

December 5, 2017

MARKET NOTICE

Cap-and-Trade Compliance Instruments & California Department of Food and Agriculture Cannabis Licensing Emergency Rulemaking

The California Department of Food and Agriculture (CDFA) submitted emergency regulations to the Office of Administrative Law for cannabis cultivation licensing regulations to implement the recently passed California Medicinal and Adult-Use Cannabis Regulation and Safety Act. Section 8305 of the regulations relates to the Cap-and-Trade Program, wherein cannabis licensees with a higher than average greenhouse gas (GHG) emissions intensity for their electricity usage would be required, starting January 1, 2023, to acquire instruments, including California Cap-and-Trade allowances and offset credits, to cover the excess in GHG emissions. See press release [here](#).

As established by regulations adopted by the California Air Resources Board (CARB), cap-and-trade compliance instruments may be utilized only for the California Cap-and-Trade Program and the linked programs of Québec and, soon, Ontario. CARB is not proposing to expand the Cap-and-Trade Program to allow for the use of compliance instruments by cannabis licensees.

Once the emergency regulations go into effect (likely December 2017), CDFA will follow up with formal, regular rulemaking (non-emergency) in early 2018. Since the proposed Cap-and-Trade-related requirements in the emergency regulation would not go into effect until 2023, and CDFA's regular rulemaking process will not be finalized until sometime later in 2018, this matter is still in flux. Because of these circumstances, please be aware that any allowances or offsets purchased now may ultimately not qualify for GHG mitigation under CDFA's regulations.

For more information on CARB's Cap-and-Trade Program, or on this market notice specifically, please contact Raymond Olsson, Manager of the Market Monitoring Section of the Cap-and-Trade Program at rolsson@arb.ca.gov or (916) 322-7615.