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EPA RFS2 Hearing Testimony

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I am Mark Stowers, Vice President of Science and Technology at POET, a major ethanol producer, a leader in cellulosic ethanol development and a founding member of Growth Energy. Today I am here on behalf of Growth Energy, a new group of ethanol producers and agricultural leaders committed to the promise of agriculture and growing America's economy through cleaner, greener energy.

The proposed rule is intended to implement changes Congress made to the Clean Air Act's Renewable Fuel Standard program under the Energy Independence and Security Act of 2007 and encompasses a broad range of legal, technical, environmental, economic, energy security, and agricultural issues. While Growth Energy has dozens of significant comments regarding the proposed rule, given the size and complexity of the rule and time limitations here, I would like to focus on three important concerns regarding EPA's proposal, while of course reserving our right to address our many additional comments regarding the proposal in our written comments.

(1) EPA has not provided sufficient time and information for meaningful review and comment regarding the proposed rule. The proposed rule and associated draft Regulatory Impact Analysis consider changes to virtually every aspect of the Renewable Fuel Standard program and include more than 1,000 pages of technical and detailed information for consideration. Growth Energy believes that a 60-day comment period as proposed by EPA is insufficient to allow interested parties to review available information and provide meaningful comments.

Further, despite the abundance of information that EPA did provide in support of the rulemaking, EPA has failed to provide certain critical information necessary for meaningful review and comment on key aspects of the proposed rule. Specifically, EPA has not provided the models the agency has relied on, sensitivity analysis of the models, and key underlying data and analysis the agency has relied on (or should have developed and relied on) in its proposal. Accordingly, we request EPA make available all data, models, and information considered by the agency in the rulemaking, provide such additional information as is necessary to meaningfully evaluate the proposed rule, and establish a 120-day extension to allow time for thorough review and consideration of EPA's proposal and development and submittal of comments that will benefit EPA as it completes the final rulemaking.

(2) EPA's proposed rule imposes extensive compliance mechanisms that will be costly and difficult to implement on the expedited schedule proposed by EPA. The proposed rule represents a significant change in how the ethanol industry will be required to operate with dozens of new registration, certification, recordkeeping, reporting, and compliance obligations. Given the many, costly, and complicated changes to the RFS program, Growth Energy requests that EPA consider elimination of many of the new requirements as well as a delayed or phased implementation of the rule once final to allow time necessary to allow compliance with the final rule requirements.

(3) EPA's proposed scheme for assessment and comparison of lifecycle greenhouse gas emission performance is flawed and has no basis in law or science. EPA's comparison of ethanol to fossil fuels is a critical aspect of the new proposal and is skewed by EPA's proposal to include surmised emissions from possible "indirect land use changes" in foreign countries. Inclusion of international indirect land use changes in the analysis of greenhouse gas effects exceeds EPA's statutory authority, is contrary to established lifecycle greenhouse gas measurement protocols, and fails to meet all scientific standards for lifecycle analysis of fuels. EPA's proposal also is arbitrary—particularly when considering EPA's own findings in its 2009 proposed Greenhouse Gas reporting rule that measurement of greenhouse gas emissions from agricultural sources and land uses are "prohibitively

expensive," "complex and costly," "technically difficult," "impractical," and "have a high degree of uncertainty." Nevertheless, EPA proposes not only to include emissions from such activities in this rulemaking, but to include emissions from such activities *in foreign countries* based on a theory that ethanol production has or will cause deforestation. A theory, however, that is not supported by any scientific data. EPA's approach relies on untried assumptions that even EPA acknowledges are being used for the "first time in a regulatory program" and the agency's lack of expertise is apparent as EPA:

a. relies on models that have severe problems and limitations and have not been validated through appropriate sensitivity analysis;
b. relies on comparisons that hold emissions constant from all fuels;
c. relies on limited actual land use data;
d. fails to make apples-to-apples comparisons with gasoline by not including indirect emission effects for that fuel;
e. fails to consider the impact of political drivers on land use;
f. underestimates offsets from ethanol co-products; and
g. underestimates corn and ethanol yields.

EPA's proposal exhibits the agency's fundamental misunderstanding of corn and ethanol production:

- a fact highlighted by Director Oge's testimony before the House Small Business Committee's Subcommittee on Regulation and Health Care on May 21, 2009 that it takes 64 acres of corn to produce a gallon of ethanol—when in fact over 450 gallons of ethanol may be produced from one acre of corn—an over 28,000 gallon per acre error.

- A fact also highlighted by EPA's estimates of corn yield increases that are approximately 50 percent less than projections from global leaders in seed genetics like Monsanto and DuPont.
- A fact also highlighted by the agency's failure to include over 1 billion acres of currently idle agricultural land around the world in its model and instead arbitrarily estimates emissions impacts based on assumed deforestation of the Brazilian rainforest for food production.
- A fact also highlighted by an entire regulatory scheme that relies on the assumption that corn exports will decrease as ethanol production increase despite the fact there is no data to support this contention and that corn exports have remained constant the past several years while ethanol production has increased.

Such severely flawed thinking simply cannot form the basis for how this country will govern renewable energy. I would like to extend an invitation to anyone at EPA to visit one of our ethanol plants, meet with plant engineers and our corn producers, and obtain *real* data about the industry rather than relying on unproven models, hypotheses, and assumptions, and encourage the agency to solicit meaningful input from industry experts and revise the proposed rule based on best available data and validated science. Thank you for consideration of these comments.