

Aviation is a significant and growing source of greenhouse gas emissions. But the federal government in the United States has failed to address it so far. In response, some state policy makers and advocates are now considering legal avenues to effectively require the use of sustainable aviation fuels, which emit less carbon than traditional jet fuel when burned — and in some cases can eliminate these emissions altogether.

Opponents will undoubtedly argue that such state-based initiatives conflict with federal law. CLEE's new report [**State of Aviation Decarbonization: State Policy Options to Regulate Carbon Emissions from Aviation and Federal Preemption Risk**](#) provides an in-depth analysis of these legal issues with respect to three potential state policy approaches:

1. *regulation via a low carbon or clean fuel standard*, which creates a carbon intensity target for all fuels - including aviation - with low-carbon fuels that fall below the threshold generating credits that can be sold, while those above the benchmark create deficits;
2. *state and local plans that implement the federal Clean Air Act*; specifically, indirect source rules on airports that would require reduction of co-pollutants from airport mobile sources, including aircraft emissions due to burning high-carbon fuels; and
3. *state authority to tax and impose fees on high-carbon aviation fuel*, in order to discourage their consumption and instead provide revenue that can fund use and deployment of lower-carbon alternatives.

The report ultimately concludes that a low carbon fuel standard regulation would provide the greatest potential impact on sustainable aviation but entails the most legal risk among the three approaches, while increased taxation or fees on high-carbon jet fuel could have a potentially significant impact on sustainable aviation fuel if revenues support deployment of low-carbon alternatives, with a moderate risk of federal preemption.

Overall, [**State of Aviation Decarbonization**](#) finds that well-designed state initiatives have a good chance of surviving legal challenges, and it offers strategies to reduce the likelihood of successful challenges

Download the report [here](#).