

November 5, 2020

California Air Resources Board
1001 I St.
Sacramento, CA 95814

RE: 3Degrees Comments in Response to October 2020 Public Workshops on Potential Regulation Amendments to the Low Carbon Fuel Standard

Dear Air Resources Board Staff,

Thank you for the opportunity to provide comments in response to the October 2020 Low Carbon Fuel Standard (“LCFS”) public workshop on potential regulation amendments. 3Degrees Group Inc. (“3Degrees”) 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 vehicle chargers, electric forklifts, hydrogen forklifts, and heavy-duty EV fleets. We are also an active fuel pathway developer.

Below we have responded to a subset of the topics introduced at the October 14, 2020 workshop, organized by slide number:

Slide 11: Governor EO N-79-20

Air Resources Board (“ARB”) Staff requested feedback on whether to move forward with a single rulemaking, expected to be effective in 2024, or two separate rulemakings, with the first addressing the more minor amendments discussed at the October 14 workshop likely to be effective in 2023 and the second addressing post-2030 target-setting, in line with EO N-79-20, likely to be effective in 2025.

3Degrees recommends moving forward with two separate rulemakings. The amendments that have been proposed by ARB Staff will greatly benefit program participants and we support making them effective as soon as possible.

Slide 14: Updates to Tier 1 Simplified CI Calculator

3Degrees is supportive of the proposal to create a Tier 1 simplified calculator for electricity from dairy/swine manure. We appreciate the guidance document that Staff has developed to support this pathway and a Tier 1 simplified calculator would further benefit Staff and LCFS opt-in entities.

3Degrees recommends that if Staff moves forward with a Tier 1 simplified calculator for hydrogen pathways it does not eliminate the ability to use Lookup Table pathways. Hydrogen procured from similar feedstocks and via similar production processes should not necessitate a new pathway application process. Further, moving this to a Tier 1 simplified calculator would

require obtaining data from individual hydrogen producers, which can be challenging and could result in disincentivizing hydrogen use as a transportation fuel within the LCFS program.

Slide 15: Credit True-up for Temporary Pathway CIs

3Degrees recommends that all pathway types be treated similarly in regards to retroactive credit generation. If ARB chooses to move forward with allowing retroactive credit generation for a pathway where the temporary CI is found to be higher than the certified CI once it is available, then at a minimum provisional pathways should receive similar treatment. Additionally, Staff should consider allowing pathways associated with inherently variable production facilities, like manure digesters, to receive similar treatment as these producers are currently penalized for underperformance but do not benefit from overperformance.

Slide 16: Miscellaneous

Unless Staff believes there is a strong justification related to program integrity to stipulate the 24-month period to develop a certified LCFS fuel pathway, 3Degrees recommends that any clarification provide general guidance and boundaries (i.e. start date within a certain time frame) and not define a strict 24-month window (i.e. January 1 of year 1 to December 31 of year 2).

3Degrees supports adding procedural details on the removal of provisional status of pathways. It would be helpful for pathway owners to have clarity on the transition from provisional to permanent status.

Slide 19: EER Values Available for Reporting

3Degrees sees no issue with removing the default option of using default EER = 1.

3Degrees supports Staff establishing EER values for CNG and Propane forklifts to be added in Table 5 of the regulation, and recommends that Staff also add EERs for airport ground support equipment (GSE) to the regulation so as to further incentivize airports to transition to electric options.

Slide 21: Registration in LCFS Data Management System (LDMS)

3Degrees sees no issue with streamlining registration requirements across the AFP, LRT, and verification bodies within the LDMS.

Slide 25: Data accuracy provisions and Inclusion of Reported Data

3Degrees supports ARB's proposal to specify meter accuracy requirements for fuel transaction data reported in Quarterly Fuel Transactions Report at +/-5%. This standard is reasonable and establishing an accuracy standard would benefit market participants who may currently not participate out of a lack of clarity as to whether or not their meter accuracy is sufficient.

Slide 26: Electricity Credit Proceeds Spending Requirements

3Degrees supports continuing to provide guidance and suggestions to electricity credit generators on how credit proceeds can be spent. ARB should continue its practice of not being overly prescriptive in how electricity credit proceeds are spent. There are many different entities who are eligible to generate credits and many more creative and impactful ways that credit proceeds can be spent. If ARB finds that money is being spent on certain activities that are not in line with the regulations' intent, it should create a list of ineligible activities rather than a closed list of approved activities.

Slide 27: Electricity Dispensed for Electric Forklifts

3Degrees understands that requiring metered data for all electric fueling forklifts would bring consistency to the program. However, if the requirement is not technologically or economically feasible for most forklifts to readily meet, it could limit participation of electric forklifts and in turn hinder the program's ability to incentivize decarbonization of forklifts. We believe more research is needed to understand whether this requirement is feasible in all, or most, cases.

Slide 29: REC Retirement for Low-CI Electricity

3Degrees is supportive of the proposal to require REC retirement to substantiate direct supply of renewable electricity matched with EV charging where the zero-CI electricity is eligible for REC generation in WREGIS. WREGIS is used by all market participants to track renewable electricity used for voluntary and compliance markets across the WECC. Requiring REC retirement for LCFS will further prevent double-counting and streamline both reporting by regulated entities and review by ARB.

Importantly, we draw attention to the language "...when electricity is... eligible for REC generation." If the project is not eligible to generate RECs on WREGIS, we agree that the direct supply should still be eligible to generate LCFS credits. In this case, an attestation claiming that the renewable electricity attributes (RECs) have not been sold elsewhere is sufficient to prevent double-counting.

We also support the requirement that any renewable electricity reported under the LCFS be substantiated by REC retirement. Only the entity that owns the RECs associated with renewable electricity generation can rightfully claim ownership of the renewable electricity and the associated zero- or low-CI emissions intensity.

Slide 30: First Fuel Reporting Entity for eOGV, eCHE, eTRU, and forklifts

3Degrees supports the proposal to make the first fuel reporting entity for these vehicles the entity that owns the charging equipment. In particular, 3Degrees believes this will be a benefit for eForklift fleets.

In line with ARB's assessment, making the charging equipment owner the first fuel reporting entity for forklifts will eliminate any uncertainty that may currently exist around who is the eligible fuel reporting entity and will therefore avoid the risk of multiple claims being made on the same

charging. We have experienced situations where a lack of clarity on the “fleet owner” for eForklifts has led to delays in registering the vehicles to generate LCFS credits--a situation that we agree would be much less likely to arise if the charging equipment owner is the first fuel reporting entity.

We urge ARB to clarify how it will manage the transition from the current reporting structure to one that revolves around the charging equipment owner. Such a transition should be structured so as to minimize the potential for interruption in credit generation. One approach would be for the facilities that are currently registered to remain registered and be given one calendar year (January 1, 2023 to December 31, 2023) to report to ARB the number of chargers for which it will be reporting going forward. During the interim transition period, either approach would be acceptable for reporting, but all new registrations after January 1, 2023 would need to be for chargers and starting January 1, 2024 all reporting must be done at the charger level.

Slide 31: Fuel Supply Equipment Registration

3Degrees supports ARB putting in place a concrete date for when FSE registration must occur. However, we request that ARB establish the deadline for submitting FSE registration at 45 days after the end of the calendar quarter to be considered for approval and made available for that quarter's reporting period. For example, an FSE registration must be submitted by May 15 to be considered for approval for reporting Q1 fuels transactions. This deadline aligns with staff's current guidance on the review and approval process for FSE registration.

Slide 32: Miscellaneous

3Degrees supports extending the flexibility to designate a third-party to report and generate credits on their behalf to transit agencies operating fixed guideway systems. This will make it easier for these agencies to participate in the program and generate credits.

3Degrees also supports Staff's proposal to clarify FSE registration requirements. We appreciate the creation of Guidance Document 19-04 and recommend providing additional clarification on certain topics related to eOGVs, eTRUs, and eForklifts.

- For eOGVs, we recommend providing additional guidance clarifying which piece of equipment is the FSE (a dock, a charger, or a meter) and how to assign unique identifiers to the defined FSE.
- For eTRUs, we recommend providing additional guidance on how to register eTRUs that charge at multiple locations.
- For eForklifts, we recommend providing additional guidance on the following topics: (1) how to assign serial numbers to FSE when the FSE is a facility; (2) how to list EV-FSE manufacturers at facilities that contain multiple manufacturers; and (3) the process for notifying ARB if a forklift list changes at a facility.

Slide 34: Third-Party Verification of Electricity Transactions

Any requirements that Staff chooses to put forward for electricity transactions should take into consideration the verification that already occurs in the electricity sector, including the data quality requirements for all RECs issued in WREGIS. We also request clarification on roles and

responsibilities when a designated reporting entity is generating credits on behalf of multiple facility owners.

Slide 44: Carbon Capture and Sequestration (CCS)

3Degrees recommends allowing a designated reporting entity for CCS and DAC projects. This aligns with the revisions Staff has proposed regarding fixed guideway systems on slide 32.

Additional comments

3Degrees is supportive of the LCFS expanding book-and-claim accounting for RNG used as a process fuel.

3Degrees is supportive of ARB exploring the use of an RNG attributes electronic tracking system. The market for RNG in the US is growing and we expect this to continue. A number of states are exploring LCFS policies and/or policies to support RNG in other sectors, and a voluntary market is developing as well. Tracking systems provide benefits regarding preventing double-counting and ease of administration, particularly as RNG is increasingly being used in markets outside of transportation.

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

Sincerely,

/s/ Maya Kelty

Maya Kelty
Director, Regulatory Affairs
mkelty@3degrees.com
628.333.2679