

# Environment & Energy Insights

April 2026 Edition

Welcome to the April edition of Nutter's *Environment & Energy Insights*, a periodic update of current trends in environment and energy law. This month we cover:

- Expansion of ethanol in gasoline considered by Congress;
- Massachusetts Senate moves the Mass Ready Act (S. 3050); and
- The Massachusetts Supreme Judicial Court hears oral arguments over a Town's ability to regulate solar projects under the Dover Amendment.

## Amendment to the Farm Bill Would Allow Year-Round E15 Use

An amendment was submitted by Rep. Michelle Fischbach (R-Minn) to the pending Farm Bill in Congress which, if approved, would allow the year-round sale of gasoline containing up to 15 percent ethanol (referred to as E15). Ethanol percentages are presently capped at 10 percent from June to September (although in recent years EPA has issued waivers allowing increased ethanol percentages during summer months).

While the amendment would not require year-round sales of E15, proponents of the amendment contend that it provides stability for ethanol producers and the farmers who support them as well as the potential to reduce increasing fuel prices.

## Senate Moves the Environmental Bond Bill (Mass Ready Act)

On April 15, the Senate approved the Mass Ready Act, the environmental bond bill, to support, among other things, removal of PFAS in drinking water, resiliency measures, and other conservation measures through over \$3 billion in bond authorizations.

The Act provides for \$450 million for the Massachusetts Clean Water Trust to protect access to clean water in Massachusetts and \$120 million for PFAS remediation in public and private wells. In addition, funding was provided to promote alternatives to PFAS products, a, hopefully, useful first step in reducing PFAS contamination before it enters the environment or requires remedial actions.

As approved, the Act also provides for significant investments in infrastructure, including \$225 million for coastal infrastructure and resilience projects, \$800 million for properties and roadways owned and managed by the Department of Conservation and Recreation (DCR), and \$521 million for state and municipally owned dams across the Commonwealth.

The Act also aims to reduce pollution through the prohibition of single-use plastic bags.

The Act now proceeds to the House for review.

## The Supreme Judicial Court Considers Whether Deforestation Is a Reasonable Basis to Deny a Solar Project Under the Dover Amendment

The Massachusetts Supreme Judicial Court, on April 8, heard oral arguments in *Sunpin Energy Services, LLC v. Zoning Board of Appeals of Petersham* (SJC-13860). At issue is whether the Petersham Zoning Board of Appeals improperly denied a special permit to construct solar panels on a forested property in the town. Under state law, approving a special permit from the ZBA requires unanimous approval. Here, one member dissented, thus the ZBA issued a denial.

Petersham has a population of about 1,200, is over 90 percent forested, and is located in the central/western part of the state. The project would generate about 4 megawatts of power but would require removing most of the trees on the property. The case involves the scope of the so-called "Dover Amendment" (M.G.L. c. 40A, § 3), which states in pertinent part that "No zoning ordinance

or by-law shall prohibit or unreasonably regulate the installation of solar energy systems . . . except where necessary to protect the public health, safety or welfare.”

It is implicit that the Dover Amendment permits reasonable regulation over solar systems. Several justices questioned whether it was unreasonable for the ZBA (the one dissenting member) to base the denial on the impacts from deforestation.

The case comes amidst new regulations required by the 2024 Climate Act that take effect in July 2026. The goal of the regulations is to create a unified, consistent, and streamlined statewide permitting process for clean energy projects.

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