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Energy and environmental standards for Massachusetts cannabis businesses now in effect - by Adam Braillard

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All applications for licenses to operate Massachusetts adult-use marijuana establishments and medical marijuana treatment centers (establishments) must comply with the Cannabis Control Commission's (the commission) energy efficiency, environmental, and reporting standards set forth in Sections 935 CMR 500.101(1)(c)10 and 500.105(15), or 935 CMR 501.101(1)(c)10 and 501.105(15).

Specifically, each such establishment's management and operations profile must include a summary of its written operating procedures regarding energy efficiency and conservation methods. These operating procedures must include:

- (i) An energy use reduction plan;
- (ii) Consideration of opportunities for renewable energy generation;
- (iii) Plans to reduce electricity demand; and
- (iv) The Establishment's engagement with state and/or municipal light energy efficiency programs.

Cultivation establishments must also comply with a variety of additional requirements regarding energy efficiency and environmental standards, including maintaining written operating procedures that demonstrate their compliance with the energy efficiency standards in the regulations, as required under 935 CMR 500.120(12)(e) and 501.120(13)(e). After the commission issues a cultivation provisional license, the cultivation establishment must demonstrate that its proposed facility meets specific regulations concerning lighting standards, air handling requirements, and general building envelope standards. This takes the form of an energy compliance letter, which is generally prepared and signed by a Massachusetts licensed professional engineer or licensed registered architect.

The energy compliance letter must include a narrative that confirms "compliance with the building envelope requirements and the output from COMcheck software used to show building envelope compliance with Massachusetts Building Code, 780 CMR." Further, the energy compliance letter must identify the horticultural lighting that will be used, including Horticulture Lighting Power Density (HLPD) and Horticulture Lighting Square Footage (HLE / HLSF = HLPD) measurements.

Moreover, the energy compliance letter must include the following with respect to air handling units and dehumidification:

- (i) A certification from a Massachusetts licensed mechanical engineer that the HVAC and dehumidification systems have been sized appropriately, and meet the Massachusetts State Building Code;
- (ii) The total of tons of refrigeration (TR), thousands of British thermal units (BTUs) per hour (MBH), and a listing of all HVAC equipment to be installed, along with equipment datasheets;
- (iii) The total of tons of dehumidification (TD), and a listing of all dehumidification equipment to be installed with equipment data sheets;
- (iv) Details about energy recovery equipment installed as part of the ventilation system; and

(v) Provide all odor mitigation equipment to be installed.

The energy compliance letter must be submitted to the commission during the architectural review stage of the cultivation establishment's licensure application process, and at each time the cultivation establishment renews its licenses.

As for the grandfathering of these regulations; all establishments for initial licensure or renewals submitted on or after July 1, 2020, must comply with the energy efficiency standards and reporting requirements. A co-located establishment (an establishment that includes both an adult-use marijuana establishment and a medical marijuana treatment center) with a final license before November 1, 2019 should have been compliant with these provisions by or before July 1, 2020. However, an adult-use marijuana establishment with a final license before November 1, 2019 and that is not co-located with a medical marijuana treatment center may have until January 1, 2021 to comply with 935 CMR 501.120. Notwithstanding the above, the Commission may grant a 6-month extension to the applicable date, provided that the Establishment monitors and reports on its energy usage, water usage, waste production and other data as the Commission may require.

Guidance on the specific terms and requirements of the energy efficiency, environmental, and reporting standards can be found in the commission's Energy and Environmental Compiled Guidance, which also provides a checklist for establishments to reference as they complete their licensure applications or renewals.

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