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October 11, 2012

By Hand and Electronic Mail

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: Comments of POET, LLC on Letters Seeking a Waiver of the Federal Renewable Fuel Standard (77 Fed. reg. 52,715 (August 30, 2012))

Dear Administrator Jackson:

POET, LLC ("POET") is pleased to have this opportunity to express its strong support for the renewable fuel standard ("RFS"). POET urges EPA to deny the requests to eliminate the RFS requirement recently submitted by the Governors of several States and trade associations. The waiver requests fall far short of the criteria for a waiver in the Energy Independence and Security Act of 2007 ("EISA"). If granted, the requests would undermine current ethanol markets and also likely destroy the ethanol industry's efforts to commercialize cellulosic ethanol, which is a core objective of EISA.

POET manages the production of ethanol at 27 plants in the United States, which combined can produce more than 1.6 billion gallons of ethanol annually. In building the Nation's largest ethanol production network, POET pioneered a new business model using farmers, communities, and other stakeholders as the primary investors in ethanol plants, allowing ethanol production plants to give back even more to the communities and states where its plants are located. When combined with the 385 million gallons of ethanol that POET markets for eight plants outside its production network, POET marketed a total 1.97 billion gallons of ethanol in 2011, making it the largest marketer of ethanol in the United States. POET is also the world's largest producer by volume of distillers' dried grains with solubles (DDGS), a highly nutritious animal feed produced as a co-product of the ethanol production process. POET first began producing its trademarked Dakota Gold distillers' grains product in 1993. POET now produces more than 4.2 million tons of Dakota Gold per year and exports 800,000 tons a year to more than a dozen countries.

POET has also continually strived to help ethanol production become a more efficient source of domestic energy, furthering one of the most important goals of Congress under EISA.

POET has reduced its energy use by 50% since it started ethanol production in 1988. POET has been able to decrease the greenhouse gas (GHG) intensity of its ethanol production by 10% since 2005, primarily through its patented BPX process that converts starch to ethanol without heat. Fossil energy use has also decreased at POET's production facilities through the use of alternative energy. One plant is powered almost entirely by a waste wood boiler and landfill gas. Another produces biogas in an anaerobic digester, and three employ cogeneration. POET has also reduced its water use by over 80% since it began producing ethanol, and it has set a goal to further reduce its water use by 22% by 2014.

POET has entered into a $250 million joint venture with Royal DSM, called POET-DSM Advanced Biofuels, with plans to complete construction on one of the Nation's first commercial-scale cellulosic ethanol facilities in late 2013. This first plant, in Emmetsburg, Iowa, is expected to produce 20 million gallons of ethanol in its first year. The joint venture intends to extend the technology to the remaining 26 plants in the POET network, with an anticipated total production of up to 1 billion gallons of cellulosic ethanol per year once all plants are operational. With this joint venture, POET expects to lead the industry in fulfilling one of the central goals of Congress when it created the RFS program—the large-scale development of cellulosic ethanol.

As a member of Growth Energy, POET fully supports and incorporates Growth Energy's comments on the waiver request. As discussed in those comments, the petitions should be denied because they do not meet the substantive requirements for a waiver of the RFS under § 211(o)(7) of the Clean Air Act. The statute requires petitioners to demonstrate that "implementation of the [RFS] requirement ***would severely harm*** the economy or environment of a State, a region, or the United States." § 211(o)(7) (emphasis added). Petitioners have wholly failed to provide the adequate support, documentation, and modeling required by the EPA in its 2008 decision denying Texas's request for a waiver. *See* State of Texas Request for a Waiver of a Portion of the Renewable Fuel Standard, 73 Fed. Reg. 47,168 (EPA Aug. 13, 2008). *Id.* at 47,183. Petitioners cannot satisfy the "high threshold" of severe harm to the economy in any event because current RIN prices and market conditions suggest that there will likely be very little impact from a waiver.

POET here writes separately in order to address a few issues of particular importance to POET. In brief:

1. The parties seeking an RFS waiver have ignored the marketable credit trading program provided by Congress in EISA. That program was designed specifically to provide for flexibility in the mandate in years like this and to allow the market to dictate lower ethanol levels without the need to grant a waiver. The evidence shows that the marketable credit trading program will alleviate the impacts of the drought conditions this year, and POET urges EPA to let Congress's program—and the market—work as designed.

2. Claims that ethanol consumes 40% of the total U.S. corn crop are incorrect. The ethanol industry uses corn to make two primary products: ethanol and distillers' grains animal feed. Once this important co-product is taken into account, only 17.5% of corn acres are used to produce ethanol. When the corn market is properly understood, it becomes clear that those seeking a waiver have not, and cannot, demonstrate that the extremely narrow statutory criteria for granting a waiver have been met.

3. As indicated above, POET, through its joint venture, plans to complete one of the first large, commercial-scale cellulosic ethanol production facilities late next year. It has spent years on the research and development of cellulosic technology, and it has partnered with a foreign investor, Royal DSM, that has matched POET's dedication to making cellulosic ethanol commercially

available. Congress intended to create a stable market for ethanol. Granting a waiver of the RFS will send the wrong signal to the investment community and could make it impossible for companies such as POET to attract the capital needed in order to commercialize cellulosic ethanol.

These issues, which demonstrate that EPA should not grant a waiver of the RFS requirements as petitioners seek, are more fully discussed below.

1. The Flexibility of the RFS Program and the Market-Based Approach in EISA Will Avoid Any of the Harms Claimed by the Waiver Petitioners.

Through EISA in 2007, Congress not only increased ethanol requirements to ensure the continued progress of the industry, but also introduced a powerful mechanism to ensure that the market could allow for variations in ethanol production. As described in Growth Energy's comments, each year the Administrator sets required volume obligations (RVO) of ethanol use for refiners, blenders, and importers of gasoline. In section 211(o)(5) of the Clean Air Act, Congress created a credit program that awards credits to refiners, blenders, and importers of gasoline that used greater quantities of ethanol than required by their RVO. Blenders and producers receive a Renewable Identification Number (RIN) credit for each gallon of ethanol used. After using their RINs to show compliance with the RVO for the year, gasoline producers who have blended ethanol beyond the RVO can stockpile their excess RINs for the next year or sell them on the secondary market to other gasoline producers. Each RIN issued expires after one year. *See* § 211(o)(5)(C). The statutory system allows the market to allocate efficiencies of ethanol use both throughout the country (between producers who can economically blend ethanol and those who can't) and across time. In some years, it will be economical for ethanol producers to produce more ethanol and refiners to blend more ethanol than would be required by the RFS, and the excess RINs will be stockpiled (which has been the case every year at least through 2011). In other years, when ethanol or its inputs are more expensive, refiners can use their stockpiled RINs in lieu of purchasing additional ethanol, and production of ethanol will decrease.

The petitioners ignore the intended and likely practical effects of the RIN trading program when advancing their dire predictions of future corn prices. The letters from Delaware and Maryland predict that corn prices will rise to $9.50 this fall or winter without any support, citation, or modeling.[1] The National Pork Producers Council's ("NPPC") submission suggests that prices will rise by $2.50, citing to a scenario in a 2011 report by Dr. Bruce Babcock where there are no excess RINs available and no carryover stocks.[2] Since the 2011 report cited by NPPC, Dr. Babcock has analyzed the 2012/13 marketing year *twice*, rendering any reliance on an analysis of the 2011/12 year obsolete.[3] Even looking at Dr. Babcock's most recent, August 2012 report, the $2.50 increase cited by NPPC and the $9.50 prices cited by Delaware and Maryland only come into play under the highly unlikely "full mandate" scenario where no carry-over RINs are used.[4]

The full mandate scenario in the August 2012 Babcock Report is all but impossible given current conditions, because if the mandate is binding, producers have an incentive to use RINs and there is a vast supply of stockpiled RINs available. Through July, 2012, EPA reported that 7.7 billion Renewable Fuel (D6) RINS have been generated during 2012. On an annualized basis, the

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[1] *See* Aug. 9, 2012 Delaware and Maryland Petition.

[2] *See* NPPC Pet. at 11 (citing Bruce Babcock, *The Impact of US Biofuel Prices on Agricultural Price Levels and Volatility*, Int'l Centre for Trade & Sustainable Develop., Issue Paper No. 35, June 2011, at 19-20).

[3] At least one of these reports would have been available to NPPC prior to filing its submission.

[4] Bruce Babcock, *Updated Assessment of the Drought's Impacts on Crop Prices and Biofuel Production*, CARD Policy Brief 12-PB 8, Aug. 2012, at 7 ("August 2012 Babcock Report").

industry is on track to produce 13.2 billion D6 RINS, which is equivalent to the 2012 RVO. This situation would allow obligated parties to use the approximately 2.6 billion 2011 D6 rollover RINs in 2012, thereby creating a surplus of approximately 2.6 billion 2012 D6 RINs that could be rolled over into 2013.

While POET does not expect the market to be perfectly efficient in allowing all rollover RINs to be used, or that no RINs will be needed to meet a 2012 RVO, the 2.6 billion RIN carryover would allow the marketplace to rationalize production from the full 2013 requirement of 13.8 billion ethanol equivalent gallons, down to 11.2 billion ethanol equivalent gallons. Not only does this make the petitioners' scenario of no RIN use extremely unlikely, but full use of RINs available in 2013 would result in a 2013 ethanol production that is 300 million gallons less than August 2012 Babcock Report predicts would be produced in the event of a waiver.[5] Therefore, even without a waiver, it is likely that corn prices will fall below prices predicted by Dr. Babcock's "waiver" scenario.

Similarly, the low current trading price of RINs supports the hypothesis that both the flexible and full mandate models articulated in Babcock's August 2012 report are unlikely. EPA has previously considered low RIN prices as evidence that a mandate is less likely to be binding and has used RIN prices to "corroborate[] the modeled impacts of the RFS."[6] If the mandate is binding refiners can use RINs to reduce their ethanol use, increasing demand for RINs: the more binding the mandate, the higher the demand for RINs, and the higher the price of RINs. In Dr. Babcock's full mandate scenario, the price of RINs must be very high to dissuade gasoline blenders from using any excess RINs at all—Dr. Babcock predicts that RINs would trade at $1.35 per gallon under this scenario. As of October 10, 2012, the OPIS service priced RINs at less than 7 cents a gallon[7] and almost twenty times lower than the full mandate's $1.35 price. This signals that the market—considering all possible factors—deems the full mandate scenario to be a very remote possibility. For that same reason, Dr. Babcock's flexible mandate scenario also likely overstates the impact a waiver would have on the price of corn. The RIN-trading price under the flexible mandate scenario of $0.26 is still several times higher than the current RIN price.[8]

Neither the state petitioners nor NPPC provides any justification for ignoring the flexibility Congress built into the RFS through the RIN program. As explained in the Growth Energy Comments, because rational refiners will use available RINs, petitioners cannot show that implementation of the RFS would cause severe harm.

2. The Waiver Petitioners Overstate the Impact of Ethanol Production on Grain Supply for Meat Producers.

Petitioners vastly overstate the influence of ethanol on feed supply. The Governors of Delaware, Maryland, Texas, and Arkansas claim that ethanol production consumes 40% of the corn supply.[9] The Governors overlook the fact that ethanol production yields two primary products: ethanol and distillers' grains (DGs). DGs include the fiber and protein from the corn kernel in

[5] *Id.*
[6] 73 Fed. Reg. at 47,175.
[7] OPIS, Oct. 10, 2012.
[8] For a more thorough discussion of why Dr. Babcock's full mandate scenario is highly unlikely, see Edgeworth Econ., *The Impact of a Waiver of the RFS Mandate on Food/Feed Prices and the Ethanol Industry*, Oct. 2012, at 4, and Growth Energy Comments at 13.
[9] *See* Aug. 9, 2012 Delaware and Maryland Petition; Aug. 24, 2012 Texas Petition; Aug. 13, 2012 Arkansas Petition.

addition to other nutrients.[10] One bushel of corn in the ethanol process can produce 2.8 gallons of ethanol and 17 pounds of DGs. DGs have nearly three times the concentration of fiber, protein, and oil found in corn.[11]

Because of their higher nutritional content, DGs can substitute not only for corn in animal diets but also for soybeans, which are a source of protein. Animal nutritionists have estimated "displacement ratios" for different types of animal feed coming from ethanol plants, which are the ratios of the mass of corn or soybeans replaced divided by the mass of DGs used.[12] The Forest and Agricultural Sector Optimization Model (FASOM) used by EPA to estimate land uses and agricultural impacts of the RFS2 in the U.S. references a 2008 Argonne National Laboratory analysis of displacement ratios.[13] In the Argonne study, 1 lb of DGs replaces 0.954 lbs of corn and 0.291 lbs of soybean meal.[14] The total ratio is 1.245 lbs of corn and soybeans replaced per 1 lb of DGs.

Based on this Argonne analysis, in 2011 DGs replaced 1.29 billion bushels of corn and 0.37 billion bushels of soybeans, which is the equivalent of 9.6 million acres of corn and 8.4 million acres of soybeans.[15] When these 18 million acres for DGs are subtracted from the gross corn acres used for ethanol in 2011, this shows that ethanol did not use 32.3 million acres of corn—which was the gross number of corn acres used for ethanol production, or 40% of the total corn crop in 2011—but instead used only 14.3 million acres, or 17.5% of the total corn crop in 2011. Using a similar model to the FASOM/Argonne model, Dr. Nelson of Kansas State University similarly concludes that only 17% of net corn acres were used for ethanol production once DGs are taken into account.[16]

Historically, DGs have also tracked at or below the price of corn so livestock farmers can use DGs to provide increased nutrient value to their animals for less money than corn. *See* Figure 1. Even though the price of DGs has risen closer to the price of corn due to the drought, nutrient specialists are still advising significant use of DGs because they remain priced at much lower rates than soybean meal. As the Pork Network, a lead swine production magazine, reported on feed strategies during the drought: "Due to expensive soybean meal, 'if you can secure DGs at 100 percent the price of forward corn, it may be an attractive alternative because of the added protein benefit.' . . . By determining how much corn and soybean meal you can replace, DGs still may be economical even at higher prices. The goal here is to reduce the amount of soybean meal in the diet."[17] DGs are particularly inexpensive in relation to soybean meal prices and have steadily trended downward in relative price each year. *See* Figure 2.

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[10] Robert Wisner, *Distillers Grain Price Relationships and Export Developments*, AgMRC Renewable Energy and Climate Change Newsletter, Dec. 2010.
[11] *Id.*
[12] *See* Air Improvement Resource, Inc., *Analysis of Net Corn Acres Used for Ethanol*, Oct. 2012, at 1 ("AIR Report").
[13] *See id.*
[14] *See id*; S. Arora, M. Wu & M. Wang, Argonne Nat'l Lab., *Update of Distillers Grains Displacement Ratios for Corn Ethanol Life-Cycle Analysis* (Sept. 2008).
[15] *See* AIR Report at 1-2.
[16] Richard G. Nelson, *2010/2011 Net Acres Used for Corn Ethanol in the United States*, Oct. 2012.
[17] Rick Jordahl, *Focus on Feed Strategies to Offset Drought*, Pork Network, Sept. 10, 2012.

Figure 1. Corn and DDG Prices[18]

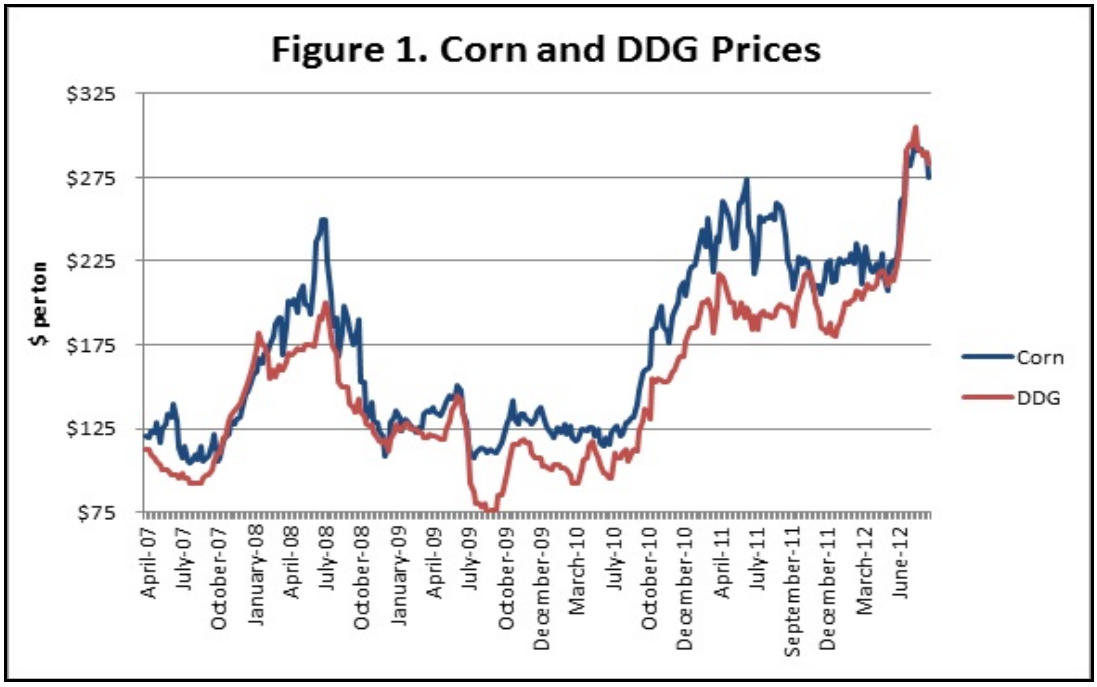
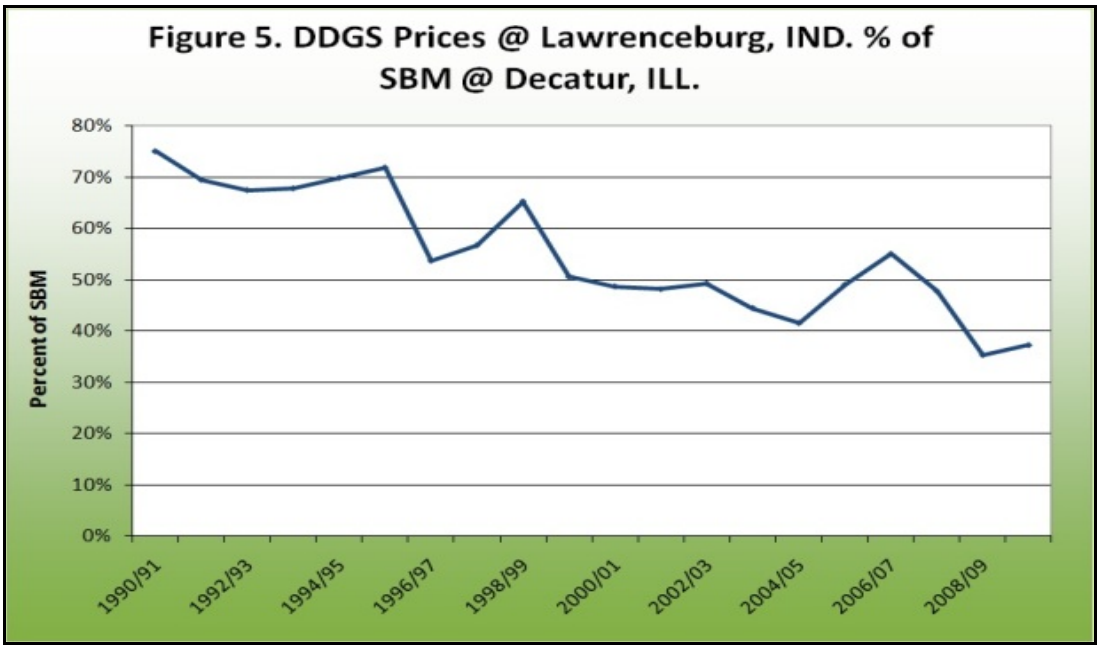


Figure 2. DDGS Prices @ Lawrenceburg, IND. % of Soybean Meal @ Decatur, ILL.[19]



POET began producing the first trademarked distillers' grains on the market in 1993 under the Dakota Gold label. Since that time, the brand has gained nationwide recognition among livestock and poultry producers. POET's patented BPX process produces ethanol without

[18] Table from Geoff Cooper, *Response to EPRINC Study: "Ethanol's Lost Promise,"* The E-XCHANGE, Sept. 18, 2012.
[19] Table from Robert Wisner, *Distillers Grain Price Relationships and Export Developments*, AgMRC Renewable Energy and Climate Change Newsletter, Dec. 2010.

cooking the corn, avoiding heat damage and improving nutritional content. Dakota Gold is known for its high nutrition content and consistency, because every batch of Dakota Gold must meet the same stringent nutritional requirements.

Since POET first brought Dakota Gold into the market nearly two decades ago, it has expanded its production and its reach, bringing this highly nutritious and valuable product to more livestock and poultry producers in the U.S. and around the world. More than 4.2 million tons of Dakota Gold is sold each year, 800,000 tons of which are exported to more than a dozen countries. POET's leadership and innovation has seen the distillers' grains industry expand production to over 34 metric tonnes for use in the U.S. and for export to over 60 other countries worldwide.[20]

The waiver petitioners have failed to consider the production of DGs and the large-scale use of this cheap and nutritious feed supply by the livestock and poultry industries. Accordingly, their 40% figure is misleading. Moreover, petitioners conveniently downplay livestock's own effect on corn prices and ignore the industry's own large appetite for corn. Livestock production has increased by 30% since 2000.[21] And when it comes to demand for corn and other grains, the largest absolute demand on crops is still animal feed. In developed countries, including North America, approximately two-thirds of all available grains are devoted to animal feed.[22] And when DGs are considered, animal production can be estimated to use about 61% of the U.S. corn harvest that year, compared with ethanol's 17.5%.[23]

3. The Petitioners Ignore the Impact of a Waiver on the Ethanol Industry's Efforts to Commercialize Cellulosic Ethanol.

Granting petitioners' request to waive the RFS program would introduce uncertainty and instability into the renewable fuels industry. Granting a waiver on the flimsy record offered by the petitioners would not only affect future investment and development of ethanol technologies that use grain feedstocks, but would also derail efforts to commercialize cellulosic ethanol.

The U.S. Departments of Energy and Agriculture have estimated that more than one billion tons of biomass is available in America that could produce enough cellulosic ethanol to replace a third of the country's gasoline use.[24] Congress devised a plan to take advantage of this untapped

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[20] *See* AIR Report at 3 (34.4 metric tons DGs); U.S. Grains Council, DDGS Weekly Market Report, Sept. 28, 2012, at 3-5 (listing exports to 63 countries).

[21] The value of livestock production in 2000 was $107.2 billion in 2011 dollars, compared to $140.6 billion in 2011 based on CPI adjustment. *See* USDA, Meat Animals Production, Disposition, and Income Annual Summary, www.usda.mannlib.cornell.edu/MannUsda/view DocumentInfo.do?documentID=1101; USDA, Poultry Production and Value, www.usda.mannlib.cornell.edu/MannUsda/view DocumentInfo.do?documentID=1130; USDA, Milk Production, Disposition, and Income Annual Summary, www.usda.mannlib. cornell.edu/MannUsda/viewDocument Info.do?documentID=1105.

[22] Karl-Heinz Erb et al., Alpen-Adria Universitat, *The Impact of Industrial Grain Fed Livestock Production on Food Security: An Extended Literature Review*, June 2012, at 2, 33.

[23] In 2010/2011, the combination of Exports, Food and Industrial, Ethanol, and Feed consumed 13.055 billion bushels of corn. *See* WASDE, *U.S. Feed Grain and Corn Supply and Use 1* (Sept. 2012). These are the four major uses of the corn crop. Ethanol used 5.021 billion bushels on a gross basis, and Feed used 4.793 billion bushels. *Id.* On a net basis however, ethanol used only 2.197 billion bushels (17.5%/40% times 5.021), with the other 2.824 billion bushels going to DGs, or animal feed. *See* AIR Report at 1-3. Thus, animal feed constituted 4.793 billion bushels plus 2.825 billion bushels from DGs, or 7.617 billion bushels. *Id.* The 7.617 bushels for feed is 61% of 12.447 billion bushels harvested.

[24] Oak Ridge Nat'l Lab., U.S. Department of Energy, *U.S. Billion-Ton Update: Biomass Supply for a Bioenergy and Bioproducts Industry*, Aug. 2011, at xvii, xxi.

energy potential through the cellulosic ethanol provisions of EISA. In the statute, Congress intended cellulosic ethanol production to gradually surpass traditional ethanol by mandating that cellulosic ethanol fulfill an increasingly larger percentage of the overall renewable fuels requirement each year. § 211(o)(2)(B).

The well-known difficulties of fully implementing the cellulosic provisions of EISA highlight the need for EPA to fully support the objectives of Congress in developing this industry. In EISA Congress gave the Administrator the ability to reduce the cellulosic ethanol use requirement under specified circumstances, and in every year since a cellulosic mandate has been applied, the Administrator has exercised this authority. In 2010, the cellulosic requirement was reduced from 100 million gallons to five million gallons; in 2011, from 250 million gallons to 6.6 million gallons; and in 2012, from 500 million gallons to 8.65 million gallons.[25] Part of cellulosic ethanol's delay in reaching full commercialization results from near-term high investment costs that are not related to cellulosic biofuel's long-term viability. As the Congressional Research Service has reported, "[l]imited access to capital has been indicated as one of the primary reasons that timely completion of many cellulosic biofuel plants have stalled."[26] At present, cellulosic biofuel plants have been estimated to be three times more expensive to develop than a corn ethanol plant.[27] EPA itself has recognized that cellulosic biofuel producers "face not only the challenge of the scale up of innovative, first-of-a-kind technology, but also the challenge of securing funding in a difficult economy."[28]

Despite those obstacles, there is already significant investment in cellulosic technology. Already approximately thirty companies have built pilot-scale cellulosic ethanol plants in the United States,[29] and several commercial-scale cellulosic facilities are scheduled to begin operations this year.[30] Chief among these facilities is POET-DSM Advanced Biofuel's Project LIBERTY facility, which (at the time of submission of the current waiver requests) is anticipated to be one of the first large-scale commercial facilities for cellulosic ethanol, with construction to be completed in late 2013.

POET and DSM's joint venture invested $250 million into the Project LIBERTY facility, which is being built next to an existing POET conventional ethanol facility at Emmetsburg, Iowa. The facility would produce 20 million gallons of cellulosic ethanol during its first year, increasing its production to a 25 million-gallon-per-year annualized run rate in 2014. POET-DSM intends to license and develop the capacity throughout the remaining 26 ethanol plants, which once developed, will collectively produce as many as 1 billion gallons of cellulosic ethanol per year.

POET's facilities would convert corn cobs and corn stover—25% of the above ground weight of the corn stock—to cellulosic ethanol. By combining cellulosic facilities with traditional ethanol facilities, POET expects that its model will prove even more commercially viable. Corn grain and corn stover top the list of energy yields of cellulosic feedstocks at 124.4 and 113 gallons of

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[25] Kelsi Bracmort, *Meeting the Renewable Fuel Standard (RFS) Mandate for Cellulosic Biofuels: Questions and Answers*, Jan. 2012, at 1.

[26] *Id.* at 3.

[27] *See id.* at 3-4.

[28] EPA, *EPA Finalizes 2012 Renewable Fuel Standards*, EPA-420-F-11-044, Dec. 2011.

[29] Bracmort, *supra*, at 12; Kris Bevill, *EPA Denies Oil's Request to Waive Cellulosic RFS, Lawsuit Pending*, Ethanol Producer Mag., May 2012, http://ethanolproducer.com/articles/8823/epa-denies-oils-request-to-waive-cellulosic-rfs-lawsuit-pending.

[30] *See* Bevill, *supra* note 29.

ethanol per ton of feedstock, respectively.[31] Co-locating cellulosic facilities next to traditional ethanol facilities also allows for the corn and crop residue to be brought through pre-existing delivery systems to the same existing plant locations, which are already conveniently located near the cornfields of the Midwest. Biogas produced as a by-product of the cellulosic process can be used to power both the cellulosic and conventional facilities.

The POET-DSM joint venture, as well as other facilities that may come online in the next year, show that commercialization of cellulosic ethanol is achievable, but the continuing success and viability of such efforts depends on market stability and private investment. Investors require confirmation of a strong federal program, and assurance that the government will preserve the framework established in EISA. As President Obama has stated:

> My administration is committed to moving as quickly as possible to commercialize an array of emerging cellulosic technologies so that tomorrow's biofuels will be produced from sustainable biomass feedstocks and waste materials rather than corn. ***But this transition will be successful only if the first-generation biofuels industry remains viable in the near-term*** . . . .[32]

Likewise, Secretary of Energy Bodman stated soon after EISA was enacted, "Creating a stable, predictable policy environment for investors, as Congress did with the expanded Renewable Fuels Standard, is essential to scaling our biofuels use and deploying next generation biofuels."[33] The Congressional Research Service has recognized that EPA's waiver authority "creates uncertainty for investors" and can cause a downward spiral of confidence. Because investors fear that EPA will waive the RFS, they are reluctant to invest, which makes it more likely that required fuel volumes will not be met.[34]

POET knows firsthand the importance of regulatory stability and predictability to its cellulosic ventures. POET has spent millions of dollars over the past five years developing cellulosic technology in its labs as well as its pilot-scale cellulosic ethanol facility in Scotland, South Dakota. Its partner in Project LIBERTY is Royal DSM, a publicly traded Dutch company that has invested $150 million in the project. Without the certainty of the RFS, DSM would not have provided essential resources to the project and never would have invested the amount of money it has. Public companies like DSM must be responsible to their shareholders, and if they cannot be certain that the U.S. government is committed to providing the regulatory predictability it has promised, they will be unlikely to court such a risk.

Another essential partner in the drive for cellulosic ethanol is the American farmer. This year, farmers around Emmetsburg, Iowa will harvest about 85,000 acres of biomass, including corn cobs, leaves, husk and stalk in preparation for Project LIBERTY's opening next year. POET has already been working with the farmers in this community for several years now, educating them about soil nutrition, working with them on how best to harvest and store biomass, and helping them incorporate biomass harvesting into their farm operations. Many farmers have invested in equipment, and already one dealership has opened in Emmetsburg specifically for biomass harvesting. Once operational, Project LIBERTY will require farmers to harvest nearly 300,000 acres

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[31] *Bracmort*, *supra*, at 9.

[32] Letter President Obama to Governors Hoeven and Culver, Governors' Biofuels Coalition, May 27, 2009 (emphasis added).

[33] Letter Secretary Bodman to Jeff Bingaman, Chairman, Comm. on Energy and Natural Resources, June 11, 2008.

[34] Bracmort, *supra*, at 8.

of biomass each year. Farmers will not continue to make these costly investments if they cannot be assured that EPA will uphold the statute's requirements in the future.

If EPA waives the traditional RFS mandate now, it sends the message to investors, U.S. ethanol producers, and American farmers that federal statutory programs for renewable fuels can be abrogated on slim evidence, that EPA will not strictly adhere to the criteria it has developed to implement those programs, and that the future of the RFS program is in serious doubt.

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For the reasons explained here and in the Growth Energy comments, EPA should deny the waiver requests. Thank you for considering these comments. Please contact me at 605-965-2200 if you have any questions about our comments.

Sincerely,

Jeff Lautt

CEO, POET, LLC

cc: Gina McCarthy
Assistant Administrator, Office of Air and Radiation
U.S. Environmental Protection Agency

Chris Grundler
Acting Director, Office of Transportation and Air Quality
U.S. Environmental Protection Agency

Dallas Burkholder
Office of Transportation and Air Quality
U.S. Environmental Protection Agency