As a result of its debt exposure and management challenges, the program has been on GAO's High-Risk list since 2006.⁵

The Biggert-Waters Flood Insurance Reform Act (Biggert-Waters Act), enacted in July 2012, instituted provisions to help strengthen the future financial solvency and administrative efficiency of NFIP.⁶ For example, it required FEMA to phase out almost all discounted insurance premiums and establish a reserve fund.⁷ In April 2014, we reported that FEMA had begun implementing some of the changes required by the Biggert-Waters Act but had yet to complete a number of important actions.⁸ As implementation proceeded, however, affected policyholders raised concerns about some Biggert-Waters Act requirements, particularly the rate increases that resulted from the phasing out of subsidies. In March 2014, Congress passed and the President signed into law the Homeowner Flood Insurance Affordability Act (HFIAA).⁹ HFIAA sought to address affordability concerns by repealing or altering some Biggert-Waters Act requirements, including provisions that phased out some discounted premiums.

⁴GAO, *FEMA: Action Needed to Improve Administration of the National Flood Insurance Program*, [GAO-11-297](#) (Washington, D.C.: June 9, 2011) and *Overview of GAO's Past Work on the National Flood Insurance Program*, [GAO-14-297R](#) (Washington, D.C.: Apr. 9, 2014).

⁵Every 2 years, we provide Congress with an update on our High-Risk Program, which highlights major areas that are at high risk for fraud, waste, abuse, or mismanagement, or need broad reform. See GAO, *High-Risk Series: An Update*, [GAO-15-290](#) (Washington, D.C.: Feb. 11, 2015).

⁶Pub. L. No. 112-141, 126 Stat. 405, 916 (2012).

⁷Pub. L. No. 112-141, §100205, 100212, 126 Stat. 405, 917, 922 (2012), codified as amended at 42 U.S.C. § 4014(a)(2) and (g), 42 U.S.C. § 4017a. Discounted insurance premiums include both subsidized and grandfathered policies. Generally, subsidized policies cover properties in high-risk locations that otherwise would have been charged higher premiums and that were built before Flood Insurance Rate Maps (FIRM) became available and their flood risk was clearly understood. Further, NFIP allows other property owners to continue to pay "grandfathered" rates, which do not reflect reassessments of their properties' flood risk that occur when the properties are remapped into higher-risk flood zones but whose policies continue to be classified with other policyholders from lower risk zones.

⁸[GAO-14-297R](#).

⁹Pub. L. No. 113-89, 128 Stat. 1020 (2014).

You asked us to examine the status of FEMA's implementation of the requirements established by the Biggert-Waters Act, as amended by HFIAA. This report describes (1) FEMA's management of the acts' implementation and associated challenges and (2) the status of FEMA's implementation of selected requirements, including whether the agency has met required time frames and established goals.

To address these objectives, we reviewed our prior related reports and other studies and analyzed relevant laws and regulations. To respond to the first objective, we obtained relevant FEMA documentation on implementation priorities and status and compared this information to appropriate federal internal control standards. We interviewed FEMA officials responsible for managing and executing FEMA's implementation of the Biggert-Waters Act, as amended by HFIAA. We also interviewed representatives from 10 organizations with flood insurance expertise to obtain input on key changes made by the Biggert-Waters Act and HFIAA and any implementation challenges. The 10 organizations were judgmentally selected based on criteria such as their breadth of experience and type of organization in order to obtain a broad range of views. Our interviews with these organizations provided further insights on the Biggert-Waters Act and HFIAA but are not generalizable to the flood insurance community as a whole.

To respond to our second objective, we identified Biggert-Waters Act and HFIAA requirements that FEMA was required to implement and obtained FEMA documentation on the status of its implementation of these requirements. We interviewed FEMA officials responsible for implementing the Biggert-Waters Act, as amended by HFIAA, and the representatives of the same 10 selected organizations discussed earlier. We selected requirements to review further based on our legislative analysis, our prior work, and initial interviews with FEMA.¹⁰ Where available, we obtained FEMA data relevant to the implementation of the requirements. We assessed the reliability of the data by interviewing knowledgeable officials about and reviewing documents on the sources of the data. We determined the data were sufficiently reliable for reporting on FEMA's progress in implementing Biggert-Waters Act and HFIAA requirements and for discussing the percentage of subsidized policies, estimates of future reserve fund contributions, and the amount of funding

¹⁰Appendix II contains a detailed chart of these requirements.

for FEMA's mapping and mitigation activities. Appendix I contains additional information on our scope and methodology.

We conducted this performance audit from March 2014 to February 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

NFIP Overview

In 1968, Congress created NFIP, which makes federally backed flood insurance available to property owners in qualifying communities.¹¹ NFIP was established as an alternative to providing direct disaster relief after floods and was intended to reduce the federal government's escalating costs for repairing flood damage after disasters. Currently, NFIP is managed by FEMA's Federal Insurance and Mitigation Administration (FIMA), with administrative support from FEMA's Mission Support Bureau. FIMA staff members are responsible for monitoring and overseeing NFIP's three program areas: insurance, flood mapping, and mitigation activities. Within FIMA, these areas of responsibility are overseen by the Risk Insurance Division, Risk Analysis Division, and Risk Reduction Division, respectively.

Private insurance companies, referred to as "Write Your Own" companies (WYO), write, sell, and service NFIP policies, which are financially backed by the federal government. FEMA funds NFIP primarily through the insurance premiums paid by policyholders but receives appropriations for some flood mapping and mitigation activities. NFIP premiums are to cover insurance claims and all program costs, including outreach, research, and operating expenses. When premiums are insufficient to cover these costs, FEMA may borrow money from Treasury, although Congress sets limits on the overall amount that FEMA may borrow.

¹¹Pub. L. No. 90-448, Tit. XIII, 82 Stat. 476, 572 (1968).

Insurance

As of December 2014, about 22,000 communities across the United States and its territories were voluntarily participating in NFIP by adopting and agreeing to enforce flood-related building codes and floodplain management regulations to reduce future flood damage. Homeowners with mortgages held by federally regulated lenders on property in special flood hazard areas (SFHA) are required to purchase flood insurance.¹² Others may purchase flood insurance voluntarily if they live in a participating community. NFIP establishes flood zone designations through its mapping process. SFHAs are high-risk areas that have a 1 percent or greater annual chance of flooding and are designated as A, AE, V, or VE zones.¹³

NFIP coverage limits vary by program (regular or emergency) and property type (for example, residential or nonresidential). In NFIP's regular program, the maximum coverage limits for residential policyholders are \$250,000 for buildings and \$100,000 for contents. For commercial policyholders (that is, those with policies for nonresidential properties and multifamily properties), the maximum coverage limit is \$500,000 per building and \$500,000 for the building owner's contents. Additional coverage is available for contents owned by tenants. NFIP differentiates two levels of coverage under the regular program—basic and additional. Because claims are more likely to be made against the first several thousand dollars of coverage than against higher levels of coverage, FEMA charges a higher insurance premium per \$100 of basic coverage than it does per \$100 of additional coverage.

FEMA uses a nationwide class rating system to determine premiums, rather than an individual property or community-level rating system. The premium that NFIP policyholders pay has several components, including

¹²Pub. L. No. 93-234, 87 Stat. 975 (1973). The Housing and Community Development Act of 1977 amended the 1973 Act to permit regulated lending institutions to make conventional loans in SFHAs of nonparticipating communities. The National Flood Insurance Reform Act of 1994 expanded the purchase requirement for federally backed mortgages on properties located in an SFHA.

¹³Areas designated as V or VE are located along the coast and are at risk of 3 foot or higher breaking waves. Areas designated as A or AE can be located along the coast or inland. Areas with a moderate-to-low risk for flooding are designated as B, C, or X zones. Areas where flood risk has not been determined by FEMA may be designated as D zones.

a risk component.¹⁴ The risk component varies among policyholders based on location and property characteristics such as flood zone designation (e.g., rate class), elevation of the property relative to the community's base flood elevation (BFE) (where data are available), building type, number of floors, presence of a basement, and the year a structure was built relative to the year of a community's original flood map.¹⁵

The 1968 law that created NFIP authorized subsidies for some policies to encourage community and property owner participation.¹⁶ Generally, subsidized policies cover properties in high-risk locations that otherwise would have been charged higher premiums and that were built before Flood Insurance Rate Maps (FIRM) became available and their flood risk was clearly understood. Further, NFIP allows other property owners to continue to pay "grandfathered" rates, which do not reflect reassessments of their properties' flood risk that occur when the properties are remapped into higher-risk flood zones but whose policies continue to be classified with other policyholders from lower-risk zones.¹⁷

Mapping

FIRMs serve several purposes. They provide the basis for setting insurance rates and identifying properties whose owners are required to purchase flood insurance. They also provide the basis for establishing floodplain building standards that communities must adopt and enforce as part of their NFIP participation. While FIMA's Risk Analysis Division is responsible for flood mapping activities and for flood mapping policy and

¹⁴In addition to the risk component, the premium's components include (1) applicable operating costs and allowances for carrying out NFIP's Federal Policy Fee (designed to recoup certain other administrative expenses of NFIP), (2) assessment to provide for NFIP's reserve fund, and (3) surcharge required by HFIAA Section 9.

¹⁵The BFE is the computed elevation to which floodwater is anticipated to rise during a flood that has an estimated 1 percent chance of occurring annually.

¹⁶Pub. L. No. 90-448, Tit. XIII, 82 Stat. 476, 572 (1968).

¹⁷FEMA does not categorize policies with grandfathered rates—rates that were not changed after properties were remapped into higher-risk flood zones—as "subsidized" because they are within classes of policies that are not subsidized for the class as a whole. However, FEMA officials acknowledged that property owners who obtain grandfathered rates are cross-subsidized by other policyholders in the same flood zone. That is, other policyholders pay higher rates to cover the shortfall in premiums from grandfathered policies not being charged rates that accurately reflect the flood risk.

guidance, stakeholders from all levels of government and the private sector participate in the mapping process. FEMA identifies flood hazards, assesses flood risks, and provides appropriate hazard and risk information to communities nationwide. FEMA relies on local governments to provide it with notice of changes in communities that can pose new or changed flood hazards and works with localities to collect the information needed to update flood maps.

Mitigation

FEMA supports a variety of flood mitigation activities that are designed to reduce flood risk and thus NFIP's financial exposure. These activities, which are implemented at the state and local levels, include hazard mitigation planning; the adoption and enforcement of floodplain management regulations and building codes; and the use of hazard control structures such as levees, dams, and floodwalls or natural protective features such as wetlands and dunes. Community-level mitigation funding is available through FEMA via grant programs such as the Flood Mitigation Assistance (FMA) Program. Through these programs, FEMA provides cost-sharing opportunities for communities for mitigation activities. At the individual property level, mitigation options include elevating a building to or above the area's BFE, relocating the building to an area with less flood risk, or purchasing and demolishing the building and turning the property into green space.

Recent Legislation

The Biggert-Waters Act

In July 2012, the President signed into law the Biggert-Waters Act to help strengthen the financial soundness of NFIP. The act mandated changes to several aspects of NFIP's three programmatic areas—insurance, mapping, and mitigation—and also required a study on affordability (see app. II for a detailed chart of selected requirements from the Biggert-Waters Act).

With respect to insurance, the Biggert-Waters Act required FEMA, among other things, to:

- create a reserve fund that would maintain at least 1 percent of the total annual potential loss exposure faced by NFIP based on outstanding flood insurance policies in force in the prior fiscal year;
- issue a report to Congress setting forth options to repay FEMA's total debt to Treasury within 10 years;

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- increase rates to phase out premium discounts for grandfathered properties that had been remapped to higher-risk flood zones but were still classified with other policyholders from the lower-risk zone;
 - increase rates (at 25 percent a year) to phase out subsidies for certain properties, including secondary residences, businesses, and severe repetitive loss properties;¹⁸
 - prohibit subsidized rates for properties purchased after or not insured as of July 6, 2012; and
 - develop a methodology for determining the appropriate amounts that WYOs should be reimbursed for selling, writing, and servicing NFIP policies and adjusting claims.

To improve the accuracy of FIRMs (which are used in rate setting), the Biggert-Waters Act required the creation of a Technical Mapping Advisory Council (TMAC) to review and provide recommendations on updating and improving community flood maps. In addition, Section 216 of the Biggert-Waters Act authorized funding for and established a national flood mapping program, under which FEMA was to review, update, and maintain rate maps in coordination with TMAC.¹⁹ With respect to mitigation, the Biggert-Waters Act amended aspects of FEMA's existing mitigation grants assistance programs. For example, Section 225:

- eliminated as independent programs a mitigation assistance grant program and a pilot program specific to repetitive insurance claims properties and severe repetitive loss properties, respectively;
- allowed for grants for eligible mitigation activities to be provided directly to policyholders under certain circumstances; and

¹⁸For single-family properties, severe repetitive loss properties are those that have incurred four or more claims payments exceeding \$5,000 each, with a cumulative amount of such payments over \$20,000; or at least two claims with a cumulative total exceeding the value of the property. For multifamily properties, FEMA will define the term by regulation. 42 U.S.C. § 4014(h).

¹⁹Pub. L. No. 113-141, § 100216. All Biggert-Waters Act section numbers begin with "100." For purposes of this report, we will only cite the last three unique numbers (e.g., Biggert-Waters Act Section 216).

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- allowed FEMA to pay a higher percentage of total costs for activities providing mitigation for severe repetitive loss properties than for mitigation activities for other properties covered by the grants program.

The Biggert-Waters Act also mandated that FEMA contract with the National Academy of Sciences (NAS) to conduct a study that would include an analysis of the costs and benefits to the federal government of a flood insurance program with full risk-based premiums that could be combined with a means-tested insurance voucher program for individuals who could not otherwise afford coverage. Under the Biggert-Waters Act, the NAS study can inform a FEMA affordability study, which includes methods to encourage and maintain participation in NFIP and methods to establish an affordability framework.

HFIAA

Concern over rapid rate increases implemented under the Biggert-Waters Act played a role in the enactment of HFIAA in March 2014. HFIAA repealed some of the rate increases implemented under the Biggert-Waters Act. However, the act also modified or continued some changes made by the Biggert-Waters Act to NFIP (see app. II for a detailed chart of selected requirements from HFIAA).

Among other things, HFIAA contained the following with respect to insurance:

- created a premium surcharge that would be deposited in the reserve fund (generally, a \$25 surcharge for primary residences and a \$250 surcharge for others);
- restored grandfathered rates removed by the Biggert-Waters Act, effective retroactive to the Biggert-Waters Act's enactment on July 6, 2012;
- did not affect the schedule for phasing out subsidized policies for properties such as secondary residences, businesses, and severe repetitive loss properties (rates would continue to increase at 25 percent a year);
- reinstated subsidized rates for properties that were purchased after or not insured as of July 6, 2012, that had been removed by the Biggert-Waters Act, but required that FEMA increase premium rates on these and many other types of subsidized policies by at least 5 percent up to the caps established by HFIAA for all policies annually;

-
- limited average increases for a risk class to 15 percent and individual policy increases to 18 percent; and
 - required FEMA to issue refunds directly to those who paid NFIP premiums under the Biggert-Waters Act in excess of rates set under HFIAA.

In the area of mapping, HFIAA added a requirement that TMAC review FEMA's flood mapping program and issue a report with respect to the technical credibility of flood hazard data in all areas where FIRMs are prepared or updated. FEMA is required to provide TMAC's review report to Congress. HFIAA also requires that FEMA notify affected communities before work begins on new or updated mapping about the model or models being used and provide an explanation of why that model is appropriate. Regarding mitigation, HFIAA required FEMA to establish guidelines to provide alternative mitigation methods, other than building elevation, to reduce flood risk to residential buildings that cannot otherwise be elevated due to their structural characteristics.

HFIAA also permitted additional funding to complete the affordability study, along with additional requirements to include, after which FEMA would be required to prepare and present to Congress an affordability framework that considered (1) accurate communication to consumers of flood risk; (2) targeted assistance to policyholders based on their financial ability to participate in NFIP; (3) individual or community actions to mitigate the risk of flooding or lower the cost of flood insurance; (4) the impact of increases in premium rates on participation; and (5) the impact of FIRMs on the affordability of flood insurance. HFIAA also required FEMA to designate a Flood Insurance Advocate to advocate for the fair treatment of NFIP policyholders and property owners in the mapping of flood hazards, the identification of risks from flood, and the implementation of measures to minimize the risk of flood.

FEMA Has Prioritized and Tracked Required Changes, but Faces Implementation Challenges

In managing its implementation of the Biggert-Waters Act, as amended by HFIAA, FEMA has prioritized its implementation of required changes, established internal mechanisms and indicators for communicating and tracking its implementation status, and regularly communicated its implementation efforts to key external stakeholders. These steps are consistent with relevant federal internal control standards.²⁰ However, FEMA faces a number of challenges related to the implementation of these laws, such as resource constraints and the need to balance NFIP's financial solvency with affordability, as well as existing organizational challenges that could affect its implementation efforts.

FEMA Has Prioritized, Tracked, and Communicated Its Implementation of the Biggert-Waters Act, as Amended by HFIAA

To manage its implementation of changes required by the Biggert-Waters Act and HFIAA, FEMA has:

- established implementation of the changes as a strategic objective in its 2014-2018 strategic plan;
- ranked the implementation of HFIAA requirements in terms of priority;
- established mechanisms for coordinating internally on prioritizing and tracking its implementation efforts; and
- communicated regularly with external stakeholders.

As well as making implementation of the changes an organizational priority within its strategic plan, FEMA has also prioritized legislative requirements for implementation. In its 2014-2018 strategic plan, FEMA established strategy 4.3.1, "Strengthen implementation by prioritizing NFIP reforms under the Biggert-Waters Act of 2012, the Homeowner Flood Insurance Affordability Act of 2014, and the Hurricane Sandy Rebuilding Task Force."²¹ Following the passage of HFIAA, FEMA officials stated that they met internally in a collaborative process to rank each section of the law in terms of implementation priority. The officials added that senior FEMA management, including the administrator, were informed of the outcomes of these sessions and consulted on priorities.

²⁰GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

²¹Within its 2014-2018 strategic plan, FEMA's fourth strategic priority is to "Enable Disaster Risk Reduction Nationally." FEMA's Objective 4.3 is to "Enhance the effectiveness, financial stability, and affordability of the National Flood Insurance Program."

FEMA officials also told us that in developing their implementation priorities they took into consideration input from external stakeholders, such as organizations with flood insurance expertise and experience, WYOs, and congressional representatives.

FEMA also delegated responsibility for implementation among divisions (Risk Insurance, Risk Analysis, and Risk Reduction) and FEMA's front office. FEMA's highest priority has been implementing rate changes required by HFIAA, including rate reductions that have resulted in refunds for some policyholders. This priority is consistent with the intent of HFIAA, which sought to address affordability concerns by postponing or repealing some Biggert-Waters Act requirements, including provisions that phased out some discounted premiums (subsidized and grandfathered rates). According to FEMA officials, other high-priority implementation efforts related to HFIAA include communicating flood risk more clearly to individual policyholders, as required by HFIAA Section 28; meeting mapping notification requirements (required by HFIAA Section 30); and designating the flood insurance advocate (required by HFIAA Section 24).

FEMA has established an integration team to oversee its implementation efforts and created regularly updated tracking documents and indicators to prioritize and track implementation. These indicators include numbers assigned to requirements reflecting level of priority and percentages of completion for requirements. FEMA officials stated that the integration team consists of two or three representatives from each of FEMA's key divisions, the Office of Chief Counsel, FEMA senior management, and others. According to FEMA officials, the integration team met weekly for the first 6 months after the passage of HFIAA and now meets biweekly. At these and other working meetings, staff members and management review the status of implementation efforts, discuss their workload, and evaluate priorities. FEMA has also created tracking documents for both the Biggert-Waters Act and HFIAA that are updated by the integration team at their meetings. These documents rank requirements in terms of priority and establish status indicators that allow staff to review progress toward implementation in terms of percentage completed. The documents also provide a schedule for key deliverables. For most of the reports it is required to produce, some of which do not have legislatively established due dates or have due dates that have already passed, FEMA has established completion time frames. FEMA has also proposed tentative schedules for completing many other requirements. For example, FEMA documentation shows that in certain cases involving rulemaking, multiyear time frames for completing the related requirement have been established.

FEMA officials said that FEMA had also undertaken a broad strategy to educate consumers, stakeholders, elected officials, and the media about flood insurance reform changes and had met frequently with Congress and external stakeholders (including associations involved in NFIP issues) to discuss priorities and the status of FEMA's implementation of the Biggert-Waters Act and HFIAA. FEMA officials stated that they had:

- met with key congressional committee staff on a biweekly basis to update them on FEMA's implementation progress and conducted over 100 meetings to educate congressional representatives and staff on program changes from the Biggert-Waters Act and HFIAA,
- in 2013 and 2014 worked with a stakeholder association to reach out to local officials to educate them on Biggert-Waters Act and HFIAA changes,
- developed materials and a specialized toolkit for agents to educate policyholders about the Biggert-Waters Act and HFIAA,
- consulted with WYOs, as required by HFIAA Section 3, holding a total of 10 consultation sessions specifically on HFIAA implementation and assigned a FEMA manager who is responsible for communicating guidance to WYOs,
- conducted communications roundtables with four key stakeholder groups to get ideas and feedback on communicating NFIP reforms to relevant audiences,
- met with representatives from several federal agencies on three occasions to discuss upcoming changes,
- conducted training and developed materials for insurance agents and other insurance professionals (lenders, realtors, adjusters, and others) to help ensure they have the information and tools they need to properly communicate with policyholders. Between May 2013 and October 2014, FEMA estimates it had trained over 48,500 agents and insurance professionals, and
- developed materials that policyholders will receive in their annual insurance renewal package describing rate changes.

Steps that FEMA has taken to manage its implementation of the Biggert-Waters Act, as amended by HFIAA, are consistent with relevant federal internal control standards. FEMA has undertaken risk assessment—one

of five internal control standards—by establishing agency priorities for implementation.²² Prioritization activities are a risk identification method that helps management to identify risk factors, both agency-wide and at the activity level. By establishing indicators for tracking its implementation efforts, which are also reviewed by management, FEMA has also implemented control activities, another internal control standard. Control activities are the policies, procedures, and mechanisms that help ensure that management’s directives are carried out. FEMA’s communication of its priorities and implementation within various levels of the agency and externally are consistent with the internal control standard for “information and communications.” Communicating information in a timely manner to management and relevant staff within the organization, as well as externally with key stakeholders, may have a significant impact on the agency achieving its goals.

FEMA Faces Challenges in Implementing the Biggert-Waters Act and HFIAA Requirements

FEMA officials and representatives of flood insurance organizations we interviewed cited a number of challenges related to FEMA’s implementation of the required changes, including the complexity of the legislation and timing of the enactment of HFIAA, resource constraints, and the competing program goals of financial solvency and affordability. Representatives of 4 of the 10 organizations we interviewed stated that both acts added complexity to NFIP without simplifying any aspects of the program. Representatives from 3 organizations mentioned the timing of the passage of HFIAA as a challenge for FEMA. FEMA was in the process of implementing the Biggert-Waters Act when HFIAA was passed and had to undo some of its previous actions to implement certain requirements. Notably, rate increase caps enacted under the Biggert-Waters Act were reduced in HFIAA, while certain subsidy removals were reversed. As a result of these changes, FEMA was required to cancel certain rate increases and issue refunds to affected policyholders. FEMA officials and representatives of half of the organizations we interviewed cited resource constraints as a challenge for FEMA in implementing flood insurance reforms. FEMA officials noted that they were operating within the budget for fiscal year 2014 that was approved prior to the enactment

²²GAO/AIMD-00-21.3.1 lists five internal control standards—control environment, risk assessment, control activities, information and communications, and monitoring. We compared FEMA’s implementation management processes to the three internal control standards that were most appropriate for the scope of the activity being reviewed.

of HFIAA. While HFIAA made funding available for certain requirements, it did not do so for others, including the flood insurance advocate position.

Representatives from the 10 organizations we interviewed noted implementation challenges related to NFIP financial solvency or program affordability. Seven stated that the Biggert-Waters Act, as amended by HFIAA, required FEMA to balance the competing goals of NFIP financial solvency with affordability concerns. Representatives of almost all of the organizations we interviewed (9 out of 10) expressed concern for the financial solvency of NFIP. Six generally favored the removal of discounts for certain policies—subsidized and grandfathered policies—that were initiated under the Biggert-Waters Act but slowed by HFIAA. Representatives from half of the organizations we interviewed stated that rate changes as implemented under the Biggert-Waters Act would have been beneficial to NFIP’s financial position or expressed concern that reinstating certain subsidies and extending the time period for the phasing out of discounted premiums under HFIAA would have a negative impact on the program’s financial solvency. However, representatives from eight organizations also noted that some rate increases were phased in too quickly under the Biggert-Waters Act and that the slowing of rate increases under HFIAA was beneficial for policyholders.

In addition to challenges specific to the implementation of the Biggert-Waters Act and HFIAA requirements, FEMA continues to face organizational challenges that have contributed to its placement on GAO’s High-Risk list since 2006 and which could also impact its implementation efforts. In addition to the debt incurred by the program (\$23 billion as of December 2014), weaknesses remain in NFIP management and operations, including contractor oversight, that continue to place the program at risk.²³ As we identified recently in a December 2014 report, contractor issues have affected FEMA’s efforts to implement some rate changes required by the Biggert-Waters Act.²⁴ We recommended that FEMA institute controls to validate implementation of data system changes and track their progress toward completion in its contractor monitoring reports. FEMA agreed to implement these

²³GAO, *High-Risk Series: An Update*, [GAO-15-290](#) (Washington, D.C.: Feb. 11, 2015).

²⁴GAO, *Flood Insurance: Forgone Premiums Cannot be Measured and FEMA Should Validate and Monitor Data System Changes*, [GAO-15-111](#) (Washington, D.C.: Dec. 11, 2014).

recommendations and it plans to institute a test plan to validate future system changes, work with WYOs to obtain information on the status of their implementation of system changes, and develop procedures to monitor progress toward the completion of major data system changes.²⁵

FEMA Has Made Progress Implementing Certain Requirements but Lacks Data to Implement Others

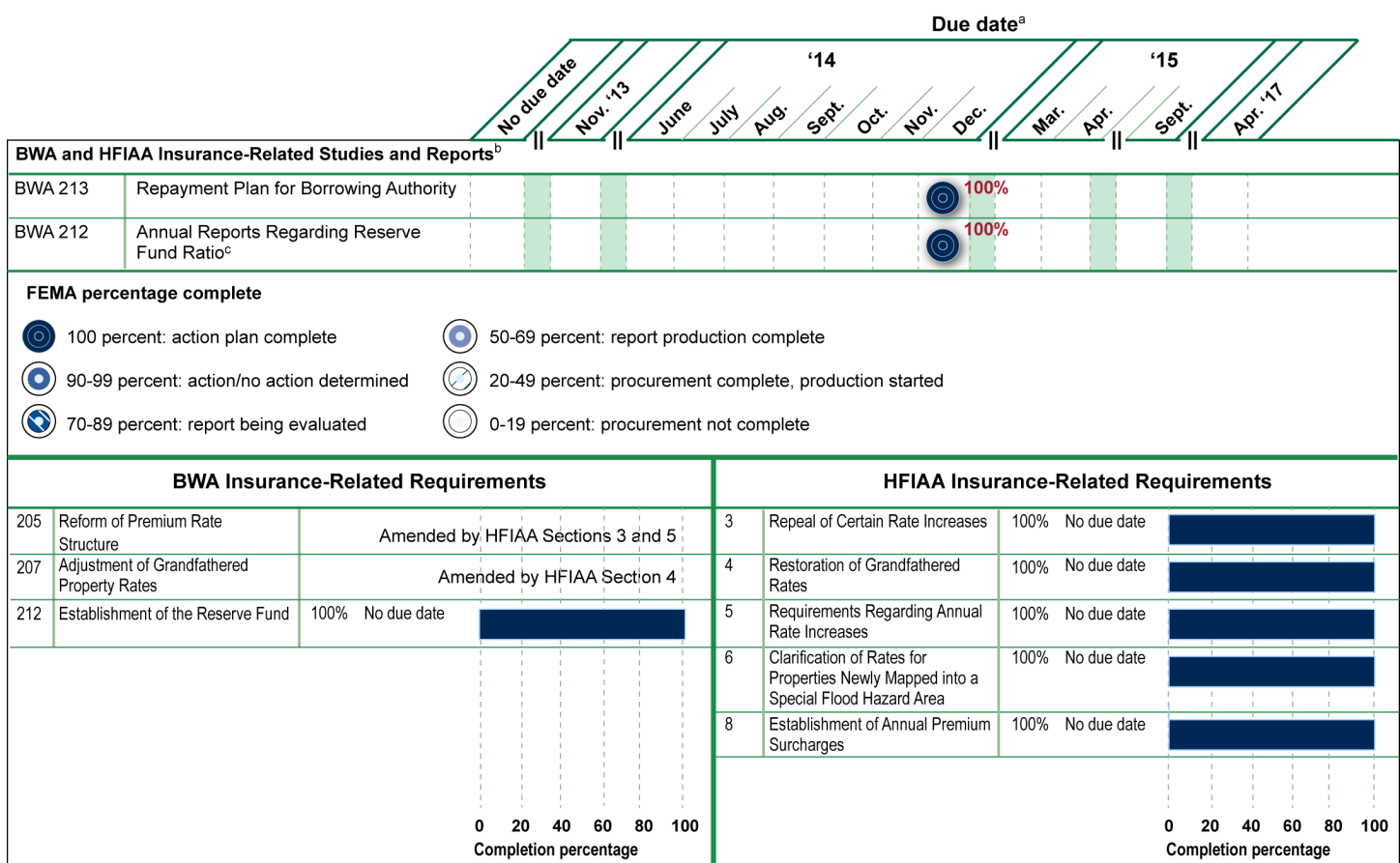
FEMA has made progress implementing some but not all of the provisions of the Biggert-Waters Act and HFIAA. The Biggert-Waters Act and HFIAA require FEMA to implement changes to the three key components of NFIP (insurance, mapping, and mitigation), improve its communication with policyholders, and study NFIP affordability. FEMA has made some insurance-related changes, including some rate changes and an increase in reserve assessments. But other changes, such as the Biggert-Waters Act requirement to remove some subsidies, have been only partially implemented because necessary data have yet to be collected. The implementation of key Biggert-Waters Act and HFIAA mapping requirements must be coordinated with an expert council that was recently established in July 2014 and held its first meeting in September 2014. FEMA officials anticipate that the implementation of these additional changes will happen over the next several years. FEMA has executed almost all the mitigation assistance requirements under the Biggert-Waters Act and has begun evaluating alternative mitigation methods for residential buildings, as HFIAA requires. Finally, FEMA has begun taking steps to improve communications with policyholders by establishing an interim Office of the Flood Insurance Advocate and providing required notifications, but the lack of available data has delayed the issuance of an affordability study. In February and September 2015, the National Academy of Sciences (NAS) is to deliver two reports that identify approaches for an NFIP affordability framework and nationwide affordability study, respectively.

²⁵[GAO-15-111](#).

FEMA Has Made Some Insurance-Related Changes but Lacks the Data Needed for Full Implementation

FEMA considered that it had fully met requirements for completing close to half of the Biggert-Waters Act sections (16 of 34) and about one-third of the HFIAA sections (8 of 26) as of December 2014.²⁶ Figure 1 illustrates the progress FEMA has made with respect to certain insurance-related requirements that are being undertaken primarily by FIMA's Risk Insurance Division, such as required rate changes.

Figure 1: Status of Selected Insurance-Related Reports, Studies, and Requirements from the Biggert-Waters Act (BWA) and HFIAA, as of December 2014



Source: GAO analysis of December 2014 FEMA documentation. | GAO-15-178

^aMost of the due dates listed were established by the Federal Emergency Management Agency (FEMA) after the legislative due dates had passed.

²⁶The documentation provided by FEMA is as of December 8, 2014.

Subsidized Premium Rate Adjustments

^bBiggert-Waters Act (BWA); Homeowner Flood Insurance Affordability Act (HFIAA).

^cDepartment of Homeland Security, Federal Emergency Management Agency, *NFIP Report to Congress: Fiscal Year 2013 Report to Congress, Biggert Waters Flood Insurance Reform Act of 2012* (Washington, D.C.: Dec. 17, 2014). This report was modified by HFIAA Section 20 to require quarterly reporting. FEMA issued this report for fiscal year 2013 as part of its fiscal year 2013 NFIP report to Congress.

FEMA began phasing out subsidized premium rates under the Biggert-Waters Act, but reinstated some due to HFIAA requirements.²⁷ NFIP has two types of premium rates: those that reflect the full risk of flooding within a rate class (full-risk rates) and those that do not reflect full risk within a rate class.²⁸ Generally, subsidized policies cover properties in high-risk locations that otherwise would have been charged higher premiums, and were built before Flood Insurance Rate Maps (FIRM) became available and their flood risk was clearly understood.²⁹ Premium subsidies were seen as a way to encourage participation in NFIP but over time have contributed to NFIP's financial instability. The largest number of subsidized policies has been for properties built before FIRMs became available (pre-FIRM).³⁰ As of September 30, 2013, subsidized policies accounted for about 20 percent of NFIP policies.³¹ The Biggert-Waters Act removed subsidies for two groups of properties:

- Biggert-Waters Act Section 205 required immediate removal of subsidized rates for certain properties, including newly purchased properties or properties not covered as a result of the policyholder's

²⁷See [GAO-15-111](#) for analysis of the impact of HFIAA on subsidized premiums. In this report, we estimated that implementing HFIAA Section 5 should eventually phase out all pre-FIRM subsidized rates over time, although with increases of only 5 percent per year, some properties will not reach full-risk rates for over 30 years.

²⁸NFIP defines rate classes by flood zone. For example, as discussed earlier, NFIP establishes flood zone designations through its mapping process. SFHAs are high-risk areas that have a 1 percent or greater annual chance of flooding and are designated as A, AE, V, or VE zones. Homeowners with mortgages held by federally regulated lenders on property in SFHAs are required to purchase flood insurance.

²⁹All references made in this report to subsidy removals or phase outs for certain categories of properties, such as nonresidential policies (including businesses), are with respect to pre-FIRM subsidized properties within these categories.

³⁰FEMA subsidizes policies for other properties—for example, properties behind certain unfinished or de-accredited levees, certain properties built after the initial FIRMs became available, and emergency program properties.

³¹[GAO-15-111](#).














decision to allow coverage to lapse after July 6, 2012 (the date the act became law).³² Upon policy renewal, FEMA was required to charge premiums that reflected full-risk rates. However, HFIAA Section 3 reinstated subsidies for the newly purchased properties and certain lapsed properties but also required (Section 5) that FEMA increase the premium rates for such policies—and certain other pre-FIRM properties—by 5 percent to 15 percent annually.³³



- Biggert-Waters Act Section 205 also required that subsidies for certain properties, including secondary residences, businesses, and severe repetitive loss properties, be phased out (see fig. 2 for a full list of affected properties). FEMA must increase rates for these properties by 25 percent annually, until the average rate equals the full-risk rate. HFIAA maintained these rate increases.

³²The Biggert-Waters Act also prohibited subsidies for properties that were not insured as of July 6, 2012, or for any prospective insured who refuses to accept any offer for mitigation assistance by FEMA following a major disaster or in connection with a repetitive loss or severe repetitive loss property.

³³Under HFIAA, the subsidy is eliminated for NFIP policies that lapsed in coverage unless the decision of the policy holder to permit a lapse in coverage was as a result of the property covered by the policy no longer being required to retain such coverage. For any policy that lapses but is not automatically charged full-risk rates, rate increases of 25 percent or 5 percent to 15 percent may apply if the policy falls within a category required to increase at one of those respective rates. FEMA has stated that policies for pre-FIRM buildings in high-risk areas that lapsed due to a late renewal payment (received after the 30-day grace period but less than 90 days after expiration) can be re-issued and renewed at subsidized rates. But as HFIAA states, buildings with lapsed policies are not eligible for a subsidy unless the lapse was the result of the policy no longer being required to retain flood insurance coverage.

Figure 2: Status of Pre-Flood Insurance Rate Map (FIRM) Subsidies under the Biggert-Waters Act and HFIAA

| Property type or circumstances | Status of subsidy after the Biggert-Waters Act | Status of subsidy after HFIAA | Annual rate class percentage increase ^a |
|---|---|---|--|
| Primary residences purchased after July 6, 2012 ^b | <input type="checkbox"/> |  | 5–15% |
| Primary residences not insured by National Flood Insurance Program (NFIP) as of July 6, 2012 ^b | <input type="checkbox"/> |  | 5–15 |
| Properties not included in any other category ^c | <input checked="" type="checkbox"/> |  | 5–15 |
| Nonprimary residences |  |  | 25 |
| Severe repetitive loss ^d |  |  | 25 |
| Business properties |  |  | 25 |
| Substantial cumulative damage ^e |  |  | 25 |
| Substantial damage or improvement ^f |  |  | 25 |
| NFIP policy that lapsed in coverage | <input type="checkbox"/> ^g | <input type="checkbox"/> ^h | N/A |
| Any prospective insured who refuses to accept any offer for mitigation assistance (including an offer to relocate) following a major disaster or in connection with a repetitive loss property or a severe repetitive loss property | <input type="checkbox"/> | <input type="checkbox"/> | N/A |

☐ Subsidy eliminated
 ☒ Subsidy continued
  Subsidy reinstated and subject to annual increases
  Subsidy subject to annual increases

Source: GAO analysis of applicable laws. | GAO-15-178

^aPercentages are those set under the Homeowner Flood Insurance Affordability Act (HFIAA); the Biggert-Waters Act placed a 20 percent cap on increases but no mandatory minimum increase. Further, HFIAA permits individual property increases of up to 18 percent, but limits the rate class increases to 15 percent per year.

^bThese primary residences are subject to 25 percent annual increases if they are severe repetitive loss properties, or have substantial damage or substantial cumulative damage.

^cThese include primary residences and nonresidential properties that are not businesses, such as churches and schools. Although not required by the Biggert-Waters Act, the Federal Emergency Management Agency (FEMA) increased premium rates for these nonresident properties by 25 percent.

^dFor single-family properties, severe repetitive loss properties are those that have incurred four or more claim payments exceeding \$5,000 each, with a cumulative amount of such payments over \$20,000; or at least two claims with a cumulative total exceeding the value of the property. For multifamily properties, FEMA is to define the term by regulation. 42 U.S.C. § 4014(h).

^eAny property that has incurred flood-related damage in which the cumulative amounts of payments under the title equaled or exceeded the fair market value of such property.

^fAny property that has experienced or sustained substantial damage exceeding 50 percent of the fair market value or substantial improvement exceeding 50 percent of the fair market value. The Biggert-Waters Act originally set the substantial improvement amount at 30 percent, but HFIAA raised the percentage to 50 percent of fair market value.

^gOnly for NFIP policies that lapsed in coverage as a result of the deliberate choice of the policyholder. If a policy lapses for other reasons, rate increases of 25 percent or 5 percent to 15 percent may apply if the policy qualifies under one of the other categories stated above.

^hFor NFIP policies that lapsed in coverage unless the decision of the policyholder to permit a lapse in coverage was as a result of the property covered by the policy no longer being required to retain such coverage. For any policy that lapses but is not automatically charged full-risk rates, rate increases of 25 percent or 5 percent to 15 percent may apply if the policy qualifies under one of the other categories stated above. FEMA has stated that policies for pre-FIRM buildings in high-risk areas that lapsed due to a late renewal payment (received after the 30-day grace period but less than 90 days after expiration) can be re-issued and renewed at subsidized rates. But as HFIAA states, buildings with lapsed policies are not eligible for a subsidy unless the lapse was the result of the policy no longer being required to retain flood insurance coverage.

To comply with the Biggert-Waters Act, FEMA issued guidance to WYOs in March 2013 (effective Oct. 1, 2013) on charging full-risk premiums for properties purchased after or not insured as of July 6, 2012.³⁴ As discussed previously, HFIAA Section 3 required FEMA to reverse this guidance. In an April 2014 WYO bulletin (effective May 1, 2014), FEMA reinstated the rates that had been in effect prior to the Biggert-Waters Act changes.³⁵ Then, in October 2014 guidance FEMA increased rates for all pre-FIRM subsidized primary residences by an average annual rate of 14 percent, effective April 2015.³⁶ FEMA has also issued guidance on the ongoing 25 percent rate increases required by Biggert-Waters Act Section 205. For example, FEMA implemented two annual 25 percent rate increases on secondary residences, effective in January 2013 and January 2014.³⁷ For other property types, FEMA implemented 25 percent annual rate increases as of October 2013.³⁸ Further, in October 2014, FEMA released guidance implementing annual 25 percent rate increases

³⁴FEMA, WYO Company Bulletin W-13016 (Washington, D.C.: Mar. 29, 2013). However, in a December 2014 report we estimated that, primarily due to vendor error, 49 percent of a subset of policies—new policies that should have paid full-risk rates beginning on October 1, 2013, per Biggert-Waters Act Section 205—were charged subsidized rates instead. See [GAO-15-111](#) for a detailed discussion.

³⁵FEMA, WYO Company Bulletin W-14014 (Washington D.C.: Apr. 15, 2014).

³⁶FEMA, WYO Company Bulletin W-14053 (Washington D.C.: Oct. 1, 2014).

³⁷W-13016.

³⁸W-13016.

on the following subsidized properties: non-primary residences, severe repetitive loss properties, and substantially cumulatively damaged or “substantially damaged or improved” properties, effective April 1, 2015.³⁹

Business Subsidies

FEMA began phasing out business subsidies, as required by the Biggert-Waters Act Section 205, but later reinstated them due to HFIAA requirements. In March 2013 guidance (effective Oct. 1, 2013), FEMA increased rates for all nonresidential policies by 25 percent, although it was required to raise rates only on business properties.⁴⁰ In this guidance, FEMA noted that by increasing nonresidential policy rates by 25 percent they would ensure that all business properties are rated as required by the law. For rate-setting purposes, FEMA categorizes businesses as “nonresidential,” along with other structures such as non-profits, churches, and detached garages, and does not have data necessary to specifically identify businesses.

Subject to certain exceptions, HFIAA Section 5 generally capped the maximum allowable premium increase for individual properties at 18 percent and at 15 percent within any rate class. In guidance issued in June 2014 (effective Oct. 1, 2014), FEMA stated that because it could not identify business properties, it was reducing rates on all nonresidential policies in order to comply with HFIAA annual rate increase caps.⁴¹ FEMA officials told us that beginning in October 2015 they will ask owners of nonresidential structures to specify the type of property they were insuring. FEMA officials told us that they are coordinating with WYOs to develop criteria for determining what constitutes a business and modeling the definition on those currently used by the Internal Revenue Service and other agencies. As the reporting of data has a 2-month lag, the first data will arrive in December 2015. Once nonresidential structures are categorized, FEMA plans to begin reducing subsidies to businesses through 25 percent annual premium rate increases.

Grandfathered Policies

FEMA did not initiate rate increases to phase out grandfathered policies as required by the Biggert-Waters Act, because of the passage of HFIAA and a lack of elevation data. Biggert-Waters Act Section 207 required that

³⁹W-14053.

⁴⁰W-13016.

⁴¹FEMA, WYO Company Bulletin W-14035 (Washington D.C.: June 26, 2014).

FEMA increase rates to phase out premium discounts for grandfathered properties—properties that had been remapped into higher flood-risk zones but continued paying lower-risk premium rates. However, FEMA had not planned to begin implementing rate increases on grandfathered properties until the second half of 2014. Due to the passage of HFIAA in March 2014, which repealed this Biggert-Waters Act requirement, FEMA never began phasing out the grandfathered premium rates.

Regardless of the passage of HFIAA, FEMA would have faced challenges in phasing out grandfathered policies as it does not have the elevation data necessary to determine full risk rates for all of these policies. NFIP allows certain property owners to continue to pay “grandfathered” rates, which do not reflect reassessments of their properties’ flood risk that occur when the properties are remapped into higher-risk flood zones but whose policies continue to be classified with other policyholders from a lower-risk zone. In order to identify grandfathered policies that are not paying full-risk rates, FEMA officials told us the agency would need to know the property’s elevation in relation to the base flood elevation (BFE) level of the ground beneath the property. However, not all policyholders have elevation certificates that show this information, in part because certificates are not required for all properties. In particular, a FEMA official stated that elevation certificates are not required for properties built outside of a special flood hazard area (SFHA) that are later remapped into an SFHA and pay a grandfathered rate. In addition, an elevation certificate generally has not been required for pre-FIRM buildings that previously received subsidized rates because information about elevation was not used in setting those rates.⁴² Finally, a FEMA official also noted that properties may have out-of-date elevation certificates, if remapping has moved them into a high-risk class. We have previously recommended that FEMA develop and implement a plan to obtain elevation information needed to determine full-risk rates for subsidized properties, which are

⁴²GAO, *Flood Insurance: More Information Needed on Subsidized Properties*, [GAO-13-607](#) (Washington, D.C.: July 3, 2013). We determined in July 2013, that information about elevation is critical for determining the location of a property in relation to the risk of flooding and is a key element in establishing premium rates. For instance, FEMA uses elevation as one of the factors in its model to set full-risk rates for buildings constructed after the publication of a community’s FIRM. In the past, FEMA officials said that although a variety of factors, such as occupancy status and number of floors, are used to determine these rates, the elevation of the building is the most important factor. Elevation certificates contain information on both the BFE of the land on which the property sits, as well as the elevation of the lowest floor above the BFE. Both pieces of data are necessary to determine flood risk.

generally also pre-FIRM structures.⁴³ In response to this recommendation, as well as to identify grandfathered policies that are not paying full-risk rates, FEMA officials said that they were in a multiyear process of determining how to collect elevation data. They told us that they were considering whether available BFE databases could serve as a proxy for elevation certificates at the individual property level, for the limited geographies where such data are available.

The number of grandfathered properties could also continue to grow due to the passage of HFIAA. Because HFIAA Section 4 restored grandfathering, future remapping of properties into a SFHA could create new grandfathered and subsidized policies, depending on property characteristics. HFIAA Section 6 stipulated that for properties newly mapped into SFHAs, when the new premium rate is calculated as a full-risk rate, a lower than full-risk rate (preferred-risk premium) will be applied the year following map revision. At the end of this 1-year period, a permanent rate is phased in. Therefore, in the event that an SFHA expands:

- Pre-FIRM properties that are newly insured for the first time following an SFHA expansion are still eligible, under previously established NFIP rules, to receive subsidized policies. When this occurs, it will increase the overall number of subsidized policies.
- Properties eligible for the initial preferred-risk premium will then have their premium increased each year until the policy reaches its full-risk, grandfathered, or subsidized rate, depending on the property's eligibility.
- For properties that are already insured or were built in compliance with the FIRM in place at the time of construction, full-risk rates may be based on the previous, lower risk rate zone. Therefore, policies written under this rule represent newly grandfathered policies within NFIP.⁴⁴

⁴³GAO-13-607.

⁴⁴When flood map changes occur, NFIP provides a grandfathering option to property owners to base coverage on their previous rate map. This option is available to property owners who already have flood insurance policies in effect when the new flood maps become effective, and then maintain continuous coverage, and to property owners who have built in compliance with the FIRM in effect at the time of construction.

Refunds

FEMA has issued guidance to repeal certain rate increases and issue refunds as required by HFIAA. In addition to the repeal of certain subsidy removals discussed above, Section 5 of HFIAA capped the maximum allowable premium increase for individual policies at 18 percent and the maximum average increase at 15 percent for any rate class. In October 2014, FEMA issued new guidance to implement rate-setting requirements in accordance with HFIAA, which included rate adjustments to reflect HFIAA caps on annual rate increases.⁴⁵ The guidance will be effective for all policies newly purchased or renewed on or after April 1, 2015. Previously, FEMA also issued guidance in June 2014 (effective Oct. 2014) that provides refund procedures for eligible policyholders.⁴⁶ In certain cases, per HFIAA Section 3, policyholders will receive refunds from FEMA.⁴⁷

WYOs began issuing refunds in October 2014 and, according to FEMA documentation, almost all refunds were issued by December 2014.⁴⁸ Two groups of policyholders received refunds:

- Refunds were issued to those who became ineligible for subsidies under the Biggert-Waters Act because they had purchased properties after July 6, 2012, or whose coverage had lapsed as of that date for certain reasons. The subsidized premium rates for the newly purchased homes and some of the lapsed covered properties were reinstated under HFIAA Section 3 (see fig. 2). According to FEMA officials, this group of policyholders was expected to receive an average refund of \$1,000.
- Refunds were issued to those who experienced premium increases under the Biggert-Waters Act that were above the 18 percent annual cap imposed by HFIAA Section 5. The Biggert-Waters Act stipulated that premiums generally could be increased annually up to 20 percent within any rate class, with no cap on annual increase for any individual policy. As we have seen, HFIAA revised this cap generally

⁴⁵W-14053.

⁴⁶W-14035.

⁴⁷Pub. L. No. 113-89 § 3, 128 Stat. 1020, 1021 (2014).

⁴⁸According to a FEMA official, as of February 2015, WYOs had provided all of the refunds that they were required to issue; however, a contractor was still in the process of issuing refunds for canceled policies.

at 18 percent for individual properties and at 15 percent within any rate class (these caps do not apply to properties still subject to the 25 percent annual increases for subsidy removal). FEMA officials estimated that the average refund for this group of policyholders was approximately \$60.

In addition, businesses and nonresidential properties will receive one-time refunds in 2014 for premium increases above 18 percent. FEMA must issue refunds to all nonresidential policyholders as HFIAA eliminated FEMA's legal authority to make the initial increase in their rates. As noted earlier, FEMA will implement ongoing annual 25 percent rate increases on businesses after it has collected the data necessary to identify them. According to FEMA, properties that are still subject to the 25 percent annual increases for subsidy removal (see fig. 2) will generally not receive refunds.

Other Rate Changes

As required by HFIAA Section 5, FEMA issued guidance in October 2014 (effective April 2015) that caps the annual maximum allowable premium increase for individual properties at 18 percent and at 15 percent within any rate class.⁴⁹ In its guidance, FEMA also raised average premiums on pre-FIRM subsidized policies by 14 percent, in the top range of allowable premium increases, which includes the reserve assessment.⁵⁰ FEMA officials stated that they planned to increase rates for these properties annually. They added that as FEMA increases subsidized rates, at some point a policyholder may have an incentive to obtain an elevation certificate and pay the full-risk rate rather than the subsidized rate because the full-risk rate would be lower.

FEMA officials told us that tracking prospective premium increases for individual policies based on current coverage elections was not difficult, but that setting rates while keeping overall increases under 18 percent for individual properties could be challenging. FEMA officials stated that a cap on individual policies has never been required under NFIP prior to HFIAA.⁵¹ They added that the total premium for a policy is determined by

⁴⁹W-14053.

⁵⁰The increase in premiums reported by FEMA includes the reserve fund assessment, which is discussed later in this report. HFIAA-required surcharges (also discussed later) and federal policy fees are not considered premiums, and therefore are not subject to rate-change caps.

⁵¹Prior to implementation of Biggert-Waters, FEMA was limited to raising premiums for each rate class by no more than 10 percent annually.

Policies Exceeding 1 Percent of Total Coverage

multiple rating factors.⁵² As these factors are calculated separately, overall premiums could increase by more than 18 percent in total during the rate-setting process.⁵³ To address this issue, FEMA officials said that they would monitor rate increases for individual policies and that FEMA already had checks in place to try to ensure that no policies exceeded the premium increase cap in a given year. FEMA officials also told us that they reviewed the impact of rate changes on a sample of policies. For each of the policies within the sample, rating factors were used to calculate premiums under previous rate-setting practices, which were compared to premiums calculated under new rate-setting practices required by HFIAA. FEMA officials noted that they have done these checks prior to the Biggert-Waters Act in order to identify any individual policies that might be experiencing unusual rate increases.

HFIAA Section 7 asks FEMA to “strive to minimize the number of policies with annual premiums that exceed one percent of the total coverage” and requires FEMA to report such policies to Congress. FEMA officials stated that they were compiling a report that would compare the number of policies with a premium exceeding 1 percent of coverage as of December 31, 2012, with the number of such policies 1 year later, after the Biggert-Waters Act rate increases. FEMA officials stated that after the implementation of the Biggert-Waters Act rate changes, there was a large increase in the number of policies with premiums exceeding 1 percent of total coverage. However, they also told us that the number of such policies had been large prior to the act (including subsidized policies). As of December 2014, FEMA estimated that this report was 50 percent complete. HFIAA did not establish a due date for issuing the related report, but FEMA officials expect an internal draft of this report will be completed in January 2015, with concurrence taking additional time.

⁵²FEMA uses such inputs as the elevation of the lowest floor of the building, the type of building, the number of floors, the presence of a basement, claims data, and mapping information to generate the estimates. This pure premium amount is then adjusted to capture certain program costs, compensate for underinsurance by policyholders, and reflect the fact that the program has a deductible. For further information on FEMA’s rate-setting model, see GAO, *Flood Insurance: FEMA’s Rate-Setting Process Warrants Attention*, [GAO-09-12](#) (Washington D.C.: Oct. 31, 2008).

⁵³We currently have work under way examining FEMA’s rate-setting process for subsidized and full-risk premiums. We plan to issue this report in 2015.

Reserve Assessments and Related Reports

FEMA officials told us the agency will be unable to keep premiums below 1 percent of total coverage for a large number of policies. Currently, FEMA's rate-setting policy requires rates above 1 percent of coverage for several classes of properties, including high-risk properties located in SFHAs. Further, some policies include only basic coverage that may result in a relatively higher pay-out than those with additional coverage. As a result, the premiums on those policies are high relative to their coverage level, and may exceed 1 percent of total coverage.

In addition, as we have seen, HFIAA Section 5 requires that FEMA raise premium rates on certain policies by at least 5 percent per year. FEMA officials said that many such policies already carried premiums that exceeded 1 percent of total coverage.

As discussed previously, as of December 2014, FEMA's debt to Treasury from flood insurance payments totaled \$23 billion. To avoid large increases in FEMA's debt, Biggert-Waters Act Section 212 required that FEMA create a reserve fund that maintained at least 1 percent of total annual potential loss exposure. The reserve fund is to be phased in over time, with at least 7.5 percent of the total added yearly, but FEMA is not permitted to exceed annual rate increase caps to build up or maintain the reserve fund. NFIP's current exposure is \$1.3 trillion, meaning the reserve fund eventually would need to hold \$13 billion, and FEMA would have to collect approximately \$975 million annually (7.5 percent of \$13 billion) in order to meet statutory targets. As shown in figure 1, FEMA lists the establishment of the reserve fund as 100 percent complete, reflecting that the reserve fund has been created. However, FEMA has not yet met the yearly statutory target for reserve fund contributions.

FEMA has issued guidance on financing the reserve fund and will do so through two separate funding sources: a reserve fund assessment and a reserve fund surcharge. As we reported in April 2014, FEMA established a reserve assessment on NFIP policies following the enactment of the Biggert-Waters Act.⁵⁴ With the exception of preferred-risk policies, new policies or renewals on or after October 1, 2013, were subject to a 5 percent increase on their policies for the purposes of building the reserve fund. In an October 1, 2014, WYO bulletin, FEMA raised its reserve

⁵⁴[GAO-14-297R](#).

assessments.⁵⁵ Effective April 2015, policies that had been charged a 5 percent reserve fund assessment will be charged an additional 10 percent. For preferred-risk policies, the reserve fund assessment will increase from 0 percent to 10 percent. FEMA has issued guidance to the WYOs and will begin charging a reserve fund surcharge that is separate from the reserve assessment beginning in April 2015. Consistent with HFIAA Section 8, primary residential properties are subject to a \$25 surcharge, while all nonprimary residential and nonresidential properties are subject to a \$250 surcharge.⁵⁶ Due to the April 2015 increases in reserve assessments and surcharges, FEMA officials estimated that reserve fund contributions will total approximately \$500 million in fiscal year 2015. They also estimated that about \$1 billion will be contributed to the reserve fund in fiscal year 2016.

FEMA officials noted that a main limitation in calculating these estimates was potential changes in demand for NFIP policies that could impact forecasted reserve fund contributions.⁵⁷ They said that the addition of the surcharge and the continued increases from pre-FIRM subsidy removal, as well as increased reserve assessments, could accelerate the decline in policyholders. FEMA and representatives of 6 of the 10 organizations we interviewed also noted that relatively low-risk policyholders might leave the program because of the increases, but the full impact is unclear. Further, while representatives from 4 of the 10 organizations we interviewed viewed building the reserve fund as beneficial to the financial position of NFIP, a couple expressed concerns that FEMA might not be able to reduce NFIP's debt while building the reserve. Representatives from 2 of the 10 organizations we interviewed noted that neither the Biggert-Waters Act nor HFIAA addressed NFIP's outstanding debt.

⁵⁵W-14053.

⁵⁶The amounts charged through the reserve fund surcharge will not count towards annual premium increase caps. Thus, it is possible that an individual property owner could see premiums increase by more than the 18 percent cap as a result of the surcharge.

⁵⁷In calculating their estimates, FEMA made several assumptions concerning elasticity of demand. The estimates reported above are based on three different elasticity of demand scenarios.

In mid-December 2014, FEMA issued its fiscal year 2013 NFIP report to Congress, which included the following reports required by the Biggert-Waters Act:⁵⁸

- Biggert-Waters Act Section 212 required FEMA to submit an annual report to Congress if yearly contributions to the reserve fund do not meet the 7.5 percent target. HFIAA Section 20 amends this provision to require quarterly reporting if the reserve ratio required is not achieved in a given fiscal year.
- Biggert-Waters Act Section 213 required FEMA to issue a report to Congress by January 2013 on a repayment plan setting forth options to repay FEMA's total debt to Treasury within 10 years.

FEMA's analysis in the report was conducted prior to the enactment of HFIAA.⁵⁹ FEMA reported that it would be unlikely that the required reserve fund balance (approximately \$13 billion) would be achieved in the next 20 years due to NFIP's outstanding current debt and related interest expenses. FEMA's analysis also concluded that, under the current NFIP operating environment, the agency will be unable to repay its debt within the 10-year time frame.⁶⁰

WYO compensation

Biggert-Waters Act Section 224 required FEMA to develop a methodology to compensate WYOs, using actual flood insurance expense line data as an input. Specifically, the Biggert-Waters Act required FEMA to:

- develop a methodology by January 2013, using actual flood insurance line expense data, for determining the amount that WYOs should be

⁵⁸Department of Homeland Security, Federal Emergency Management Agency, *NFIP Report to Congress: Fiscal Year 2013 Report to Congress, Biggert Waters Flood Insurance Reform Act of 2012* (Washington, D.C.: Dec. 17, 2014).

⁵⁹In the report, FEMA stated that it believes that the projections described in the report have not been materially impacted by HFIAA. They added that this is supported by the fact that the Congressional Budget Office estimated that the changes resulting from HFIAA would have no significant effect on net income to NFIP over the 2015-2024 period.

⁶⁰FEMA also reported on additional courses of action that can be taken so that the debt could likely be retired within 10 years. The report discusses four scenarios. Two scenarios involved retiring the debt entirely through the premiums and reserve fund assessments paid by NFIP policyholders. The other two scenarios involved debt forgiveness of either the entire current debt or a portion of the current debt.

compensated for selling, writing, and servicing NFIP policies and adjusting claims on behalf of NFIP,

- issue rules by July 2013 for formulating revised expense reimbursements, and
- submit a report to Congress within 60 days of the rule effective date including the rationale for the rule and the degree to which the policy accurately represents WYOs' true operating costs and expenses.

According to FEMA officials, FEMA is currently undertaking rulemaking as required by Section 224.

FEMA currently provides approximately 12 percent of collected premiums to the WYOs to cover operating expenses. Since 2001, the percentage of premiums has included an additional 1 percentage point after some WYO companies told FEMA that their actual expenses to service flood insurance policies were greater than the amount they were being reimbursed. In August 2009, we concluded that there was no basis for providing these additional payments to WYO companies and recommended that FEMA immediately reassess the practice of paying WYOs the additional 1 percent.⁶¹

FEMA is still developing a final methodology to compensate WYOs using their actual expenses as an input, but has made interim changes to how it compensates WYOs. In an October 1, 2014, bulletin, as an interim step toward changes to be made later, FEMA reduced the operating expense charge on the highest-risk policies.⁶² This change will take effect in April 2015. FEMA stated that despite this change, WYO companies would continue to receive approximately 30 percent of premiums for expenses

⁶¹GAO, *Flood Insurance: Opportunities Exist to Improve Oversight of the WYO Program*, [GAO-09-455](#) (Washington D.C.: Aug. 21, 2009). In this report, we recommended that FEMA, in order to provide transparency and accountability over the payments FEMA makes to WYOs for expenses and profits, immediately reassess the practice of paying WYOs an additional 1 percent of written premiums for operating expenses. This recommendation has since been closed as not implemented. FEMA officials informed us that such an assessment would require additional time to collect and analyze a sufficient amount of reliable actual expense data from enough WYOs.

⁶²W-14053. Because expenses are paid to WYOs as a percentage of premiums, expense payments are larger for high-risk policies with large premiums.

and commissions as this percentage was written into the agreements between WYOs and FEMA.⁶³

As part of its efforts to develop a new WYO compensation methodology, FEMA has taken steps to address the quality of WYOs' expense data. In a May 2013 presentation, FEMA stated that it has worked with the National Association of Insurance Commissioners to issue new reporting guidelines requiring submission of uniform data. However, FEMA also stated, and we have previously reported, historically expense data were reported by WYOs under a variety of accounting interpretations.⁶⁴ Because of this, FEMA stated that the data were unusable as a basis for determining actual WYO operating expenses. FEMA also noted that federal flood expense data reported to the National Association of Insurance Commissioners would have to become "more credible" to be used effectively in calculating annual WYO expenses.⁶⁵ FEMA officials told us that once the WYO compensation methodology was complete, the rulemaking process would take several additional years.⁶⁶

FEMA Expects Implementation of Mapping Requirements to Take Several More Years

Figure 3 illustrates FEMA's progress in implementing selected Biggert-Waters Act and HFIAA mapping requirements.

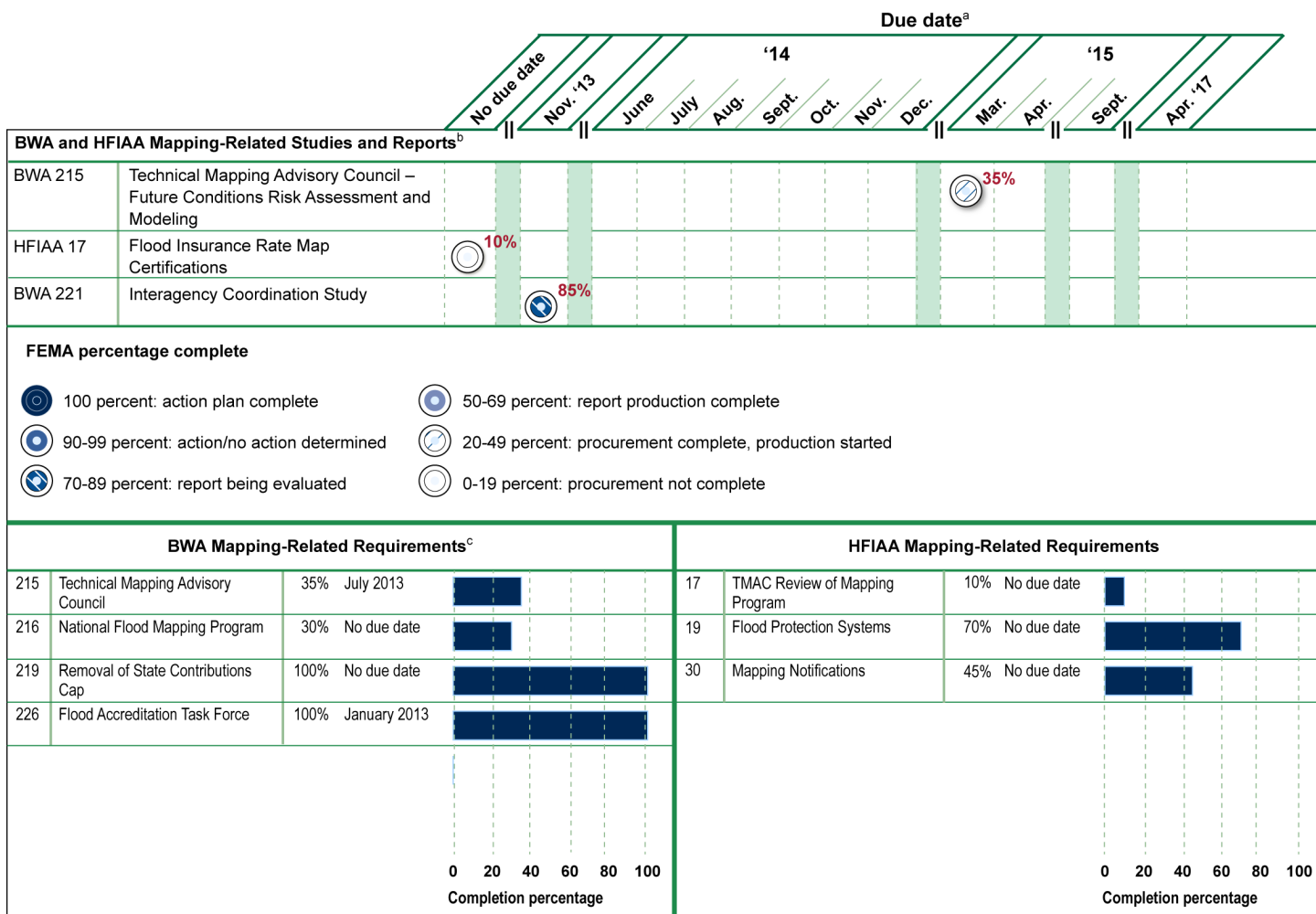
⁶³For selling and servicing NFIP policies, FEMA pays WYO insurance companies (1) a flat 15 percent of premiums for agent commissions; (2) a percentage for operating expenses, which historically also averages about 15 percent, based on industry averages for other lines of insurance; and (3) bonuses of up to 2 percent of their total annual premium revenues for increasing the number of NFIP policies they sell. See GAO, *National Flood Insurance Program: FEMA's Management and Oversight of Payments for Insurance Company Services Should Be Improved*, [GAO-07-1078](#) (Washington D.C.: Sept. 5, 2007).

⁶⁴[GAO-09-455](#).

⁶⁵WYOs' actual flood insurance expense information has been available since 1997, when the companies began reporting the data to the National Association of Insurance Commissioners. See [GAO-09-455](#).

⁶⁶[GAO-14-297R](#).

Figure 3: Status of Selected Mapping-Related Reports, Studies, and Requirements from the Biggert-Waters Act (BWA) and HFIAA, as of December 2014



Source: GAO analysis of December 2014 FEMA documentation. | GAO-15-178

^aMost of the due dates listed were established by the Federal Emergency Management Agency (FEMA) after the legislative due dates had passed.

^bBiggert-Waters Act (BWA); Homeowner Flood Insurance Affordability Act (HFIAA).

^cDue dates listed are mandated by BWA.

Mapping Program

Both the Biggert-Waters Act and HFIAA established requirements intended to improve FEMA's FIRMs. Biggert-Waters Act Section 216 established the National Flood Mapping Program and defined FEMA's responsibility for developing and maintaining FIRMs that are adequate to make flood-risk determinations. The Biggert-Waters Act required that

FEMA review, update, and maintain maps that, among other things, use current, accurate, ground-elevation data; include future conditions risk assessment and modeling; and incorporate the best available climate science.⁶⁷ The Biggert-Waters Act did not establish a due date for completing this section, and FEMA anticipates that meeting this and other mapping requirements will take several years. As shown in figure 3, FEMA estimated Biggert-Waters Act Section 216 to be 30 percent complete as of December 2014.

The Biggert-Waters Act also authorized \$400 million to be appropriated for updating maps annually for fiscal years 2013 through 2017. FEMA's Risk Mapping, Assessment, and Planning (Risk MAP) program, which encompasses NFIP mapping activities, is funded from two sources—appropriated funds and fee income from NFIP insurance activities.⁶⁸ As shown in table 1, appropriations and total funding for the NFIP mapping program have generally decreased since 2009, while fee income has increased slightly. In fiscal year 2009, almost \$220 million was appropriated to the mapping program, but in fiscal year 2014 this amount fell to approximately \$95 million. In addition to funding, representatives from almost all of the organizations we interviewed (9 out of 10) cited various challenges for FEMA associated with implementing flood mapping requirements, including a lack of elevation data and the changing natural environment.

⁶⁷In creating its maps, FEMA must identify, review, update, maintain, and publish NFIP maps with respect to: (1) all populated areas and areas of possible population growth located within the 100-year and 500-year floodplains; and (2) areas of residual risk, including areas that are protected by levees, dams, and other flood control structures and the level of protection provided by those structures. The maps should include considerations such as: (1) ensuring that current, accurate ground elevation data are used; (2) inclusion of future conditions risk assessment and modeling; (3) incorporating the best available climate science; and (4) any other relevant data on flood hazards, such as storm surges, coastal erosion hazards, and changing lake levels.

⁶⁸See GAO, *FEMA Flood Maps: Some Standards and Processes in Place to Promote Map Accuracy and Outreach, but Opportunities Exist to Address Implementation Challenges*, [GAO-11-17](#) (Washington, D.C.: Dec. 2, 2010) for a detailed discussion of FEMA's mapping program. Prior to the Biggert-Waters Act, in fiscal year 2009 FEMA had begun a 5-year effort—Risk Mapping, Assessment, and Planning (Risk MAP)—to build on the flood hazard data and maps produced during earlier map modernization initiatives. Under Risk Map, FEMA also began reviewing 20 percent of the nation's flood maps annually. The funding from fees advances mapping while also paying for things like call centers, data management and archive, web presence, business functions, internal controls, and program management. The appropriated funding is focused on map production and map updates.

Table 1: FEMA Mapping Program Funding from Fiscal Years 2009 through 2014

| Year | Funding types | | Total |
|------|---------------|----------------------|----------------------|
| | Fee income | Appropriated funding | |
| 2009 | \$105,279,159 | \$219,918,572 | \$325,197,731 |
| 2010 | \$104,722,618 | \$220,000,000 | \$324,722,618 |
| 2011 | \$116,968,882 | \$185,145,045 | \$302,113,927 |
| 2012 | \$117,706,000 | \$97,712,000 | \$215,418,000 |
| 2013 | \$117,252,900 | \$90,287,696 | \$207,540,596 |
| 2014 | \$120,600,000 | \$95,202,000 | \$215,802,000 |

Source: Federal Emergency Management Agency (FEMA) data. | GAO-15-178

To assist with the implementation of FEMA’s mapping program, Biggert-Waters Act Section 215 required FEMA to establish a Technical Mapping Advisory Council (TMAC) to work with FEMA to update its mapping program and provide recommendations on how flood insurance maps could incorporate the best available climate science, among other things. Under this requirement, TMAC was to have issued by July 2013 a report with recommendations to FEMA to ensure that its FIRMs incorporated the best available climate science and that it used the best available methodology to assess future flood risks (*Future Conditions Risk Assessment and Modeling Report*). HFIAA Section 17 further required that TMAC review FEMA’s flood mapping program to help ensure that FIRMs incorporate technically credible flood hazard data and that FEMA provide TMAC’s review report to Congress. HFIAA did not set a deadline for FEMA to complete this requirement. FEMA estimated that the implementation of Biggert-Waters Act Section 215 was 35 percent complete and HFIAA Section 17 was 10 percent complete as of December 2014 (see fig. 3).

In July 2014, 2 years after the Biggert-Waters Act was passed, FEMA selected TMAC members, and in September 2014 TMAC held its first meeting. TMAC held its second meeting in early December 2014. As mandated in the Biggert-Waters Act, TMAC includes representatives from

federal, state, local, and private sector organizations.⁶⁹ In establishing TMAC, FEMA officials said that it took approximately 2 years due in part to the rigorous vetting process they conducted for selecting TMAC members that was governed by federal standards for establishing such committees.⁷⁰ In addition, as the Biggert-Waters Act did not authorize funding for establishing TMAC, FEMA officials told us that they first had to secure such funding. FEMA anticipates that TMAC will issue the required Biggert-Waters Act report, *Future Conditions Risk Assessment and Modeling*, in October 2015. As many of the Biggert-Waters Act mapping reforms, such as Section 216, are required to be implemented in coordination with TMAC, FEMA anticipates that the implementation of these additional changes will happen over the next several years as TMAC makes its recommendations to FEMA.

However, FEMA has recently made some improvements to its mapping program and implemented certain requirements. For example, since August 2013 FEMA bi-annually issues a publicly available document (*Standards for Flood Risk Analysis and Mapping*) that summarizes NFIP mapping standards, with the latest version issued in November 2014. This document is the result of a multiyear project begun in 2011 to improve the way guidelines and standards are published, maintained, and used. FEMA officials noted that many of their existing standards align with Biggert-Waters Act requirements. For example, they noted that their *Standards for Flood Risk Analysis and Mapping* include at least 10 standards that align with utilizing the most accurate topography and

⁶⁹The legislation requires that TMAC members include the designated FEMA Administrator, secretaries of the Departments of the Interior and Agriculture, and Undersecretary of Commerce for Oceans and Atmosphere. An additional 16 members appointed by the FEMA Administrator are to be selected from certain categories, including members of a recognized professional surveying, mapping, and engineering association or organization and an association or organizations representing flood hazard determination firms. Other members are a state mitigation officer, representatives of the U. S. Geological Survey, a recognized professional organization representing state geographic information, state national flood insurance coordination offices, the U.S. Army Corps of Engineers, a recognized regional flood and storm water management organization, state government agencies that are cooperating technical partners with FEMA in producing FIRMS, and recognized floodplain management and risk management associations or organizations.

⁷⁰The Federal Advisory Committee Act was enacted in 1972 to ensure that advice by the various advisory committees over the years is objective and accessible to the public. The act formalized a process for establishing, operating, overseeing, and terminating these advisory bodies.

elevation data available (as discussed in the Biggert-Waters Act). In addition, the November 2014 version incorporates aspects of a HFIAA requirement that addresses flood protection systems in communities.⁷¹ As shown in figure 3, FEMA has also completed or nearly completed certain Biggert-Waters Act mapping requirements, including (1) removing the limitation on state contributions for updating flood maps (Section 219); (2) producing an interagency coordination study, contracted with and conducted by the National Academy of Public Administration (Section 221); and (3) establishing a flood protection accreditation task force (Section 226).⁷²

Mapping-Related Notifications and Appeals

FEMA has made progress in providing mapping-related notifications and is clarifying the appeals reimbursement HFIAA requires. HFIAA Section 30 required that FEMA notify communities affected by the mapping model before starting a new or updating an existing mapping model that could result in a new or updated FIRM. FEMA must also notify the congressional members from the affected areas at least 30 days before a preliminary map is issued. The notice is to include estimates of the number of homes and businesses affected by preliminary mapping changes. HFIAA did not establish a deadline for FEMA to complete this section. FEMA estimated that this section was 45 percent complete (see fig. 3) as of December 2014, and anticipates completing it after fiscal year 2015.

⁷¹The November 2014 standards have been updated to reflect certain levee designations as required by HFIAA Section 19. HFIAA Section 19 expanded upon the Biggert-Waters Act Section 230 which states that any community that has made adequate progress on the construction or reconstruction of a flood protection system which will afford flood protection for the 1 percent per year frequency flood is eligible for flood insurance at the premium rates that would apply if such flood protection system had been completed. FEMA must follow statutorily set standards to determine adequate progress. HFIAA Section 19 allowed that the provisions also apply to riverine and coastal levees located in communities which have been determined by FEMA to be in the process of restoring flood protection previously accredited as providing the 1 percent per year protection but no longer do so. FEMA estimated that this section was 70 percent completed as of December 2014 (see fig. 3).

⁷²The interagency coordination study, required by Biggert-Waters Act Section 221, was issued by the National Academy of Public Administration in November 2013 and can be found at <http://www.napawash.org/2013/1568-fema-flood-mapping-enhancing-coordination-to-maximize-performance.html>. During our work for this report, FEMA officials told that us that they were reviewing the study's recommendations.

FEMA has begun issuing monthly notices to congressional representatives and affected communities but has not provided current estimates of the number of homes and businesses affected. FEMA officials told us that they did not have a database to track property ownership, something they would need in order to calculate the estimates. As of September 2014, FEMA officials said that they were working toward creating such a database but face challenges, including data availability as this information is typically collected at the state and local levels.

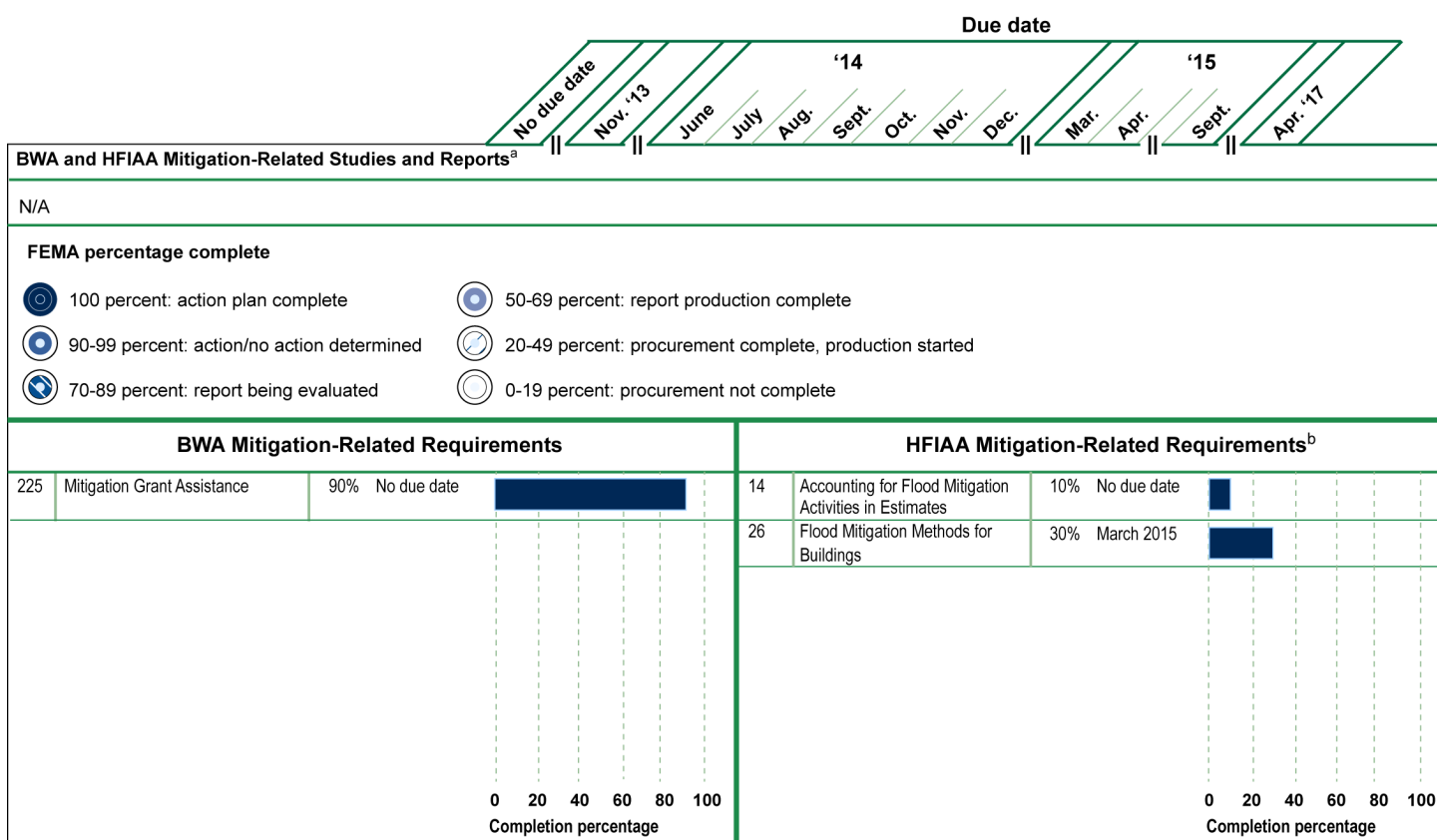
Biggert-Waters Act Section 246 created and HFIAA Section 18 expanded upon FEMA's ability to set aside funds to reimburse homeowners for successful map appeals.⁷³ FEMA officials told us that they had begun working on clarifying requirements under this section and that they will need to develop a process for communicating to communities their status in the reimbursement process. FEMA has not previously reimbursed homeowners for successful map appeals. Biggert-Waters Act Section 246 requires that this requirement be implemented through a rulemaking process. FEMA officials indicated that they planned to group this requirement with other Biggert-Waters Act and HFIAA mapping proposed rules. FEMA does not anticipate completing this requirement for several years.

FEMA Has Taken Steps to Implement Mitigation Requirements

Figure 4 illustrates the progress FEMA has made in implementing Biggert-Waters Act and HFIAA mitigation-related requirements.

⁷³Biggert-Waters Act Section 217 limited the scope of allowable appeals of new maps to scientific or technical inaccuracies. In addition, Biggert-Waters Act Section 218 required FEMA to establish an independent Scientific Resolution panel composed of experts, who are not FEMA employees, and make them generally available to communities involved in map appeals.

Figure 4: Status of Selected Mitigation-Related Reports, Studies, and Requirements from the Biggert-Waters Act (BWA) and HFIAA, as of December 2014



Source: GAO analysis of December 2014 FEMA documentation. | GAO-15-178

^aBiggert-Waters Act (BWA); Homeowner Flood Insurance Affordability Act (HFIAA).

^bDue date listed is mandated by HFIAA.

Mitigation Assistance

FEMA has executed almost all mitigation assistance requirements under the Biggert-Waters Act. The act did not establish a due date for completing these requirements, but FEMA estimated that implementation of Biggert-Waters Act Section 225, which covers mitigation assistance programs, was 90 percent complete (see fig. 4) as of December 2014. Section 225 made several changes to FEMA's mitigation assistance programs. In particular, it eliminated two mitigation grant programs as independent programs: a pilot program for Severe Repetitive Loss (SRL) properties and a program for Repetitive Flood Claims (RFC). The SRL program was designed to reduce the long-term risk of flood damage to severe repetitive loss residential properties and the associated drain on the National Flood Insurance Fund, while the RFC program was designed

to reduce the long-term risk of flood damage to structures insured under NFIP that have had one or more claim payments for flood damage.⁷⁴ Biggert-Waters Act Section 225 also made changes to the cost-sharing structure for mitigation grants—FEMA now pays up to 100 percent of the mitigation costs for severe repetitive loss properties, up to 90 percent for repetitive loss properties, and up to 75 percent for all other mitigation projects. Prior to the act, FEMA paid up to 90 percent of the mitigation costs for severe repetitive loss properties, up to 100 percent for repetitive loss properties, and up to 75 percent for all other mitigation projects.⁷⁵

FEMA has since incorporated parts of the SRL and RFC programs into its Flood Mitigation Assistance (FMA) Program and updated its cost-sharing guidance. FEMA officials told us that the elimination of the repetitive and severe repetitive loss programs as independent programs and the cost-sharing changes were positive improvements to NFIP under the Biggert-Waters Act.⁷⁶ FEMA officials stated that combining the programs simplified the application process and program administration and the new cost-sharing structure further encourages mitigation for properties. Given that severe repetitive loss properties are the most burdensome in terms of expenses for NFIP, this updated cost-sharing structure is expected to help reduce outlays.

⁷⁴In the context of mitigation programs, the Biggert-Waters Act for the first time required that FEMA define a repetitive loss property as a structure that (1) incurred flood-related damage on two occasions, in which the cost of repair, on average, equaled or exceeded 25 percent of the market value of the structure at the time of each flood event; and (2) at the time of the second incidence of flood-related damage, had a flood insurance contract that contained increased cost of compliance coverage. In the mitigation context, FEMA defines a severe repetitive loss property as a structure that has incurred flood-related damage and for which (1) four or more separate claim payments were made and each claim exceeded \$5,000 and the cumulative claim amount exceeded \$20,000, or (2) at least two separate claim payments were made and the cumulative claim amount exceeded the market value of the structure. According to FEMA officials, due to this change by the Biggert-Waters Act, the definition of repetitive loss could now be harder to meet than the severe repetitive loss definition. A property could meet the severe repetitive loss definition, for example, with relatively minor flooding that leads to carpet damage. On the other hand, for a property to meet the repetitive loss definition, it would have to experience multiple flooding events that each resulted in substantial damage to the building.

⁷⁵Under FEMA's mitigation assistance programs, the total cost to implement approved mitigation activities is generally funded by a combination of federal and non-federal sources. Both the federal and the nonfederal cost shares must be for eligible costs used in direct support of the approved activities under this guidance and the grant award.

⁷⁶We reported similar findings in [GAO-14-297R](#).

FEMA still needs to institute an important mitigation assistance requirement under the Biggert-Waters Act. Specifically, FEMA has not yet developed a process or guidance for providing mitigation assistance grants directly to policyholders, as now allowed under Biggert-Waters Act Section 225(a)(3). Under this section, if FEMA determines that a state or community cannot manage a grant, it can provide the grant directly to policyholders. The act did not establish a time frame for completing this requirement. According to FEMA, it needs to establish criteria for determining when a state or community cannot manage a grant, and such criteria need to go through a rulemaking process, which can take some time. FEMA officials noted that FEMA has never provided mitigation assistance grants directly to policyholders. According to FEMA officials, by providing mitigation assistance grants directly to policyholders, individuals who live in a state that does not participate in NFIP will now have the opportunity to participate in NFIP's grant programs.

FEMA, along with representatives from almost all of the organizations (9 out of 10) we interviewed, emphasized the importance of mitigation in terms of its potential to reduce flood risk and NFIP's financial exposure. Representatives from seven of these organizations noted that mitigation was expensive and that it needed to be made more attractive for policyholders and communities. However, as we previously reported, demand for mitigation assistance funding has exceeded available funding levels.⁷⁷ As shown in table 2, since the enactment of the Biggert-Waters Act funding has increased for the FMA program, due in part to the incorporation of the SRL and RFC programs into FMA. However, funding has been reduced for the Pre-Disaster Mitigation program, which funds pre-disaster mitigation programs intended to reduce flood risks to populations and structures.

⁷⁷GAO-14-297R.

Table 2: Flood Mitigation Assistance (FMA) Program and Pre-Disaster Mitigation Program Appropriated Funding Breakdown Compared with Submitted Applications, Fiscal Years 2011 through 2014

| FMA | | | Pre-Disaster Mitigation Program | | |
|------|----------------------|------------------------|---------------------------------|----------------------|------------------------|
| Year | Appropriated funding | Submitted applications | Year | Appropriated funding | Submitted applications |
| 2011 | \$40,000,000 | \$27,762,180 | 2011 | \$49,900,000 | \$259,522,345 |
| 2012 | \$40,000,000 | \$73,591,453 | 2012 | \$35,500,000 | \$275,497,442 |
| 2013 | \$120,000,000 | \$304,563,206 | 2013 | \$25,000,000 | \$93,044,789 |
| 2014 | \$100,000,000 | \$232,119,340 | 2014 | \$25,000,000 | \$76,744,517 |

Source: Federal Emergency Management Agency (FEMA) data. | GAO-15-178

HFIAA Mitigation Requirements

HFIAA contains additional requirements that pertain to FEMA's mitigation activities. HFIAA Section 14 requires FEMA to take into account flood mitigation activities when estimating premiums. FEMA estimated that this section was 10 percent complete as of December 2014 (see fig. 4). FEMA officials said that they were at the beginning stages of considering a process for accounting for such activities. The implementation of this requirement should make mitigation activities more attractive to policyholders because rates would be adjusted based upon mitigation measures. HFIAA did not establish a due date for completing this requirement. As of December 2014, FEMA anticipated completing this requirement in fiscal year 2015 or later.

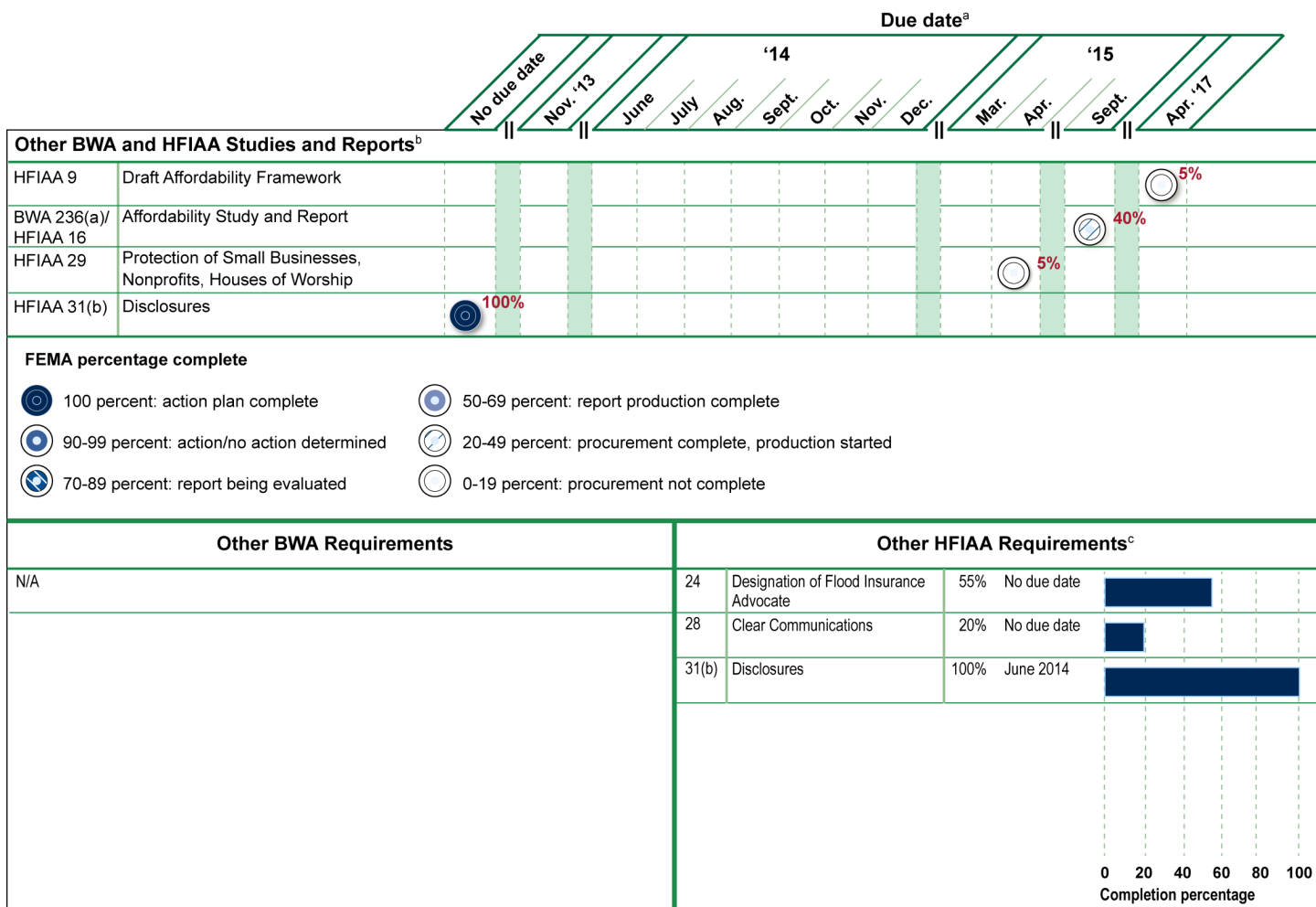
HFIAA Section 26 requires that FEMA establish guidelines for alternative methods of mitigation (other than building elevation) to reduce flood risk to residential buildings that cannot be elevated due to their structural characteristics. HFIAA requires that the guidance be established by March 2015. FEMA estimated that this section was 30 percent complete as of December 2014. According to FEMA officials, FEMA has created an internal working group to start developing related guidelines and hired a contractor in August 2014 to assist. FEMA's working group and the contractor are in the process of creating guidelines for alternative methods of mitigation. Some options they are considering for alternative methods of mitigation are elevating infrastructure critical to the property when the property itself cannot be elevated (for example, heating and air conditioning systems), constructing small barriers, and using flood-resistant materials in construction. The contractor is also analyzing the effectiveness of each type of alternative mitigation measure. After the analysis is completed, FEMA actuaries will adjust rates based upon alternative mitigation methods, and guidelines on the methods will be released to the public, as required by HFIAA.

FEMA officials stated that they faced challenges determining the long-term effects of alternative mitigation, as well as the appropriate discount to apply to premiums for such activities. According to FEMA officials, it is possible to determine if an alternative mitigation method is designed and installed appropriately; however, it is more challenging to ensure that the system is maintained over time to warrant a continued discount in flood insurance premiums. As of January 2015, FEMA anticipated completing this requirement by late March 2015, as required by HFIAA.

FEMA Has Begun to Implement Notifications and Affordability-Related Requirements

Figure 5 illustrates the progress FEMA has made in implementing other requirements related to outreach, communications, and affordability.

Figure 5: Status of Selected Other Reports, Studies, and Requirements from the Biggert-Waters Act (BWA) and HFIAA, as of December 2014



Source: GAO analysis of December 2014 FEMA documentation. | GAO-15-178

^aThe due dates listed for the draft affordability framework and the report on Protection of Small Businesses, Nonprofits, and Houses of Worship were established by the Federal Emergency Management Agency (FEMA). The due date for the Affordability Study and Report is mandated per HFIAA.

^bBiggert-Waters Act (BWA); Homeowner Flood Insurance Affordability Act (HFIAA).

^cThe due date listed is mandated by HFIAA.

Flood Insurance Advocate

As required by HFIAA Section 24, FEMA has begun establishing a flood insurance advocate to help ensure the fair treatment of NFIP policyholders and property owners in the mapping of flood hazards, identification of flood risks, and implementation of measures designed to

mitigate them. HFIAA describes the advocate's duties as educating policyholders about various issues and assisting them in understanding procedural requirements, as well as coordinating outreach and education with local communities, among other things.⁷⁸ HFIAA did not establish a due date for completing this requirement. FEMA estimated that this requirement was 55 percent complete as of December 2014 (see fig. 5). FEMA and representatives from three of the 10 organizations we interviewed said that the establishment of the advocate was one of the key changes made by HFIAA and emphasized its importance.

In mid-December 2014, FEMA established an interim Office of the Flood Insurance Advocate, which is led by an acting flood insurance advocate (effective Dec. 22, 2014). FEMA officials said that until funding is available to establish a permanent office, the interim office would leverage existing resources, and a number of FEMA employees would be detailed to the interim office. The interim office is to begin work on providing specialized assistance to citizens and policyholders on NFIP issues, as well as regional mapping outreach and education support. The acting advocate and staff will address specific public inquiries or concerns regarding NFIP processes. In addition, the acting advocate will also develop a long-term regional mapping outreach and education strategy with the goal of maximizing public support for NFIP activities. FEMA officials stated that the flood insurance advocate will be an independent office within FEMA and have direct access to the FEMA administrator on an advisory basis.

FEMA spent several months developing options to implement this requirement. FEMA detailed one of FEMA's executive officers to take the lead on producing the concept of operations. FEMA officials told us that they also had

- held discussions with internal and external stakeholders to gain input on the position's proposed structure and duties,
- analyzed data from FEMA call centers to identify important topics for policyholders,
- engaged with congressional leaders to identify issues from constituents about NFIP, and

⁷⁸Pub. L. No. 113-89, § 24 (b), 128 Stat. 1020, 1030 (2014).

-
- benchmarked with other federal agencies with advocacy offices to determine best practices.

Notifications

HFIAA enacted requirements intended to improve the way FEMA communicates NFIP insurance rates and flood risks to policyholders and others. Section 31 requires FEMA, at least 6 months prior to implementation, to make publicly available the rate tables and underwriting guidelines that provide the basis for rating changes made in response to HFIAA requirements. It also requires FEMA to report to Congress, no later than June 2014, on the feasibility of releasing property-level policy and claims data and how the release of these data may assist policyholders and insurers in understanding how FEMA determines actuarial premium rates and assesses flood risk. In response to HFIAA Section 31, FEMA had begun issuing rate change notifications. FEMA officials told us that the 6-month notification requirement did not pose challenges, as they had taken similar actions in the past and had a similar informal agreement with WYOs prior to HFIAA. For example, in October 2014, FEMA publicly issued guidance implementing certain HFIAA rate changes that would take effect 6 months later in April 2015.

In September 2014, about 2 months after the deadline established by HFIAA, FEMA issued the required report to Congress on the feasibility of releasing property-level policy and claims data and establishing guidelines for releasing these data required by Section 31. FEMA reported that NFIP collects and maintains property-level policy and claims data containing some information that is governed by privacy law.⁷⁹ FEMA also noted that its current guidelines for releasing this information satisfy the HFIAA requirement. However, FEMA officials stated that releasing individual policy and claims data would not help policyholders and insurers understand how FEMA determines actuarial premium rates and assesses flood risk. FEMA explained that full-risk premiums were not based on loss experience due to the large variability of flood losses. Rather NFIP rate setting is based on several components, including a risk component that varies based on the flood risk profile of an entire risk class, and not specific properties.⁸⁰

⁷⁹5 U.S.C. § 552a, Privacy Act of 1974.

⁸⁰We currently have work under way examining FEMA's rate-setting process for subsidized and full-risk premiums. We plan to issue this report in 2015.

HFIAA Section 28 requires FEMA to clearly communicate full flood risk determinations to individual property owners regardless of whether their premiums are full actuarial rates, and FEMA has begun evaluating how to implement this provision but cited challenges. FEMA officials noted that in order to give a property owner a specific full-risk rate, for example, FEMA would need an elevation certification, which can be expensive. FEMA officials estimate that obtaining elevation certificates can cost policyholders from about \$500 to \$2,000 or more. As discussed earlier, FEMA does not have elevation data for many properties as it does not require certain policyholders to obtain elevation certificates.⁸¹ We have previously recommended that FEMA develop and implement a plan to obtain flood risk information needed to determine full-risk rates for subsidized properties.⁸² As discussed earlier, FEMA is conducting a multiyear process of determining how to collect elevation data and whether available BFE databases could serve as a proxy for elevation certificates at the individual property level, for the limited geographies where such data are available. FEMA actuaries also told us that they were considering methods for providing access to policyholders for any property-level data that were available. HFIAA did not establish a due date for completing this requirement. FEMA estimated that this requirement was 20 percent complete as of December 2014 (see fig. 5) and anticipates completing it in fiscal year 2015.

Affordability Studies

FEMA has taken some action on the affordability studies required by the Biggert-Waters Act and HFIAA, but data challenges have delayed progress. Biggert-Waters Act Section 236 required FEMA to contract with the National Academy of Sciences (NAS) to conduct a study to inform FEMA's affordability study. FEMA's study is to examine methods for encouraging NFIP participation and educating policyholders, as well as establishing an affordability framework that includes methods to help individuals afford risk-based premiums through targeted assistance, such as a means-tested voucher program. The section also permits \$750,000 in funding and established a due date of April 2013 for completing the study. FEMA and NAS did not complete this study within the required

⁸¹FEMA began requiring certain policyholders to submit elevation information upon renewal or when new policies were issued as required for full-risk rates. However, according to FEMA officials, FEMA will not continue to collect this information with the restoration of these subsidies under HFIAA.

⁸²[GAO-13-607](#).

time frames. FEMA officials said that they did not have sufficient time or funding to complete the study and noted that the legislation had also asked them to determine the economic impact of removing all premium discounts from NFIP, something they had thus far been unable to do. FEMA officials cited their lack of elevation data for structures affected by grandfathering and subsidization. The lack of these data means that full-risk rates for many properties cannot be calculated, and thus, the economic impact of removing premium discounts for subsidized and grandfathered policies cannot be determined. In addition, FEMA cited data challenges related to understanding how much a policyholder could afford—for instance, FEMA does not have direct access to information on policyholders' incomes.⁸³

HFIAA Section 16 amended the Biggert-Waters Act Section 236 study to permit additional funding (\$2.5 million) for the draft affordability study and extended the time for completing it until September 2015, and HFIAA Section 9 permitted FEMA to contract with another federal agency to complete the study. HFIAA Section 9 also required FEMA to prepare a draft affordability framework to be provided to Congress no later than 18 months after the study was completed. FEMA estimated that the draft affordability study (Section 16) was 40 percent complete and the draft affordability framework (Section 9) was 5 percent complete (see fig. 5) as of December 2014.

A FEMA official said that the agency will consider the affordability study requirement fulfilled after the issuance of two NAS studies. First, in February 2015 NAS will deliver a report that will describe methods for an affordability framework and discuss program policy options—it is to address the question of who should have to pay for the full flood risk associated with where they live and who should be provided assistance. The FEMA official noted that this study will be a key component when they begin work on the draft affordability framework, which will commence after the NAS studies are completed. Second, in September 2015 NAS will deliver a report on approaches that could be used in conducting an affordability study, taking into consideration the lack of data. The study will also include results from a pilot affordability study for the state of North Carolina, which has readily available elevation data on structures. After the completion of NAS's two studies, a FEMA official told us that the

⁸³We currently have work under way examining NFIP affordability issues.

agency will review these studies and make a decision about conducting a nation-wide affordability study based on the results of the studies and taking into account available funding and resources.

FEMA is also developing criteria to begin conducting the affordability study for small businesses, nonprofits, and others. HFIAA Section 29 requires a study of affordability and semi-annual reports thereafter, for small businesses with fewer than 100 employees; nonprofits; houses of worship; and residences with a value equal to or less than 25 percent of the median home value of properties in the same state.⁸⁴ HFIAA set a due date for the study of September 2015. FEMA estimated that this study was 5 percent complete as of December 2014. As discussed earlier, FEMA currently cannot distinguish among nonresidential structures, such as businesses and nonprofits. FEMA anticipates finalizing criteria and collecting data on nonresidential properties beginning in October 2015 and implementation of the study will be delayed until data are collected. FEMA officials told us that because reporting of data has a 2-month lag, the first data will arrive in December 2015. As a result, the spring or summer of 2016 will be the earliest any preliminary analysis can be done.

Agency Comments

We provided a draft of this report to FEMA within DHS for its review and comment. DHS provided technical comments, which we incorporated, as appropriate.

We will send copies of this report to the appropriate congressional committees and the Secretary of Homeland Security. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact Alicia Puente Cackley at (202) 512-8678 or cackleya@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may

⁸⁴If FEMA determines that the rate increases or surcharges are having a detrimental effect on affordability including resulting in lapsed policies or late payments, FEMA must make recommendations to Congress about how to improve affordability within 3 months of making the determination.

be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix III.

Sincerely yours,

A handwritten signature in black ink that reads "Alicia Puente Cackley". The signature is written in a cursive, flowing style.

Alicia Puente Cackley
Director, Financial Markets and
Community Development

Appendix I: Objectives, Scope, and Methodology

Our objectives in this report were to describe (1) the Federal Emergency Management Agency's (FEMA) management of the implementation of the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act) and Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) and associated challenges and (2) the status of FEMA's implementation of selected requirements, including whether the agency has met required time frames and established goals.

To address these objectives, we reviewed prior GAO reports and academic and industry studies (identified in a literature review or in interviews) on the National Flood Insurance Program (NFIP) and analyzed relevant laws and regulations. To respond to the first objective, we obtained relevant FEMA documentation on Biggert-Waters Act and HFIAA implementation priorities and status, and we interviewed FEMA officials responsible for managing and executing FEMA's implementation of these requirements. We compared FEMA's processes for managing its implementation of Biggert-Waters Act and HFIAA requirements to relevant federal internal control standards.¹ There are five internal control standards—control environment, risk assessment, control activities, information and communications, and monitoring—that are used to assess federal agencies and programs. Given the smaller scope of the activity being reviewed—i.e., a specific process within a program rather than the federal program itself—we limited our comparison to the three federal internal controls standards that we determined to be most appropriate—risk assessment, control activities, and information and communications. We compared information provided in our interviews with relevant FEMA officials and documentation on their management processes to these three internal control standards.

In addition, we interviewed representatives from 10 organizations with flood insurance expertise and experience to obtain input on key changes made by the Biggert-Waters Act and HFIAA and any challenges FEMA may face in implementing these changes. We interviewed representatives from the following 10 organizations: (1) American Academy of Actuaries; (2) Association of State Floodplain Managers; (3) Center for Economic Justice; (4) Congressional Research Service; (5) National Association of Mutual Insurance Companies; (6) National Association of Realtors; (7)

¹GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: Nov. 1999).

Property Casualty Insurers Association of America; (8) Center for Catastrophic Risk Management and Compensation, RAND Corporation; (9) R Street Institute; and (10) Wharton Risk Management and Decision Processes Center, University of Pennsylvania. The 10 organizations were judgmentally selected based on criteria such as their breadth of flood insurance expertise and type of organization (e.g., academic institution, trade association, think tank) in order to obtain a broad range of views. To select the 10 organizations, we reviewed prior GAO reports, congressional testimony, and academic and public policy databases, such as Google Scholar and PolicyFile. In conducting our reviews, we identified organizations that were identified in multiple resources as having expertise or experience in NFIP, in particular with the Biggert-Waters Act or HFIAA. In addition, we took into consideration the type of organization, its role in implementing NFIP or other expertise, and membership base. Our interviews with these organizations provided further insights on the Biggert-Waters Act and HFIAA but are not generalizable to the flood insurance community as a whole.

To respond to our second objective, we identified Biggert-Waters Act requirements that FEMA was required to implement, changes that HFIAA made to these requirements, and any new HFIAA requirements that FEMA was required to implement. We interviewed FEMA officials responsible for implementing the Biggert-Waters Act, as amended by HFIAA, and representatives from the same 10 organizations discussed above to obtain their perspectives on FEMA's implementation efforts. To identify important areas within the Biggert-Waters Act and HFIAA and select key requirements for further review, we conducted legislative analysis, reviewed prior GAO work, and conducted initial interviews with FEMA on their implementation priorities. Specifically, in addition to our own legislative analysis, we reviewed: (1) prior GAO reports for discussion of Biggert-Waters Act and HFIAA requirements which may require follow up; (2) reviewed FEMA documentation, including overviews of the Biggert-Waters Act and HFIAA, to identify areas of focus; and (3) analyzed our initial interviews with FEMA for requirements they considered important. We compiled a list of these requirements and obtained consensus for our selection through legal review and at internal meetings. Appendix II contains a detailed chart of these requirements, which covers the majority of Biggert-Waters Act and HFIAA requirements. We conducted additional interviews with FEMA officials and reviewed FEMA documentation on the status of these selected requirements.

We compared FEMA's implementation status to time frames established by the Biggert-Waters Act and HFIAA and to any goals FEMA has set

internally. In the report, we described FEMA's status in implementing requirements and when it did not meet required due dates, its updated expected time frames for completion (if available). We also described any challenges FEMA faced in implementing certain requirements. In addition, where available, we obtained FEMA data relevant to the implementation of the requirements. To assess the reliability of percentages of completion reported in FEMA documents, we interviewed knowledgeable officials and reviewed documents about the sources of the data. We found these data sufficiently reliable for the purposes of reporting on FEMA's progress in implementing Biggert-Waters Act and HFIAA requirements. To assess data on the percentage of subsidized policies as of September 30, 2013, and estimates on future reserve fund contributions, we reviewed a recent GAO assessment of the reliability of the data and conducted an interview with the knowledgeable official.² We determined that the data were sufficiently reliable to report on the percentage of subsidized policies and discuss FEMA estimates of future reserve fund contributions. To assess the reliability of the mapping and mitigation funding data, we also interviewed knowledgeable officials and reviewed relevant documentation. We found these data sufficiently reliable for reporting on FEMA's funding for these activities.

We conducted this performance audit from March 2014 to February 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²GAO: *Flood Insurance: Forgone Premiums Cannot be Measured and FEMA Should Validate and Monitor Data System Changes*, [GAO-15-111](#) (Washington, D.C.: Dec. 11, 2014).

Appendix II: Selected Requirements from the Biggert-Waters Act and Homeowner Flood Insurance Affordability Act (HFIAA)

The following table contains selected requirements from the Biggert-Waters Flood Insurance Reform Act (Biggert-Waters Act) and the Homeowner Flood Insurance Affordability Act (HFIAA) that the Federal Emergency Management Agency (FEMA) is required to implement. The requirements contained in the table, and discussed in the report, were selected based on our legislative analysis, prior GAO work, and interviews with FEMA through which we identified areas of priority (for example, rate changes) and important requirements.

Table 3: Selected Requirements from the Biggert-Waters Act and HFIAA

| Biggert-Waters Act | Homeowner Flood Insurance Affordability Act (HFIAA) |
|--|---|
| <i>Premium Guidelines – Minimum and Maximum Annual Premium Increase</i> | |
| Generally, within any rate class the premium may not be increased by an amount that would result in an average yearly rate increase of more than 20 percent. (100205(c)(2)). | <p>Within any rate class, generally, the average yearly premium rate increases cannot be greater than 15 percent. (Sec. 5(6)).</p> <p>Generally, the risk premium rate for a specific property may not increase by more than 18 percent per year. (Sec. 5(5)).</p> <p>Certain pre-FIRM rate classes must increase by not less than 5 percent. (Sec. 5(5)).</p> |
| <i>Premium Guidelines — Premium as a Percentage of Coverage</i> | |
| | HFIAA encourages FEMA to strive to minimize the number of policies where premiums exceed 1 percent of the coverage amount, and requires FEMA to report such policies to Congress. (Sec. 7). |
| <i>Grandfathering</i> | |
| Properties remapped to higher risk flood zones but paying lower risk premium rates because of grandfathering will now pay the premium rate charged for current risk of flood to the property, as phased in over five years at 20 percent per year. (100207). | <p>Repeals the BWA provision that terminated grandfathering. (Sec. 4). If the property is sold, grandfathered status will be passed on to the new owners.</p> <p>When the property is newly designated as within a special flood hazard area AND the premium rate is calculated as a full risk rate, a preferred risk premium is permitted for the first year. Thereafter, in accordance with premium rate increase guidelines, the property’s final rate is phased in. (Sec. 6).</p> |

**Appendix II: Selected Requirements from the
Biggert-Waters Act and Homeowner Flood
Insurance Affordability Act (HFIAA)**

| Biggert-Waters Act | Homeowner Flood Insurance Affordability Act (HFIAA) |
|--|---|
| <i>Subsidies</i> | |
| <p>The Biggert-Waters Act excludes or removes subsidies for certain properties, including:</p> <ul style="list-style-type: none"> • properties purchased after July 6, 2012; • properties not insured as of July 6, 2012 or those with lapsed insurance coverage as a result of a deliberate choice of the policyholder; • secondary residences; • business property; and • severe repetitive loss properties. (100205).^a <p>Rates for subsidy removal for certain properties (such as secondary residences, business property, and severe repetitive loss properties) shall be increased by 25 percent per year until the average risk premium rate of the properties is equal to full risk rate.</p> | <p>HFIAA generally:</p> <ul style="list-style-type: none"> • repealed property sales trigger for automatic full risk rate and allows home buyers to assume flood insurance at same risk rate; • prohibited FEMA from immediately removing subsidies specifically because any property was not insured by the flood insurance program as of July 6, 2012; and • retained the Biggert-Waters Act's phase out of subsidies for certain property classes (secondary residences, business properties, and severe repetitive loss properties) and maintained the 25 percent increase per the Biggert-Waters Act. (Sec. 3). |
| <i>Refunds</i> | |
| N/A | <p>FEMA must issue refunds directly to those who paid NFIP premiums under the Biggert-Waters Act in excess of rates set under the HFIAA. Refunds apply to policy holders who (1) purchased property after July 6, 2012; (2) who were not insured prior but purchased insurance after July 6, 2012; and (3) certain policy holders who let their policy lapse. (Sec. 3(a)(4)).</p> |
| <i>Reserve Fund and Premium Surcharges</i> | |
| <p>FEMA must create a reserve fund that maintains at least one percent of the total annual potential loss exposure. The fund will be phased in over time with at least 7.5 percent of the total added yearly, but FEMA is not permitted to exceed annual rate increase caps to build up or maintain the reserve fund. (100212).</p> | <p>Adds a premium surcharge which will be deposited in the reserve fund. Generally, a policy for a primary residence will include a \$25 surcharge and all other policies will include a \$250 surcharge. (Sec. 8).</p> |
| <i>Debt Reporting</i> | |
| <p>FEMA must issue a report to Congress setting forth options to repay FEMA's total debt to Treasury within 10 years. The report was due by January 2013. After borrowing funds, FEMA must report to Congress and the Treasury every 6 months on the progress of the payments. (100213).</p> | N/A |

**Appendix II: Selected Requirements from the
Biggert-Waters Act and Homeowner Flood
Insurance Affordability Act (HFIAA)**

| Biggert-Waters Act | Homeowner Flood Insurance Affordability Act (HFIAA) |
|--|--|
| <i>Mapping</i> | |
| <p>Establish a Technical Mapping Advisory Council (TMAC) with multiple agency participation. (100215).</p> <p>Required that, in coordination with TMAC, FEMA shall establish an ongoing program under which FEMA shall review, update, and maintain NFIP rate maps in accordance with National Flood Mapping Program requirements provided in the Biggert-Waters Act. (100216(a)).</p> <p>Mapping should consider recommendations made by TMAC and include the 1 percent and .02 percent annual flood risk for all populated areas and areas protected by levees, dams and other flood control devices. (100216(b)).^b</p> <p>Eliminated the cap that states can contribute to updating flood maps (previously the cap was 50 percent of total costs). (100219).</p> <p>Authorized \$400,000,000 to be appropriated for each fiscal year 2013 through 2017 for updating maps (100216(f)).</p> <p>FEMA must contract with National Academy of Public Administration (NAPA) to conduct a study of improving interagency and intergovernmental mapping coordination among agencies. NAPA must complete the study by January 2013. (100221).</p> | <p>Before FEMA implements a flood mapping program: (1) TMAC must review the new national flood mapping program, (2) the FEMA administrator must certify in writing to Congress that FEMA is utilizing "technically credible" flood hazard data in all areas where a FIRM is prepared or updated; and (3) FEMA must submit the TMAC review report to Congress. (Sec. 17).</p> <p>FEMA must notify the community affected by the mapping model(s) before starting a new or updated mapping model(s) and explain the model(s) appropriateness. (Sec. 30). The community has 30 days to consult with FEMA after FEMA's initial notification. Further, FEMA must transmit the first Independent Data Submission after it is completed to the community which then has 30 days to provide FEMA data to supplement or modify FEMA's information. In addition, FEMA must notify the Congresspersons of the affected areas at least 30 days before a preliminary map is issued of any related scheduled community meetings, publication of notices in local newspapers and estimates of homes and businesses affected. (Sec. 30).</p> |
| <i>Appeals of Maps</i> | |
| <p>Limited the scope of allowable appeals of new maps to scientific or technical inaccuracies for elevations or designation of an identified special flood hazard area. (100217).</p> <p>Required FEMA to establish an independent Scientific Resolution Panel composed of experts, who are not FEMA employees, and make them generally available to communities involved in map appeals. (100218).</p> | <p>Allows FEMA to utilize the National Flood Insurance Fund to reimburse policyholders and communities that successfully appeal a map determination and removes a \$250,000 limit (established by Biggert-Waters Act Section 246) for FEMA reimbursements of costs of appeals. (Sec. 18(a)(2)).</p> |
| <i>Coverage Amount – Residential</i> | |
| <p>Generally, total coverage is limited to \$250,000 for a residential building with 1-4 units; and \$500,000 for multi-family properties (those with 5 or more units) (1000204 and 100228).</p> | <p>N/A</p> |

**Appendix II: Selected Requirements from the
Biggert-Waters Act and Homeowner Flood
Insurance Affordability Act (HFIAA)**

| Biggert-Waters Act | Homeowner Flood Insurance Affordability Act (HFIAA) |
|--|--|
| <i>Affordability Study and Framework</i> | |
| <p>Provided FEMA \$750,000 to conduct an NFIP affordability study in part about methods to encourage participation, which must be completed by April 2013. (100236).</p> <p>To inform the affordability study, FEMA is required to contract with NAS to conduct an economic analysis of the costs and benefits to the federal government of a flood insurance program with full risk-based premiums, combined with means-tested federal assistance to aid individuals who cannot afford coverage through a potential insurance voucher program. (100236(b)).</p> | <p>Provided FEMA \$2.5 million to complete a draft affordability study (including issues that were to be identified in the Biggert-Waters Act study and several additional topics) by September 2015. (Sec. 16) FEMA may enter into an agreement with another federal agency to complete this study. (Sec. 9(d)(1)).</p> <p>FEMA must prepare a draft affordability framework submitted to Congress no later than 18 months after the affordability study is completed. (Sec. 9(a)). The framework must consider: (1) accurate communication to consumers of flood risk; (2) targeted assistance to policy holders based on their financial ability to participate in NFIP; (3) individual or community actions to mitigate risk of flood or lower the cost of flood insurance; (4) the impact of increases in risk premium rates on participation; and (5) the impact flood insurance rate map updates have on the affordability of flood insurance. (Sec. 9(a)). FEMA may enter into an agreement with another federal agency to prepare the draft affordability framework. (Sec. 9(d)).</p> <p>In the study, FEMA, among other things, must consider options for maintaining affordability if annual premiums were to increase to an amount greater than 2 percent of the liability coverage under the policy, including options for enhanced mitigation assistance and means-tested assistance. (Sec. 16(a)(3)).</p> |
| <i>Flood Insurance Advocate</i> | |
| N/A | <p>FEMA must designate a Flood Insurance Advocate to advocate for the fair treatment of NFIP policy holders and property owners in the mapping of flood hazards, the identification of risks from flood, and the implementation of measures to minimize the risk of flood. (Sec. 24).</p> |

**Appendix II: Selected Requirements from the
Biggert-Waters Act and Homeowner Flood
Insurance Affordability Act (HFIAA)**

| Biggert-Waters Act | Homeowner Flood Insurance Affordability Act (HFIAA) |
|---|--|
| <i>Mitigation</i> | |
| <p>Mitigation funds must only be used for mitigation activities consistent with mitigation plans approved by FEMA. (100225(a)). FEMA may establish grants for eligible mitigation activities up to the amounts as follows:</p> <ul style="list-style-type: none"> • 100 percent for severe repetitive loss properties, • 90 percent for repetitive loss properties, and • 75 percent for all other mitigation projects. (100225(a)). <p>Eliminated as independent programs grant programs for repetitive insurance claims properties and a pilot program for mitigation of severe repetitive loss properties as independent programs. (100225(b)-(c)).</p> <p>FEMA may provide financial assistance for activities designed to reduce the risk of flood damage to structures covered under flood insurance. The grants may be made to states and communities to carry out mitigation generally and mitigation that reduces flood damages to severe repetitive loss structures. If FEMA determines that the state or community cannot manage these grants, grants may be provided directly to property owners to carry out mitigation that reduces flood damages to individual structures for which two or more claim payments for losses have been made by NFIP. (100225).</p> | <p>By March 2015, FEMA is to establish guidelines to provide alternative methods of mitigation, other than building elevation, to reduce flood risk to residential buildings that cannot be elevated due to their structural characteristics. (Sec. 26).</p> <p>When setting full risk rates, FEMA must now also consider the flood mitigation activities that an owner or lessee has undertaken on a property including differences in the risk involved due to land use measures, flood proofing, flood forecasting and similar measures. (Sec. 14).</p> |
| <i>Flood Protection Systems in Communities</i> | |
| <p>Generally, a person living in a community that FEMA determines has made adequate progress on the reconstruction or improvement of a flood protection system that will afford the 1 percent per year floodplain flood protection is eligible for NFIP coverage if: (1) the community participates in NFIP and (2) the premium rate does not exceed the risk premium rate that would be chargeable if the flood protection system had been completed. (100230) FEMA must follow statutorily set standards to determine adequate progress. (100230(a)(2)(A)).</p> | <p>Any community that has made adequate progress on the construction or reconstruction of a flood protection system which will afford flood protection for the 1 percent per year frequency flood is eligible for flood insurance at the premium rates that would apply if such flood protection system had been completed. (Sec. 19(a)(1)).</p> <p>FEMA's determination of "adequate progress" was amended by HFIAA to include a requirement that at least 50 percent of the cost of the system has been expended and that at least 50 percent of the system is completed. (Sec. 19(a)(2)). The provisions also apply to riverine and coastal levees located in communities which have been determined by FEMA to be in the process of restoring flood protection previously accredited as providing the 1 percent per year protection but no longer do so. (Sec. 19(b)).</p> |

**Appendix II: Selected Requirements from the
Biggert-Waters Act and Homeowner Flood
Insurance Affordability Act (HFIAA)**

| Biggert-Waters Act | Homeowner Flood Insurance Affordability Act (HFIAA) |
|--|--|
| | <i>Notification</i> |
| N/A | <p>Requires FEMA, at least 6 months prior to implementation of rate changes as a result of this Act, to make publicly available the rate tables and underwriting guidelines that provide the basis for the change. (Sec. 31(a)). By June 2014, FEMA must submit to Congress a report on the feasibility of releasing property-level policy and claims data for flood insurance coverage and establishing guidelines for releasing property level policy and claims data in accordance with the Privacy Act of 1974. (Sec. 31(b)).</p> <p>FEMA must clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates. (Sec. 28).</p> |
| <i>Write Your Own (WYO) Oversight and Reimbursement</i> | |
| <p>FEMA must develop a methodology by January 2013 for determining the appropriate amounts that property and casualty insurance companies participating in the WYO ("WYOs") program should be reimbursed for selling, writing, and servicing NFIP policies and adjusting claims. (100224(b)). The methodology must be developed using expense data from the flood insurance lines derived from information provided by WYOs and collected by the National Association of Insurance Commissioners. (100224(b)). FEMA can require WYOs to submit a report that details the expense levels for selling, writing, and servicing standard flood insurance policies and adjusting and servicing claims. (100224(c)). FEMA was mandated to issue rules by July 2013 to formulate revised expense reimbursements for selling, writing and servicing standard flood insurance policies which are structured to ensure reimbursements track actual expenses. (100224(d)). No later than 60 days after the effective date of the final rule, FEMA must submit to Congress a report including the rationale and purpose for the rule; reasons for adopting the policy; and the degree to which the rule accurately represents the true operating costs and expenses for WYOs. (100224(e)).</p> | N/A |

**Appendix II: Selected Requirements from the
Biggert-Waters Act and Homeowner Flood
Insurance Affordability Act (HFIAA)**

| Biggert-Waters Act | Homeowner Flood Insurance Affordability Act (HFIAA) |
|--|--|
| <i>Small Business, Nonprofit, House of Worship and Residences Protection Studies</i> | |
| N/A | <p>FEMA must monitor and report to Congress by September 2015 (and semiannually afterward) FEMA’s assessment of the impact of the rate increases instituted under the Biggert-Waters Act—specifically, certain subsidy eliminations on secondary residences, severe repetitive loss properties, any property that has incurred flood-related damage in a cumulative amount that equals or exceeds the property’s fair market value, and business properties—and certain surcharges on small businesses with less than 100 employees, non-profit entities, houses of worship, and residences with a value equal to or less than 25 percent of the median home value of properties in the state the property is located. (Sec. 29)</p> <p>If FEMA determines the rate increases or surcharges are having a detrimental effect on affordability including resulting in lapsed policies or late payments, FEMA must make recommendations to Congress about how to improve affordability within 3 months of making the determination. (Sec. 29)</p> |

Source: GAO analysis of the Biggert-Waters Act and HFIAA. | GAO-15-178

^aThe complete list includes: any property that has incurred flood-related damage in which the cumulative amounts of payments under NFIP equaled or exceeded the fair market value of the property; any property which on or after July 6, 2012 has experienced or sustained substantial damage exceeding 50 percent of the property fair market value or substantial improvement exceeding 30 percent of the property fair market value; and any prospective insured who refuses to accept any offer for mitigation assistance from FEMA including an offer for mitigation assistance following a major disaster or in connection with a repetitive loss property or a severe repetitive loss property. (100205).

^bThe legislation uses the language “100-year” and “500-year” floodplain, which is equivalent to 1 percent and .02 percent annual flood risk.

Appendix III: GAO Contact and Staff Acknowledgments

GAO Contact

Alicia Puente Cackley, (202) 512-8678 or at cackleya@gao.gov

Staff Acknowledgments

In addition to the contact above, Paul Schmidt (Assistant Director), Allison Abrams, Emily Chalmers, Pamela Davidson, Jonathan Harmatz, Scott Hiromoto, Jessica Sandler, and Jena Sinkfeld made key contributions to this report.

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