

Alert | Environmental



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EPA Approves Renewable Fuels Produced from Sorghum Oil; Provides Additional Source of Revenue for Farmers in Wake of Chinese Tariffs

At a nationally-televised news conference July 24, 2018, EPA Acting Administrator Andrew Wheeler announced the approval of biofuels derived from sorghum oil as “advanced” renewable fuels under the Clean Air Act’s Renewable Fuel Standard (RFS) program. *See [Renewable Fuel Standard Program: Grain Sorghum Oil Pathway](#)* (Sorghum Rule) (July 24, 2018, pre-publication version). Wheeler called the approval a win for the nation’s “sorghum farmers and biofuel producers alike.”

The approval unlocks an additional source of revenue for sorghum farmers and fuel producers who will now be able to generate “Renewable Identification Numbers” (RINs), valuable renewable fuel credits traded on an electronic exchange. The approval marks the first time in recent years that the EPA has approved a renewable fuel derived from a “new” feedstock (that is, one not previously approved).

Enacted in 2005 with the goal of increasing the nation’s energy independence, the RFS program requires certain petroleum refiners and importers to blend an increasing percentage of renewable fuel (called the “Renewable Volume Obligation” (RVO)) into their diesel and gasoline. Obligated parties can meet the requirement through physical blending or through the purchase and retirement of RINs.

Sorghum oil is produced by centrifuging distillers grains, a byproduct of ethanol production. To gain approval as an “advanced” biofuel, the petitioners had to demonstrate that lifecycle greenhouse gas emissions from biodiesel, renewable diesel, jet fuel, heating oil, naphtha, and liquefied petroleum gas derived from sorghum oil are 50 percent lower than comparable fossil fuels.

These lifecycle analyses are highly technical, relying on sophisticated computer models and scientific experts from diverse fields. A handful of environmental groups challenged the EPA's analysis in the proposed rule, arguing that "extracting distillers sorghum oil from DGS reduces the mass, calorific, and fat content of the DGS, and that there would be significant indirect GHG emissions associated with replacing these losses with other sources of livestock feed." Sorghum Rule at 16.

As a result, the EPA conducted additional analysis to refine its indirect greenhouse gas emissions estimates. Ultimately, the agency concluded that the biofuels produced from sorghum oil surpassed the 50 percent threshold required for advanced biofuels.

Sorghum is a drought-resistant grain related to corn and sugarcane. In the United States, it is principally sold as animal feed and a feedstock for ethanol plants. In recent years, principal exports have been to China, which recently placed import tariffs on sorghum. The approval, thus, could not have come at a better time for sorghum farmers.

Greenberg Traurig's Bernadette Rappold assisted the National Sorghum Producers in drafting and submitting the renewable fuel petition approved here and in responding to subsequent rounds of questions from the EPA.

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Greenberg Traurig's [Environmental Practice](#) assists clients with issues under the environmental and natural resource laws that affect their businesses. The firm's environmental attorneys assist with securing permits and approvals; negotiate and close transactions; defend clients in enforcement actions; handle a broad range of environmental and toxic tort litigation; ensure the understanding and satisfaction of regulatory requirements; prepare for and respond to emergencies; craft approaches for legacy cleanup issues; and develop solutions for product regulation, market access, and environmental policy challenges. GT received a first-tier ranking in the "Environmental Law" and "Litigation – Environmental" categories in the *U.S. News - Best Lawyers* 2017 "Best Law Firms" report.

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