

# Environment & Energy Insights

May 2026 Edition

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

- **EPA develops new guidance on PFAS in biosolids and drinking water**
- **Key 2026 deadlines and state developments for extended producer responsibility laws**
- **Upcoming deadlines for Massachusetts building owners to comply with the Large Building Energy Reporting program**

## EPA to Update Prior Guidance and Rules on PFAS in Biosolids and Drinking Water

The United States Environmental Protection Agency (EPA) is developing new guidance on the risks posed by per- and polyfluoroalkyl substances (PFAS) in biosolids. [As we've written in previous articles](#), PFAS contaminants have gained attention for their potential health risks and longevity in the environment. PFAS may be present in wastewater streams and, consequentially, in biosolids that are a byproduct of the wastewater treatment process. Biosolids can be used as a nutrient-rich fertilizer for agricultural purposes, which may pose risks that EPA's guidance intends to address.

This new guidance is intended to be a course correction from a prior risk assessment published by EPA under President Biden that found that biosolids application generally presents risks due to PFAS. The prior risk assessment was criticized by certain stakeholders because its modeling overestimated the risks from PFAS in biosolids. EPA's new guidance will be aimed both at transparency regarding the risks from PFAS in biosolids while clarifying whether particular applications of biosolids to land will create health risks. It is likely,

though not confirmed, that the new guidance will take a tiered approach rather than a strict prohibition on the reuse of biosolids. Such an approach, currently implemented by some state regulatory bodies, would allow or prohibit land application of biosolids depending on their concentration of PFAS.

EPA has also begun the rulemaking process to modify certain limits on PFAS in drinking water imposed by the Biden-era EPA. Specifically, EPA seeks to allow qualified drinking water systems to opt in to a two-year extension to achieve compliance with perfluorooctanoic acid and perfluorooctane sulfonic acid limits, past the current deadline of 2029. EPA also intends to rescind maximum contaminant levels for certain PFAS contaminants, including perfluorohexane sulfonic acid, perfluorononanoic acid, and hexafluoropropylene oxide dimer acid. These proposed changes have met with criticism from certain environmental groups, while EPA defends its plans as a science-backed approach that will faithfully adhere to rulemaking requirements and fit into EPA's broader plans to limit PFAS.

We will continue to provide updates on EPA's guidance and rulemaking related to PFAS.

## Packaging EPR Update: Key 2026 Deadlines and State Developments

Seven states currently have comprehensive, fully enacted packaging extended producer responsibility (EPR) laws: California, Colorado, Maine, Maryland, Minnesota, Oregon, and Washington. All of these states except Maine now have active producer reporting obligations administered principally through Circular Action Alliance (CAA), the approved Producer Responsibility Organization (PRO) for those states.

CAA has opened producer reporting portals for California, Colorado, Maryland, Minnesota, Oregon, and Washington, with a coordinated May 31, 2026 reporting deadline for most state submissions.

On May 1, 2026, **California** finalized regulations implementing the Plastic Pollution Prevention and Packaging Producer Responsibility Act. Producers have 30 days from the effective date to comply with initial registration obligations. By June 1, 2026, producers must either: (1) register with CAA and submit supply data; (2) register with CalRecycle as an independent producer; or (3) apply for a small producer exemption.

California producers also face multiple reporting obligations in 2026, including:

- 2023 baseline supply report due June 1, 2026
- 2025 annual supply report due May 31, 2026
- 2025 annual source reduction report due May 31, 2026
- Individual source reduction plan due August 1, 2026

In **Colorado and Oregon**, producers must submit annual supply reports using 2025 packaging data by May 31, 2026. Oregon's Recycling Modernization Act is already in effect, with producer fees and compliance obligations underway.

**Washington** reached a major implementation milestone on March 4, 2026, when the Washington Department of Ecology formally designated CAA as the state's PRO under the Recycling Reform Act. Producers of covered packaging, paper products, and food serviceware must register with CAA or register individually by July 1, 2026.

**Minnesota** continues implementing its Packaging Waste and Cost Reduction Act following the Minnesota Pollution Control Agency's confirmation of CAA as the state's PRO. Producers selling covered materials into Minnesota must now submit simplified supply reports to CAA by May 31, 2026, using 2025 packaging data.

**Maryland** is also moving into implementation. Producers must register and submit simplified supply reports to CAA by May 31, 2026, to meet the July 1, 2026 requirement for CAA to provide the Maryland Department of the Environment a list of producers, brands and material type information.

Finally, although **Maine** was the first state to enact packaging EPR legislation, the state has not yet finalized stewardship organization selection.

## Large Building Energy Reporting: Owner Reports Due June 30

Massachusetts building owners should prepare for compliance with the Commonwealth's Large Building Energy Reporting (LBER) program, which now requires annual energy use disclosure for buildings 20,000 square feet and larger. The program, administered by the Department of Energy Resources (DOER), was created as part of the Commonwealth's 2022 clean energy legislation and establishes a statewide framework for annual large building energy-use reporting.

Electric and gas utilities report building energy usage directly to DOER, while building owners remain responsible for reporting additional energy sources not captured by utilities, including fuel oil, propane, wood, and certain on-site energy generation. Annual owner reporting for calendar year 2025 is due by June 30, 2026.

DOER has continued expanding guidance materials for owners through its LBER Knowledge Base and compliance portal. Building owners should confirm that their properties appear correctly on the [Covered Buildings List](#), verify gross floor area calculations, and ensure that building ownership and contact information are accurate. Owners who believe a building was improperly included [may dispute inclusion](#), while buildings meeting certain exemption criteria, such as demolition, full-year vacancy, or severe damage from natural causes, may qualify for [relief from reporting obligations](#).

DOER's guidance also distinguishes between "automated" and "self-managed" reporting pathways. Buildings relying solely on utility-provided energy data may qualify for automated reporting through ENERGY STAR Portfolio Manager, while buildings using delivered fuels or on-site generation generally require additional owner-managed reporting. ENERGY STAR Portfolio Manager is a free, secure, web-based tool developed by EPA that building owners and managers use to track energy, water, waste, and emissions data across building portfolios.

LBER operates alongside existing local building emissions and energy reporting requirements, including Boston’s Building Emissions Reduction and Disclosure Ordinance (BERDO) and Cambridge’s Building Energy Use Disclosure Ordinance (BEUDO). Under current DOER guidance, buildings that report under BERDO or BEUDO do not need to submit separate LBER reports directly to the Commonwealth.

Building owners can visit DOER’s [Large Building Energy Reporting Program page](#), the [Covered Buildings List](#), the [LBER Knowledge Base and Building Owner Guidance Materials](#), and the [LBER reporting decision tree](#) for additional guidance and compliance assistance.

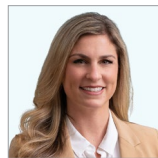
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