Message

From: Mills, Clarissa [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EA5BA9E94F9C45E3BDCAE44F8E5EDB65-HOWLEY-MILL]
Sent: 4/19/2019 2:26:14 PM
To: Weekley, Erin [weekley.erin@epa.gov]
Subject: RE: AltEn DDG wetcake question

Ex. 7(A) 5 AWP

Clarissa Howley Mills

From: Weekley, Erin
Sent: Thursday, April 18, 2019 4:37 PM
To: Mills, Clarissa <mills.clarissa@epa.gov>
Subject: FW: AltEn DDG wetcake question
Importance: High

Ex. 5 AC/DP

Erin Weekley
Chemical Management Branch Chief
Office of Regional Counsel
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From: Weekley, Erin
Sent: Thursday, April 18, 2019 1:20 PM
To: Teter, Royan <Teter.Royan@epa.gov>
Cc: Green, Jamie <Green.Jamie@epa.gov>
Subject: FW: AltEn DDG wetcake question
Importance: High

Royan – we'd really like to follow up with you on this – any chance you could talk today? I'm out tomorrow.

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From: Weekley, Erin
Sent: Monday, April 15, 2019 10:45 AM
To: Teter, Royan <Teter.Royan@epa.gov>
Subject: FW: AltEn DDG wetcake question

Hi Royan! Hoping you have a moment to review and chat about this today or tomorrow. Clarissa did some research as well, we could loop her in if necessary.

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From: Green, Jamie
Sent: Saturday, April 13, 2019 12:37 PM
To: Weekley, Erin <weekley.erin@epa.gov>
Cc: Daniels, Michael <daniels.michael@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>
Subject: FW: AltEn DDG wetcake question

Erin – is this something you can try to run down with OCE next week? If so, please keep Mike and Wilo in the loop and let me know what you find out or if you need me to weigh in some place. If you don't have time – I would suggest Mike and Wilo reach out to Royan ASAP to see if he can run it to ground.

Thanks all!

From: Creger, Tim <tim.creger@nebraska.gov>
Sent: Friday, April 12, 2019 8:08 AM
To: Green, Jamie <Green.Jamie@epa.gov>
Subject: AltEn DDG wetcake question

Jamie,

We had a meeting here yesterday about the DDG wetcake soil conditioner issue. As I mentioned to you in past conversations, I called USDA/AMS/LPSP/SRTD, a gentleman by the name of Roger Burton, to find out how the Federal Seed Act plays into the equation, and he told me that they do not enforce any directions for use on the seed label, they only assure the information required to be on the label is accurately displayed by the seed company. Mr. Burton indicated that his program had always believed it was EPA's responsibility to enforce any pesticide language on the seed label.

So the question I need to ask you, and I know I've asked it before, is whether anyone at EPA HQ believes they have any authority to enforce the language I am inserting below, which is found on the seed label.

"Do not use treated seed for feed, food or oil purposes. Excess treated seed may be used for ethanol production only if (1) by-products are not used for livestock feed and (2) no measurable residues of pesticide remain in ethanol by-products that are used for agronomic practice."

Our discussion here believes that if USDA and EPA are unwilling to enforce that label provision under the Federal Seed Act or FIFRA, and it is not mentioned in any state seed, soil conditioner or pesticide law, we may have an issue where the statement is unenforceable and the ethanol company can operate with impunity. On the flip side, our attorney believes we might be able to call it a pesticide due to the sample analysis showing high concentrations of multiple chemicals that have only one use, that being as a pesticide. **Ex. 7(A)**

Ex. 7(A)

Please let me know if you can answer the question about EPA being able to enforce the quoted language above – sooner would be better. ;-)

Tim Creger
Pesticide/Fertilizer Program Manager | ANIMAL & PLANT HEALTH PROTECTION

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