



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

October 4, 2017

The Honorable Paul D. Ryan
Speaker of the House of Representatives
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker: *Paul*

Over the past few weeks, millions of Americans have been forced to cope with destruction caused by three major hurricanes: Harvey, Irma, and Maria. The destructive force was devastating and the series of storms unprecedented. At the same time, wildfires have ravaged large portions of the Western United States, burning more than eight million acres.

The Federal Government must serve a critical and ongoing role in supporting our States, territories, and local communities as they respond to, recover from, and persevere through the destruction caused by these natural catastrophes. The President is directing numerous executive departments and agencies to work around the clock to save lives, preserve property, and support our fellow Americans. With more than 20,000 Federal employees deployed by multiple agencies and working in multiple locations, we need the help of the Congress to stabilize the affected communities, and replenish dwindling and depleted funds.

This letter addresses three priorities: the Federal Emergency Management Agency's (FEMA) Disaster Relief Fund (DRF), the National Flood Insurance Program (NFIP), and Federal wildfire suppression.

The Congress's quick action to pass the emergency supplemental last month and replenish the DRF enabled FEMA to execute immediate, expeditious, and ongoing response and recovery efforts. The Federal Government alone is obligating close to \$200 million per day for recovery activities funded by the DRF. The Administration is now requesting that the Congress provide an additional \$12.77 billion to fund additional response and initial recovery needs in the wake of the hurricanes that have catastrophically affected the lives of Americans living in Puerto Rico, the U.S. Virgin Islands, Florida, and Texas. Because the need for this funding arises from unforeseen, unanticipated events, additional resources for the DRF should be provided as emergency funding.

The Congress established the NFIP to allow citizens to buy insurance to protect their homes in flood-prone areas. The recent hurricanes have inflicted projected losses of \$16 billion. As a result, by the latter part of this month, the NFIP will have fully exhausted its financial resources (including its \$30.4 billion in borrowing authority) and will be unable to pay claims.

Put plainly, the NFIP is not designed to handle catastrophic losses like those caused by Harvey, Irma, and Maria.

The NFIP is simply not fiscally sustainable in its present form.

To be sure, the NFIP requires immediate financial relief to fulfill its obligations to its policyholders, but the program must also be reformed to place it on a sound financial footing and to enable the private market for flood insurance to expand. The Congress, therefore, should authorize the NFIP to establish a means-tested affordability program that allows low-income policyholders to maintain subsidized rates. This measure to keep the program affordable for those who need it should be paired with accelerated premium increases for policyholders who can afford to pay risk-based rates, pursuant to limits in current law. The Administration also proposes improving the program's management of properties that have sustained multiple losses. To allow the private market to expand, the Administration proposes phasing out the issuance of NFIP policies for newly constructed homes and for commercial customers, strengthening FEMA's ability to share the risk of flood losses with private insurance companies, and removing barriers for customers who may want to switch to private carriers. These reform proposals are further described in an enclosure to this letter, and the Administration looks forward to working with the Congress to enact them.

In addition to these reforms, the Congress needs to address how the NFIP will meet its current and anticipated outstanding obligations, while remaining viable for future needs. The Administration proposes cancelling \$16 billion of the program's existing debt. Because the need for this funding arises from unforeseen, unanticipated events, this debt cancellation should be provided as an emergency requirement for budgetary purposes.

While the Nation is repairing the damage caused by Hurricanes Harvey, Irma, and Maria, severe wildfires have been raging on the west coast, as fire danger indices have hit record levels across large portions of the Pacific Northwest, Northern Rockies, and Northern California. This caused the Department of Agriculture's (USDA) U.S. Forest Service to exhaust its entire 2017 wildland suppression budget authority in September, forcing it to fund additional operations through transfers from its non-fire accounts and from the Department of the Interior (DOI). Accordingly, the Administration is requesting \$576.5 million to support these heroic firefighting efforts. Because the need for this funding arises from unforeseen, unanticipated events, additional resources for the U.S. Forest Service should be provided as emergency funding.

The Administration believes that the problem of wildfire "borrowing" must be addressed in a more structured, long-term manner. However, additional funding alone will not reverse the worsening trend of catastrophic wildfires that threaten our forests, critical habitats, and communities that border public lands. Active forest management and other reforms must be part of the solution to curb the cost and destruction of wildfires. Any long-term funding solution must also be structured so that it does not degrade the Nation's ability to respond to natural disasters, such as the recent hurricanes. The Administration looks forward to working with the Congress to develop a long-term solution that address these needs.

It is critical that the Congress provide the urgently needed resources requested for the DRF, NFIP, USDA, and DOI as expeditiously as possible. To ensure a robust recovery, Federal agencies are working diligently to collect the information they need to generate thorough and well-justified cost estimates for the rebuilding efforts that will be required. It can take up to 90 days after a major hurricane to finalize recovery cost estimates, and the Administration is committed to properly quantifying the costs of the necessary permanent repair work as quickly as possible.

We will also prioritize agencies' efforts to finalize future estimates for longer-term rebuilding needs, which will be submitted to the Congress in time to be considered as part of the Fiscal Year 2018 appropriations process. I will be issuing a memorandum to agencies in the near future directing them to identify where additional funding and authorities may be necessary to support recovery efforts.

With two more months of hurricane season remaining and wildfires continuing to burn in the West, we must act expeditiously to ensure that communities have the assistance they need, when they need it. As always, I stand ready to work with you to achieve the objectives described in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Mick Mulvaney". The signature is stylized and written in a cursive-like font.

Mick Mulvaney
Director

Enclosure

Identical Letter Sent to The Honorable Michael R. Pence, The Honorable Mitch McConnell,
The Honorable Charles E. Schumer, The Honorable Nancy Pelosi,
The Honorable Rodney Frelinghuysen, The Honorable Thad Cochran,
The Honorable Nita M. Lowey, and The Honorable Patrick Leahy

NFIP Reform Proposals

Below is a summary of proposals to reform the National Flood Insurance Program (NFIP) that the Administration supports, many of which Members of Congress have strongly supported in the past. The Administration looks forward to working with the Congress to enact these much-needed reforms and can provide legislative text as required.

Summary of Proposed Reforms

- 1. Establish means-tested affordability program for policyholders earning less than 80 percent of area median income (AMI) starting in 2021** – Establish a means-tested affordability program for low-income policyholders who face rate increases under current law. The Department of Housing and Urban Development defines households earning less than 80 percent of AMI as "low income." The Federal Emergency Management Agency (FEMA) estimates 26 percent of NFIP policyholders in Special Flood Hazard Areas (SFHAs), and 21 percent of policyholders outside their areas, meet this definition of "low income." This targeted affordability program will shield low-income policyholders who currently receive discounts or subsidies (based on the location or age of their structure) from substantive rate increases that they would otherwise experience under existing law. Once FEMA establishes the means-tested affordability program, such policyholders would see minimal annual increases.
- 2. Identify and address multiple-loss properties (aka "extreme repetitive loss")** – Enable the NFIP to more effectively identify multiple-loss properties by creating a new category of "extreme repetitive loss" properties. Give FEMA the authority to discontinue NFIP coverage for extreme repetitive loss properties following another flood loss that occurs after enactment of the reforms, if it is not in the best interest of the program's financial solvency to renew coverage or make an offer of mitigation.
- 3. Authority to transfer between the Reserve Fund and the National Flood Insurance Fund** – Enable FEMA to transfer funds between the NFIP's two accounts—Reserve Fund ("savings") and National Flood Insurance Fund ("checking")—to facilitate payment of claims and maximize investment opportunities to generate additional revenue.
- 4. Increase the Reserve Fund Assessment** – After addressing the NFIP's liquidity, position the program to more effectively manage its financial exposure by achieving the statutorily-directed minimum Reserve Fund Ratio. Exempt Reserve Fund Assessments from the statutory 18 percent (per policy) cap on annual rate increases. Utilize FEMA's existing authority to adjust Reserve Fund Assessments for all policyholders, including those receiving subsidies, to raise annual revenues when the Reserve Fund balance falls below set levels, as set forth in the chart below.

Reserve Fund Balance (% of \$12B Reserve Fund Ratio)	Annual Reserve Fund Revenue Target (% of \$12B Reserve Fund Ratio)
Less than 50%	10%
Between 50% and 75%	7.5%
Between 75% and 100%	5%
Greater than 100%	n/a

5. **Phase out new NFIP policies for newly-constructed homes and commercial customers** – After January 1, 2021, prohibit the NFIP from selling a flood insurance policy on any structure newly constructed in a SFHA, or constructed after FEMA has newly identified the area as a SFHA. Under the NFIP, all new construction in participating communities must already comply with flood resistant building standards, making new construction in those communities a risk the private market may want to insure. Likewise, prohibit the NFIP from selling new flood insurance policies for commercial structures (regardless of date of construction or location). The NFIP should continue offering flood insurance for commercial properties with existing continuous flood coverage (running with the property versus the specific owner), but not take on any new business.

6. **Amend and modernize the NFIP "Part A" authorities and improve program design** – Encourage private insurance companies to risk private capital in selling Federal flood insurance in SFHAs by:
 - a. Clarifying that FEMA can operate the NFIP under both Parts A and B of the National Flood Insurance Act;
 - b. Authorizing FEMA to enter into arrangements with pools or individual insurance companies under Part A; and
 - c. Broadening FEMA's ability to enter into all types of reinsurance agreements with insurance companies and pools under Part A.

7. **Remove barriers to switching to private policy** – Clarify that private flood policies can satisfy the NFIP's mandatory purchase requirement, and permit such policies to satisfy the NFIP's continuous coverage requirement.

8. **Eliminate the Write Your Own (WYO) company non-compete clause** – Direct FEMA to remove the clause from the WYO company arrangement that prohibits WYO companies from selling private flood insurance products that compete with the NFIP's products. Doing so would not change the Privacy Act's restrictions on the use of NFIP customer data, nor would it affect applicable restrictions under the Federal Information Security Management Act.

9. **Eliminate “pain points” related to proof of loss** – A proof of loss (POL) is a policyholder's statement of the amount of money being requested from the NFIP, signed and sworn to by the policyholder with supporting documentation. Policyholders often hesitate to sign a POL because they view it as the final amount that they can be paid for their loss. The POL requirement may delay claim settlements, and is generally seen as burdensome because the insurance industry does not require anything like it. The

Congress should direct FEMA to extend the statute of limitations to allow policyholders to file suit up to two years after submitting a notice of loss. This would enable FEMA to move away from its reliance on a timely filed POL, thus providing policyholders with additional time to submit a claim and, if necessary, to file suit if they are not satisfied with their claim payment.

- 10. Make data available to the private market** – To stimulate development of private insurance markets, FEMA should make more detailed, historic NFIP claims and policy data available to the public, while protecting personal information, as required by law.
- 11. Disclosure of flood risk before real estate transactions close** – A significant barrier to addressing the nation's flood risk is home buyers' and renters' lack of awareness about flood risk when they complete real estate and lease transactions. The Congress should require states to establish certain minimum flood-risk reporting requirements for sellers and lessors before transactions close as a condition for participation in the NFIP.
- 12. Use replacement cost value in setting rates** – Account for the replacement cost value of insured structures in setting NFIP rates to reduce cross-subsidies and more accurately signal policyholders' true risk.
- 13. Distinguish between coastal and inland areas in setting rates** – Create separate classes for coastal and inland flood zones in the NFIP's rate tables to reduce cross-subsidies and more accurately signal policyholders' true risk.
- 14. Address Endangered Species Act complexities with the NFIP** – Ensure that, with respect to compliance with the Endangered Species Act of 1973, the NFIP is not responsible for privately-funded actions taken by private parties on private land.
- 15. Study the efficacy of the mandatory purchase requirement** – Direct the Government Accountability Office to study how well the NFIP's mandatory purchase requirement meets the Congress's intent to increase the number of Americans covered by flood insurance.