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**From:** Tim Lust [tim@sorghumgrowers.com]  
**Sent:** 5/5/2017 11:10:19 AM  
**To:** Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]  
**CC:** Bernadette Bern Rappold, Esq. [rappoldb@gtlaw.com]; Joe Bischoff [JBischoff@cgagroup.com]  
**Subject:** Re: Sorghum Oil Update

Thanks. We will do so on both items. Tim

On May 5, 2017, at 5:50 AM, Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)> wrote:

Tim,

Thank you for this message. We will take the appropriate steps to make sure the process works properly here and that all avenues are considered in line with our authority and prior practice.

And to the extent that you have not already, please send in electronic form both the original briefing materials you brought and any additional citations to authority and case studies of how you feel the process can and has worked in previous cases, to better highlight the options that you consider as available but not being satisfactorily explored in your case.

On chemicals, when you do reach out on that, please copy Nancy Beck ([beck.nancy@epa.gov](mailto:beck.nancy@epa.gov)), a new arrival to our team who has joined OCSPP.

Best,

Justin

Sent from my iPhone

On May 5, 2017, at 12:37 AM, Tim Lust <[tim@sorghumgrowers.com](mailto:tim@sorghumgrowers.com)> wrote:

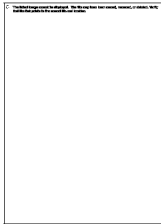
Justin,

Thank you again for your time last week. I need to update you on the sorghum oil pathway. We had a discussion with EPA staffers Sharyn Lie and Aaron Levy (both are OTAQ staff) on Thursday on yet one last technical question on the value of DDG without oil that we answered for the 4th time. I actually got Aaron Levy to admit that oil increased the score on corn so it is not an issue with sorghum as sorghum already had a better score than corn and that our email should be the last technical item needed. When we ask about the approval process Sharyn went political and said first it was a new feedstock so it had to go through rule making. Then she said that executive order 13771 said no new rules unless two are removed...so who knows how long. Our attorney does not believe that executive order 13771 applies to this as it doesn't cost anything when it is approved. Sharyn didn't mention the executive order on energy independence which should help get this approved even faster.

The other option mention by EPA staff was a facility specific approach that would still require a federal register notice and a comment period as was required by the RFS. If there were not negative comments then it could move forward more quickly but under either approach we were looking at 1.5 to 2 years for approval. I ask about approval by letter and she said no because it's a new feedstock. This goes again what EPA staff have told us in the past that this could be approved by letter and it did not have to be considered a new feedstock. This goes totally against what was done on fiber in the legal example that we provided you where all grain fibers were approved as part of the July 2014 RFS pathways II rule (I have included this below). The rule identified corn kernel fiber as a crop residue feedstock and acknowledged the similarity between corn kernel fiber and other grain kernel fibers.

“The impacts of fiber on the digestion of ruminants, swine, and poultry are extremely similar, regardless of what grain that fiber came from, because all grain fiber is virtually 100 percent cellulosic. Therefore, we are confident that diverting that fiber to a fuel production stream would have similarly insignificant market and other GHG impacts to those of corn kernel fiber . . . .” Environmental Protection Agency; Regulation of Fuels and Fuel Additives: RFS Pathways II, and Technical Amendments to the RFS Standards and E15 Misfueling Mitigation Requirements, 79 Fed. Reg. 42,150 (July 18, 2014).

Eighteen months to two years is totally unacceptable to our industry and we need to find a way to approve this in a more simple manner. Perhaps you can reach out to Chris Grundler, Director of OTAQ and find another way to approve this quicker. Thanks for your leadership and help. I will provide you examples on the chemical side in a separate email next week. Regards, Tim



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Chief Executive Director

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