



June 23, 2008

The Honorable Stephen L. Johnson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

EPA Air Docket
EPA-HQ-OAR-2008-0380,
Environmental Protection Agency, Mailcode: 6102T, 1200
Pennsylvania Avenue, NW.
Washington, DC 20460.

RE: Comments on the Request from the State of Texas for a Waiver of a Portion of the Renewable Fuels Standard, 73 Fed. Reg. 29,753 (May 22, 2008)

Dear Administrator Johnson:

On behalf of the nearly 2000 members of the American Coalition for Ethanol (ACE), I am writing to urge you to deny the request for a waiver of a portion of the Renewable Fuels Standard (RFS) submitted by Governor Rick Perry of the State of Texas. Founded in 1987, ACE is the grassroots voice of the U.S. ethanol industry, uniting ethanol producers, farmers, agriculture and commodity groups, businesses, and individuals behind coalition initiatives to support and promote the production and use of ethanol in the United States.

The test set forth in the Energy Policy Act of 2005 and expressed in Section 207 (o) (7) (A) of the Clean Air Act is straightforward. For a waiver from the RFS to be granted, it must be demonstrated that the RFS schedule will “cause severe economic or environmental harm to a state, region or the nation or that there is insufficient supply of renewable fuel.” Not only does Texas Governor Perry fail to provide credible evidence to support his contention that the RFS is causing severe harm to the livestock industry in Texas or is causing skyrocketing grocery prices, but by reducing gasoline prices, improving the nation’s balance of trade deficit, creating jobs, lowering federal farm support payments, and generating state and federal tax revenue, the RFS is providing substantial net economic benefits to the U.S., including Texas. Moreover, Governor Perry’s request is directly undermined by the findings of many independent and credible third parties, including the Agricultural and Food Policy Research Center of Texas A&M University,

United States Department of Agriculture, United States Department of Energy, and Council of Economic Advisors, among many others, which we will cite in these comments.

Valid questions have been raised about the consequences of biofuel policies on food prices and the economy, and the U.S. ethanol industry welcomes an examination of the facts related to these questions. We are certain that EPA's analysis of the facts will confirm ethanol's significant role in reducing gas prices and its minimal impact on food prices. It is a fact that ethanol has little impact on the price of food, and it is a fact that ethanol is bringing down the price of gasoline. In short, granting a waiver of the RFS as requested by Governor Perry would not only provide immaterial relief in the grocery aisle, it would immediately drive up the price of gasoline for American motorists who are already suffering from oil at more than \$135 per barrel, leading to even higher food prices due to the large role fuel plays in the processing and transportation of food and other consumer goods.

Ethanol Benefits the Economies of the United States and Texas.

In an overall environment of slowing economic growth, the U.S. ethanol industry stands out in sharp contrast. According to a report by economist John Urbanchuk of LECG, LLC dated February 20, 2008, the American ethanol industry is a job-creating engine. The increase in economic activity resulting from the ongoing production and construction of new ethanol capacity supported the creation of 238,541 jobs in all sectors of the economy during 2007. These include more than 46,000 additional jobs in America's manufacturing sector – American jobs making ethanol from grain produced by American farmers.

The ethanol industry also significantly contributes to the U.S. economy by increasing market opportunities for farmers, generating additional household income and tax revenues, and stimulating capital investment. Here are just a few highlights of the contributions of the ethanol industry to the national economy for 2007:¹

- Adding \$47.6 billion to the nation's Gross Domestic Product (GDP).
- Supporting the creation of 238,541 jobs in all sectors of the economy, including more than 46,000 jobs in America's manufacturing sector.
- Providing an additional \$12.3 billion into the pockets of American consumers.
- Savings of \$16.5 billion in 2007 due to decreased need for oil imports.

Ethanol plants also promote healthy State and local economies. A 50 million gallon per year (mgy) ethanol plant is estimated to add \$152 million annually to the size of the State economy measured by GDP, while a 100 mgy plant will increase GDP by \$300 million.² Ongoing annual operations of a 50 mgy plant is estimated to increase household income in the local economy by

¹ John M. Urbanchuk, LECG LLC, Contribution of the Ethanol Industry to the Economy of the United States, Feb. 20, 2008, at 2-4.

² *Id.* at 5.

nearly \$40 million annually, while a 100 mgy plant will increase household income by more than \$77 million.³

In particular, the State Energy Conservation Office of Texas has recognized the benefits of ethanol plants to Texas. “Locating an ethanol biorefinery or installing an ethanol gas station in a rural area is seen as a major boost to local communities in terms of employment and the tax base. An outstanding example is a recent economic boon that came to the Texas community of Hereford as it welcomed one of the largest ethanol plants in the nation. About 500 to 600 workers will be employed during construction of the plant. Once the plant is completed it will employ about 60 people.”⁴ It has been projected that in 2008, 10 current and proposed ethanol plants in Texas will be producing 500 million gallons of ethanol per year; “Texas corn and sorghum producers and cattle owners will be major contributors to these new markets.”⁵

The agency further noted that, in Texas, the nation’s second-leading agricultural-producing state, its farmers and ranchers are increasingly being challenged due to unpredictable weather and economic uncertainty: “Ethanol and biodiesel production offers rural communities the greatest opportunity for economic growth....”⁶

The Texas Legislature, and the Governor himself, has recognized the need to develop advanced biofuels, passing H.B. 1090 which authorizes \$30 million annually for the Texas Department of Agriculture grants to farmers, loggers, and diverters who provide qualified agricultural biomass, forest wood waste, urban wood waste, or storm-generated biomass debris to facilities that use biomass to generate electrical energy.

The RFS helps stimulate this economic growth, and any evaluation of a waiver request must consider not only the impacts cited in the Texas waiver request – alleged impacts that we dispute – but also the negative consequences on jobs that would be created by granting the waiver. Given these recognized benefits to the U.S. and Texas, in particular, indirect impacts on consumer prices (particularly those cited in Governor Perry’s letter) do not rise to the level of severity required for a waiver of the RFS for 2008 or beyond.

Ethanol is but One of Many Factors Contributing to Rising Corn Prices

The RFS supporting ethanol production and use is not the cause of severe harm to the economy of Texas. Many factors are contributing to higher corn prices, including: record exports fueled by dramatically higher demand for protein and a weak dollar, record domestic feed use, unprecedented speculative investment into the commodities markets artificially increasing the price for corn, global weather disasters and crop failures around the world, and most importantly, the dramatic increase in crude oil and energy prices that have occurred over the same time period. Some of these factors are discussed in greater detail below.

As of the submission of these comments, crude oil futures were trading around \$135 per barrel and retail fuel prices were at record highs. Fuel and energy prices are the primary culprit in both

³ *Id.* at 6.

⁴ State Energy Conservation Office, *Texas Ethanol Plants*, http://www.seco.cpa.state.tx.us/re_ethanol_plants.htm.

⁵ *Id.*

⁶ State Energy Conservation Office, *Energy Crops for Fuel*, http://www.seco.cpa.state.tx.us/re_biomass-crops.htm.

higher commodity and food prices, as fuel is used in every stage of food production. According to a report released by the Agricultural and Food Policy Research Center of Texas A&M University on April 10, 2008, "From February 2006 to February 2008, the average U.S. retail diesel price climbed from \$2.48 to \$3.38 per gallon." (Retail diesel prices in June 2008 approach \$5 per gallon). "Fuel prices increases impact agricultural producers directly as they run tillage equipment, use fertilizers, harvest and haul crops, and operate irrigation equipment."

According to "Amber Waves," a February 2004 report from the U.S. Department of Agriculture's Economic Research Service (ERS), "Nineteen cents of every dollar spent on U.S. grown food goes to the farmer for the raw food inputs, while the other 81 cents covers the cost of transforming these inputs into food products and getting them to our grocery shelves and lunch counters." Indeed, ERS tracks processing and distribution costs, as well as the farm value of food to determine the "marketing bill." According to USDA, "higher energy prices increase food processing, marketing, and retailing costs. These costs tend to be passed on to consumers in the form of higher retail prices." Clearly, the totality of facts captured by the entire marketing bill illuminates that the primary factors in food price inflation today are not related to the basic prices of commodities, but rather in the processing, packaging, transportation, and marketing costs which are so heavily dependent on energy.

Worldwide demand for grain is increasing exponentially as the growing middle class of China and India acquire more wealth, enabling them to afford a better diet with more protein. As a result, nearly 3 billion people are shifting diets, eating twice a day instead of once and consuming meat instead of rice, or beef instead of chicken.

Randy Fortenberry, a professor at the University of Wisconsin-Madison, said on May 5, 2008, "Corn production for feed is increasing by 400 million bushels in 2008. If corn ethanol were really crowding out food, why are we feeding more?"

In addition, worldwide crop failures and poor weather conditions have shorted wheat supplies and the availability of other grains used to produce foodstuffs.

An often overlooked culprit contributing to high commodity prices is speculative, non-commercial investment. In fact, speculative investments in commodity markets is driving up grain prices beyond what supply and demand fundamentals might support, setting grain prices at artificially high levels. It has been reported that "sovereign wealth funds" based in Middle Eastern countries have invested as much as \$40 billion in commodities. These speculative and non-commercial investors never intend to hold or purchase corn or other commodities, rather, their interest is in locking in a profit by trading paper, speculating on a price swing. Since 2006, according to records from FC Stone, non-commercial investors have often held more contracts for corn than commercial investors.

Without question, one of the leading reasons for the upward price surge in corn and other grain is the steep fall in the value of the dollar compared to foreign currencies. For example, the U.S. dollar has lost 40 percent of its purchasing power relative to the Euro in the last five years. Even at the current high U.S. prices for individual commodities, these goods are still relatively cheap in the eyes of foreign buyers when exported abroad at dollar-based prices

According to June 12, 2008 testimony before the Senate Energy and Natural Resources Committee from Joseph Glauber, USDA Chief Economist, “Exporting countries as diverse as Argentina, China, India, Russia, Ukraine, Kazakhstan, and Vietnam have placed additional taxes or restrictions on exports of grains, rice, oilseeds, and other products. By reducing supplies available for world commerce, these actions exacerbate the surge in global commodity prices. Export restrictions are ultimately self-defeating, reducing incentives for producers to increase production in developing countries.”

What Independent Experts say about Ethanol’s Role in Corn Prices

Governor Perry claims that the Texas livestock industry is experiencing severe harm due to increased corn prices and accuses the RFS of being the cause of that harm. The Governor’s request for a waiver does cite increased corn prices but does not establish that this constitutes a severe harm to the economy of the State of Texas. Texas has a \$1.066 trillion dollar economy and the livestock industry is about 1 percent of that value.

Further, according to respected experts and sources, corn-based ethanol is hardly the only or primary factor in high corn prices.

In a June 11, 2008 letter from the secretaries of U.S. Departments of Agriculture and Energy to Senator Jeff Bingaman, the Chair of the Senate Energy and Natural Resources Committee, the agencies have determined that “ethanol has increased the price of corn 14 percent from April 2007 to April 2008.” In other words, in one year, with ethanol, corn prices climbed 61 percent. Without ethanol, in the same one-year time frame, corn prices would have risen 47 percent.

Richard K. Perrin, a professor of Agricultural Economics at the University of Nebraska-Lincoln, conducted an analysis with a similar finding. According to his April 2008 report “Ethanol and Food Prices – Preliminary Assessment,” “The popular press has tended to attribute food price increases to demand for corn by the ethanol industry. Grain prices are one determinant of food prices, but they constitute less than 5 percent of food costs in the U.S. Economic models suggest that ethanol is responsible for no more than 15 to 20 percent of overall grain price increases we have seen in the past two years.”

On June 6, 2008, Merrill Lynch analyst Francisco Blanch calculated in *Global Energy Weekly* that “U.S. ethanol production has increased corn prices by just 21 percent since 2004. Because very little of the farm-gate price of corn is passed through to retail food items, ethanol has increased household spending on food by just \$15 per year.”

Furthermore, according to “The Effects of Ethanol on Texas Food and Feed,” a report released by the Agricultural and Food Policy Research Center of Texas A&M University on April 10, 2008, “relaxing the RFS does not result in significantly lower corn prices. This is due to the ethanol infrastructure already in place and the generally positive economics for the industry. The ethanol industry has grown in excess of the RFS, indicating that relaxing the standard (RFS) would not cause a contraction in the industry.”

A Fundamental Misunderstanding about Corn for Ethanol and Corn for Food – Ethanol Production Results both in Food and Fuel

There is a basic yet important distinction that needs to be made clear with respect to corn used for human food and corn used to manufacture fuel ethanol – ethanol does not use sweet corn, the vegetable that is eaten by humans, but instead uses field corn, which is a grain.

According to the National Corn Growers Association, in 2007, there were 93 million acres of field corn planted which produced a record 13.1 billion bushels (366 million tons) of corn. Field corn represents 99 percentage of all corn acreage and is used to feed livestock, for exports, and ethanol.

Sweet corn, on the other hand, is grown on only a small number of U.S. corn acres and is picked when immature for human food uses (corn on the cob, canned or frozen corn). According to the National Corn Growers Association, about 630,000 acres of sweet corn were planted in 2007 yielding 2.9 million tons of fresh and processed corn used for human consumption.

None of the corn's food value is used in the process of making ethanol. Only the starch is removed from a kernel of field corn, and all the remaining nutrients in that kernel are left intact and returned to the marketplace as distillers grain, which is a highly nutritious animal feed. In other words, ethanol borrows a fraction of a corn kernel for a short time, removes the starch to distill ethanol, and returns the higher value fat, fiber and protein to feed animals for beef, pork, and chicken. In fact, it could be argued that ethanol production creates more livestock feed than would otherwise be available in the marketplace because the corn is fractionated into its useful parts and its nutrients are concentrated, yielding a product higher in protein, fat, and fiber content than the original corn. About 16 million tons of distillers grain was produced in 2007, and it is estimated that its production will double to 31 million tons in 2008.

Another overlooked factor in corn supply is the incredible yield and productivity gains that technology has enabled farmers to make. According to data from the National Corn Growers Association, the U.S. harvested the same total corn acreage in 2007 as in 1944. However, corn yields in 1944 were just 33 bushels per acre while national average corn yields in 2007 were 151 bushels per acre, resulting in a nearly 400 percent increase in corn yields in the last 60 years.

Ethanol is not having a Significant Impact on Food Prices

As stated previously, food price inflation and hunger in some parts of the world are serious issues that demand serious attention. Unfortunately, biofuels and the RFS have been specifically targeted by some as the culprit behind food price hikes and hunger. The facts do not support this. In fact, most credible sources indicate ethanol contributes only about 3 percent to food price inflation. In other words, 97 percent of the food price problem has nothing to do with biofuels. Some recent, factual evidence from independent sources has been submitted below with respect to the role that corn-based ethanol has on food prices.

In June 12, 2008 testimony before the Senate Energy and Natural Resources Committee, USDA's Glauber indicated that, "the Consumer Price Index (CPI) for all food would have

increased by 4.55-4.6 percent during the first four months of 2008, compared with the actual increase of 4.8 percent, assuming no expansion in biofuel production.”

The June 11, 2008 letter from Agriculture Secretary Ed Schafer and Energy Secretary Sam Bodman to Senator Bingaman puts this issue in the proper context. Secretaries Schafer and Bodman indicate in the letter that “The food and fuel pricing issues are complex. We caution against hasty judgments driven by highly questionable, agenda-driven calculations, some of which have been featured in the prominent press. Our preliminary analysis suggests that current biofuels-related feedstock demand plays only a small role in global food supply and pricing. Moreover, the impact on U.S. consumers is even smaller since the farm price of commodities accounts for less than twenty percent of U.S. consumers’ food costs. Creating a stable, predictable policy environment for investors, as Congress did with the RFS, is essential to scaling our biofuels use and deploying next-generation biofuels. Efforts to repeal that mandate would hinder progress toward reducing our dependence on imported oil and reducing greenhouse gas emissions.”

Perrin’s report “Ethanol and Food Prices – Preliminary Assessment” noted that “Ethanol is responsible for a 1-2 percent rise in U.S. food prices. If ethanol is not responsible for sharp increases in grain and food prices, what is? Hypotheses that have been offered include increasing energy costs in the production and distribution of food, higher demand for food grains because of increasing consumer incomes in China and India, unusually low world production of wheat, and speculative purchasing. Additional effort is required to examine the impact of these various factors.”

In a May 1, 2008 press briefing on food aid by Steve McMillin, Deputy Director of the Office of Management and Budget and Ed Lazear, Chairman of the Council of Economic Advisors, Chairman Lazear made the following comments about ethanol and food prices: “Ethanol production has received a lot of attention that had put pressure on food prices, but the pressure is limited. Let me give you a sense of that. The bottom line is that we think that ethanol accounts for somewhere between 2 and 3 percent of the overall increase in global food prices. And the reason for that is that ethanol works primarily on corn. It has increased corn prices by about 33 percent. But corn is only 30 percent of all grain, and grain is only 20 percent of all food. So when you multiply those together and take that into account, you end up with about 2 to 3 percent. Put differently, in the U.S. this year food price inflation was pretty significant, 4.5 percent. Had it not been for ethanol, food prices would have gone up by 4.25 percent as opposed to 4.5 percent. So we would have had about a quarter of a percent lower price inflation; so 4.25 versus 4.5 is the relevant number here.”

The Federal Reserve Bank of Kansas City report, “What is Driving Food Price Inflation?” (Volume III, Issue I of The Main Street Economist), stated “Historically, food prices have surged during times of higher crude oil prices. Moreover, research shows that energy prices are quickly passed through to higher retail food prices, with retail prices rising .52 percent in the short term for every 1 percent rise in energy prices (Reed et al). As a result, a 10 percent gain in energy prices could contribute 5.2 percent to retail food prices.” The report also noted that “Today, people are eating more processed foods and consuming more food away from home. Processed foods and restaurant meals have higher marketing costs. And across food groups, packaged food

with substantial advertising and specialized marketing, such as cereals, have higher marketing costs, contributing to lower farm costs per retail dollar.”

A November 2007 Informa Economics report “Analysis of Potential Causes of Consumer Food Price Inflation” determined that “the statistical evidence does not support a conclusion that the growth in the ethanol industry is driving consumer food prices higher. It can be concluded that no single factor is the driver of consumer food prices over time – but rather there is a complex and interrelated set of factors that contribute to food prices. While an increase in corn prices will affect certain industries – for example, causing livestock and poultry feeding margins to be lower than they otherwise would have been – the statistical evidence does not support a conclusion that there is a strict ‘food-versus-fuel’ tradeoff that is automatically driving consumer food prices higher.”

Ethanol Reduces Retail Gasoline Prices for Consumers in Texas and the Rest of the Nation.

Today about 70 percent of the U.S. gasoline supply contains ethanol, making ethanol blends more prevalent than some may realize. Most ethanol is retailed as E10, the 10 percent blend that is approved for use in all makes and models of vehicles sold in the U.S. The RFS calls for 9 billion gallons of ethanol and biodiesel to be used nationwide this year.

In the recent USDA-DOE analysis for the Senate Energy Committee, the agencies note the significant role this rate of ethanol usage plays in the national picture of gasoline supply and price. “Without ethanol, we would have to use 7.2 billion more gallons of gasoline (5 percent more gasoline) in order to maintain current levels of travel. We would only meet the demand for more gasoline without using ethanol mixtures by bidding up the price of gasoline.”

Economist John Urbanchuk, in a May 1, 2008 report the “Impact of Waiving the Renewable Fuels Standard Provisions of EISA 2007 on Retail Gasoline Prices” tackles the issue forced by Texas Governor Perry head-on. Urbanchuk concludes that “the removal of 4.5 billion gallons of ethanol from the gasoline pool would force refiners to find an additional 3.1 billion gallons of finished gasoline to meet consumer driving requirements. Given the high short-term inelasticity of demand for gasoline the anticipated shortfall of 2.4 percent in the gasoline supply would result in a short-term increase in retail gasoline prices of 31.1 percent.” According to AAA, retail gas prices are currently in excess of \$4 per gallon. Applying Urbanchuk’s analysis, waiver of the RFS that Governor Perry requests would increase retail pump prices by \$1.25 per gallon to \$5.30 per gallon.

Urbanchuk has also taken a broader look, examining ethanol’s role in the global fuel supply in a May 27, 2008 paper the “Impact of Ethanol on World Oil Demand and Prices.”

“Biofuels expand the supply of motor fuel and reduce pressure on world crude oil supplies needed to refine gasoline. In a market environment of increasing demand for fuel led in large part by significant economic growth and development of the transportation sectors in China and India, and constrained global production, this means that a relatively small shortfall in supply can translate into a significantly larger short-term increase in price,” the report states. Urbanchuk found that if ethanol were not available for use, the world’s refiners would need an additional 1.9

million barrels of crude oil per day, or 2.2 percent of current world production. “Given the inelastic demand for crude oil, a shortfall of this small magnitude would likely result in a short-term price increase of 27.5 percent.”

Without ethanol to expand the global fuel supply, crude oil prices would be \$35.70 per barrel higher, based on \$130 oil. Or, from another angle, world ethanol production is keeping oil prices 27.5 percent lower than would otherwise be the case.

A recent examination of the U.S. gasoline market shows that ethanol is preventing American motorists from shelling out even more at the pump. An April report from Iowa State University’s Center for Agriculture and Rural Development quantified the impact of ethanol production on retail gas prices. Authors Xiaodong Du and Dermot Hayes found that, over the sample period of 1995 to 2007, the growth in ethanol production has caused retail gas prices to be between 29 and 40 cents per gallon lower than would otherwise have been the case.

Each region of the country has experienced price relief due to ethanol, varying from 17.1 cents per gallon in the Rocky Mountain Region to 39.5 cents in the Midwest.

Analysis by Merrill Lynch agrees, finding that in addition to ethanol offering relief over the past several years, the expansion in ethanol production today is preventing further flare-up in the oil and gas markets. If ethanol producers weren’t expanding their output, oil and gas prices would be 15 percent higher, Merrill Lynch commodity strategist Francisco Blanch told *The Wall Street Journal* on March 24, 2008.

Additional analysis from Merrill Lynch in the June 6 edition of *Global Energy Weekly* concludes that biofuels are “now the single largest contributor to world oil supply growth.” The authors estimate that retail gasoline prices would be \$21 per barrel higher without the expanding ethanol supply, equal to a savings of 50 cents per gallon of gasoline at the retail level.

A snapshot of wholesale ethanol and gasoline prices taken over the Memorial Day holiday weekend shows how these per-gallon savings translate to big dollars for the American economy. Based on national rack prices published May 23, 2008, the net price of ethanol was between \$1.15 and \$1.30 a gallon less than unleaded gasoline, a lower cost which equaled a savings to American motorists of \$35 million a day and more than \$100 million over the three-day weekend.

Though in June 2008 gas prices have softened and ethanol prices have increased slightly, there is still about a dollar net advantage with ethanol.

Further, biofuels will be more important than ever in the coming years as lower than expected oil production is strained by higher than expected demand. The International Energy Agency (IEA) is preparing a thorough survey of the global oil supply, for the first time turning its focus from the survey of demand that it and most other agencies have done in the past.

According to a *Wall Street Journal* article on May 22, 2008, the IEA has predicted for several years that fuel supplies will keep pace with rising demand, projecting that supply will top 116

million barrels a day by 2030, an increase from the 87 million barrels at present. But now the agency hints of uncertainty in whether or not the necessary investments are being made in supply to keep up with worldwide increases in demand.

“The oil investments required may be much, much higher than what people assume,” Fatih Birol, IEA chief economist, told *The Wall Street Journal*. “This is a dangerous situation.”

The Energy Information Administration (EIA), the U.S. Department of Energy’s statistical arm, agrees. “We are optimistic in terms of resource availability, but wary about whether the investments get made in the right places and at a pace that will bring on supply to meet demand,” Guy Caruso, EIA Administrator, said in the same article.

The article states that “analysts at IEA also fret that a lack of investment in many OPEC countries, combined with a diminished incentive to ramp up output, casts serious doubt over how much the cartel will expand its production in the future. The big OPEC producers have been raking in record profits, creating a disincentive in many countries to sink more billions into increased oil production.”

Flat oil production and growing demand were cited by Energy Secretary Bodman in recent testimony before Congress, noting that, beginning in 2005, there has been no change in global production to meet the growing demand. The IEA notes that new demand in the coming decades will come mainly from China, India, and the Middle East – a change from the past when the main demand drivers were the United States and Europe. “Both on the demand and supply side, we have new actors who change the rules of the game. We are entering a new world energy order,” he told the Associated Press in a May 22, 2008 article.

For the first time in 30 years, America has slowed its imports of oil, finally making progress in the effort to cut reliance on crude – especially from foreign sources. Data from the Energy Information Administration shows that U.S. oil imports dropped for the first time since 1977. The agency also shows that U.S. foreign oil dependency is expected to fall from 60 percent to 50 percent by 2015, the same timeframe as the 2007 energy bill calls for U.S. biofuels production and use to approach 15 billion gallons.

“The 1970s is the last time we saw any significant decline in net import dependency in the U.S. It shows that markets do work, policy changes do work, technology does work,” stated EIA Administrator Caruso in a *Financial Times* article on May 21.

This data from the Department of Energy makes the compelling case that, thanks in part to U.S. ethanol policy, we are finally reducing our expensive and risky addiction on foreign oil. Ethanol is not a panacea for the trouble facing America’s energy sector, which is deep and complex. But the facts show that ethanol is part of the solution to treating high gas prices, which are a symptom of the disease of dependence on increasingly expensive and decreasingly available oil.

On June 17, 2008, Tom Kloza of the Oil Price Information Service (OPIS) told *USA Today* that “Americans are paying \$1.6 billion per day for gasoline.” Without ethanol increasing the supply of fuel to motorists, consumers would be paying even more. Consumers throughout Texas and

the rest of the nation are benefiting substantially from the effect of biofuels on retail gasoline prices. World oil prices are above \$130 per barrel, while world demand is growing and oil production from OPEC nations is declining. As oil companies throughout the world struggle to find new oil reserves, world biofuels production now comprises 75 percent of the growth in non-OPEC fuel supplies. Future increases in the amount of biofuels in the fuel supply will only serve to reduce retail gasoline prices even further. Granting the Texas waiver request will hinder the ability of Texas and the nation to achieve its full potential or biofuels production and use and thus will lead to higher retail gasoline prices.

Granting the Texas Waiver Request Would Severely Undermine the Ongoing Effort to Commercialize Advanced Ethanol Technologies.

The original 2005 RFS and its expansion in 2007 provide the critical incentives needed to promote advanced biofuels. In particular, the RFS creates the market certainty that will encourage substantial private-sector investment in advanced biofuels, speeding their commercial-scale development. Moreover, any waiver of those RFS standards now would severely undermine the confidence of the financial markets in this program and discourage investment in second generation biofuels, such as those made from wood waste and switchgrass.

Insufficient Data is Available to Suggest Recent Flooding in the Midwest Justifies a Waiver

Opponents of ethanol have recently made the charge that flooding in certain portions of the Midwest is justification for EPA to grant a waiver of the RFS. It is important to note that the specific letter from Governor Perry does not mention nor make the case that his request is related to a weather-related crop condition. Furthermore, it would be irresponsibly premature to grant a waiver to the RFS until much more is certain with respect to the actual crop conditions and supply. The RFS includes mechanisms that permit EPA to waive the program if unforeseen circumstances, such as weather events, reduce the supply of feedstock available for biofuel production, thereby limiting supply available to refiners. Nevertheless, data regarding crop conditions and the potential size of the fall corn harvest is to date entirely insufficient to justify a waiver.

The Standards for a Waiver Have Not Been Met

In closing, under the Clean Air Act, a waiver can only be granted if the RFS is “causing severe harm to the economy of a State, region or the U.S.” In addition, the RFS volumes may not be reduced if doing so would not solve the problem that Texas believes is occurring.

A recent analysis by Texas A&M University shows that the impact of the RFS is expected to be about 1.4 percent of crop and livestock value added to the Texas economy – and a miniscule impact on aggregate State GDP. This effect can hardly be considered “severe economic harm,” particularly when it does not take into account the benefits to the state economy of lower gasoline prices from use of ethanol.

In addition, Governor Perry’s request does not take into account the substantial benefits that ethanol is providing to the economy of Texas. Ethanol production has provided Texas benefits,

including to local agricultural producers and rural communities surrounding ethanol plants, and in the form of lower retail gasoline prices to Texas residents and to all Americans. Without a full picture of the effects of the RFS, Texas cannot establish the effect of the RFS on the entire Texas economy, much less demonstrate severe harm.

Unemployment is one indicator of economic health. The federal Bureau of Labor Statistics (BLS) indicates that unemployment in Texas fell to an all-time low in April of this year, the very month Governor Perry requested a waiver of the RFS for supposed economic harm to his state. The most recent BLS figures from May point to the fact that about 120,000 new nonfarm jobs have been created in Texas this year and unemployment is still 1 percent less than the national average.

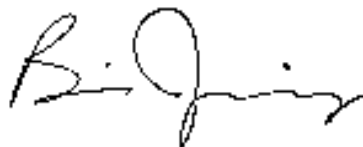
Governor Perry and others who would blame biofuels for economic woes continually overlook the cost of energy that dwarfs inflationary increases from other areas of the economy. According to CPI data, for the last three months, energy costs are up a staggering 28.2 percent, transportation has increased 8.7 percent, and food is up 6.2 percent. Clearly, the RFS policy can help reduce the cost of fuel energy, so reversing, waiving, or abandoning the RFS would have the exact opposite effect that the Governor intends – it would lead to even greater economic harm by increasing the cost of food and fuel.

Even if the economy of Texas were experiencing severe harm, it is not caused by the RFS. For a waiver to be granted, RFS implementation must be the cause of the claimed severe economic harm. There is no data causally linking the RFS to the increased corn prices cited in the Texas request.

Finally, Texas has not shown that reducing the RFS would alleviate the alleged impacts. The only study addressing the issue concluded that ethanol production would exceed the RFS levels for the next two years, even if the RFS was relaxed and that corn prices would remain above \$4.00 a bushel in any event.

At a time of dramatically rising world oil and gasoline prices, a U.S. economy slipping into recession, and a rapid growth in our balance of trade deficit due to oil imports, the RFS stands out as a prescient national energy policy, providing an important bulwark against these depressing economic trends. Waiving the RFS in whole or in part would cause more economic harm to Texas and the nation. As a result, ACE strongly urges you to deny the Texas request.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Jennings". The signature is fluid and cursive, with a large initial "B" and "J".

Brian Jennings, Executive Vice President
American Coalition for Ethanol