

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 indirect leverage 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 extensive 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.



3. Resource Conservation and Recovery Act (RCRA)

- Monitor hazardous waste & generator status using state agency records or [EPA ECHO](#) to track compliance.
- If the development is on a former brownfield or Superfund site, submit public comments to ensure contaminated soil and groundwater are thoroughly remediated and properly monitored.
- Push for certified e-waste recycling & circularity by encouraging local planning boards and regulators to mandate enforceable commitments.



4. Safe Drinking Water Act (SDWA)

- Monitor the potential for an underground injection control (UIC) permit by watching out for water disposal from the facility.
- If the data center is a non-transient non-community water systems (NTNCWS), press for government oversight entities to require them to have regular water quality monitoring, certified operators, and sanitary surveys (periodic inspections of equipment and operations).



5. Toxic Substances Control Act (TSCA)

- Monitor and challenge expedited Section 5 pre-manufacture notice (PMN) submissions for new fluorinated chemicals (PFAS alternatives) or novel dielectric fluids and push for robust health and safety testing.
- Collaborate with partners who work with the computer supply chain on chemical testing requirements to address health concerns from advanced computer hardware.
- Request or monitor public records on refrigerants, PFAS compounds, and flame retardants utilized by local facilities, and use TSCA Section 8(a)(7) data to map local exposure risks.
- Petition the EPA under TSCA Section 21 to initiate rulemaking restricting or banning specific data center chemicals, or file citizen suits under Section 20 against non-compliant developers or the EPA.



ZONING AND DATA CENTERS

While this resource focuses on permits from federal statute, local zoning often represents the most effective opportunity for communities to engage or limit unwanted data center development. Communities can also put conditions on development to protect human health and the environment. If a proposed site is not properly zoned for data center construction, the project may be halted before ever reaching federal or state environmental permitting agencies.

Conclusion

[EPN's longer guide](#), which this document summarizes, provides more information statute by statute. By tracking pre-construction notices, submitting technical comments during public review periods, demanding state 401 certifications, monitoring hazardous waste and emissions data, and utilizing citizen suit or petition rights, local advocates can safeguard public health, protect local natural resources, and ensure data center growth does not come at the expense of environmental justice.

If you have any questions, here are two ways to get quick responses:

- EPN offers pro bono Technical Assistance for any of the permitting issues above. Fill out [EPN's intake form here](#).
- Lawyers for Good Government (L4GG) offers the [Green and Equitable Communities Clinic \(GECC\)](#) for direct pro bono legal services to communities in need. Fill out [L4GG's intake form here](#).