

United States Senate

WASHINGTON, DC 20510-0609

June 20, 2024

The Honorable Michael S. Regan
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, D.C. 20460

The Honorable Katherine Tai
United States Trade Representative
600 17th St. NW
Washington, D.C. 20006

The Honorable Tom Vilsack
Secretary
United States Department of Agriculture
1400 Independence Avenue, SW
Washington, D.C. 20250

The Honorable Troy A. Miller
Office of the Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue N.W.
Washington, D.C. 20004

Dear Administrator Regan, Ambassador Tai, Secretary Vilsack, and Mr. Miller;

We write to inquire about actions the Biden administration is taking to address concerns regarding the increased imports of used cooking oil (UCO) into the U.S. and the potential to exploit tax incentives by foreign actors. The U.S. Department of Agriculture (USDA), Environmental Protection Agency (EPA), U.S. Trade Representative (USTR) and Customs and Border Protection (CBP) all have a role to play in ensuring the legitimacy of goods brought into the U.S., particularly goods being brought in explicitly to address the sustainability goals of this administration which are funded by taxpayer dollars.

The biofuels industry in the United States has long bolstered rural economies, diversified our liquid fuels, strengthened our national security, and reduced carbon emissions from our transportation sector. We recognize there are multiple issues that are artificially depressing values for oilseeds in America's heartland which need to be addressed, including a growing reliance on imported foreign finished biofuels, which is a long-held drawback of the soon-to-be-retired Biodiesel Blenders Tax Credit, and the need to bolster Renewable Fuel Standard (RFS) volumes for biomass-based diesel and advanced biofuels. However, we have been made aware of another issue negatively impacting domestic biofuel feedstock producers.

Since 2020, in response to demand for renewable fuels, the U.S. has gone from importing less than 200 million pounds of UCO per year to importing over 3 billion pounds in 2023, with more than 50 percent of these imports coming from China. As evidenced in recent news coverage, there is concern by some in the renewable fuels industry that large amounts of imported UCO may be a blend of UCO with virgin vegetable oils such as palm oil, which is directly linked to deforestation in Southeast Asia. This would constitute fraudulent value distortion of the commodity designed to take advantage of U.S. tax incentives in addition to Renewable Identification Number (RIN) fraud under the RFS. If true, this would have an especially punitive effect on U.S. agriculture, as imported UCO bears a lower carbon intensity score than domestically produced agricultural feedstocks, which incur punitive and unnecessary indirect

land use change penalties in state and federal programs, as well as onerous verification and reporting requirements required of farmers to validate carbon-friendly practices.

We understand there are good actors utilizing UCO as part of a diverse array of feedstocks in their renewable fuel production, and domestic sources of UCO are held to rigorous verification and traceability requirements. However, we are concerned with the lack of transparency surrounding the United States' efforts in the area of verifying imported UCO, specifically as it relates to 1) ensuring the integrity of the imported UCO by validating that traceability requirements have been met; and 2) evaluating the chemical composition of the imported UCO. The Biden administration has created vigorous standards to verify, not just trust, American producers, and it is imperative that the same scrutiny is applied to imported feedstocks.

Several years ago, Europe was importing large amounts of UCO from China, but it found a large number of cases of fraudulent activity to receive preferential treatment. Last year, an EU-funded Transport & Environment report found that these concerns necessitated greater scrutiny on imports to prevent the mislabeling of UCO. This increase in focus on the integrity of the imported UCO coincides with a steep decline in European imports and increased imports into the United States.

So far, the increase in demand for UCO has been driven by clean fuel policies, particularly in states like California, Oregon and Washington, and this demand will only be amplified when clean fuel tax credits from the Inflation Reduction Act (IRA) are fully implemented. While maintaining the integrity of feedstocks and renewable fuels should be of paramount importance to states with clean fuels policies, it is even more vital that the federal government prevent counterfeit imported feedstocks from being incentivized by American tax dollars as such tax credits are implemented.

Given the fact that USDA and EPA have a role in developing renewable fuels policy, including through the agencies' roles in helping the IRS and U.S. Treasury Department to create the guidance for tax credits for renewable fuels, you have a clear responsibility to advise the Administration on these matters and help maintain the integrity of the entire clean fuels programs by ensuring American tax dollars are not subsidizing the import of counterfeit feedstocks. USTR and CBP also have a clear role in policing imports to ensure that foreign entities are not mislabeling their products when bringing them into the country. Given these responsibilities, I ask each of these agencies to answer the following questions:

1. Considering the suspicions levied in recent news coverage, can you confirm product imported from China classified under Harmonized Tariff Schedule (HTS) subheading 1518.00.4000 is meeting the specifications for classification under that provision, or is China exporting virgin vegetable oils to the U.S. as counterfeit UCO?
2. What actions are currently taken to determine the integrity of Chinese UCO as a feedstock? Provide details on frequency and process for government audits.
3. Provide the current Customs protocols for determining the suitability of Chinese UCO for importation into the United States.
 - a. What is the current process for Customs to determine the legitimacy of imported UCO?

- b. What percentage of shipments of UCO are verified and validated?
 - c. Are all verification records made readily available by the importer without specific investigation by CBP?
4. If it is found that these imported products are being mislabeled as UCO, how will you ensure they are not beneficiaries of the Clean Fuel Production Credit?

I appreciate your swift attention to this matter and look forward to receiving your response not later than thirty days from the date of this letter.

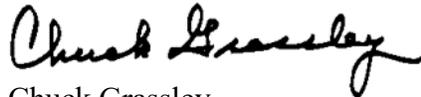
Sincerely,



Roger Marshall, M.D.
United States Senator



Pete Ricketts
United States Senator



Chuck Grassley
United States Senator



Sherrod Brown
United States Senator



Deb Fischer
United States Senator



Joni Ernst
United States Senator