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Ms. Rajinder Sahota
California Air Resources Board
1001 I Street,
Sacramento, CA 95814
Via web submission

October 22, 2018

RE: Comments in response to the September 2018 *Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation*

3Degrees Group, Inc. (“3Degrees”) appreciates this opportunity to provide comments to the California Air Resources Board (“ARB”) in response to the *Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation* published on September 4, 2018. 3Degrees is a leading offset project developer based in San Francisco and has been working with dozens of domestic livestock offset projects to issue credits into ARB’s Cap-and-Trade program.

3Degrees recognizes and appreciates the time ARB has spent in developing and revising regulations to implement AB 398. We have been an active participant in this rulemaking process and have previously submitted comments, both in our own capacity and through the Verified Emissions Reduction Association (“VERA”), and have attended a number of in-person workshops. We would like to take this opportunity to offer comments on process improvements related to regulatory compliance and invalidation. 3Degrees comments are based on our routine interactions with the program from an OPO/APD perspective.

Recommended update to how days are removed when a project is out of regulatory compliance

3Degrees has concerns relating to §95973(b)(1)(E)(1), which addresses how days are removed when a project is out of regulatory compliance. This section appears to have been opened as part of this rulemaking.¹

For determining GHG emission reductions (“ER”) to remove due to a period of noncompliance, the language currently adjusts only half of the emission reductions equation, resulting in stated ERs that are not accurate. In order to properly remove a period of noncompliance, the days must be removed from the entire ER model--both the baseline and project emissions. Removing days

¹ P.107-108 of proposed regulation.

only from the baseline while continue to report project emissions is not only overly punitive but also results in an incorrect accounting of the ERs unencumbered by the noncompliance. The efforts we make to report true, accurate and complete emission reductions become meaningless if we concede this type of accounting.

Take, for instance, this extreme but simplified case below (Table 1). Three months of noncompliance should result in the loss of three months' worth of ERs, as shown on the left. However, removing only the baseline emissions while keeping in the project emissions, as shown on the right, would nullify the entire reporting period.

Table 1. Comparison of ERs removed when baseline emissions (BE) and project emissions (PE) are removed (left) versus when only BE are removed to account for periods of noncompliance.

Month	BE	PE	ER	Month	BE	PE	ER
1	100,000	75,000	25,000	1	100,000	75,000	25,000
2	100,000	75,000	25,000	2	100,000	75,000	25,000
3	100,000	75,000	25,000	3	100,000	75,000	25,000
4	100,000	75,000	25,000	4	100,000	75,000	25,000
5	100,000	75,000	25,000	5	100,000	75,000	25,000
6	100,000	75,000	25,000	6	100,000	75,000	25,000
7			0	7	0	75,000	-75,000
8			0	8	0	75,000	-75,000
9			0	9	0	75,000	-75,000
10	100,000	75,000	25,000	10	100,000	75,000	25,000
11	100,000	75,000	25,000	11	100,000	75,000	25,000
12	100,000	75,000	25,000	12	100,000	75,000	25,000
	900,000	675,000	225,000		900,000	900,000	0

The language in §95973(b)(1)(E)(1) should be revised to state: "...the entire calendar day during which any portion of the project was not in regulatory compliance must be removed from the modeled or measured emission reductions."

Scope of Regulatory Compliance (Appendix E)

3Degrees also has specific recommendations in regards to the amendments made to *Appendix E: Offset Project Activities Within the Scope of Regulatory Compliance Evaluation*. 3Degrees supports the added exclusion of noncompliances relating to health and safety regulations or tardy report submittals in its eligibility for receiving ARB offset credits. However, we stress the

need for an additional exclusion to be included in Appendix E.

Crop nutrient management plans are complex, dynamic, and wide-reaching, and ultimately have no bearing on the integrity of offsets generated from livestock projects. A farm's Comprehensive Nutrient Management Plan ("CNMP") can be several hundred pages long and achieving 100% compliance can be an ongoing challenge while meeting the dynamic needs of the farm. We observe that the types of violations that livestock farms experience against their CNMP are much more related to the complexities of managing crops (fertilization rates, irrigation practices, and crop nutrient uptake rates) than they are related to the manure itself. These issues tend to be unrelated to the manure itself or to the digester which processed the manure. Such issues are not caused by the manure nor affected by the quality or production of the manure--they result instead from mistakes in implementation of a farm's CNMP. In fact, the design of manure storage basins are regulated by USDA NRCS Conservation Practice Standard No. 359 to provide enough volume capacity to store other non-project elements such as stormwater runoff, animal bedding, any raw manure that bypasses the digester, and process wastewater from the milking parlor--even further diminishing any link between the digester project and crop irrigation activities.²

Appendix E Section (b) should be revised to state: "...Project activities begin at waste collection and end at onsite biogas usage and the ~~disposal of associated digester effluents~~ lawful deposit of effluent from the digester into an approved storage basin."

In the absence of the digester project, raw manure would be deposited in the very same storage basins for subsequent irrigation use. All activities taking place beyond this point are completely unchanged and unaffected by the existence of the project.

3Degrees thanks you for your ongoing work on the continued improvements to this program. We look forward to continuing to engage with staff on these issues and will be happy to provide more input as requested.

Best,



Nick Facciola
Director, Carbon Projects

² For more information see:

https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs143_026002.pdf.