CLIMATE ACTION RESERVE

December 6, 2010

Climate Action Reserve Comments on the Proposed, Revised Green Guides, 16 CFR Part 260, Project No. P954501

The Climate Action Reserve ("Reserve") appreciates this opportunity to comment on the Federal Trade Commission's (FTC's) proposed revised Green Guides (16 CFR Part 260). The Reserve is is an independent, non-profit organization established by the State of California in 2001 (originally as the "California Climate Action Registry.") Since early 2008, the Reserve has operated as a U.S. national carbon offsets program designed to ensure integrity, transparency and financial value in the North American carbon market. It does this by establishing regulatory-quality standards for the development, quantification and verification of greenhouse gas (GHG) emissions reduction projects in North America; issuing carbon offset credits known as Climate Reserve Tonnes (CRT) generated from such projects; and tracking the transaction of credits over time in a transparent, publicly-accessible system.

As a certifier of voluntary carbon offsets, the Reserve welcomes the FTC's proposed revisions to the Green Guides, particularly as they relate to claims by marketers concerning carbon offsets. In conjunction with robust standards for quantifying, verifying, and tracking carbon offsets established by third-party organizations (including the Reserve), we believe the proposed guidelines will help to further bolster the credibility and integrity of the voluntary carbon offset market. The Reserve respectfully offers the following comments and suggestions related to specific provisions in the proposed guidelines.

- ***The proposed guidelines should take a stronger position against the use of renewable energy certificates (RECs) for carbon offset purposes***. The proposed guidelines acknowledge that there are "technical and policy issues" surrounding the use of RECs as a basis for offset claims (Federal Register 75:199 at 63597). Some of these issues concern the potential for double-counting and ambiguous ownership, as the proposed guidelines acknowledge. The issues extend, however, to other important criteria for establishing carbon offset claims, including quantifiability and additionality. Fundamentally, the concern is that the issuance of RECs is not contingent upon the same eligibility screens or methodological requirements that are applied as a matter of course to carbon offsets by most offset certification programs. This fact was identified in official testimony cited in the guidelines (i.e., RECs "are subject to no… additionality testing requirements, and require no reference to whether or not the REC market was instrumental in the development of the project," EcoSecurities Comment 533254-00044 at 4, Federal Register 75:199 at 63595). Although it is possible that RECs may be issued to facilities that would also pass carbon offset additionality screens, the mere fact that RECs have been issued to a facility provides no assurance to consumers that their purchase of such RECs was a decisive factor in achieving additional greenhouse gas emission reductions. Consumers wishing to offset their emissions through renewable energy generation would be better served by procuring credits that have been directly certified against full and explicit carbon offset standards applied to individual generating facilities. A warning that marketers "should be cautious that they possess competent and reliable scientific evidence to substantiate their claims" (Federal Register 75:199 at 63597) is unlikely to be sufficient in this regard. Rather, the FTC could significantly enhance the consistency and integrity of the voluntary carbon offset market by explicitly prohibiting marketers from making carbon offset claims linked to REC purchases. For further discussion and analysis of this issue, please refer to the Offset Quality Initiative's report, *Maintaining Carbon Market Integrity: Why Renewable Energy Certificates Are Not Offsets*, available at http://www.offsetqualityinitiative.org/OQI%20REC%20Brief%20Web.pdf.

- ***The proposed guidelines should be refined with respect to disclosure requirements related to the timing of carbon offset emission reductions***. The proposed rules indicate that, "Absent evidence that consumers view their claims differently, the Commission proposes advising marketers to disclose if the offset purchase funds emission reductions that will not occur for two years or longer," (Federal Register 75:199 at 63597). This proposal is based on evidence from consumer research conducted by the FTC suggesting that consumers would deem a carbon offset claim "misleading" if it were based on greenhouse gas reductions that will not occur for two years or more (Federal Register 75:199 at 63596). The proposal appears reasonable in light of this finding. However, the FTC's research appears to have elicited a response to a very specific kind of scenario that may not be relevant to the *timing* of emission reductions so much as consumers' *uncertainty* about the likelihood of those reductions being achieved. Specifically, the FTC indicates that they presented consumers with two explicit scenarios: one in which methane was to be captured "within the next few months," and one in which the "*equipment used to capture methane had not yet been installed* and the methane was not to be captured 'for several years,'" (Federal Register 75:199 at 63596, emphasis added). It seems plausible that consumers reacted negatively to the latter scenario because it involves a situation where the equipment necessary to achieve emission reductions has not yet been installed, leading to a significantly greater concern that reductions being purchased may never materialize. Consumer reaction may have been significantly different had they been presented with a scenario where the reductions they were considering would be achieved by an established project with existing equipment, albeit not for several years into the future. Furthermore, there are some types of greenhouse gas reduction projects that can, through actions implemented today, achieve highly certain quantities of emission reductions over time (see, for example, the Reserve's policy brief on immediate crediting of future avoided emissions, available at http://tinyurl.com/26b9tqo). A project that diverts organic waste from landfills, for example, will prevent emissions of methane over many years that would have occurred had the waste gone into a landfill. Through modeling, the quantity of these emissions can be determined with a high degree of accuracy and certainty. Although consumers should rightly be concerned about future emission reductions from projects that have not yet been implemented, they may be far more comfortable purchasing offsets based on activities that have already occurred, but will result with certainty in avoided emissions over a longer timeframe than two years. Further research would be helpful in parsing consumer attitudes more precisely, and calibrating consumer protection guidelines accordingly.

Again, the Reserve appreciates this opportunity to provide comments on the FTC's proposed revisions to the Green Guides, and wholeheartedly supports the FTC in its efforts to bring greater credibility and consumer protections to the voluntary carbon offset market. Please do not hesitate to contact us with questions or requests for clarification concerning these comments.

Sincerely,

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