

February 20, 2024

Rajinder Sahota

Deputy Executive Officer

California Air Resources Board

1001 I Street

Sacramento, CA 95814

**Re: Low Carbon Fuel Standard Updates**

Dear Deputy Executive Officer Sahota,

On behalf of the Bay Area Council and our partners, we respectfully request the California Air Resources Board (CARB) consider specific actions in the Low Carbon Fuel Standard (LCFS) update to advance the production of Sustainable Aviation Fuels (SAF) in furtherance of California's 2045 climate goals. Specifically, we ask that CARB cap carbon intensity ratings for new Sustainable Aviation Fuel (SAF) production facilities; provide equal access expansion of book and claim accounting to SAF; leverage LCFS provisions to realize additional SAF air quality benefits beyond GhG emissions; and that CARB reconsider its proposal to regulate fossil jet fuel for intrastate flights.

The CARB 2022 Scoping Plan establishes the goal of using SAF to meet 80 percent of all aviation fuel demand by 2045, up from less than one percent today. Meeting this ambitious goal will require unprecedented investments in new infrastructure and the processing of many thousands of tons of feedstock. SAF refineries are large infrastructure projects requiring substantial financing, and the inclusion of CARB's renewable fuel refinery CI performance thresholds in commercial contracts is an increasingly important tool for making these projects pencil. Models used for the generation of price support mechanisms such as the Low Carbon Fuel Standard (LCFS) credit and the Blenders Tax Credit (BTC) rely on CI as a key metric for credit valuation and generation. However, under current rules, CARB may change the official CI for SAF projects at any time, undermining the value of the BTC and the LCFS credit that underpins project feasibility. This uncertainty acts as a disincentive to investors and is an obstacle to achieving the state’s SAF production goals and broader emissions targets.

To address this challenge, CARB should consider opening a 10-year window during which time SAF refinery projects would be allowed to keep, for a period of 20 years, the CI determination made by CARB using the GREET methodology at the time of the project's Final Investment Decision (FID). To ensure the baseline CI determined at FID is continuously met, producers should agree to re-testing on a regular bi-annual cadence. By better aligning CI incentives with asset lifespans, CARB would provide the predictability necessary for securing the large-scale financing needed to jump-start this important new industry.

We commend CARB's current policy supporting book and claim accounting for low-CI electricity and RNG inputs for low-CI hydrogen production, as well as their initiative to expand access through power purchase agreements (PPAs). Nevertheless, we advocate for equal access expansion to Sustainable Aviation Fuel (SAF). Both low-CI hydrogen and SAF play pivotal roles in displacing hard-to-electrify sectors like aviation, as outlined in the 2022 CARB Scoping Plan. However, existing LCFS rules tend to disadvantage SAF in comparison to hydrogen due to limited access to emissions reductions from process energy, such as low-CI electricity and RNG. This incongruity undermines state objectives for SAF uptake and aviation decarbonization, necessitating CARB's intervention to ensure equitable treatment between these future fuels.

Furthermore, we underscore the critical importance of encouraging the long-term adoption of SAF by leveraging LCFS provisions to realize additional air quality and climate benefits. Notably, while light and medium/heavy-duty transportation are expected to electrify within decades, aviation's transition to decarbonization will be more prolonged, with SAF anticipated as the primary lever. CARB must recognize and account for the substantial positive externalities associated with SAF substitution for fossil jet fuel and devise mechanisms within the LCFS to drive SAF adoption. Additionally, considerations such as the air quality benefits of SAF, particularly in reducing fine particulate matter, must be addressed. Equally significant are the environmental justice concerns raised by communities living near airports, urging CARB's support for SAF as a means to mitigate the disproportionate health impacts of fossil jet fuel combustion. It is only through actual SAF adoption that these air quality benefits might be realized. Given these multifaceted benefits unique to SAF, we urge CARB to prioritize its utilization and explore innovative measures, such as credit multipliers or CO2 equivalent metrics, to appropriately incentivize its adoption and address its distinctive contributions to climate mitigation.

In addition, The Bay Area Council also expresses serious concern with a new proposal by the California Air Resources Board (CARB) to regulate “fossil jet fuel used for intrastate flights” as an obligated fuel under the LCFS Program. We do not believe this proposed change would result in increased SAF production, availability, or use in California, but it would lead to higher jet fuel prices. The primary barrier to increased SAF production and availability in California remains the higher cost of SAF for producers and buyers relative to conventional jet fuel and renewable diesel. The CARB proposal would not address this fundamental challenge or otherwise meaningfully increase SAF supply or use. Instead, the Bay Area Council suggests CARB consider alternative incentive structures that can help close the price gap between SAF and Conventional Jet-A, alongside SAF-specific economic development programs and investments via GoBiz as previously encouraged by SB1383 and the SAF Coalition.

Additionally, the intra-state flight proposal seeks to regulate jet fuel and reduce emissions from aviation, both of which are pre-empted under federal law - a fact that CARB recognized when it exempted jet fuel in 2018. Aviation has unique demands for reliability and consistency with approved fuel specifications for the safe operation and maintenance of aircraft. Accordingly, while the EPA is the primary federal regulator for on-highway, non-road, and marine fuels, under 42 U.S.C. § 7545, the FAA has the authority to establish standards for composition and chemical or physical properties of jet fuel or to eliminate aircraft emissions (49 U.S.C. § 44714). The FAA retains federal jurisdiction over such fuels even if used for intrastate flights. These statutory authorities establish clear and broad federal authority for regulating jet fuel and aircraft engine emissions that pre-empts California from regulating fossil jet fuel under the LCFS program. We ask that CARB reconsider this aspect of the proposed regulation and maintain the exemption for jet fuel from regulation under the LCFS program.

The Bay Area Council represents 350 of the Bay Area’s largest employers across all sectors of the economy. For many of these companies, air travel represents the vast majority of Scope 3 emissions. Unlike other sectors, aviation has no realistic net-zero alternative over the next 20 years, making state efforts to scale SAF all the more important. By better aligning current incentives with asset life cycles, California can become a world leader in SAF production and come that much closer to achieving its broader climate goals. We stand ready to offer any assistance necessary to transform these goals into a tangible reality.

Thank you for your leadership, and for considering our views.

Sincerely,

Adrian Covert

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Bay Area Council

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