



October 13, 2011

Via E-Mail

Information Quality Guidelines Staff
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Information Quality Act Request for Correction Regarding Impacts of Biofuel Mandates on Global Hunger and Mortality

I. Introduction

The Competitive Enterprise Institute and ActionAid USA hereby submit this request for correction of information under the Data Quality Act (also known as the Information Quality Act),¹ as implemented through the Office of Management and Budget (“OMB”)² and the U.S. Environmental Protection Agency (“EPA”).³ EPA guidelines require the agency to correct any published information that does not meet “basic standards of quality, including objectivity, utility, and integrity.”

In 2007, Congress passed the Energy Independence and Security Act (“EISA”),⁴ which required EPA to increase the use of biofuels. EISA led to EPA’s promulgation of revised

¹ Section 515(a) of the Treasury and General Government Appropriations Act for Fiscal Year 2001, P.L. 106-554; 44 U.S.C. § 3516 (notes).

² Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies, 67 Fed. Reg. 8452 (Feb. 22, 2002). (“OMB Guidelines”)

³ Guidelines for Ensuring Maximizing the Quality, Objectivity, Utility, and Integrity, of Information Disseminated by the Environmental Protection Agency, EPA/260R-02-008 (October 2002). (“EPA Guidelines”)

⁴ Energy Independence and Security Act, P.L. 110-140 (2007) (“EISA”)

regulatory requirements (“RFS2”) in March 2010,⁵ and modifications to those requirements in December 2010.⁶

In promulgating these rules, EPA analyzed the impact that increased biofuel use might have on food availability and prices. As shown below, EPA’s analyses contain several major errors and omissions regarding this impact. These analyses incorrectly minimize the food price impact of expanded biofuels, and make absolutely no mention of the resulting risks of hunger and death. EPA’s website contains similar errors.⁷

These errors require correction, both to comply with the Information Quality Act and to assure that both EPA, and the public, are fully informed of the effects of EPA’s rules on global food prices and hunger, and on resulting human deaths.

II. EPA’s Errors and Omissions

EPA has suggested that biofuel mandates will have only a modest impact on food prices, and has not attempted to estimate their effects on global nutrition, despite conceding that they do indeed affect world food consumption.⁸

In its RFS2 summary, EPA predicted that “world food consumption” would fall by only “-0.04%” due to biofuel mandates, in light of estimates that “U.S. food costs would increase by roughly \$10 per person per year by 2022.”⁹

⁵ *Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program*, 40 CFR Part 80, 75 Fed. Reg. 14670 (March 26, 2010) (final rule).

⁶ *Regulation of Fuels and Fuel Additives: Modifications to Renewable Fuel Standard Program*, 40 CFR Part 80, 75 Fed. Reg. 79964 (Dec. 21, 2010) (final rule).

⁷ “Economics of Biofuels.” *National Center for Environmental Economics- Economics of Biofuels*. Environmental Protection Agency. Web. 1 June 2011.
<<http://yosemite.epa.gov/ee/epa/eed.nsf/pages/Biofuels.html>>.

⁸ *Regulation of Fuels and Fuel Additives: Renewable Fuel Standard Program* 72 Fed. Reg. 23900, 23907 (May 1, 2007) (final rule), *Regulation of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program*, 40 CFR Part 80, 75 Fed. Reg. 14670, 14839, 14844-14851 (March 26, 2010).

⁹ *Regulation of Fuel and Fuel Additives: Changes to Renewable Fuel Standard Program*, 75 Fed. Reg. 14670, 14839 (March 26, 2010); see also *Regulation of Fuel and Fuel Additives: Changes to Renewable Fuel Standard Program*, 74 Fed. Reg. 24904, 24917 (May 26, 2009) (proposed rules) (“Due to higher commodity prices, FASOM estimates that U.S. food costs [footnote omitted] would increase by roughly \$10 per person per year by 2022...The RFS2 proposal results in higher international commodity prices, which would impact world food consumption. . . While FAPRI-CARD provides estimates of changes in world food consumption, estimating effects on global nutrition is beyond the scope of this analysis.”).

In the summary to the previous renewable food standard, EPA also stated:

“We estimate a *relatively modest* increase in annual household food costs associated with the higher price commanded by corn and soybeans.”¹⁰ (Emphasis Added)

Similarly, in its discussion of a 2008 request for waiver of the renewable fuel standard (RFS or RFS mandate), EPA asserted that it would “most likely” have “no impact on corn, food, or fuel prices” in the relevant period.¹¹

But as even an EPA website concedes, expanded biofuel production may indeed lead to “higher food prices” as well as land use changes and other physical changes in the environment:

“Biofuel feedstocks include many crops that would otherwise be used for human consumption directly, or indirectly as animal feed. Diverting these crops to biofuels may lead to more land area devoted to agriculture, increased use of polluting inputs, and higher food prices.”¹²

RFS2’s Regulatory Impact Analysis likewise notes the likelihood of higher food prices, citing a projected 3.1 percent in corn prices by 2022; but it nevertheless predicts a decrease in “world food consumption” of only “0.1 percent.”¹³

¹⁰ *Regulation of Fuels and Fuel Additives: Renewable Fuel Standard Program*, 72 Fed. Reg. 23900, 23907 (May 1, 2007) (final rule).

¹¹ *Notice of Decision Regarding the State of Texas Request for a Waiver of a Portion of the Renewable Fuel Standard Wednesday*, 73 Fed. Reg. 47168, 47168-47169 (Aug. 13, 2008).

¹² “Economics of Biofuels.” *National Center for Environmental Economics- Economics of Biofuels*. Environmental Protection Agency. Web. 1 June 2011.
<<http://yosemite.epa.gov/ee/epa/eed.nsf/pages/Biofuels.html>>.

¹³ Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis, EPA-420-R-10-006, at pg. 889 (February 2010) (<http://www.epa.gov/otaq/renewablefuels/420r10006.pdf>) (“As demand for renewable fuels in the U.S. increases, the FAPRI-CARD model projects that U.S. and world commodity prices will generally increase. FAPRI-CARD projects that the world price of corn increases by \$0.12/bu (3.1 percent)”; *id.* at pg. 893 (“Since major agricultural commodity prices increase globally, FAPRI-CARD projects that world consumption of food decreases by 2.5 million metric tons” by 2022, with reductions heaviest in grains, vegetable oils, and sugar).

III. The Goklany Study

On March 28, 2011, a new peer reviewed study by Indur M. Goklany, Ph.D,¹⁴ concluded that by increasing food prices, biofuel mandates have caused “chronic hunger” in developing countries, and that at least 192,000 deaths annually may be occurring as a result of expanded biofuel production:

“Higher global demand for biofuels, driven mainly by policies in industrialized countries with the stated purpose of enhancing energy independence and retarding climate change, has contributed to rising global food prices. As a consequence, more people in developing countries suffer from both chronic hunger and absolute poverty. Hunger and poverty are major contributors to death and disease in poorer countries. Results derived from World Bank and World Health Organization (WHO) studies suggest that for every million people living in absolute poverty in developing countries, there are annually at least 5,270 deaths and 183,000 Disability-Adjusted Life Years (DALYs) lost to disease. ***Combining these estimates with estimates of increase poverty owing to growth in biofuels production over 2004 levels leads to the conclusion that additional biofuel production may have resulted in at least 192,000 excess deaths and 6.7 million additional lost DALYs in 2010. These exceed WHO’s estimated annual toll of 141,000 deaths and 5.4 million lost DALYs attributable to global warming. Thus, policies intended to mitigate global warming may actually have increased death and disease in developing countries.***” (Emphasis Added)

The Goklany Study contradicts EPA’s published information, which minimizes increased food prices and omits the full impact that biofuels have on human health. While this lethal impact may not invalidate EPA’s mandate under EISA, it is vital to a full understanding of the negative consequences of biofuel mandates. EPA’s acknowledgment and consideration of this study, and of the research and commentary which support its findings, would improve the agency’s decision-making on such issues as whether or not to exceed EISA’s minimum biofuel mandates.

EPA’s failure to analyze and discuss the effects of biofuel mandates on human health, such as deaths from hunger and hunger-related diseases, is arbitrary and capricious, since those effects are entirely foreseeable results of the price and land-use changes that EPA has noted may accompany expanding biofuel production.¹⁵ Under EISA and the Clean

¹⁴ Goklany, Indur M., *Could Biofuel Policies Increase Death and Disease in Developing Countries?* Journal of American Physicians and Surgeons, Volume 16, Number 1, pp. 9-13 (Spring 2011). (“Goklany Study”) (<http://www.jpands.org/vol16no1/goklany.pdf>). Goklany is an author and researcher who has been associated with the Intergovernmental Panel on Climate Change since its inception in 1988 as an author, expert reviewer, and U.S. delegate to that Organization.

¹⁵ *Consolidated Salmonid Cases*, 713 F.Supp.2d 1116, 1155 (E.D. Cal. 2010) (agency’s “water supply reductions” that would result in “hunger and homelessness” violated NEPA); *accord Consolidated Delta Smelt Cases*, 717 F.Supp.2d 1021, 1069 (E.D. Cal. 2010) (same). See *Alaska Wilderness Recreation and Tourism Ass’n v. Morrison*, 67 F.3d 723, 731 (9th Cir. 1995) (agency’s failure to consider alternatives with

Air Act, EPA must consider the “impact of the production and use of renewable fuels on the environment,” including “the price and supply of agricultural commodities” and “food prices.”¹⁶ “Human health” is a key environmental impact.¹⁷ The risk of human mortality cannot be ignored, even when the extent of such mortality cannot be precisely quantified.¹⁸

These food price effects cited by Goklany have long been apparent to economists, environmentalists, and financial experts. In 2008, finance ministers and representatives of poor countries called for end to ethanol and biofuel mandates.¹⁹ South African finance minister Trevor Manuel called biofuel mandates “criminal,” while Indian Finance Minister Chidambaram noted that “in a world where there is hunger and poverty, there is no policy justification for diverting food crops towards bio-fuels. Converting food into fuel is neither good policy for the poor nor for the environment.”²⁰ The finance ministers’ criticisms came in the aftermath of rising food prices resulting in part from global biofuel policies. During the 2008 food crisis Haitians resorted to literally eat dirt (dirt cookies made of vegetable oil, salt, and dirt), tortilla riots erupted in Mexico, and violent protests took place in unstable “powder kegs” like Pakistan and Egypt.²¹ As an African publication noted in 2008, “the diversion of food crops to biofuel production was

less impact on native “subsistence,” a key “human environmental factor,” violated environmental laws). The fact that these mandates also cause economic harm does not obviate the need to take them into account. See *Monsanto Co. v. Geertson Seed Farms*, 130 S.Ct. 2743, 2755-56 (2010) (“economic harms” allegedly triggered by crop changes were sufficient basis for “prudential standing” under environmental laws); *Friends of Boundary Waters v. Dornbeck*, 164 F.3d 1115, 1125-27 (8th Cir. 1999) (in environmental impact statement, agency had to consider effects of physical changes in land use on “human environment,” including living “standards” and human “economic” requirements).

¹⁶ See, e.g., 42 U.S.C. 7545(o)(2)(B)(ii)(I)&(VI).

¹⁷ See, e.g., *EPA v. California*, 426 U.S. 200, 223 (1976) (Clean Air Act); *Chicago v. EDF*, 511 U.S. 328, 335 (1994) (RCRA); *Burlington Northern v. U.S.*, 129 S.Ct. 1870, 1880 n.7 (2009) (CERCLA); see also *Center for Biological Diversity v. NHTSA*, 538 F.2d 1172, 1191 (9th Cir. 2008) (considering effects on “human health” of fuel-economy rule governed by environmental-impact requirement of NEPA as well as EPCA and EISA).

¹⁸ See *San Luis Obispo Mothers for Peace v. N.R.C.*, 449 F.3d 1016, 1019, 1030-31 (9th Cir. 2006) (risk of “terrorist attack” on community from licensing of facility there required environmental-impact statement, since such an attack would affect “public health and safety”; fact that the risk was uncertain and not reduceable to a “numeric probability” or “quantitative probabilistic assessment” did not allow agency to simply ignore it).

¹⁹ See Andrew Martin, *Fuel Choices, Food Crises and Finger-Pointing*, New York Times, April 15, 2008, at A1 (<http://www.nytimes.com/2008/04/15/business/worldbusiness/15iht-15food.11988995.html>).

²⁰ *Biofuels a Factor as Global Food Riots Spread to Haiti*, African Energy New Review, April 14, 2008. (http://www.energynews.co.za/web_main/article.php?story=20080414021920559).

²¹ Deroy Murdock, *Global Food Riots: Made in Washington, D.C.*, Human Events, April 18, 2008.

a significant factor contributing to global food prices rocketing by 83% in the last year, and causing violent conflicts in Haiti and other parts of the world.”²²

As Henri Josserand of the United Nations Food and Agricultural Organization noted in 2008, food price spikes have a much a greater impact in developing countries since “[f]ood represents about 10-20 percent of consumer spending in industrialized nations, but as much as 60-80 percent in developing countries.”²³

For example, in Afghanistan, where hunger has “threatened millions” owing to food shortages, “the average Afghan now spends up to 75 percent of their income on food”; “Prices increased 60 percent in 2007 and another 70 percent to 75 percent in the first three months of 2008 . . . as demand for biofuels and animal feed climbed,” giving rise to worries about “hunger-based instability” and the potential for increased “crime and terrorism.”²⁴

Environmentalists, too, have expressed growing concern about the role of biofuel mandates in increasing food prices, noting that such price increases inevitably lead to land use changes that result in deforestation, erosion, and the destruction of critical rain forest habitat. In 2008, two prominent environmentalists, Lester Pearson and Jonathan Lewis, decried how ethanol mandates are simultaneously destroying the environment and fueling hunger and violence worldwide. See *Ethanol’s Failed Promise*, Washington Post, April 22, 2008, at A19 (<http://www.washingtonpost.com/wp-dyn/content/article/2008/04/21/AR2008042102555.html>). As they pointed out,

“Turning one-fourth of our corn into fuel is affecting global food prices. U.S. food prices are rising at twice the rate of inflation, hitting the pocketbooks of lower-income Americans and people living on fixed incomes. . . . Deadly food riots have broken out in dozens of nations in the past few months, most recently in Haiti and Egypt. World Bank President Robert Zoellick warns of a global food emergency.”

Moreover, they noted,

“food-to-fuel mandates are leading to increased environmental damage. . . food-to-fuel mandates are helping drive up the price of agricultural staples, leading to significant changes in land use with major environmental harm. Here in the United States, farmers are pulling land out of the federal conservation program, threatening fragile habitats. . . . Most troubling, though, is that the higher food

²² *Biofuels a Factor as Global Food Riots Spread to Haiti*, African Energy New Review, April 14, 2008.

²³ *Biofuels a Factor as Global Food Riots Spread to Haiti*, African Energy New Review, April 14, 2008. (http://www.energynews.co.za/web_main/article.php?story=20080414021920559).

²⁴ Mark Hilpert, *In War Zone, Afghans Also Fight for Bread*, Washington Diplomat, June 2008, at 7 (http://www.washdiplomat.com/June%202008/a3_06_08.html).

prices caused in large part by food-to-fuel mandates create incentives for global deforestation, including in the Amazon basin. As Time Magazine [reported](#) this month, huge swaths of forest are being cleared for agricultural development. The result is devastating: We lose an ecological treasure and critical habitat for endangered species, as well as the world's largest 'carbon sink... the net impact of the food-to-fuel push will be an increase in global carbon emissions."²⁵

The Goklany study's findings that biofuel mandates have substantially increased food prices have recently been echoed by many other researchers. Economist David Laborde Debucquet noted in January that "biofuel policies have severely impacted both grains and vegetal oil markets, which are key staple food products," resulting in "an increased food bill for the whole world, with larger consequences for the poorest populations for which food expenditures represent the largest part of incomes."²⁶

The International Food Policy Research Institute observed in March 2011 that "research suggests biofuel mandates . . . contribute to increased demand and prices. If the current biofuel policies remain in place. . . prices of agricultural commodities used for biofuels could remain substantially higher in the coming decades."²⁷ "High food-price triggers have included biofuel policies, which have led to large volumes of crops being shifted into bioethanol and biodiesel production. . . Expanded production of ethanol from maize, in particular, has increased total demand for maize and shifted land area away from production of maize for food and fees, stimulating increased prices for maize. . . These demand- and supply-side effects have tended to increase the price of rice and wheat and

²⁵ Lester Pearson & Jonathan Lewis, *Ethanol's Failed Promise*, Washington Post, April 22, 2008, at A19, citing Michael Grunwald, *The Clean Energy Scam*, Time Magazine, March 27, 2008, at pp. 28-33 (<http://www.time.com/time/magazine/article/0,9171,1725975,00.html>), and Timothy Searchinger, et al., *Use of U.S. Croplands for Biofuels Increases Greenhouse Gases Through Emissions from Land-Use Change*, 319 Science 1238 (Feb. 7, 2008).

²⁶ *Domestic Policies in a Globalized World: What You Do Is What I Get*, Jan. 25, 2011 (International Food Policy Research Institute's Food Security Portal), at 1-2 (http://www.foodsecurityportal.org/sites/default/files/A_brief_overview_of_Foodsecurity_and_Biofuels_1.pdf), Debucquet is a research fellow at the International Food Policy Research Institute who previously worked as an economic consultant for USAID and the World Bank. <http://www.ifpri.org/staffprofile/david-laborde-debucquet>.

²⁷ Shenggen Fan, et al., *Urgent Actions Needed to Prevent Recurring Food Crises*, IFPRI Policy Brief 16 (March 2011) (available at <http://www.ifpri.org/sites/default/files/publications/bp016.pdf>), citing OECD, *Biofuel Support Policies: An Economic Assessment* (Paris: 2008), *OECD-FAO Agricultural Outlook 2009-2018* (Paris and Rome: 2010).

other crops.”²⁸ “Removal of ethanol blending mandates and subsidies . . . would contribute to lower food prices.”²⁹

In the short time since the Goklany study was released, other studies have similarly concluded that biofuel mandates drive up world food prices. A May 2011 G20 Policy Report projects that “biofuel production will exert considerable upward pressure on prices in the future,” and that world market prices” for “oilseeds and coarse grains” already “are substantially higher than they would be if no biofuels were produced.”³⁰ It concludes that the effect of biofuel mandates on food prices is so significant that “biofuel mandates should be removed.”³¹

In June, economics Professor Bruce Babcock of Iowa State University pointed out in a study of the price impact of biofuels that “It is indisputable that biofuels contribute to higher agricultural commodity prices because the biofuel industry represents a large and growing share of demand for maize, vegetable oil, and sugarcane. . . ethanol expansion had a significant impact on price levels. . . Maize prices in the 2011 calendar year would be about 17 percent lower than they are expected to be under current policies if ethanol subsidies had been eliminated before the beginning of the year.”³² In short, “US biofuel policy increases maize prices by a significant amount.”³³

Furthermore, as Professor Babcock has observed, while biofuel mandates may “have a small impact on food prices in” in “developed countries” because “their value makes up such a small share of the final consumer dollar,” this is not true “in poor countries”; in

²⁸ *Testimony of Mark W. Rosengrant, Director, Environmental and Production Technology Division, International Food Policy Research Institute, for the U.S. Senate Committee on Homeland Security and Governmental Affairs* (May 7, 2008), at 1-2 (<http://www.ifpri.org/sites/default/files/pubs/pubs/testimony/roseggrant20080507.pdf>).

²⁹ *Id.* at 4.

³⁰ *Price Volatility in Food and Agricultural Markets: Policy Responses* (May 3, 2011), at pp. 9, 26 (<http://ictsd.org/downloads/2011/05/finalg20report.pdf>).

³¹ *Id.* at 54.

³² Bruce A. Babcock, *The Impact of US Biofuel Policies on Agricultural Price Levels and Volatility*, International Centre for Trade and Sustainable Development Issue Paper No. 35 (June 2011), Summary, at 1-2 (<http://ictsd.org/i/publications/108947/>).

³³ Babcock, *The Impact of US Biofuels on Agricultural Price Levels and Volatility*, text beneath Table 7. See also *US Ethanol Subsidies Inflating Maize Prices by 17% in 2011 – Study*, June 22, 2011 (<http://ictsd.org/i/agriculture/109126/>).

developing countries, “because many people eat relatively unprocessed food, their food prices are much more responsive to increased commodity prices.”³⁴

In September, a study by researchers at the New England Complex Systems Institute concluded that ethanol fuel programs are one of two main factors driving world food price increases in recent years.³⁵ As Peter Timmer, who taught for many years at Harvard, noted, that study “shows how closely the accelerating trend in food prices over the past decade tracks the rising share of US corn production going into ethanol.”³⁶

Overall, in light of Goklany’s Study and others, EPA’s published information is incomplete, inaccurate, and fails to comply with the Data Quality Act. While Americans may be able to absorb small increases in food prices, people living on \$1 a day die as a result of these policies. Declaring the price increase *modest*, trivializes the true cost—especially when 192,000 people die each year as a result of these policies. When EPA publishes studies on international impacts of biofuels, including health impacts, but ignores almost 200,000 deaths, the information needs to be corrected under the Data Quality Act.

Moreover, if biofuel mandates are partly intended to reduce greenhouse gases, EPA should acknowledge that these mandates kill more people than estimated deaths due to global climate change.

IV. Recommendations for Corrective Action

To provide an accurate picture of EPA should summarize the Goklany Study and other resources cited here on its website, and cite these findings within its summaries of all biofuel-related regulations. EPA should also take other corrective actions, not only to conform to the Data Quality Act., but to also present a more comprehensive and balanced description of the full impact of these program. (EPA has previously recognized the need

³⁴ Bruce A. Babcock, *The Impact of US Biofuel Policies on Agricultural Price Levels and Volatility*, International Centre for Trade and Sustainable Development Issue Paper No. 35 (June 2011), Introduction (<http://ictsd.org/i/publications/108947/>); see also David Laborde Debucquet, *Domestic Policies in a Globalized World: What You Do Is What I Get*, Jan. 25, 2011 (International Food Policy Research Institute’s Food Security Portal), at 2 (price increases resulting from biofuel mandates have “larger consequences for the poorest populations for which food expenditures represent the largest part of incomes”).

³⁵ Marco Lagi, et al., *The Food Crises: A Quantitative Model of Food Prices Including Speculators and Ethanol Conversion* (New England Complex Systems Institute, Sept. 23, 2011) (available at http://necsi.edu/research/social/food_prices.pdf).

³⁶ See Quote from Peter Timmer, Cabot Professor of Development Studies emeritus, Harvard University (Sept. 21, 2011), accompanying abstract for *The Food Crises: A Quantitative Model of Food Prices Including Speculators and Ethanol Conversion* at <http://necsi.edu/research/social/foodprices.html>.

to update its publications to reflect new information as part of its ongoing duty to comply with the Data Quality Act.³⁷⁾

V. Identity of the Petitioners

The Competitive Enterprise Institute is a nonprofit organization that focuses on analyzing and reducing overregulation.

ActionAid USA is the US affiliate of ActionAid International, a nonprofit human rights and development agency working in 50 countries across Asia, Africa and Latin America to combat poverty.

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³⁷ See, e.g., *Letter from James P. Gulliford, Assistant Administrator, to Morgan, Lewis & Bockius LLP* (Aug. 17, 2006) (providing “update” to asbestos brochure for auto mechanics in response to law firm’s “Request for Correction under EPA’s Information Quality Guidelines”) (<http://www.epa.gov/informationguidelines/documents/12467-follow-up.pdf>); see also Wendy E. Wagner, *Importing Daubert to Administrative Agencies Through the Information Quality Act*, 12 J.L. & Pol’y 589, 5950-96, 605 (2004) (noting that “the Act reaches back” even “to information disseminated before passage of the Act”). Agencies have a duty to update the information on which they rely. See *Citizens for Environmental Quality v. U.S.*, 731 F. Supp. 970, 993 (D. Colo. 1989) (Comprehensive Land Resource Management Plan was arbitrary and capricious where it was based on “outdated” timber prices); accord *Sierra Club v. U.S.D.A.*, No. 96-2244, 1997 WL 295308, *13-14 (7th Cir. May 28, 1997) (reliance on “outdated data” rendered plan arbitrary and capricious).