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October 16, 2024

The Honorable Liane M. Randolph, Chair
California Air Resources Board
1001 I St.
Sacramento, CA 95814

RE: 3Degrees Comments in Response to Proposed Amendments to the Low Carbon Fuel Standard Regulation (15-Day Changes)

Dear Chair Randolph and California Air Resources Board (CARB) Staff,

Thank you for the opportunity to provide comments in response to the Proposed Amendments to the Low Carbon Fuel Standard (LCFS) Regulation published October 1, 2024. 3Degrees Group Inc. ("3Degrees") is a global climate and clean energy solutions provider and is a strong supporter of the LCFS program. We participate in the program as a designated reporting entity on behalf of a variety of opt-in parties with light-duty electric vehicle (EV) chargers, electric forklifts, hydrogen forklifts, and heavy-duty EV fleets. We are also an active fuel pathway developer.

3Degrees appreciates the time and effort that Staff has put into engaging the public and crafting these updates to the program over the last few years and for considering our comments that were submitted in response to the 45-Day and first 15-Day draft rule packages published earlier this year. Our recommendations for the updated LCFS proposed rule are outlined below. Under each heading, we have organized our comments in order of what we view as the key priorities for this formal rulemaking process.

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The Auto-Adjustment Mechanism (AAM) should be triggerable in 2026.

We are supportive of the change to the AAM to base its triggering on data from the most recent four quarters of reporting rather than the calendar year and to have Staff publicize whether it has been triggered on a quarterly basis. However, to echo some of our previous comments and those of other stakeholders, we would suggest that the AAM should be able to be triggered a year earlier, in 2026.

While lower near-term credit prices may achieve the objective of reducing total program costs, the post-2030 targets will only be achievable through significant investments in the low carbon fuel sector this decade. Allowing the AAM to come into play at the earliest opportunity would lead to fewer surplus credits through the late-2020s and likely result in the higher prices needed to drive investment, thus mitigating pricing volatility with a smoother path towards more ambitious targets.

We support the change to verification requirements, including pushing out the start for EV charging to the 2026 compliance year, however we recommend clarifying that residential charging is fully exempt from site visit requirements.

We ask CARB staff to explicitly exempt all residential charging from verification requirements. We recommend that § 95500(c)(1)(E)(1) be revised to state, "EV Charging except as specified under 95491(d)(3)(A) **and 95491(d)(3)(B)**" (new text in **bold**). This captures both the metered and non-metered residential charging provisions under the exemption. Without this change, private individuals that own EVs and have no connection to the LCFS program could have their property become subject to a site visit, which poses serious privacy concerns.

The regulation should specify that Original Equipment Manufacturers (OEMs) may act through a designated entity.

To echo our comments submitted in response to the first 15-day rule package, we strongly support the opportunity for OEMs to generate a portion of base residential credits. However, for consistency with the other electricity credit generation types, CARB should include language where applicable (e.g., throughout § 95483(c)(1)) that the OEM **or their designee** may act. Allowing OEMs the option to have a third-party manage their participation in the program would maximize efficiency for both the OEM and CARB and streamline registration and reporting activities.

We also believe OEMs should be able to receive the same 10% administrative cost allowance as other entities. According to the Summary of Proposed Modifications, the administrative cost allocation was increased in response to public comments that a 7% limit would not be sufficient to implement projects. EDUs and OEMs will be undertaking similar holdback credit equity projects with their LCFS proceeds so it does not make sense to limit one entity type's use of those funds.

The cutoff for avoided methane pathways to receive three crediting periods should be based on applications *submitted* prior to the effective date of the regulation, rather than those certified by that date.

We propose a revision to the language in 95488.9(f)(3)(A):

> *Avoided methane crediting for dairy and swine manure pathways as described in (f)(1) above, and for landfill-diversion pathways as described in (f)(2) above, ~~certified~~* ***submitted*** *before the effective date of the regulation, is limited to three consecutive 10-year crediting periods, counting from the quarter following Executive Officer approval of the application. [...]*

CARB has a lengthy backlog of Tier 2 pathway applications, including some that have been sitting for 18 months or longer. The proposed change would not only ease the pressure on CARB staff to complete outstanding certification processes from its backlog while also finalizing this rulemaking, but would also be more fair for participants who have submitted or are working to prepare pathways to be able to take advantage of the full three crediting periods.

CARB should continue to allow site-specific data to be used in the Tier 1 calculator for Renewable Electricity from Dairy and Swine Manure.

In the Tier 1 Simplified CI Calculator for Biomethane from Anaerobic Digestion of Dairy and Swine Manure Instruction Manual (DSM Manual), we ask that CARB revert to the original language requiring that site-specific data take precedence over values from Table A.9 of the Compliance Offset Protocol - Livestock Projects (LOP) as an input to the calculator for solid separation equipment. In fact the new language is in direct conflict with the language of the LOP Section 5.1(f) which states the opposite (emphasis added): "Site-specific data **must be used if available**. If site-specific data is unavailable, values from table A.9 can be used to calculate MS_AS,L". This change proposed by ARB in Table 2, Field L1.(1-6).13, Fraction of Volatile Solids Sent to Anaerobic Storage/Treatment System, and similar language imbedded within the comments of those fields for the Proposed Tier 1 Simplified Calculators, will lead to less precise calculations and an underrepresentation of emission reductions achieved and creating unfair disadvantages to farmers that utilized poorly-performing equipment in their project's baseline scenario.

Pathways that rely on site-specific values result in a far more accurate CI score than the default. Further, the LOP generally prioritizes site-specific data, also in favor of accuracy. 3Degrees has generated CI projections and Tier 2 applications based on this site-specific data which now may suffer a material deterioration of their CI due to this modification of the DSM Manual. If CARB is not willing to revise the Tier 1 instructions, then we encourage expressly stating within the Instruction Manual that this requirement applies only to Tier 1 pathways.

CARB should allow and even encourage applicants to model baseline lagoon volatile solid buildup in the first month of reporting in the Dairy and Swine Manure calculator.

The new October 1 draft of the Instruction Manual for the Tier 1 Simplified Calculator for DSM contains a new provision in relation to L1.(1-6).16 Volatile Solids (VS) Carryover from Previous Month. It states "If this is the first year of the project, enter zero in the first month... calculated herd populations are not allowed to establish VS carryover." We find this instruction to be misguided.

3Degrees has a long track record of issuing verified emission reductions under various standards related to dairy and swine manure digesters. It is common practice in the industry to ensure that the modeled baseline emissions are an accurate reflection of the facility's anaerobic storage lagoon, and that VS accumulation in the baseline emissions model are real and reflect actual loading, regardless of when project activities have been implemented. Even the California Cap-and-Trade program recognizes the improved accuracy with modeling the previous twelve months of VS carryover at the first year of a digester project - subject to verification of actual herd counts and a correct reflection of those previous twelve months.

3Degrees urges CARB to reconsider the instruction to zero out VS Carryover at the start of a Project. This not only disrupts the CI score in year 1 versus years 2+, setting all such projects up for deviating from their provisionally-certified CI score upon their first annual fuel pathway report, but it also introduces an incorrect and inaccurate reflection of the baseline scenario.

3Degrees also wishes to express our support for the following proposals.

- We support the exclusion of specified source feedstocks from the sustainability requirements.
- We support the changes to hydrogen infrastructure crediting.

3Degrees appreciates this opportunity to provide feedback and we look forward to continuing to work with CARB on the success of the LCFS program. Please reach out with any questions or for further discussion.

Sincerely,

/s/ Helen Kemp

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