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August 27, 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 August 12, 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 draft rule package 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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**CARB should still consider imposing a more stringent 2030 carbon intensity target to ensure long-term credit price stability.**

3Degrees applauds Staff's proposal to go with a 9% CI step-down goal for 2025. However, even with this step-down, our market analysis continues to shows that the proposed 30% CI target (§ 95484) is too low to provide the near-term price indicators that are necessary to spur the substantial industry investment in lower-CI projects, fuels, and vehicles required to reach the program's long-term goals. 3Degrees previously advocated for at least a 35% CI reduction by 2030 and 90% by 2045 in order to align with the ambition of the 2022 Scoping Plan and other decarbonization objectives in California and we still believe this is an appropriate action.

We understand that this stringent step-down coupled with the potential that the auto-adjustment mechanism (AAM) would be triggered one or multiple times could result in an increase to the 2030 CI target by the time we enter the latter half of the decade. However, while we support the AAM, it cannot be triggered until 2028 at the earliest and takes a reactive, rather than proactive, approach to balancing the credit market. To reiterate a point from our 45-Day comments: while lower near-term 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. Low credit prices will not send the reliable demand signal necessary to drive the required level of investment. This can only be accomplished through increasing the CI schedule through 2030 to ensure the credit bank is drawn upon sooner than later.

**We strongly urge CARB to provide clarification within the regulation that, for electricity transaction types, third-party site visits of every facility where FSE are located are not required for annual verification.**

As stated in our 45-Day comments, with the introduction of new third-party verification requirements for certain electricity crediting types, it is imperative that CARB does not take a one-size-fits-all approach to the site visit obligation. As several verification providers, aggregators, and other parties have noted, it would not just be logistically and financially infeasible, but outright *impossible*, for verifiers to send their employees to visit the thousands of disparate sites containing FSE. We do not believe this was CARB's intent when including electricity transaction types as subject to third-party verification requirements under the revisions in §95500.

The proposed text in the 15-Day draft rule still states that verifiers must "annually visit each facility; and, if different from the fuel production facility, the central records location for which the records supporting an application or report subject to verification are submitted" (§ 95501(b)(3)). We request that CARB make a revision to this section and propose the following changes to the text (in **bold**):

> *(3) Site Visits. At least one lead LCFS verifier accredited by the Executive Officer on the verification team must, in addition to one visit to validate an application, annually visit each facility* ***except as provided in 95501(b)(3)(B)****; and, if different from the fuel production facility, the central records location for which the records supporting an application or report subject to verification are submitted. Site visits, included voluntarily as part of a quarterly review, may not substitute for the required site visit for annual verification services, which must occur after all LCFS data for the prior calendar year has been submitted to the Executive Officer and attested to.*
> *[...]*
> ***(B) For the transaction types identified in §95500(c)(1)(E), the verification body may use a risk-based approach informed by a sampling plan to identify a subset of facilities that reasonably represents the reporting entity's FSE, and perform site visits only to these facilities, to satisfy annual site visit requirements.***

As part of their rulemaking process to update the clean fuels program, Oregon has proposed clear rules that provide the necessary flexibility for third-party verifiers to ensure with adequate certainty that participants are not misreporting data. As proposed in the current draft rules, for entities using credit aggregators (i.e., designated entities), site visits to facility locations (beyond where the aggregator's records are kept) may be performed at the verifier's discretion.[1] This represents a typical set of requirements for verification bodies to come to a *reasonable* level of assurance - the standard for a positive verification statement - as opposed to seeking an *absolute* level of assurance by visiting every parking lot in the state with a registered FSE. While we understand that CARB desires to apply verification requirements equally to all reporting entities throughout the LCFS program, the nature of EV charging equipment is such that the verification process could require multiple months of continuous travel to achieve 100% visitation of all sites with registered FSE. This impractical requirement would pose serious issues for verification bodies and designated entities alike, while adding exorbitant costs to participate in the program. Failing to make these changes would discourage EV participation in the program, especially for entities with a large number of distributed FSE.

In addition, we ask CARB staff to 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.

We strongly support the opportunity for OEMs to generate a portion of base residential credits. The LCFS plays a key role in California's position as a leader in EV adoption and it makes sense to incentivize and reward OEMs for supplying those EVs. The revenue requirements outlined in § 95483(c)(1) are reasonable and provide sufficient flexibility for OEMs to use profits from credit sales for new and exciting electrification projects.

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 encourage CARB to add electric ground support equipment (eGSE) as an eligible credit-generating technology.

3Degrees recommends that CARB use this rulemaking opportunity to explicitly include eGSE as an eligible credit-generating technology type under the LCFS. eGSE are eligible for crediting under the programs in both Oregon and Washington, and incorporating eGSE into the LCFS would serve to incentivize an industry that is in the early stages of electrification. This would

[1] https://ormswd2.synergydcs.com/HPRMWebDrawer/Record/6798709/File/document

help ensure that the California LCFS remains a driving force for new technologies to transition away from fossil fuels. Since CARB is now proposing that fossil jet fuel continue to be exempt from generating deficits, adding eGSE to the program would be a way that the agency could promote emissions reductions at airports - an issue that numerous stakeholders testified was of key importance during several hearings and workshops. An EER for eGSE can be easily developed using a similar methodology to that of electric cargo handling equipment (eCHE). This category of electric off road equipment charging should, in line with other clean fuels programs, assign the owner of the FSE as the fuel reporting entity and the credit generator.

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

- Missing Data Provisions in 95491.2(b)(2): The addition of specified methods for data substitution that can avoid alternative methods requests subject to approval is a straightforward and sensible approach.
- Biomass-Based Diesel Potential Phase-out 95488(d): The triggers identified in this section balance the state's electrification ambitions with the need to maintain incentives for biofuels through at least the next several years.

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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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