To amend the National Flood Insurance Act of 1968 to allow the construction and improvement of structures used for agricultural production in floodplains, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
FEBRUARY 14, 2012
Mr. GARAMENDI (for himself and Mr. DANIEL E. LUNGREN of California) introduced the following bill; which was referred to the Committee on Financial Services

A BILL
To amend the National Flood Insurance Act of 1968 to allow the construction and improvement of structures used for agricultural production in floodplains, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.
This Act may be cited as the “Flood Insurance for Farmers Act of 2012”.

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SEC. 2. FLOODPLAIN MANAGEMENT CRITERIA.

(a) In General.—Section 1361 of the National Flood Insurance Act of 1968 (42 U.S.C. 4102) is amended by adding at the end the following new subsection:

“(d) Treatment of Certain Structures and Areas.—

“(1) Requirements.—After the date of the enactment of this subsection, the comprehensive criteria for land management and use established pursuant to this section shall provide as follows:

“(A) Treatment of certain agricultural structures.—Such criteria may not prohibit, limit, restrict, or condition, including requiring any floodproofing or flood damage mitigation activities or features with respect to, the new construction or substantial improvement of any agricultural structure in any area identified by the Director as having special flood hazards, except to the extent provided in section 1315(a)(2) and subject to subparagraphs (B) and (C) of this paragraph.

“(B) Treatment of structures in certain areas protected by levees.—Such criteria, with respect only to structures in a covered levee-protected area—
“(i) may not prohibit, limit, restrict, or condition, including requiring any floodproofing or flood damage mitigation activities or features with respect to, the new construction or substantial improvement of any agricultural structure; and

“(ii) shall provide that any substantial improvement made to an existing residential structure shall have the lowest floor (including any basement) elevated to or above the base flood level, except that for purposes of determining whether any improvement of residential structures in such an area is substantial or not, the term ‘substantial damage’ shall mean, for any damage caused other than by a flood event, damage for which the cost of restoring the structure to its before-damaged condition would equal or exceed 100 percent of the market value of the structure before the damage occurred.

“(C) Treatment of existing structures in legacy communities protected by levees.—Such criteria shall provide that a legacy community located in a covered levee-
protected area may adopt adequate land use
and control measures that provide for the re-
pair, restoration to pre-damaged conditions, or
replacement of existing residential and non-resi-
dential structures other than repetitive loss
structures (as such term is defined in section
1370).

“(2) DEFINITIONS.—For purposes of this sub-
section, the following definitions shall apply:

“(A) AGRICULTURAL STRUCTURE.—The
term ‘agricultural structure’ has the meaning
given such term in section 1315(a)(2)(D).

“(B) COVERED LEVEE-PROTECTED
AREA.—The term ‘covered levee-protected area’
means any area that is protected by a levee that
is not accredited by the Administrator, but pro-
vides protection with at least 1 foot of
freeboard above the water surface elevation of
the base flood for such area.

“(C) LEGACY COMMUNITY.—The term ‘leg-
acy community’ means a community that—

“(i) has a population of less than
2,000; and

“(ii) is located in an area for which a
substantial portion of the economy, cur-
rently is and historically was, based on ag-
3 ricultural production, as determined by the
4 Administrator.”.

(b) Exception to Existing Requirements for
5 Agricultural Structures.—Section 1315(a)(2) of the
7 4022(a)) is amended—
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9 (1) in subparagraph (A), by striking “Notwith-
10 standing” and inserting “Subject to subparagraphs
11 (B) and (C) of section 1361(d)(1) and notwith-
12 standing”; and
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14 (2) in subparagraph (B), by striking “To” and
15 inserting “Subject to subparagraphs (B) and (C) of
16 section 1361(d)(1) and to”.

SEC. 3. AVAILABILITY OF FLOOD INSURANCE COVERAGE
17 AND CHARGEABLE RATES.
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19 Section 1308 of the National Flood Insurance Act of
20 1968 (42 U.S.C. 4015) is amended—
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22 (1) in subsection (c), in the matter preceding
23 paragraph (1), by inserting “of this subsection and
24 to subsections (g) and (h)” before the comma; and
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26 (2) by adding at the end the following new sub-
27 section:
28 “(g) New Construction and Substantial Im-
29 provement of Agricultural Structures in Flood
HAZARD AREAS.—Subject to section 1315(a)(2)(B) and subsection (h) of this section, and notwithstanding any other provision of this Act, the Director shall make flood insurance coverage available upon request for any agricultural structure described in section 1361(d)(1)(A) that is located in any area identified by the Director as having special flood hazards. Such coverage shall be made available at chargeable premium rates that are based on estimated rates under section 1307(a)(2) and are consistent with the provisions of section 1308(b)(2) applicable to such rates.

“(h) STRUCTURES IN COVERED LEVEE-PROTECTED AREAS.—The Director shall make flood insurance coverage available upon request for any structure that is located in an area described in subparagraph (B) or (C) of section 1361(d)(1) and is constructed, improved, repaired, restored, or replaced as described in such subparagraph, as applicable. Such coverage shall be made available at chargeable premium rates applicable to areas having a low or moderate risk of flooding (zone X).”.

SEC. 4. TASK FORCE ON LEGACY COMMUNITY FLOOD INSURANCE ISSUES.

(a) ESTABLISHMENT; STUDY.—The Administrator of the Federal Emergency Management Agency and the Secretary of Agriculture shall jointly establish a task force
that shall conduct a study to analyze the challenges faced
by legacy communities located in areas designated as an
area having special flood hazards for purposes of the na-
tional flood insurance program under the National Flood
Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(b) MEMBERSHIP.—The task force shall consist of 15
members, appointed jointly by the Administrator of the
Federal Emergency Management Agency and the Sec-
etary of Agriculture, as follows:

(1) One individual who is a representative of a
national farm organization.

(2) One individual who is a representative of a
national financial organization.

(3) One individual who is a representative of a
national floodplain management organization.

(4) One individual who is a representative of a
national organization of flood and stormwater man-
age agencies.

(5) One individual who is a representative of a
national agricultural commodities organization.

(6) Two individuals, each of whom is a rep-
resentative of a State affected by the issues specified
in subsection (a).
(7) Three individuals, who shall include one representative each of the flood control associations for—

(A) the Central Valley of California;

(B) the Mississippi Valley; and

(C) the Missouri Valley.

(8) Two individuals who are elected officials of units of general local governments who represent legacy communities.

(9) Three individuals who have an interest or expertise in the issues specified in subsection (a).

(c) Co-Chairs.—The Administrator of the Federal Emergency Management Agency and the Secretary of Agriculture shall serve as co-chairs of the task force, or their designees.

(d) Travel Expenses; Per Diem.—Members of the task force members shall not receive compensation for their service on the task force, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) Staff.—The Administrator of the Federal Emergency Management Agency and the Secretary of Agriculture may detail, on a reimbursable basis, any of the
personnel of such agencies to the task force to assist the
task force in carrying out its duties under this section.

(f) REPORT.—Not later than the expiration of the 12-
month period beginning on the date of the enactment of
this Act, the task force shall submit to the Committee on
Financial Services of the House of Representatives and
the Committee on Banking, Housing, and Urban Affairs
of the Senate a report regarding the study conducted pur-
suant to subsection (a) that shall include any findings and
conclusions of the study and recommended changes to the
national flood insurance program to strengthen the eco-
monic viability and vitality of legacy communities, includ-
ing an analysis and recommendations regarding allowing
infill development and building expansion.

(g) LEGACY COMMUNITIES.—For purposes of this
section, the term “legacy community” means a community
that—

(1) has a population of less than 2,000; and

(2) is located in an area for which a substantial
portion of the economy, currently is and historically
was, based on agricultural production, as determined
by the Administrator.
(h) TERMINATION.—The task force shall terminate upon the expiration of the 120-day period beginning upon the submission of the report required under subsection (f).