

115TH CONGRESS
2D SESSION

S. 2519

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

IN THE SENATE OF THE UNITED STATES

MARCH 8, 2018

Mr. UDALL introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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:

“(B) APPLICABLE VOLUMES; SUNSET.—

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

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

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

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

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

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

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

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

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

“(IX) for calendar year 2027,
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

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

“(II) CELLULOSIC BIOFUEL.—

The requirement under this paragraph that transportation fuel sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, shall contain at least an applicable volume of renewable fuel that is cellulosic biofuel shall cease to apply beginning on the earlier of—

“(aa) January 1, 2037; and

“(bb) January 1 of the calendar year beginning after the first calendar year during which a total of not less than 2,000,000,000 gallons of cellulosic biofuel is produced.”.

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

(1) by striking subparagraph (A);

(2) by redesignating subparagraphs (B) and

(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 paragraph (C)(i)” and inserting “subparagraph
 15 (B)(i)”; and

16 (4) in clause (i) of subparagraph (B) (as so re-
 17 designated), 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-

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

(1) shall take into consideration the risk that production of an applicable feedstock for the pathway will contribute to the acquisition of land in a manner that violates the land tenure rights of any individual or community; and

(2) shall not approve such a feedstock or pathway if, based on the consideration under paragraph (1), the Administrator determines that there exists a significant risk described in that paragraph.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Agriculture and the Administrator of the United States Agency for International Development, shall publish a report that describes the impact of the renewable fuel program under section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) on—

(1) domestic farm ownership consolidation; and

(2) global land acquisition, including the acquisition of land in a manner that violates the land tenure rights of any individual or community.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary 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
8 drivability;
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.

