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

IN THE HOUSE OF REPRESENTATIVES

Mr. Welch introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend the Clean Air Act to reform the renewable fuel program under that Act, 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 “Growing Renewable Energy through Existing and New Environmentally Re-
sponsible Fuels Act” or the “GREENER Fuels Act”.

SEC. 2. DEFINITION OF ADMINISTRATOR.

In this Act, the term “Administrator” means the Ad-
ministrator of the Environmental Protection Agency.
SEC. 3. LIMITATION ON FUELS DERIVED FROM CORN KERNELS.

(a) ADVANCED BIOFUEL.—Section 211(o)(1)(B) of the Clean Air Act (42 U.S.C. 7545(o)(1)(B)) is amended—

(1) in clause (i), by striking “, other than ethanol derived from corn starch,”; and

(2) by adding at the end the following:

“(iii) EXCLUSION.—The term ‘advanced biofuel’ does not include any fuel derived from a corn kernel-based feedstock.”.

(b) CELLULOSIC BIOFUEL.—Section 211(o)(1)(E) of the Clean Air Act (42 U.S.C. 7545(o)(1)(E)) is amended—

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

“(i) IN GENERAL.—The term”; and

(2) by adding at the end the following:

“(ii) EXCLUSION.—The term ‘cellulosic biofuel’ does not include any renewable fuel derived from a corn kernel-based feedstock.”.
SEC. 4. RENEWABLE BIOMASS.

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

(1) by redesignating clauses (i) through (vii) as subclauses (I) through (VII), respectively, and indenting the subclauses appropriately;

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

“(i) IN GENERAL.—The term”; and

(3) by adding at the end the following:

“(ii) EXCLUSION.—The term ‘renewable biomass’ does not include any species or variety of plant that, as determined by the Secretary of Agriculture, in consultation with other appropriate Federal and State agencies, is—

“(I) invasive;

“(II) noxious; or

“(III) potentially invasive, as determined using—

“(aa) a credible risk assessment tool; or

“(bb) any other credible source.”.
(b) Ensuring Compliance.—

(1) Records.—The Administrator shall revise the regulations promulgated pursuant to section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) to require that a domestic producer of a crop-based renewable fuel shall meet the reporting and records requirements specified in subsections (c) and (d) of section 80.1454 of title 40, Code of Federal Regulations (or successor regulations), to verify that feedstocks used by the producer are renewable biomass.

(2) Annual Analysis.—Section 211(o)(11) of the Clean Air Act (42 U.S.C. 7545(o)(11)) is amended—

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

(B) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively, and indenting the clauses appropriately;

(C) in the matter preceding clause (i) (as so redesignated), by striking “To allow” and inserting the following:

“(A) IN GENERAL.—To allow”;

(D) by adding at the end the following:

“(B) ANNUAL ANALYSIS OF FEEDSTOCKS AND LAND.”—
“(i) IN GENERAL.—Not later than April 1 of each year, the Administrator, in conjunction with the Secretary of Agriculture, shall publish an analysis of the feedstocks and land used during the preceding calendar year to ensure compliance with this subsection, including an analysis of, with respect to that preceding calendar year—

“(I) the total domestic land area used for commercial agricultural production;

“(II) the total area planted to produce renewable biomass crops (including corn and soy) used to generate credits under this subsection;

“(III) the total area reported to the Department of Agriculture to be ‘new breakings’, including a description of—

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

“(AA) wetlands, pasture, rangeland, or grasslands enrolled in the con-
reservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.); or

“(BB) other sensitive land; and

“(bb) the crops planted on those acres;

“(IV) the likelihood that renewable fuels were produced from feedstocks that do not qualify as renewable biomass;

“(V) the number, scope, and outcomes of any enforcement actions carried out by the Administrator in response to noncompliance with the reporting and recordkeeping requirements of this subsection; and

“(VI) any documented case in which a credit was generated pursuant to this subsection for a fuel that is not considered to be renewable biomass.
“(ii) Authorization of Appropriations.—There are authorized to be appropriated to the Administrator and the Secretary of Agriculture such sums as are necessary for each fiscal year to carry out this subparagraph.”.

SEC. 5. STRENGTHENING ENVIRONMENTAL STANDARDS.

(a) Elimination of Grandfather Clause.—

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

(2) Effective date.—The amendment made by paragraph (1) takes effect on January 1, 2021.

(b) Elimination of Modifications to Greenhouse Gas Reduction Percentages.—

(1) In general.—Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended—

(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) through (12) as paragraphs (4) through (11), respectively.
(2) CONFORMING AMENDMENTS.—Section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) is amended—

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

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

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

(D) in subparagraph (D)(ii) of paragraph (7) (as redesignated by paragraph (1)(B)), by striking “paragraph (7)” and inserting “paragraph (6)”;

and

(E) in subparagraph (C) of paragraph (8) (as redesignated by paragraph (1)(B)), by striking “paragraph (5)” and inserting “paragraph (4)”.

SEC. 6. APPLICABLE VOLUMES; SUNSET.

(a) IN GENERAL.—Section 211(o)(2) of the Clean Air Act (42 U.S.C. 7545(o)(2)) is amended by striking 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 2020, 15,000,000,000 gallons;

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

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

“(IV) for calendar year 2023, 15,000,000,000 gallons;

“(V) for calendar year 2024, 13,000,000,000 gallons;

“(VI) for calendar year 2025, 11,000,000,000 gallons;

“(VII) for calendar year 2026, 9,000,000,000 gallons;

“(VIII) for calendar year 2027, 7,000,000,000 gallons;

“(IX) for calendar year 2028, 5,000,000,000 gallons;
“(X) for calendar year 2029, 3,000,000,000 gallons; and
“(XI) for calendar year 2030, 1,000,000,000 gallons.
“(ii) Cellulosic Biofuel, Biomass-Based Diesel, and Other Advanced Biofuel.—

“(I) In general.—Subject to subclause (III), not later than March 1 of each calendar year, the Administrator shall establish for the calendar year that the applicable volume of cellulosic biofuel, biomass-based diesel, and advanced biofuel (other than cellulosic biofuel and biomass-based diesel) for purposes of subparagraph (A) shall be equal to the actual volume of cellulosic biofuel, biomass-based diesel, or advanced biofuel (other than cellulosic biofuel and biomass-based diesel), respectively, produced during the preceding calendar year, as determined under subclause (II).

“(II) Determination of actual production.—
“(aa) In general.—Not later than February 28 of each calendar year, the Administrator shall determine the actual volume of cellulosic biofuel, biomass-based diesel, and advanced biofuel (other than cellulosic biofuel and biomass-based diesel) produced during the preceding calendar year, based on information from the Moderated Transaction System of the Environmental Protection Agency.

“(bb) Mid-year review.—Not later than September 1 of each calendar year, the Administrator shall adjust the applicable volume requirement under subclause (I) for the calendar year for cellulosic biofuel, biomass-based diesel, or other advanced biofuel to reflect any increase in production during that calendar year, based on information from
the Moderated Transaction System.

“(III) LIMITATION.—Notwithstanding any other provision of this clause, the applicable volume of biomass-based diesel or advanced biofuel (other than biomass-based diesel and cellulosic biofuel) established pursuant to subclause (I) for any calendar year shall not exceed 2,000,000,000 gallons.

“(iii) LIMITATION ON VIRGIN VEGETABLE OILS.—

“(I) DEFINITION OF VIRGIN VEGETABLE OIL.—

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

“(bb) EXCLUSION.—In this clause, the term ‘virgin vegetable oil’ does not include any recycled or waste oil, such as—
“(AA) used cooking oil;

or

“(BB) any other waste oil that is no longer usable for human or animal consumption.

“(II) LIMITATION.—For each calendar year, not more than 1,000,000,000 gallons of biomass-based diesel derived from a virgin vegetable oil or a bioenergy production byproduct that is suitable as animal feed may be used to satisfy the applicable volume of biomass-based diesel required under this paragraph.

“(iv) SUNSET.—

“(I) IN GENERAL.—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 any renewable fuel that is
not cellulosic biofuel shall cease to apply on January 1, 2031.

“(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;
(3) in subparagraph (A) (as so redesignated)—

(A) in clause (i)—

(i) by striking “Not later than November 30 of each of calendar years 2005 through 2021, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency” and inserting “Not later than March 1 of each calendar year, the Administrator”; and

(ii) by striking “the following” and inserting “that”; and

(B) in clause (ii)(III), by striking “subparagraph (C)(i)” and inserting “subparagraph (B)(i)”; and

(4) in clause (i) of subparagraph (B) (as so redesignated), by striking “subparagraph (B)(ii)(I)” and inserting “subparagraph (A)(ii)(I)”.

SEC. 7. ALLEVIATING ETHANOL BLEND WALL.

Section 211(o)(3) of the Clean Air Act (42 U.S.C. 7545(o)(3)) is amended, in subparagraph (A) (as redesignated by section 6(b)(2)), by adding at the end the following:

“(iii) LIMITATION.—
“(I) Introduction into commerce of conventional biofuel.—

“(aa) In general.—Notwithstanding paragraph (2)(B), subject to item (bb), the Administrator shall not establish any renewable fuel obligation for a calendar year under this subsection that would result, directly or indirectly, in the introduction into commerce in the United States of a total volume of conventional biofuel contained in transportation fuel that is greater than 9.7 percent of the total volume of gasoline projected to be sold or introduced into commerce in the United States for that calendar year.

“(bb) Prioritization.—In carrying out this subparagraph, the Administrator shall give priority to the consumption of commercially available ethanol that is
cellulosic biofuel before the consumption of conventional biofuel.

“(II) APPLICABILITY.—The limitation under subclause (I) shall apply without regard to the available supply of credits generated during any preceding calendar year pursuant to paragraph (4).

“(III) EIA ESTIMATE.—

“(aa) IN GENERAL.—For purposes of subclause (I), for each calendar year, the Administrator shall request from the Administrator of the Energy Information Administration, and use without alteration, an estimate of the total volume of gasoline projected to be sold or introduced into commerce in the United States during that calendar year.

“(bb) REQUIREMENT.—The Administrator of the Energy Information Administration shall provide to the Administrator each estimate requested pursuant to
item (aa) relating to a calendar year by not later than February 28 of that calendar year.”.

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

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

(1) in subparagraph (C)—

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

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

(B) by adding at the end the following:

“(ii) CELLULOSIC BIOFUEL CREDITS.—Notwithstanding clause (i), a cellulosic biofuel credit generated pursuant to this paragraph shall be valid to demonstrate compliance with paragraph (2) for—

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

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

(2) by adding at the end the following:
“(F) No limitation on generation of cellulosic biofuel credits.—The regulations promulgated pursuant to paragraph (2)(A) shall provide that the number of cellulosic biofuel credits that may be generated for any calendar year pursuant to this paragraph shall not be limited to the applicable volume determined under paragraph (2)(B) of cellulosic biofuel for that year.”.

SEC. 9. WAIVERS.

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

(1) in subparagraph (A)—

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

(B) in clause (i), by inserting “, independently or in conjunction with other factors,” after “implementation of the requirement”; and

(2) by striking sub paragraphs (D) through (F).

SEC. 10. LAND TENURE.

(a) Approval of Renewable Fuel Pathway.—In determining whether to approve a renewable fuel pathway 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.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.
SEC. 11. COMPREHENSIVE ASSESSMENT OF IMPLICATIONS
ON USE OF MID-LEVEL ETHANOL BLENDS.

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

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

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

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

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

(B) onroad or nonroad vehicle.

(b) ASSESSMENT.—

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

(A) not later than 45 days after the date of enactment of this Act, enter into an agreement with the National Academy of Sciences under which the Academy shall provide to the Assistant Administrators, by not later than 18 months after that date of enactment, a comprehensive assessment of the scientific and technical research regarding the implications of the use of mid-level ethanol blends, as compared to the use of gasoline blends containing...
10 percent or 0 percent ethanol, in accordance with paragraph (2); and

(B) not later than 30 days after the date of receipt of the results of the assessment under subparagraph (A), submit to the Committees on Science, Space, and Technology and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the findings of the assessment, together with a statement describing the agreement or disagreement of the Assistant Administrators with each finding.

(2) CONTENTS.—The assessment under paragraph (1)(A) shall include each of the following:

(A) An evaluation of the short- and long-term environmental, safety, durability, and performance effects of the introduction of mid-level ethanol blends on onroad, nonroad, and marine engines, onroad and nonroad vehicles, and related equipment—

(i) taking into consideration—

(I) the impacts of mid-level ethanol blends or blends with higher eth-
anol concentrations as certification fuels; and

(II) the effect of mid-level ethanol blends on emissions of carbon dioxide, taking into consideration such emissions from the lifecycle production of the mid-level ethanol blends, as compared to gasoline blends containing 10 percent or 0 percent ethanol; and

(ii) including—

(I) a review of all available scientific evidence, including all relevant government and industry data and testing, including data relied on by the Administrator, as contained in—

(aa) the notice entitled “Partial Grant and Partial Denial of Clean Air Act Waiver Application Submitted by Growth Energy To Increase the Allowable Ethanol Content of Gasoline to 15 Percent; Decision of the Administrator” (75 Fed. Reg. 68094 (November 4, 2010));
(bb) the notice entitled “Partial Grant of Clean Air Act Waiver Application Submitted by Growth Energy To Increase the Allowable Ethanol Content of Gasoline to 15 Percent; Decision of the Administrator” (76 Fed. Reg. 4662 (January 26, 2011)); and

(cc) the final rule of the Administrator entitled “Regulation To Mitigate the Misfueling of Vehicles and Engines With Gasoline Containing Greater Than Ten Volume Percent Ethanol and Modifications to the Reformulated and Conventional Gasoline Programs” (76 Fed. Reg. 44406 (July 25, 2011)); and

(II) an identification of gaps in understanding and research needs relating to—

(aa) tailpipe emissions;

(bb) evaporative emissions;
(cc) engine and fuel system durability;
(dd) onboard diagnostics;
((ee) emissions inventory and other modeling effects;
(ff) materials compatibility;
(gg) operability and drivability;
(hh) fuel efficiency;
(ii) fuel economy;
(jj) consumer education and satisfaction;
(kk) cost-effectiveness for consumers;
(ll) catalyst durability;
(mm) durability of storage tanks, piping, and dispensers for retail use;
(nn) lifecycle greenhouse gas emissions of EO, E10, E15, and E85 ethanol blends; and
(oo) smog formation.

(B) An identification of areas of research, development, and testing necessary—
(i) to ensure that existing motor fuel infrastructure is not adversely impacted by mid-level ethanol blends, including an examination of the potential impacts of mid-level ethanol blends on metal, plastic, rubber, or any other materials used in pipes or storage tanks; and

(ii) to reduce the risk of misfueling by users at various points in the distribution and supply chains, including at bulk storage, retail storage, and distribution configurations, through an assessment of—

(I) the best methods and practices to prevent misfueling;

(II) misfueling mitigation strategies for blender pumps, including—

(aa) volumetric purchase requirements; and

(bb) labeling requirements;

(III) the adequacy of misfueling mitigation plans approved by the Environmental Protection Agency; and

(IV) the technical standards and recommendations regarding fuel pump labeling of—
(aa) the National Institute of Standards and Technology;

(bb) the American National Standards Institute; and

(cc) the International Organization for Standardization.

(e) Clarification of Reid Vapor Pressure Waiver.—Paragraph (4) of section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)(4)) is amended by inserting “not more than” before “10 percent”.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 12. FEES; PRIVATE LAND PROTECTION AND RESTORATION FUND.

(a) Fees.—

(1) Assessment and Collection.—Not later than 90 days after the date of enactment of this Act, the Administrator shall establish—

(A) a 1-time fee of $0.10 per credit generated pursuant to paragraph (4) of section 211(o) of the Clean Air Act (42 U.S.C. 7545(o)) (as redesignated by section 5(b)(1)(B)), to be assessed at the time the cred-
it is used to comply with the requirements of that section; and

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

(2) DEPOSITS.—Any fee assessed and paid pursuant to paragraph (1) shall be deposited in the Private Land Protection and Restoration Fund established by subsection (b)(1).

(b) PRIVATE LAND PROTECTION AND RESTORATION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a fund, to be known as the “Private Land Protection and Restoration Fund” (referred to in this subsection as the “Fund”).

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

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

(B) any amounts appropriated to the Fund.

(3) EXPENDITURES.—

(A) IN GENERAL.—Subject to subparagraph (B), the amounts in the Fund shall be available, without appropriation, to the Secretary of the Interior, acting in consultation
with the Secretary of Agriculture, for existing programs, the purposes of which are to protect, conserve, or restore the types of habitat and wildlife that are most impacted by the conversion of native habitat to crop production, including grasslands, wetlands, forests, and adjacent waterways in areas that have experienced significant expansion of corn and soy production since January 1, 2007.

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

(4) PROHIBITION ON LAND ACQUISITION.—

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

(B) EFFECT OF PARAGRAPH.—Nothing in this paragraph prevents the Secretary of the Interior, in consultation with the Secretary of Agriculture, from establishing a conservation easement with a private landowner.