



Sustaining & Rebuilding Resilient Communities

October 14, 2026





Agenda

- **Welcome**
- **Recent wins!**
- **The Hidden Health Costs of AI Data Centers**
- **Holding Data Centers Accountable: A Guide to Federal Environmental Permitting**
- **How EPA is Rolling Back Clean Air Act Protections**
- **Data Center Hub Preview**
- **Talk, Vent, Share (*Off The Record*)**





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This policy is in place to:

- Protect the confidentiality of the discussions
- Safeguard intellectual property
- Ensure the privacy of all participants

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Thank you for your understanding and adherence to these guidelines.





Celebrating Wins

2 Momentous Court Rulings on Solar For All (SFA)

- **The SFA Program that EPA terminated last year is critical to addressing energy affordability and the broader cost of living:**
 - Designed to cut household electric bills by at least 20% for > 900,000 households when at least 28 million American households face a high or severe energy burden.
 - Has bipartisan support with 60 grants serving all states, territories, and many tribes.
- **Rhode Island AFL-CIO v. EPA (R.I. District Court).** Suit brought on behalf of 8 Solar for All (SFA) subrecipients and program beneficiaries in the Rhode Island District Court
 - On September 18, the court granted summary judgment and vacated (undid) the termination, deeming it “contrary to law and in excess of [EPA’s] statutory authority”
- **Harris County v. EPA (D.C. District Court).** Suit brought on behalf of Harris County, Texas.
 - The court granted summary judgment, finding that the decision “to terminate the SFA grant program was arbitrary and capricious, contrary to law, and in excess of statutory authority under the APA [Administrative Procedure Act].”
 - The court found it appropriate to vacate the unlawful program termination.





Celebrating Wins



441 G St. N.W.
Washington, DC 20548

U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Decision

Matter of: U.S. Environmental Protection Agency—Application of Impoundment Control Act to the Administration of Community Change Grants

File: B-337485

Date: October 7, 2026

DIGEST

Congress appropriated amounts to the U.S. Environmental Protection Agency (EPA) to carry out the Environmental and Climate Justice Block Grants Program (ECJ Program) for fiscal year (FY) 2022 through FY 2026, as specified in the Inflation Reduction Act of 2022. To carry out the ECJ Program, EPA established several subprograms, the largest being the Community Change Grants Program (CCG Program), and obligated over \$1.5 billion for CCGs. In early 2026, EPA decided to terminate the ECJ subprograms, including the CCG Program, paused payments to grantees, and later terminated the CCGs. Congress subsequently rescinded the unobligated balances of amounts made available to the ECJ Program as part of Public Law 119-21.

Unless Congress has enacted a law providing otherwise, executive branch officials must take care to ensure that they prudently obligate appropriations during their period of availability. The Impoundment Control Act of 1974 (ICA) allows the President to withhold funds from obligation or expenditure, but only under strictly limited circumstances and only in a manner consistent with that Act. The ICA was enacted to ensure that legislation passed by Congress and signed by the President is faithfully executed.

GAO's institutional role is to support Congress, including in Congress's exercise of its constitutional power of the purse. GAO's role is procedural—to protect congressional prerogatives and help ensure compliance with the ICA and appropriations law—and is not to be interpreted as taking a position on the underlying policies.

We find that EPA violated the ICA when the agency, without submitting a special message to Congress: (1) withheld funds from expenditure for the CCG Program after deciding to terminate the program; and (2) withheld funds from obligation by

Government Accountability Office (GAO) found that EPA violated the Impoundment Control Act

- **Two separate violations.** EPA illegally withheld funds from expenditure when it froze grantee payments in 2025 after deciding to end the program. It also withheld funds from obligation when it terminated the CCG grants.
- **Policy disagreement, not programmatic delay.** GAO relied on EPA's own words, including its August 2025 letter to Reps. Garamendi and DeSaulnier saying the Contra Costa County grant was cut for funding "environmental justice initiatives." GAO also found no evidence EPA planned to re-obligate the money.
- **No special message.** The law doesn't allow deferrals for policy reasons, so EPA's only lawful option was a proposed rescission, which EPA never sent.





Your Help Is Needed: Call for SFA Action

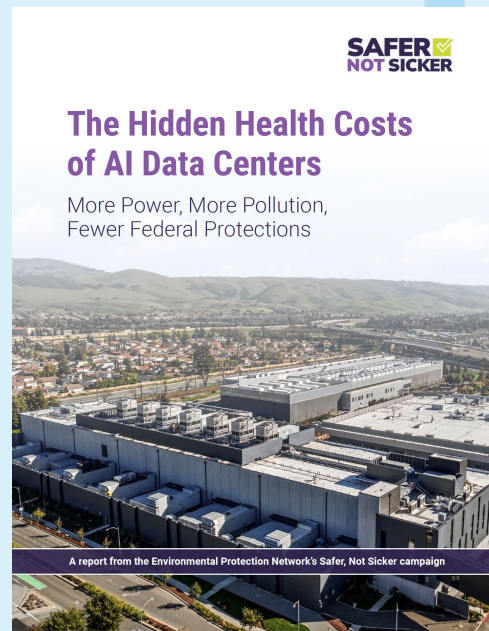
- **For Grantees:** If you are represented, contact your counsel. For all other grantees, please contact L4GG to work through your administrative options to further build your administrative record:
 - SFA@L4GG.org
- **For General Public:**
 - **News Media:**
 - Work with our Public Relations team to have your voice heard
 - Send an email to Zealan Hoover at zealan@impactstrategy.us with details regarding how you have been harmed by SFA termination and/or how you would benefit from its implementation (energy affordability, resilience, etc.)
 - **Email and Call Your Members of Congress**
 - Identify your local representative [here](#)
 - Find a template letter [here](#)
 - Submit following the instructions on their website
 - **Call or Meet Your Elected Representatives**
 - Identify your local representative [here](#)
 - Schedule a meeting (virtual or in person)
 - Call via the Capitol Switchboard: (202) 224-3121





The Hidden Health Costs of AI Data Centers

Marc Boom





The Potential Health Toll Is Already Substantial

Projected annual health impacts of data-center air pollution by 2028 (high-growth scenario)

\$11.7–20.9B

in public-health costs per year

~1,300

premature deaths

~600,000

asthma symptom cases

Most of the harm comes from power plants, not the building

Health costs 92%



Premature deaths 92%



Today's federal rollbacks aren't in these estimates.

In the most affected counties, the per-household health costs will be...

7x

...the national average

Source: EPN, Hidden Health Costs of AI Data Centers (2026), citing UC Riverside et al.; high-growth scenario





The Health Burden Extends Beyond the Fence Line

Pollution hits three places: on site, at power plants, and downwind

01

At the Data Center

Diesel generators and gas turbines emit NOx and soot

Virginia generators at 10% of permitted levels: up to **\$300M** a year in health costs

02

At the Power Plants

Coal and gas plants stay online longer to meet demand

74 gas plants proposed just to power data centers

03

Downwind

Smog and soot cross county and state lines

Hardest-hit counties: **~7×** the average household health cost

Source: EPN, *The Hidden Health Costs of AI Data Centers* (Sept. 2026)





Children and Frontline Communities Are Most at Risk

Children are especially vulnerable

188

schools within 3 miles of
proposed data-center gas
plants

4.8M

U.S. children with asthma

33.5M

children in counties with
failing air grades

Case Study: North Omaha

- Coal plant promised to stop burning coal in **2023**
- **Google and Meta** data centers drove up demand
- **Dec. 2025:** coal kept running with no end date

A historically redlined, predominantly Black community bears the cost.

Source: EPN, *The Hidden Health Costs of AI Data Centers* (Sept. 2026)





At Least 30 Federal Actions Are Increasing Health Risks

Since January 2025; 17 of the 30 explicitly target AI or data centers

More polluting power

18



Approvals before answers

10



Less federal enforcement

2



16

DOJ civil complaints in EPA cases in year one: a **historic low**

"EPA should be the public-health watchdog."

Source: EPN, *The Hidden Health Costs of AI Data Centers* (Sept. 2026). DOJ figure from an Environmental Integrity Project review of federal court records.





Voters Prioritize Health and Safeguards

8 to 1

say EPA should put health before deregulation

84%

want tougher action on companies that break environmental laws

69%

are highly concerned about fast-tracking data centers

16%

back making the U.S. the “AI capital of the world” an EPA priority

Key takeaway: Voters strongly support protecting health and enforcing environmental laws

Source: YouGov survey of 2,025 registered voters conducted for EPN, April 22–27, 2026





What Communities Deserve Before Projects Advance

1 Full transparency

The whole project disclosed; no NDAs hiding health risks

2 The right to say no

Public input early, before major commitments

3 No cost-shifting

Developers pay for controls, cleanup, and infrastructure

4 No loopholes

No dodging permits with “temporary” or “backup” labels

5 Full health review

Combined impact of the site and its power supply

6 Binding promises

Commitments that are public and enforced

Source: EPN, *The Hidden Health Costs of AI Data Centers* (Sept. 2026)





Holding Data Centers Accountable: A Guide to Federal Environmental Permitting

Chitra





Five Federal Statutes Can Apply to Data Centers

Often run by states and Tribes under EPA-delegated authority

CWA

Clean Water Act

Wastewater, stormwater,
filling wetlands

CAA

Clean Air Act

Backup generators and
on-site turbines

RCRA

**Hazardous
Waste**

Solvents, batteries, and
e-waste

SDWA

**Safe Drinking
Water**

Drywells, geothermal,
private wells

TSCA

**Toxic
Substances**

Cooling fluids, PFAS, legacy
PCBs

NEPA

**Environmental
Review**

CERCLA

**Brownfields/
Superfund**

ESA

**Endangered
Species Act**

Coming Soon.

Source: EPN, *Holding Data Centers Accountable: A Guide to Federal Environmental Permitting*





Clean Water Act: Key Permits and Triggers

§401 Certification

State sign-off before any federal water permit

§402 NPDES

Wastewater, cooling water, and stormwater from 1+ acre sites

§404 Dredge & Fill

Filling wetlands or streams (Army Corps)

§307 Pretreatment

Discharges into a city sewer system

Watch out

NWP 39: data centers can fill up to ½ acre of wetlands with no public notice

Sackett: fewer waters protected; 27 data center sites needed no federal permit

Source: EPN, *Holding Data Centers Accountable: A Guide to Federal Environmental Permitting*; Sackett site count from EPN, *Hidden Health Costs* (2026)





Clean Air Act: Where On-Site Power Triggers Review

New Source Review / Prevention of Significant Deterioration Permit

Needed before building a major source: modeling, best controls, public comment

Title V Permit

Counts every generator on a campus as one source

Air Toxics Limits

“Emergency” generators capped at 100 non-emergency hours a year

Risk Management Plan

Required for large stores of chemicals like ammonia

Watch for: “synthetic minor” caps and Tier 2 generators, which emit 9× the NOx of Tier 4

Source: EPN, *Holding Data Centers Accountable: A Guide to Federal Environmental Permitting*





Waste, Drinking Water, and Chemical Requirements

RCRA Waste

- Hazardous waste from solvents and batteries
- E-waste from retired servers

SDWA Water

- Drywells and geothermal wells
- Private water systems

TSCA Chemicals

- New cooling fluids and PFAS, now fast-tracked
- Legacy PCBs at old grid sites

Who runs it: States run most RCRA and SDWA programs; EPA runs TSCA

Source: EPN, *Holding Data Centers Accountable: A Guide to Federal Environmental Permitting*





How Communities Can Intervene

Water

- Comment on state §401 reviews
- Flag endangered species or historic sites
- Check EPA's ["How's My Waterway"](#)

Air

- Contact your state permit writer
- Ask for public comment periods
- Push for air monitoring

Waste & Chemicals

- Check EPA ECHO records
- Comment on cleanup permits
- Watch new chemical filings

Get Support

- EPN technical assistance
- L4GG legal clinic
- EPN Resource Directory

Source: EPN, *Holding Data Centers Accountable: A Guide to Federal Environmental Permitting*





Access the Action Guide and longer Permit Guide Here:

A COMMUNITY ACTION GUIDE:

Data Centers and Federal Environmental Permitting

This is a summarized version of EPN's longer guide, *Holding Data Centers Accountable: A Guide to Federal Environmental Permitting*, which includes deeper information about the requirements and scope of permitting or other programs under each listed statute.

Both documents are designed to help communities, under-resourced agencies, and non-profits navigate the complex federal environmental permitting landscape for data centers. Major environmental statutes that provide human health protections include the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, Safe Drinking Water Act, and Toxic Substances Control Act. Statutes may be carried out by state, local or delegated Tribal authorities.

We recommend using this document as an entry point into the [larger guide](#).

Community Intervention Strategies by Environmental Statute

1. Clean Water Act (CWA)

- Engage in the State CWA Section 401 water quality certification process when states attach regional conditions or require reviews.
- Monitor water health using public sites and alert authorities about CWA Section 402 (NPDES) impairments.
- Work with local Publicly Owned Treatment Works (POTW) to ensure that industrial pretreatment standards are enforced, limiting the amount of chemical waste and cooling runoff.
- Monitor and intervene During Pre-Construction Notification (PCN) by checking local U.S. Army Corps of Engineers (USACE) district public notices and submitting comments or providing technical data to the district engineer demonstrating that the project's impacts exceed the "minimal adverse environmental effects" threshold allowed under general permits.
- Engage in the state CWA Section 401 water quality certification process and engage in public comment opportunities.
- Document and submit evidence of listed species habitat or cultural resources, which forces USACE to suspend Nationwide Permits (NWP) authorization until Endangered Species Act (ESA) or National Historic Preservation Act (NHPA) Section 106 consultations are completed.
- Challenge discretionary authority and NWP eligibility by formally petitioning the USACE District Commander to exercise "discretionary authority" to revoke or modify the NWP authorization.



STRATEGY NOTE: ADDRESSING WATER QUANTITY

The CWA is primarily a water quality statute, not a water allocation law. Congress explicitly preserves states' sovereign authority over water rights and water quantity allocation.

However, concerned community members can work with surface sewerage points within the CWA—along with state-level statutory frameworks—to tackle hyperscale data center water consumption. Read more in [EPN's longer guide](#).

2. Clean Air Act (CAA)

- Advocate for public participation by urging local decision-makers to open public comment periods for facility permits, even when not explicitly mandated by law.
- Organize and use media to persuade decision-makers to protect health and the environment.
- Monitor diesel- and gas-fired generators at data centers to see how they are being used to meet power demand as they are being permitted across the country in novel, more permanent, ways.
- Investigate regulatory enforcement protocols by raising key oversight questions to the proper (likely state) authority.
- Mandate air quality monitoring conditions by pressing permitting agencies and lawmakers to require localized air monitoring equipment within permits for sites relying on external backup generator fleets.
- Deploy community air sensors for installation near residential zones and include monitoring in negotiations with companies (e.g., community benefits agreements or memoranda of understanding).
- Connect with your state/Tribal permit writer for more information on any provisions of interest.



Community Action Guide



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Holding Data Centers Accountable: A Guide to Federal Environmental Permitting

Introduction

Clean Water Act (CWA)

General Overview Subsections

1. Water Quality Certification (CWA 401)
2. National Pollutant Discharge Elimination System (NPDES)
 - a. NPDES Wastewater Discharge Permit (CWA 402)
 - b. NPDES Construction Storm Water Permit (CWA 402(p))
 - c. NPDES Post-Construction Stormwater Permit (CWA 402)
3. Dredge and Fill Permit (CWA 404)
4. Pretreatment Requirements (CWA 307)

Strategy Note: Addressing Water Quantity

Clean Air Act (CAA)

General Overview Subsections

1. New Source Review (NSR) & Prevention of Significant Deterioration (PSD)



Federal Permitting Guide



How EPA Is Rolling Back Clean Air Act Protections

Zealan Hoover





The Clean Air Act Is Built to Prevent Pollution First

Major sources need permits before construction, because pollution can't be taken back

Major Source

250+ tons/yr

- 1 Permit before building
- 2 Best available controls
- 3 Air-quality modeling
- 4 Public comment

Minor Source

Below thresholds

- 1 State permit to build
- 2 No required best controls
- 3 Still enforceable

Enforcement tools

- §113 Daily penalties
- §167 Stop construction
- §303 Emergency orders
- §304 Citizen suits

Source: EPN & L4GG, xAI & the Clean Air Act Rollback memo (Sept. 12, 2026)





Three Ways Washington Is Rolling Back Protections

01

Permit-free turbines

Jan. 2026 EPA rule

Certain on-site turbines can run up to 2 years without certain permits

02

Off-grid exemption

July 2026 EPA guidance

No Acid Rain limits for plants not tied to the grid

03

Citizen-suit “veto”

June 2026 DOJ filing

DOJ claims power to dismiss community lawsuits

The result: Efforts to significantly limit efforts to stop locally-significant pollution

Source: EPN & L4GG, xAI & the Clean Air Act Rollback memo (Sept. 12, 2026)

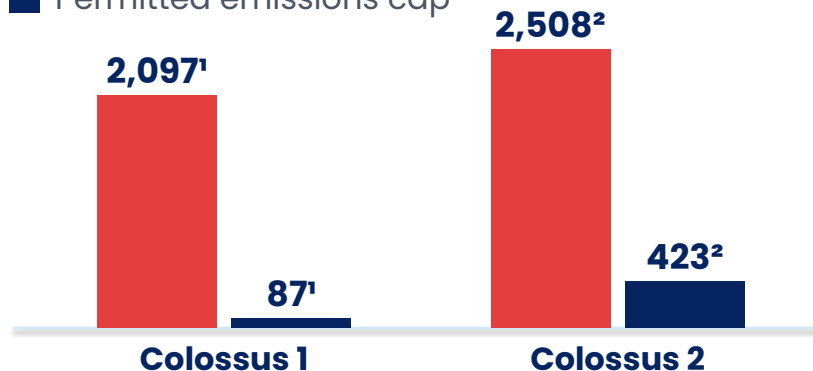




Memphis: A Preview of What Could Be Coming

Annual NOx emissions (tons per year)

- Max. potential, unpermitted fleet (alleged)
- Permitted emissions cap



Colossus 1 • Memphis, TN

- 35 turbines seen in aerial imagery (Mar. 2025)
- County permitted 15 turbines (July 2025); no penalty for prior operation reported

Colossus 2 • Southaven, MS

- 33 turbines alleged to lack a federal air permit; xAI disputes a permit is required
- Planned permanent plant: est. \$30–44M/yr in health damages³

Estimates and allegations from pending litigation; no court has ruled on the merits. Caps reflect pollution controls and may cover different turbine counts.

¹ Max.: SELC Notice of Intent to Sue for NAACP (June 17, 2025), App. A, Tbl. 3 (35 turbines, highest manufacturer rates; minimum-rate est. 1,212 tpy). Cap: Shelby County permit, 15 turbines (July 2025).

² Max.: NAACP v. xAI Corp., No. 3:26-cv-00074 (N.D. Miss.), ECF No. 20 (May 6, 2026), Ex. H (Laufenberg Decl.) ¶ 31 (33 turbines). Cap: MDEQ permit for planned 41-turbine plant (Mar. 2026).

³ EmPower Analytics Group study commissioned by SELC (Feb. 2026), modeling the proposed 41-turbine permanent plant, not the current fleet.





The Memphis Playbook Could Spread Nationwide

70+

proposed
behind-the-meter gas
plants for data centers in
the pipeline

423 MW

of San Antonio power
facing a citizen-suit notice
over permits

2 years

of on-site pollution with
significantly limited permit
review now allowed.

What to watch

- EPA's "nonroad engine" rule
- Ruling on DOJ's citizen-suit veto
- "Temporary" turbines near you

xAI stated a plan to keep **"copying and pasting"** its approach at Colossus 3.





Assistance on Data Centers

Larissa Koehler and Urszula Parfieniuk





Current Data Center Trends

Community Confusion

Communities are often blindsided by data center development. Local governments are sometimes signing NDAs, or local processes do not alert communities until the permitting process has begun.

Uncertain Impact

Many localities are entering into agreements for data center development without a full understanding of the impacts to water or the grid.

Unclear Benefits

With many localities providing tax-based incentives to attract data centers, it is unclear the benefit they provide to local governments or communities.

Opportunity mismatch

Big tech companies stand to earn a lot from data center development, but benefits provided to local communities can sometimes be underwhelming in comparison.



What L4GG Offers

- Coordinated Approach to advice through our Green and Equitable Communities Clinic
- Muscle memory from one location to another
- A repository of policies, approaches, playbooks, and other materials reviewed by attorneys and technical experts.
 - ◆ You don't have to sort through the maze on your own!
- Practical experience working with communities on legal issues. We know where things get stuck, what's important, and how to provide genuine opportunities for engagement that help everyone understand each other.
 - ◆ Help with drafting data center ordinances and policies for local entities
- Connection to a network of support for both communities and local governments tackling this issue!
 - ◆ You are not alone!



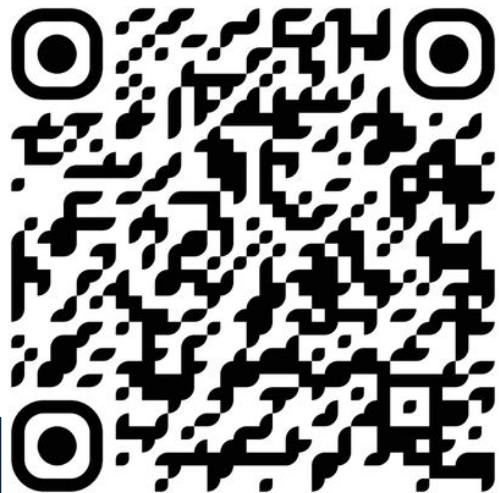
EPN's 1:1 Technical Assistance for Data Centers

- To date, EPN's TA program has completed or is actively working on over 35 data center technical assistance requests; increasing since December 2025, including communities in AL, AK, CA, CO, CT, FL, IN, IA, KS, KY, MS, NM, NY, OH, PA, SC, TX, UT, VA, WI and WV.
- Typically, requests focus on permit public comment periods or technical questions related to site water usage or the air impacts of (backup) power sources.
- In select cases, EPN connects or refers inquiries to partner organizations including L4GG, The Better Data Center Project, and Fair Shake Environmental Legal Services.
- EPN has also worked to connect inquiring communities with emerging community-focused networks for resources, support, and success stories, including the Athena Coalition Data Center Working Group and the [Halt the Harm Data Center Forum](#).

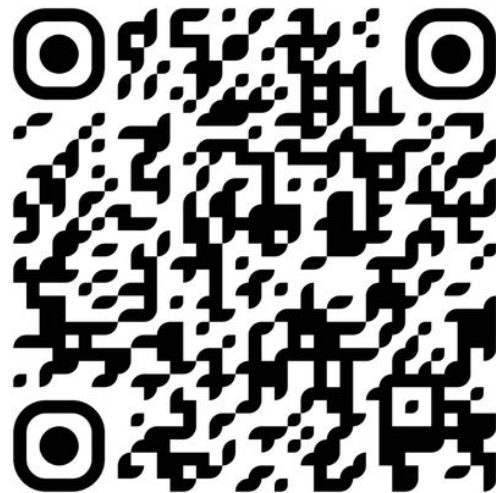


Technical Assistance for Data Centers

**To request technical
assistance from EPN**



**To request technical
assistance from L4GG**





Talk, Vent, Share





**For the most up-to-date
resources & recommendations,
check out our Federal Funding
Updates**

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