

115TH CONGRESS  
2D SESSION

# H. R. 5212

To amend the Clean Air Act to reform the renewable fuel program under that Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2018

Mr. WELCH introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Natural Resources, and Science, Space, and Technology, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Clean Air Act to reform the renewable fuel program under that Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Growing Renewable  
5 Energy through Existing and New Environmentally Re-  
6 sponsible Fuels Act” or the “GREENER Fuels Act”.

7 **SEC. 2. DEFINITION OF ADMINISTRATOR.**

8 In this Act, the term “Administrator” means the Ad-  
9 ministrator of the Environmental Protection Agency.

1 **SEC. 3. LIMITATION ON FUELS DERIVED FROM CORN KER-**  
2 **NELS.**

3 (a) **ADVANCED BIOFUEL.**—Section 211(o)(1)(B) of  
4 the Clean Air Act (42 U.S.C. 7545(o)(1)(B)) is amend-  
5 ed—

6 (1) in clause (i), by striking “, other than eth-  
7 anol derived from corn starch,”; and

8 (2) by adding at the end the following:

9 “(iii) **EXCLUSION.**—The term ‘ad-  
10 vanced biofuel’ does not include any fuel  
11 derived from a corn kernel-based feed-  
12 stock.”.

13 (b) **CELLULOSIC BIOFUEL.**—Section 211(o)(1)(E) of  
14 the Clean Air Act (42 U.S.C. 7545(o)(1)(E)) is amend-  
15 ed—

16 (1) by striking “The term” and inserting the  
17 following:

18 “(i) **IN GENERAL.**—The term”; and

19 (2) by adding at the end the following:

20 “(ii) **EXCLUSION.**—The term ‘cellu-  
21 losic biofuel’ does not include any renew-  
22 able fuel derived from a corn kernel-based  
23 feedstock.”.

1 **SEC. 4. RENEWABLE BIOMASS.**

2 (a) PROHIBITION ON INVASIVE SPECIES.—Section  
3 211(o)(1)(I) of the Clean Air Act (42 U.S.C.  
4 7545(o)(1)(I)) is amended—

5 (1) by redesignating clauses (i) through (vii) as  
6 subclauses (I) through (VII), respectively, and in-  
7 denting the subclauses appropriately;

8 (2) in the matter preceding subclause (I) (as so  
9 redesignated), by striking “The term” and inserting  
10 the following:

11 “(i) IN GENERAL.—The term”; and

12 (3) by adding at the end the following:

13 “(ii) EXCLUSION.—The term ‘renew-  
14 able biomass’ does not include any species  
15 or variety of plant that, as determined by  
16 the Secretary of Agriculture, in consulta-  
17 tion with other appropriate Federal and  
18 State agencies, is—

19 “(I) invasive;

20 “(II) noxious; or

21 “(III) potentially invasive, as de-  
22 termined using—

23 “(aa) a credible risk assess-  
24 ment tool; or

25 “(bb) any other credible  
26 source.”.

1 (b) ENSURING COMPLIANCE.—

2 (1) RECORDS.—The Administrator shall revise  
3 the regulations promulgated pursuant to section  
4 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) to  
5 require that a domestic producer of a crop-based re-  
6 newable fuel shall meet the reporting and records re-  
7 quirements specified in subsections (c) and (d) of  
8 section 80.1454 of title 40, Code of Federal Regula-  
9 tions (or successor regulations), to verify that feed-  
10 stocks used by the producer are renewable biomass.

11 (2) ANNUAL ANALYSIS.—Section 211(o)(11) of  
12 the Clean Air Act (42 U.S.C. 7545(o)(11)) is  
13 amended—

14 (A) in the paragraph heading, by inserting  
15 “AND ANALYSES” after “REVIEWS”;

16 (B) by redesignating subparagraphs (A)  
17 through (C) as clauses (i) through (iii), respec-  
18 tively, and indenting the clauses appropriately;

19 (C) in the matter preceding clause (i) (as  
20 so redesignated), by striking “To allow” and in-  
21 serting the following:

22 “(A) IN GENERAL.—To allow”; and

23 (D) by adding at the end the following:

24 “(B) ANNUAL ANALYSIS OF FEEDSTOCKS  
25 AND LAND.—

1           “(i) IN GENERAL.—Not later than  
2           April 1 of each year, the Administrator, in  
3           conjunction with the Secretary of Agri-  
4           culture, shall publish an analysis of the  
5           feedstocks and land used during the pre-  
6           ceding calendar year to ensure compliance  
7           with this subsection, including an analysis  
8           of, with respect to that preceding calendar  
9           year—

10                   “(I) the total domestic land area  
11                   used for commercial agricultural pro-  
12                   duction;

13                   “(II) the total area planted to  
14                   produce renewable biomass crops (in-  
15                   cluding corn and soy) used to gen-  
16                   erate credits under this subsection;

17                   “(III) the total area reported to  
18                   the Department of Agriculture to be  
19                   ‘new breakings’, including a descrip-  
20                   tion of—

21                           “(aa) the number of acres  
22                           that were previously—

23                                   “(AA) wetlands, pas-  
24                                   ture, rangeland, or grass-  
25                                   lands enrolled in the con-

1                    servation reserve program  
2                    established under subchapter  
3                    B of chapter 1 of subtitle D  
4                    of title XII of the Food Se-  
5                    curity Act of 1985 (16  
6                    U.S.C. 3831 et seq.); or

7                    “(BB) other sensitive  
8                    land; and

9                    “(bb) the crops planted on  
10                  those acres;

11                  “(IV) the likelihood that renew-  
12                  able fuels were produced from feed-  
13                  stocks that do not qualify as renew-  
14                  able biomass;

15                  “(V) the number, scope, and out-  
16                  comes of any enforcement actions car-  
17                  ried out by the Administrator in re-  
18                  sponse to noncompliance with the re-  
19                  porting and recordkeeping require-  
20                  ments of this subsection; and

21                  “(VI) any documented case in  
22                  which a credit was generated pursu-  
23                  ant to this subsection for a fuel that  
24                  is not considered to be renewable bio-  
25                  mass.

1                   “(ii) AUTHORIZATION OF APPROPRIA-  
2                   TIONS.—There are authorized to be appro-  
3                   priated to the Administrator and the Sec-  
4                   retary of Agriculture such sums as are  
5                   necessary for each fiscal year to carry out  
6                   this subparagraph.”.

7 **SEC. 5. STRENGTHENING ENVIRONMENTAL STANDARDS.**

8           (a) ELIMINATION OF GRANDFATHER CLAUSE.—

9                   (1) IN GENERAL.—Section 211(o)(2)(A)(i) of  
10                   the Clean Air Act (42 U.S.C. 7545(o)(2)(A)(i)) is  
11                   amended, in the second sentence, by striking “, in  
12                   the case of any such renewable fuel produced from  
13                   new facilities that commence construction after the  
14                   date of enactment of this sentence,”.

15                   (2) EFFECTIVE DATE.—The amendment made  
16                   by paragraph (1) takes effect on January 1, 2020.

17           (b) ELIMINATION OF MODIFICATIONS TO GREEN-  
18           HOUSE GAS REDUCTION PERCENTAGES.—

19                   (1) IN GENERAL.—Section 211(o) of the Clean  
20                   Air Act (42 U.S.C. 7545(o)) is amended—

21                           (A) by striking paragraph (4); and

22                           (B) by redesignating paragraphs (5)  
23                   through (12) as paragraphs (4) through (11),  
24                   respectively.

1           (2) CONFORMING AMENDMENTS.—Section  
2           211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is  
3           amended—

4           (A) in paragraph (2)(A)(ii)(II)(cc), by  
5           striking “paragraph (5)” and inserting “para-  
6           graph (4)”;

7           (B) in paragraph (3)(C)(ii), by striking  
8           “paragraph (9)” and inserting “paragraph  
9           (8)”;

10          (C) in subparagraph (A)(iii) of paragraph  
11          (4) (as redesignated by paragraph (1)(B)), by  
12          striking “paragraph (9)(C)” and inserting  
13          “paragraph (8)(C)”;

14          (D) in subparagraph (D)(ii) of paragraph  
15          (7) (as redesignated by paragraph (1)(B)), by  
16          striking “paragraph (7)” and inserting “para-  
17          graph (6)”;

18          (E) in subparagraph (C) of paragraph (8)  
19          (as redesignated by paragraph (1)(B)), by strik-  
20          ing “paragraph (5)” and inserting “paragraph  
21          (4)”.

22 **SEC. 6. APPLICABLE VOLUMES; SUNSET.**

23          (a) IN GENERAL.—Section 211(o)(2) of the Clean  
24          Air Act (42 U.S.C. 7545(o)(2)) is amended by striking  
25          subparagraph (B) and inserting the following:



1 “(B) APPLICABLE VOLUMES; SUNSET.—

2 “(i) CONVENTIONAL BIOFUEL.—For  
3 purposes of subparagraph (A), the applica-  
4 ble volume of renewable fuel that is not  
5 cellulosic biofuel, biomass-based diesel, or  
6 any other advanced biofuel shall be—

7 “(I) for calendar year 2019,  
8 15,000,000,000 gallons;

9 “(II) for calendar year 2020,  
10 15,000,000,000 gallons;

11 “(III) for calendar year 2021,  
12 15,000,000,000 gallons;

13 “(IV) for calendar year 2022,  
14 15,000,000,000 gallons;

15 “(V) for calendar year 2023,  
16 13,000,000,000 gallons;

17 “(VI) for calendar year 2024,  
18 11,000,000,000 gallons;

19 “(VII) for calendar year 2025,  
20 9,000,000,000 gallons;

21 “(VIII) for calendar year 2026,  
22 7,000,000,000 gallons;

23 “(IX) for calendar year 2027,  
24 5,000,000,000 gallons;

1 “(X) for calendar year 2028,  
2 3,000,000,000 gallons; and

3 “(XI) for calendar year 2029,  
4 1,000,000,000 gallons.

5 “(ii) CELLULOSIC BIOFUEL, BIOMASS-  
6 BASED DIESEL, AND OTHER ADVANCED  
7 BIOFUEL.—

8 “(I) IN GENERAL.—Subject to  
9 subclause (III), not later than March  
10 1 of each calendar year, the Adminis-  
11 trator shall establish for the calendar  
12 year that the applicable volume of cel-  
13 lulosic biofuel, biomass-based diesel,  
14 and advanced biofuel (other than cel-  
15 lulosic biofuel and biomass-based die-  
16 sel) for purposes of subparagraph (A)  
17 shall be equal to the actual volume of  
18 cellulosic biofuel, biomass-based diesel,  
19 or advanced biofuel (other than cellu-  
20 losic biofuel and biomass-based die-  
21 sel), respectively, produced during the  
22 preceding calendar year, as deter-  
23 mined under subclause (II).

24 “(II) DETERMINATION OF AC-  
25 TUAL PRODUCTION.—

1           “(aa) IN GENERAL.—Not  
2 later than February 28 of each  
3 calendar year, the Administrator  
4 shall determine the actual volume  
5 of cellulosic biofuel, biomass-  
6 based diesel, and advanced  
7 biofuel (other than cellulosic  
8 biofuel and biomass-based diesel)  
9 produced during the preceding  
10 calendar year, based on informa-  
11 tion from the Moderated Trans-  
12 action System of the Environ-  
13 mental Protection Agency.

14           “(bb) MID-YEAR REVIEW.—  
15 Not later than September 1 of  
16 each calendar year, the Adminis-  
17 trator shall adjust the applicable  
18 volume requirement under sub-  
19 clause (I) for the calendar year  
20 for cellulosic biofuel, biomass-  
21 based diesel, or other advanced  
22 biofuel to reflect any increase in  
23 production during that calendar  
24 year, based on information from

1 the Moderated Transaction Sys-  
2 tem.

3 “(III) LIMITATION.—Notwith-  
4 standing any other provision of this  
5 clause, the applicable volume of bio-  
6 mass-based diesel or advanced biofuel  
7 (other than biomass-based diesel and  
8 cellulosic biofuel) established pursuant  
9 to subclause (I) for any calendar year  
10 shall not exceed 2,000,000,000 gal-  
11 lons.

12 “(iii) LIMITATION ON VIRGIN VEGE-  
13 TABLE OILS.—

14 “(I) DEFINITION OF VIRGIN VEG-  
15 ETABLE OIL.—

16 “(aa) IN GENERAL.—In this  
17 clause, the term ‘virgin vegetable  
18 oil’ means any oil pressed directly  
19 from a harvested crop, including  
20 soybean, canola, peanut, and  
21 palm crops.

22 “(bb) EXCLUSION.—In this  
23 clause, the term ‘virgin vegetable  
24 oil’ does not include any recycled  
25 or waste oil, such as—

1 “(AA) used cooking oil;

2 or

3 “(BB) any other waste  
4 oil that is no longer usable  
5 for human or animal con-  
6 sumption.

7 “(II) LIMITATION.—For each  
8 calendar year, not more than  
9 1,000,000,000 gallons of biomass-  
10 based diesel derived from a virgin veg-  
11 etable oil or a bioenergy production  
12 byproduct that is suitable as animal  
13 feed may be used to satisfy the appli-  
14 cable volume of biomass-based diesel  
15 required under this paragraph.

16 “(iv) SUNSET.—

17 “(I) IN GENERAL.—The require-  
18 ment under this paragraph that trans-  
19 portation fuel sold or introduced into  
20 commerce in the United States (ex-  
21 cept in noncontiguous States or terri-  
22 tories), on an annual average basis,  
23 shall contain at least an applicable  
24 volume of any renewable fuel that is

1 not cellulosic biofuel shall cease to  
2 apply on January 1, 2030.

3 “(II) CELLULOSIC BIOFUEL.—

4 The requirement under this para-  
5 graph that transportation fuel sold or  
6 introduced into commerce in the  
7 United States (except in noncontig-  
8 uous States or territories), on an an-  
9 nual average basis, shall contain at  
10 least an applicable volume of renew-  
11 able fuel that is cellulosic biofuel shall  
12 cease to apply beginning on the earlier  
13 of—

14 “(aa) January 1, 2037; and

15 “(bb) January 1 of the cal-  
16 endar year beginning after the  
17 first calendar year during which  
18 a total of not less than  
19 2,000,000,000 gallons of cellu-  
20 losic biofuel is produced.”.

21 (b) CONFORMING AMENDMENTS.—Section 211(o)(3)  
22 of the Clean Air Act (42 U.S.C. 7545(o)(3)) is amended—

23 (1) by striking subparagraph (A);

24 (2) by redesignating subparagraphs (B) and

25 (C) as subparagraphs (A) and (B), respectively;

1 (3) in subparagraph (A) (as so redesignated)—

2 (A) in clause (i)—

3 (i) by striking “Not later than No-  
4 vember 30 of each of calendar years 2005  
5 through 2021, based on the estimate pro-  
6 vided under subparagraph (A), the Admin-  
7 istrator of the Environmental Protection  
8 Agency” and inserting “Not later than  
9 March 1 of each calendar year, the Admin-  
10 istrator”; and

11 (ii) by striking “the following” and in-  
12 serting “that”; and

13 (B) in clause (ii)(III), by striking “sub-  
14 subparagraph (C)(i)” and inserting “subparagraph  
15 (B)(i)”; and

16 (4) in clause (i) of subparagraph (B) (as so re-  
17 designating), by striking “subparagraph (B)(ii)(I)”  
18 and inserting “subparagraph (A)(ii)(I)”.

19 **SEC. 7. ALLEVIATING ETHANOL BLEND WALL.**

20 Section 211(o)(3) of the Clean Air Act (42 U.S.C.  
21 7545(o)(3)) is amended, in subparagraph (A) (as redesign-  
22 ated by section 6(b)(2)), by adding at the end the fol-  
23 lowing:

24 “(iii) LIMITATION.—

1                   “(I) INTRODUCTION INTO COM-  
2                   MERCE           OF           CONVENTIONAL  
3                   BIOFUEL.—

4                   “(aa) IN GENERAL.—Not-  
5                   withstanding paragraph (2)(B),  
6                   subject to item (bb), the Admin-  
7                   istrator shall not establish any  
8                   renewable fuel obligation for a  
9                   calendar year under this sub-  
10                  section that would result, directly  
11                  or indirectly, in the introduction  
12                  into commerce in the United  
13                  States of a total volume of con-  
14                  ventional biofuel contained in  
15                  transportation fuel that is great-  
16                  er than 9.7 percent of the total  
17                  volume of gasoline projected to  
18                  be sold or introduced into com-  
19                  merce in the United States for  
20                  that calendar year.

21                  “(bb) PRIORITIZATION.—In  
22                  carrying out this subparagraph,  
23                  the Administrator shall give pri-  
24                  ority to the consumption of com-  
25                  mercially available ethanol that is



1 cellulose biofuel before the con-  
2 sumption of conventional biofuel.

3 “(II) APPLICABILITY.—The limi-  
4 tation under subclause (I) shall apply  
5 without regard to the available supply  
6 of credits generated during any pre-  
7 ceding calendar year pursuant to  
8 paragraph (4).

9 “(III) EIA ESTIMATE.—

10 “(aa) IN GENERAL.—For  
11 purposes of subclause (I), for  
12 each calendar year, the Adminis-  
13 trator shall request from the Ad-  
14 ministrator of the Energy Infor-  
15 mation Administration, and use  
16 without alteration, an estimate of  
17 the total volume of gasoline pro-  
18 jected to be sold or introduced  
19 into commerce in the United  
20 States during that calendar year.

21 “(bb) REQUIREMENT.—The  
22 Administrator of the Energy In-  
23 formation Administration shall  
24 provide to the Administrator each  
25 estimate requested pursuant to

1 item (aa) relating to a calendar  
2 year by not later than February  
3 28 of that calendar year.”.

4 **SEC. 8. CELLULOSIC BIOFUEL CREDITS.**

5 Section 211(o) of the Clean Air Act (42 U.S.C.  
6 7545(o)) is amended, in paragraph (4) (as redesignated  
7 by section 5(b)(1)(B))—

8 (1) in subparagraph (C)—

9 (A) by striking “A credit” and inserting  
10 the following:

11 “(i) IN GENERAL.—Subject to clause  
12 (ii), a credit”; and

13 (B) by adding at the end the following:

14 “(ii) CELLULOSIC BIOFUEL CRED-  
15 ITS.—Notwithstanding clause (i), a cellu-  
16 losic biofuel credit generated pursuant to  
17 this paragraph shall be valid to dem-  
18 onstrate compliance with paragraph (2)  
19 for—

20 “(I) the calendar year during  
21 which the credit is generated; and

22 “(II) the following calendar  
23 year.”; and

24 (2) by adding at the end the following:

1           “(F) NO LIMITATION ON GENERATION OF  
2           CELLULOSIC BIOFUEL CREDITS.—The regula-  
3           tions promulgated pursuant to paragraph  
4           (2)(A) shall provide that the number of cellu-  
5           losic biofuel credits that may be generated for  
6           any calendar year pursuant to this paragraph  
7           shall not be limited to the applicable volume de-  
8           termined under paragraph (2)(B) of cellulosic  
9           biofuel for that year.”.

10 **SEC. 9. WAIVERS.**

11           Section 211(o) of the Clean Air Act (42 U.S.C.  
12           7545(o)) is amended, in paragraph (6) (as redesignated  
13           by section 5(b)(1)(B))—

14           (1) in subparagraph (A)—

15           (A) in the matter preceding clause (i), by  
16           striking “may waive” and inserting “shall  
17           waive”; and

18           (B) in clause (i), by inserting “, independ-  
19           ently or in conjunction with other factors,”  
20           after “implementation of the requirement”; and

21           (2) by striking subparagraphs (D) through (F).

22 **SEC. 10. LAND TENURE.**

23           (a) APPROVAL OF RENEWABLE FUEL PATHWAY.—

24           In determining whether to approve a renewable fuel path-  
25           way for purposes of the renewable fuel program under sec-

1 tion 211(o) of the Clean Air Act (42 U.S.C. 7545(o)), the  
2 Administrator—

3 (1) shall take into consideration the risk that  
4 production of an applicable feedstock for the path-  
5 way will contribute to the acquisition of land in a  
6 manner that violates the land tenure rights of any  
7 individual or community; and

8 (2) shall not approve such a feedstock or path-  
9 way if, based on the consideration under paragraph  
10 (1), the Administrator determines that there exists  
11 a significant risk described in that paragraph.

12 (b) REPORT.—Not later than 120 days after the date  
13 of enactment of this Act, the Administrator, in consulta-  
14 tion with the Secretary of Agriculture and the Adminis-  
15 trator of the United States Agency for International De-  
16 velopment, shall publish a report that describes the impact  
17 of the renewable fuel program under section 211(o) of the  
18 Clean Air Act (42 U.S.C. 7545(o)) on—

19 (1) domestic farm ownership consolidation; and

20 (2) global land acquisition, including the acqui-  
21 sition of land in a manner that violates the land ten-  
22 ure rights of any individual or community.

23 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
24 are authorized to be appropriated such sums as are nec-  
25 essary to carry out this section.

1 **SEC. 11. COMPREHENSIVE ASSESSMENT OF IMPLICATIONS**  
2 **ON USE OF MID-LEVEL ETHANOL BLENDS.**

3 (a) **DEFINITION OF MID-LEVEL ETHANOL BLEND.—**

4 In this section, the term “mid-level ethanol blend” means  
5 an ethanol-gasoline blend that—

6 (1) contains more than 10 but not more than  
7 20 percent ethanol by volume; and

8 (2) is intended to be used in any conventional,  
9 gasoline-powered—

10 (A) onroad, nonroad, or marine engine; or

11 (B) onroad or nonroad vehicle.

12 (b) **ASSESSMENT.—**

13 (1) **IN GENERAL.—**The Administrator, acting  
14 through the Assistant Administrators of the Office  
15 of Research and Development and the Office of Air  
16 and Radiation, shall—

17 (A) not later than 45 days after the date  
18 of enactment of this Act, enter into an agree-  
19 ment with the National Academy of Sciences  
20 under which the Academy shall provide to the  
21 Assistant Administrators, by not later than 18  
22 months after that date of enactment, a com-  
23 prehensive assessment of the scientific and  
24 technical research regarding the implications of  
25 the use of mid-level ethanol blends, as com-  
26 pared to the use of gasoline blends containing

1           10 percent or 0 percent ethanol, in accordance  
2           with paragraph (2); and

3           (B) not later than 30 days after the date  
4           of receipt of the results of the assessment under  
5           subparagraph (A), submit to the Committees on  
6           Science, Space, and Technology and Energy  
7           and Commerce of the House of Representatives  
8           and the Committee on Environment and Public  
9           Works of the Senate a report describing the  
10          findings of the assessment, together with a  
11          statement describing the agreement or disagree-  
12          ment of the Assistant Administrators with each  
13          finding.

14          (2) CONTENTS.—The assessment under para-  
15          graph (1)(A) shall include each of the following:

16                 (A) An evaluation of the short- and long-  
17                 term environmental, safety, durability, and per-  
18                 formance effects of the introduction of mid-level  
19                 ethanol blends on onroad, nonroad, and marine  
20                 engines, onroad and nonroad vehicles, and re-  
21                 lated equipment—

22                         (i) taking into consideration—

23                                 (I) the impacts of mid-level eth-  
24                                 anol blends or blends with higher eth-

1 anol concentrations as certification  
2 fuels; and

3 (II) the effect of mid-level eth-  
4 anol blends on emissions of carbon di-  
5 oxide, taking into consideration such  
6 emissions from the lifecycle produc-  
7 tion of the mid-level ethanol blends, as  
8 compared to gasoline blends con-  
9 taining 10 percent or 0 percent eth-  
10 anol; and

11 (ii) including—

12 (I) a review of all available sci-  
13 entific evidence, including all relevant  
14 government and industry data and  
15 testing, including data relied on by  
16 the Administrator, as contained in—

17 (aa) the notice entitled  
18 “Partial Grant and Partial De-  
19 nial of Clean Air Act Waiver Ap-  
20 plication Submitted by Growth  
21 Energy To Increase the Allow-  
22 able Ethanol Content of Gasoline  
23 to 15 Percent; Decision of the  
24 Administrator” (75 Fed. Reg.  
25 68094 (November 4, 2010));

1 (bb) the notice entitled  
2 “Partial Grant of Clean Air Act  
3 Waiver Application Submitted by  
4 Growth Energy To Increase the  
5 Allowable Ethanol Content of  
6 Gasoline to 15 Percent; Decision  
7 of the Administrator” (76 Fed.  
8 Reg. 4662 (January 26, 2011));  
9 and

10 (cc) the final rule of the Ad-  
11 ministrator entitled “Regulation  
12 To Mitigate the Misfueling of Ve-  
13 hicles and Engines With Gasoline  
14 Containing Greater Than Ten  
15 Volume Percent Ethanol and  
16 Modifications to the Reformu-  
17 lated and Conventional Gasoline  
18 Programs” (76 Fed. Reg. 44406  
19 (July 25, 2011)); and

20 (II) an identification of gaps in  
21 understanding and research needs re-  
22 lating to—

23 (aa) tailpipe emissions;

24 (bb) evaporative emissions;



- 1 (cc) engine and fuel system  
2 durability;
- 3 (dd) onboard diagnostics;
- 4 (ee) emissions inventory and  
5 other modeling effects;
- 6 (ff) materials compatibility;
- 7 (gg) operability and drivabil-  
8 ity;
- 9 (hh) fuel efficiency;
- 10 (ii) fuel economy;
- 11 (jj) consumer education and  
12 satisfaction;
- 13 (kk) cost-effectiveness for  
14 consumers;
- 15 (ll) catalyst durability;
- 16 (mm) durability of storage  
17 tanks, piping, and dispensers for  
18 retail use;
- 19 (nn) lifecycle greenhouse gas  
20 emissions of EO, E10, E15, and  
21 E85 ethanol blends; and
- 22 (oo) smog formation.

23 (B) An identification of areas of research,  
24 development, and testing necessary—

1 (i) to ensure that existing motor fuel  
2 infrastructure is not adversely impacted by  
3 mid-level ethanol blends, including an ex-  
4 amination of the potential impacts of mid-  
5 level ethanol blends on metal, plastic, rub-  
6 ber, or any other materials used in pipes  
7 or storage tanks; and

8 (ii) to reduce the risk of misfueling by  
9 users at various points in the distribution  
10 and supply chains, including at bulk stor-  
11 age, retail storage, and distribution con-  
12 figurations, through an assessment of—

13 (I) the best methods and prac-  
14 tices to prevent misfueling;

15 (II) misfueling mitigation strate-  
16 gies for blender pumps, including—

17 (aa) volumetric purchase re-  
18 quirements; and

19 (bb) labeling requirements;

20 (III) the adequacy of misfueling  
21 mitigation plans approved by the En-  
22 vironmental Protection Agency; and

23 (IV) the technical standards and  
24 recommendations regarding fuel pump  
25 labeling of—

- 1 (aa) the National Institute  
2 of Standards and Technology;  
3 (bb) the American National  
4 Standards Institute; and  
5 (cc) the International Orga-  
6 nization for Standardization.

7 (3) LIMITATION ON NEW WAIVERS.—The Ad-  
8 ministrator shall not provide any new waiver pursu-  
9 ant to section 211(f)(4) of the Clean Air Act (42  
10 U.S.C. 7545(f)(4)) during the period—

11 (A) beginning on the date of enactment of  
12 this Act; and

13 (B) ending on the date of submission of  
14 the report under paragraph (1)(B).

15 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
16 are authorized to be appropriated such sums as are nec-  
17 essary to carry out this section.

18 **SEC. 12. FEES; PRIVATE LAND PROTECTION AND RESTORA-**  
19 **TION FUND.**

20 (a) FEES.—

21 (1) ASSESSMENT AND COLLECTION.—Not later  
22 than 90 days after the date of enactment of this  
23 Act, the Administrator shall establish—

24 (A) a 1-time fee of \$0.10 per credit gen-  
25 erated pursuant to paragraph (4) of section

1           211(o) of the Clean Air Act (42 U.S.C.  
2           7545(o)) (as redesignated by section  
3           5(b)(1)(B)), to be assessed at the time the cred-  
4           it is used to comply with the requirements of  
5           that section; and

6                   (B) procedures for the assessment and  
7           payment of the fee.

8           (2) DEPOSITS.—Any fee assessed and paid pur-  
9           suant to paragraph (1) shall be deposited in the Pri-  
10          vate Land Protection and Restoration Fund estab-  
11          lished by subsection (b)(1).

12          (b) PRIVATE LAND PROTECTION AND RESTORATION  
13          FUND.—

14                   (1) ESTABLISHMENT.—There is established in  
15          the Treasury of the United States a fund, to be  
16          known as the “Private Land Protection and Res-  
17          toration Fund” (referred to in this subsection as the  
18          “Fund”).

19                   (2) AMOUNTS.—The Fund shall consist of—

20                           (A) amounts deposited in the Fund under  
21                   subsection (a)(2); and

22                           (B) any amounts appropriated to the  
23                   Fund.

24                   (3) EXPENDITURES.—

1           (A) IN GENERAL.—Subject to subpara-  
2 graph (B), the amounts in the Fund shall be  
3 available, without appropriation, to the Sec-  
4 retary of the Interior, acting in consultation  
5 with the Secretary of Agriculture, for existing  
6 programs, the purposes of which are to protect,  
7 conserve, or restore the types of habitat and  
8 wildlife that are most impacted by the conver-  
9 sion of native habitat to crop production, in-  
10 cluding grasslands, wetlands, forests, and adja-  
11 cent waterways in areas that have experienced  
12 significant expansion of corn and soy produc-  
13 tion since January 1, 2007.

14           (B) LIMITATION.—Of the amounts in the  
15 Fund, not more than 30 percent may be used  
16 during any calendar year for existing programs  
17 described in subparagraph (A) that provide  
18 grants to States to carry out the purposes de-  
19 scribed in that subparagraph.

20           (4) PROHIBITION ON LAND ACQUISITION.—

21           (A) IN GENERAL.—The Secretary of the  
22 Interior, in consultation with the Secretary of  
23 Agriculture, may not use amounts in the Fund  
24 to purchase or otherwise acquire land.

1                   (B) EFFECT OF PARAGRAPH.—Nothing in  
2                   this paragraph prevents the Secretary of the In-  
3                   terior, in consultation with the Secretary of Ag-  
4                   riculture, from establishing a conservation ease-  
5                   ment with a private landowner.

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