



California Legislature

August 27, 2024

Honorable Liane M. Randolph
Chair of the California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on Proposed Low Carbon Fuel Standard Amendments

Dear Chair Randolph and Executive Officer Cliff:

We, the below group of legislators, are concerned about recent proposed amendments to the California Air Resources Board (CARB) Low Carbon Fuel Standard (LCFS). The LCFS has remained strong over the years because it is a cost-effective market mechanism to drive innovation while lifting up the workers and communities most impacted by our fossil fuel addiction.

With fidelity to that mission, we are concerned that the exemption for aviation jet fuel as a deficit generator (as published in the August 12, 2024 proposed modifications) would constitute a notable backslide in the needed efforts to hold the aviation industry and jet fuel producers accountable.

Over the past year, CARB staff have discussed the concern that aviation jet fuels are a major contributor to climate change. California's aviation footprint is among the largest in the world and rising. A 2021 inventory of statewide aviation emissions estimates that California's aviation sector generated approximately 34 million metric tons of CO₂ emissions in 2018.¹ Though it would advance both Senate Bill 32 and Clean Air Act goals, the aviation sector until now has been exempt from regulations, even on the jet fuel they burn in California during intrastate flights.

¹ Brandon Graver et al., CO₂ Emissions from Commercial Aviation, 2013, 2018, and 2019, International Council on Clean Transportation (Oct. 2020), available at <https://theicct.org/wp-content/uploads/2021/06/CO2-commercialaviation-oct2020.pdf>.

During this comment period, we have seen robust public participation of airport workers, frontline communities of color, environmental advocates, and communities in the pathways of some of the nation's busiest airports. Respiratory illnesses like asthma and chronic obstructive pulmonary disease (COPD) are much more common among airline workers and communities of color impacted by airports. Thousands of Californians have weighed in during CARB's public process, overwhelmingly supporting holding airlines and jet fuel producers accountable for their climate, air quality, and public health impacts.

While we understand the prospect of the preemption challenge here, we urge CARB to reconsider this decision. Historically, industries have constantly raised the specter of a legal threat in order to avoid falling under existing regulatory frameworks. CARB has already successfully triumphed in litigation to operate this specific program, and existing federal laws pertaining to aviation provide ample leeway for states to regulate jet fuel under conditions that CARB could certainly meet using a carbon intensity threshold requirement. This would not require any changes to aviation equipment. CARB has already successfully triumphed in litigation to operate these programs, found ways to regulate trucks coming in from Mexico, ships from overseas, and trains from other states.

Ending the exemption for jet fuel will drive needed innovation in the aviation sector. The International Air Transport Association has a commitment of airlines to achieve net zero carbon by 2050, and airlines such as Alaska Airlines, American Airlines, Delta, JetBlue, Southwest, and United Airlines have made individual pledges on similar timelines.² However, progress is lacking. In 2023, United Airlines topped U.S. carriers with only 0.17% of its fuel from cleaner sources.³ In lieu of other efforts to incorporate more sustainable aviation fuel and cleaner solutions, ending the jet fuel exemption in the LCFS is the best way to galvanize innovation, produce clean fuels, and protect frontline communities. As a state, we cannot simply walk away from the "difficult-to-decarbonize" or "hard-to-abate" sectors. We must drive innovation to reduce carbon emissions and public health impacts through using all of the tools available. The LCFS is the tool sitting in front of us.

We are strongly recommending that CARB adopt the following:

- To include all aviation jet fuel—including intrastate, interstate and international flights—combusted over and in California in LCFS as a deficit generator. If this is not possible initially, a minimal first would be to include intrastate jet fuel as a deficit generator and to have a re-opener within 12 months of implementation to assess future plans;
- To limit the use of crop-based feedstock used in Sustainable Aviation Fuel; and
- To implement these policies in 2025.

² International Air Transport Association, "Fly Net Zero" (webpage), available at: <https://www.iata.org/en/programs/sustainability/flynetzero>.

³ Ben Elgin, "European Airlines Outpace US Carriers on Cleaner Jet Fuel" Bloomberg (Aug. 18, 2024), available at: <https://www.bloomberg.com/news/articles/2024-08-19/european-airlines-outpace-us-carriers-on-green-jet-fuel>.

In addition, we are committed to monitoring and ensuring CARB, the South Coast Air Quality Management District, and the U.S. Environmental Protection Agency uphold the commitments made in their publicly released July 2024 Scoping Memo on aviation. The Legislature has already attempted previous efforts to spur action, such as pushing to accelerate the phase out of leaded aviation fuel and getting airports to undertake net-zero plans. We note and support the Governor's July 22, 2022 letter to Chair Randolph, which called on CARB to adopt an aggressive 20% clean fuels target for the aviation sector and take greater action to reduce dependence on petroleum.⁴

The Legislature will be closely watching these agencies to ensure effective ways to reduce emissions from the aviation sector through the production and use of cleaner aviation fuels and other low-carbon alternatives to fossil jet fuel are implemented in a timely manner.

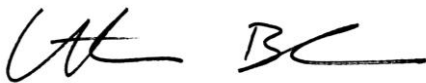
Sincerely,



Henry Stern, Senator District 27



Josh Becker, Senator District 13



Catherine Blakespear, Senator District 38



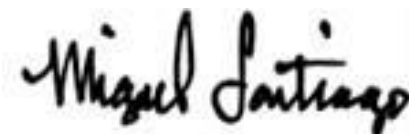
Ben Allen, Senator District 24



Dave Min, Senator District 37



Al Muratsuchi, Assemblymember District 66




Miguel Santiago, Assemblymember District 54



Tina McKinnor, Assemblymember District 61

⁴ Governor Newsom Letter to California Air Resources Board Chair Liane Randolph (July 22, 2022), available at: <https://www.gov.ca.gov/wp-content/uploads/2022/07/07.22.2022-Governors-Letter-to-CARB.pdf>.



Damon Connolly, Assemblymember District 12



Monique Limón, Senator District 19



Caroline Menjivar, Senator District 20