



September 17, 2024

The Honorable Michael Regan  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Dear Administrator Regan,

On behalf of the Renewable Fuels Association, I write today to inquire about the status of the U.S. Environmental Protection Agency's (EPA) audit of supply chain records for imported waste feedstocks used to produce renewable fuels under the Renewable Fuel Standard (RFS). In addition, I write to encourage EPA to leverage existing regulatory provisions to increase the stringency and integrity of waste feedstock recordkeeping requirements under the RFS program.

The recent surge in imports of questionable used cooking oil (UCO) and tallow for biomass-based diesel (BBD) production is suppressing demand and values for domestically produced feedstocks like distillers corn oil and soybean oil, as well as the crops from which those oils are derived. Monthly tallow and UCO imports combined have jumped from 52 million pounds in January 2021 to 627 million pounds in July 2024, a 12-fold increase.<sup>1</sup> Today, nearly one out of every six gallons of U.S.-produced BBD is made from imported UCO or tallow—most of which comes from China and Brazil, two countries that maintain punitive import tariffs on U.S. biofuels.

Additionally, many market participants are expressing concerns about the legitimacy of these imported feedstocks and questioning whether some volumes may in fact contain palm oil and/or other incorrectly labeled fats, oils, and greases. Significant volumes of BBD produced from imported UCO and tallow are also being used to satisfy conventional renewable fuel volume obligations under the RFS, undermining demand for ethanol (and, especially, its use in higher blends like E15 and E85).

In early August, EPA confirmed that it was conducting audits of supply chain documentation for certain imported feedstocks, including UCO, used to produce renewable fuel and generate renewable identification number (RIN) credits under the RFS.<sup>2</sup> At the time, an EPA spokesperson noted that the audits were still under way and that the Agency was "not able to discuss ongoing enforcement investigations."<sup>3</sup>

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<sup>1</sup> U.S. Census Bureau and U.S. Department of Agriculture. *See Attachment*.

<sup>2</sup> L. Douglas. Reuters. "Exclusive: US EPA says it is auditing biofuel producers' used cooking oil supply." August 7, 2024. <https://www.reuters.com/business/energy/us-epa-says-it-is-auditing-biofuel-producers-used-cooking-oil-supply-2024-08-07/>

<sup>3</sup> T. Neeley. DTN. "EPA Auditing Waste Oil Claimed in RFS." August 8, 2024. <https://www.dtnpf.com/agriculture/web/ag/news/business-inputs/article/2024/08/08/epa-confirms-investigations-biofuel>

Nearly six weeks have passed since the media first reported on EPA's feedstock supply chain audits. In that time, the flood of UCO and tallow imports has only worsened. In the event that EPA has completed its investigation, we respectfully ask that the Agency publicly share its findings and information regarding any corrective actions being taken. If the audits are not yet complete, we ask that the Agency share an update with the public on its progress and an estimated timeline for completion.

While RFA applauds EPA for conducting audits on feedstock imports, we remain concerned that the existing recordkeeping requirements under the RFS are insufficient to assure the legitimacy of certain imported waste oils, fats, and greases. Current regulations only require that producers using biogenic waste oils, fats and greases maintain documentation demonstrating "the amounts...purchased...for use as a feedstock in producing renewable fuel" and "the location of any establishment(s) from which the waste stream...is collected."<sup>4</sup> For producers who obtain fats, oils, and greases from feedstock aggregators, the regulations provide "alternative recordkeeping requirements" that require the aggregator to register with EPA and a third-party to verify proper RIN generation using an approved quality assurance plan (QAP).<sup>5</sup>

The existing regulations do not, however, require BBD producers, feedstock aggregators, or third-party QAP providers to provide documentation verifying the legitimacy of the feedstock using chemical analysis or any other empirical methods. None of the documentation currently required can be used to definitively verify that imported UCO and tallow feedstocks are being accurately defined and classified. Thus, EPA is left to rely only upon the claims and descriptions from the feedstock aggregator and/or the BBD producer, along with their records showing the amount of feedstock purchased and the "location of any establishment(s)" from which the producer "collected" the feedstock. Clearly, these provisions are not sufficient to conclusively verify that the feedstock is indeed derived from the sources claimed by the aggregator or BBD producer.

Fortunately, section 80.1454(j)(1)(iii) stipulates that renewable fuel producers using biogenic waste oils, fats, and greases must also provide "other records as may be requested by EPA." Thus, existing regulatory provisions allow EPA to request that BBD producers provide chemical analysis records for batches of imported UCO and tallow to substantiate that the feedstocks are accurately described by the importer. We strongly encourage EPA to do so. To ensure the chemical makeup of the feedstock is not purposely or inadvertently altered at some point in the supply chain, EPA should require testing at both the point of collection and at the final destination; and the analyses should match. Chemical analysis of certain properties and components of these feedstocks (e.g., total fatty acids, free fatty acids, peroxide value, palmitic acid, stearic acid, linoleic acid, etc.) likely would provide immediate confirmation of whether the feedstock was properly labeled and whether its integrity has been maintained through the supply chain.

If EPA does not believe current analytical methods are sufficient to conclusively and quickly differentiate various fats, oils, and greases, we would urge the Agency to immediately engage a standards developing organization (SDO) to develop such methods. There is recent precedent for EPA working with SDOs and affected stakeholders to develop analytical methods for the sole purpose of ensuring accurate feedstock characterization and valid RIN generation for the RFS. In

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<sup>4</sup> 40 CFR 80.1454(j)(1)(i)-(ii)

<sup>5</sup> 40 CFR 80.1479

recent years, the Agency engaged ASTM International and the National Renewable Energy Laboratory to assist in the development of a standard test method for determination of cellulose/hemicellulose content in corn and conversion to ethanol.<sup>6</sup>

The ASTM standard test method is now the only method accepted by EPA for renewable fuel producers to demonstrate valid D3 RIN generation for cellulosic ethanol co-fermented with corn starch ethanol. It is important to note that EPA suspended D3 RIN generation pathways for cellulosic ethanol from corn kernel fiber fermentation until the ASTM/NREL method—and extensive laboratory testing of feedstock samples—was completed. This process took multiple years. Accordingly, RFA believes EPA should suspend RIN generation for BBD produced from imported UCO and tallow until such time as the Agency has identified or developed an accepted analytical test method for verifying the legitimacy and proper labeling of these feedstocks.

Without action by EPA to tighten its verification and recordkeeping requirements, the deluge of questionable imports of UCO and tallow not only threaten to inflict further economic harm on U.S. farmers and biofuel producers, but also to undermine the integrity of the RFS program. Thank you for your attention to this important matter and your consideration of our input.

Sincerely,

A handwritten signature in black ink that reads "Geoff Cooper". The signature is written in a cursive, flowing style.

Geoff Cooper  
President and CEO

cc:

The Honorable Tom Vilsack, Secretary  
U.S. Department of Agriculture

The Honorable Katharine Tai  
U.S. Trade Representative

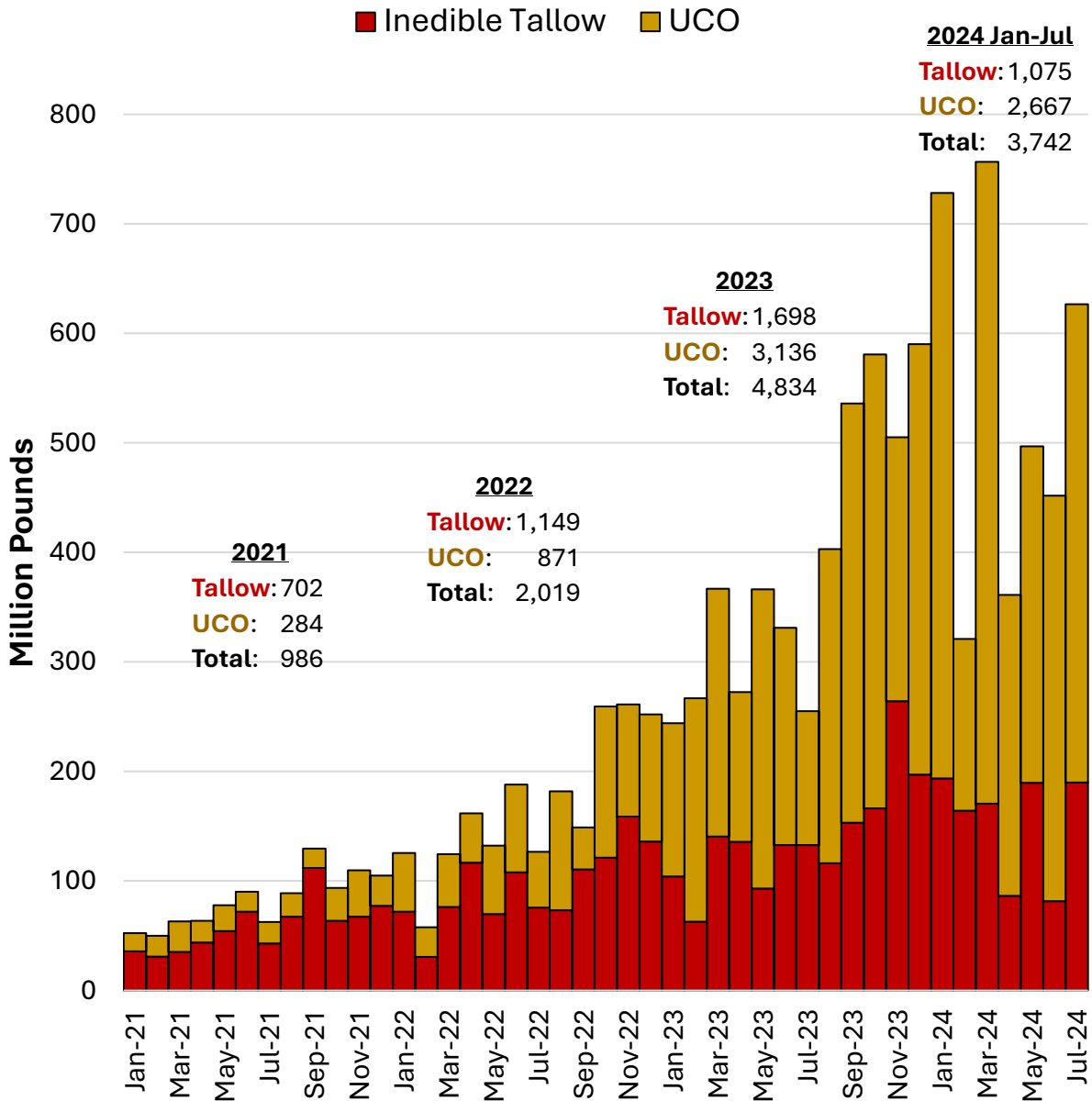
Mr. Troy A. Miller  
Acting Commissioner  
U.S. Customs and Border Protection

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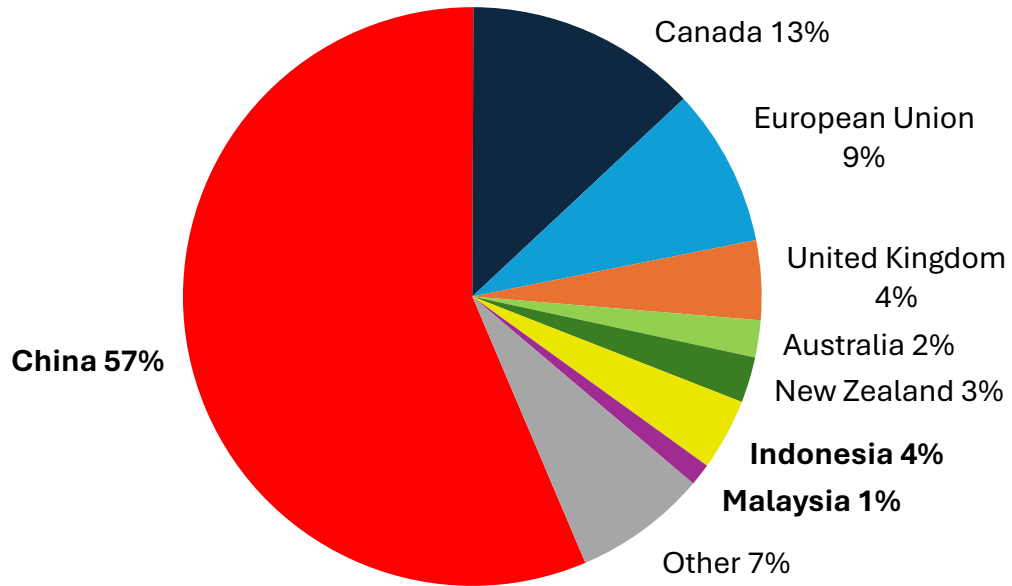
<sup>6</sup> ASTM 3417-24. May 2024. “Standard Test Method for Determination of Cellulose/Hemicellulose-Derived Glucan and Galactan Content in Solid Corn Biomass Samples.”

**ATTACHMENT**

**U.S. Imports of Used Cooking Oil and Inedible Tallow**



**2024 YTD Share of U.S. Used Cooking Oil Imports (Jan.-Jul.)**



**2024 YTD Share of U.S. Inedible Tallow Imports (Jan.-Jul.)**

