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EPA Launches Clean Air Act Resource for Data Centers

The U.S. Environmental Protection Agency recently unveiled a webpage with Clean Air Act guidance and resources as part of an effort to aid and speed the approvals needed for data centers and Artificial Intelligence development.

On December 11, 2025, the U.S. Environmental Protection Agency (EPA) unveiled the *Clean Air Act Resources for Data Centers* webpage as part of an effort to speed the regulatory approvals needed to develop data centers, a core element of artificial intelligence (AI) infrastructure.^[1] This new online hub is intended to be a user-friendly resource that compiles existing guidance documents and other regulatory resources aimed at helping data center developers determine if they are subject to permitting requirements and navigate applicable Clean Air Act regulations.

In addition, to further ease permitting challenges for data centers, EPA notes on the website that EPA staff are “available to consult with permit reviewing authorities and individual sources on a case-by-case basis to identify existing data, models, and tools to demonstrate compliance and, as appropriate, exercise discretion and flexibilities in the permitting processes.”^[2] To assist with this goal, EPA has created its own data center team with contacts in EPA’s Office of Air and Radiation, and separately encourages data center developers to contact their appropriate EPA Regional office for assistance with permits.

The resource center was developed in response to President Trump's "*Removing Barriers to American Leadership in Artificial Intelligence*" Executive Order issued on January 23, 2025.^[3] Executive Order 14179 aimed to remove regulatory barriers that impede AI innovation and directed agencies to review regulations and policies inconsistent with this goal. The resource center also furthers two goals of EPA Administrator Lee Zeldin's "*Powering the Great American Comeback Initiative*"—making the United States the "AI capital of the world" and advancing cooperative federalism.^[4]

Clean Air Act Resource for Data Centers

EPA's *Clean Air Act Resource for Data Centers* site collects various preexisting guidance and regulatory resources aimed at streamlining Clean Air Act reviews. Together, the resources provide a roadmap for data centers to strategically position themselves to comply with applicable Clean Air Act obligations while keeping up with a fast-moving industry. Among other things, the linked information explains how to obtain permits without triggering costly "major source" requirements, start construction activities on non-emitting parts of facilities, and ensure that emissions from nearby sites under common control are not counted together for calculating compliance thresholds:

- ***Common emissions requirements for power sources.*** Stationary combustion turbines, stationary engines, and nonroad engines are common sources of power for data centers. These sources are sometimes subject to certain air emissions standards that may implicate permitting requirements, such as New Source Performance Standards, New Source Review (including Prevention of Significant Deterioration or Nonattainment New Source Review permitting, depending on whether the source is located in an area meeting the relevant national air quality standards), or the National Emission Standards for Hazardous Air Pollutants program. The resource hub collects all of these rules in one place, allowing regulated parties to check applicability with all relevant rules.
- ***Guidance for determining potential emissions, limiting actual emissions, and leveraging permits to avoid triggering Clean Air Act "major source" requirements.*** The most stringent permitting requirements for stationary sources of emissions—including stationary combustion turbines and stationary engines, both of which are commonly used at data centers—are found under the New Source Review program and Title V of the Clean Air Act. These programs are triggered when a source's total *potential* emissions (potential to emit, or PTE) exceeds certain thresholds, even if actual emissions are lower. However, even where a source's PTE is above the major source threshold, if the source has a federally enforceable permit that requires PTE to remain below that threshold, the source does not have to go through the major source permitting process. A stationary source using this approach is sometimes called a "synthetic minor source."

The data center resources website compiles past EPA guidance on how to obtain minor source permits that EPA views as sufficient to limit actual emissions, thereby avoiding avoid major source requirements. The key factor is that the permit limit must be federally enforceable, which EPA explains has two elements.^[5] First, the permit has to be issued either directly by EPA, or by a state pursuant to a state's EPA-approved permitting program or as an EPA-approved revision to a State Implementation Plan for National Ambient Air Quality Standards compliance.^[6] Second, the permit limit has to be "enforceable as a practical matter."^[7] EPA's guidance walks through different types of permits that can meet these requirements and allow

sources “legally avoid [Title V] program requirements by taking federally-enforceable permit conditions which limit emissions to levels below the applicable major source threshold.”^[8]

- ***Beginning construction on facilities.*** Certain Clean Air Act requirements are triggered by the start of “actual construction,” which is defined in the federal regulations as “initiation of physical on-site construction activities on an emissions unit which are of a permanent nature.”^[9] In the compendium of regulatory guidance for data centers, EPA offers two helpful pieces of clarification that could help new data centers speed construction.
 - First, EPA links to a September 2025 opinion letter where EPA interpreted the requirement to have a permit before “begin[ning] actual construction” as limited to starting construction on the “emissions unit”—meaning the “part of a stationary source that emits or has the potential to emit” a regulated constituent (see 40 C.F.R. § 52.21(b)(7))—and not to starting general construction on other parts of a facility.^[10] EPA explained that starting construction on any “parts of a facility that do not qualify as an emissions unit,” including foundations and superstructure, is permissible without a permit.
 - Second, as part of an effort to formalize this guidance, EPA points to a Notice of Proposed Rulemaking to revise the New Source Review preconstruction permitting program’s definition of “begin actual construction.”^[11] EPA’s proposed rule addresses which on-site construction activities an owner or operator may undertake that would not constitute construction activities on an emissions unit that are of a permanent nature. If finalized, this rule will provide flexibility for permitting authorities to determine, on a case-by-case basis, what constitutes beginning actual construction of a new stationary source or major modification of an existing source prior to which the source must obtain a New Source Review permit.
- ***Guidance on aggregation and consideration of non-adjacent sources for major source determinations under the New Source Review preconstruction permit program.***
 - An existing stationary source may trigger New Source Review when it undergoes a physical or operational change and there is a significant net increase in emissions from the source.^[12] To inform data center developers in evaluating whether New Source Review is triggered, EPA links to two regulatory actions on “aggregation.” The first is a 2009 regulation stipulating that when a stationary source undergoes physical or operational changes that are “nominally separate,” but “dependent on each other for their technical or economic availability,” the source must aggregate the increased emissions from the proposed changes to assess if they are significant enough to be considered a major modification.^[13] The second is a 2018 rule that provides a list of factors to be considered for determining when nominally-separate activities are considered a single project under New Source Review, including the timing of the changes, the characterization for financial purposes, statements made by industry representatives, and the interdependence of the changes.^[14]
 - EPA additionally links to guidance that provides the agency’s interpretation of when multiple air pollution-emitting activities are located on sufficiently “adjacent” properties to one another that they should be considered a single source for the purposes of permitting. To be considered a single source, the activities must be under common control, located on contiguous or adjacent properties, and they

must fall under the same major group standard industrial classification code.^[15] This guidance could be useful to data centers with multiple proximate, but non-adjacent, properties.

- ***Upcoming Final Rule to amend the new source performance standards for stationary combustion and gas turbines.*** The resource hub also points to a new rule that, if finalized as proposed, will establish size-based subcategories that recognize the distinctions between turbines that operate at varying loads as well as natural gas or fuels. In general, the proposed rule calls for combustion controls with the addition of post-combustion selective catalytic reduction, a technology that converts nitrogen oxides (NO_x) into nitrogen and water. ^[16]
- ***Guidance on modeling and air quality testing.*** EPA links to several modeling guidance documents to help data centers demonstrate compliance with the Clean Air Act and lists preferred models to use in the Prevention of Significant Deterioration program.^[17] Because minor sources are not required to obtain a Prevention of Significant Deterioration or nonattainment New Source Review permit, these guidance documents would generally be applicable if a data center exceeded an applicable major source threshold.

^[1] Press Release, U.S. EPA, *EPA Unveils Clean Air Act-Related Resource to Provide Transparency for Data Center Developers, Local Communities, Tribes* (Dec. 11, 2025), <https://www.epa.gov/newsreleases/epa-unveils-clean-air-act-related-resource-provide-transparency-data-center-developers>; U.S. EPA, *Clean Air Act Resources for Data Centers*, <https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-resources-data-centers>.

^[2] U.S. EPA, *Clean Air Act Resources for Data Centers*, <https://www.epa.gov/stationary-sources-air-pollution/clean-air-act-resources-data-centers>.

^[3] Exec. Order No. 14,169, 90 Fed. Reg. 8,741 (Jan. 23, 2025).

^[4] Press Release, U.S. EPA, *EPA Administrator Lee Zeldin Announces EPA's "Powering the Great American Comeback" Initiative* (Feb. 4, 2025), <https://www.epa.gov/newsreleases/epa-administrator-lee-zeldin-announces-epas-powering-great-american-comeback>.

^[5] Letter from Terrell Hunt, Associate Enforcement Counsel, Office of Enforcement and Compliance Monitoring, U.S. EPA, *Guidance on Limiting Potential to Emit in New Source Permitting* (June 13, 1989), <https://www.epa.gov/sites/default/files/2015-07/documents/lmitpotl.pdf>.

^[6] *Id.*

^[7] *Id.*

^[8] Letter from John Seitz, Director, Office of Air Quality Planning and Standards, U.S. EPA, *Options for Limiting Potential to Emit (PTE) of a Stationary Source under Section 112 and Title V of the Clean Air Act* (Jan. 25, 1995), <https://www.epa.gov/sites/default/files/2015-08/documents/ptememo.pdf>.

^[9] 40 C.F.R. § 51.165(a)(1)(xv).

[10] Letter from Aaron Szabo, Assistant Administrator for Air and Radiation, U.S. EPA to Philip McNeely, Director, Maricopa County Air Quality Department (Sep. 2, 2025), <https://www.epa.gov/system/files/documents/2025-09/tsmc-arizona-begin-actual-construction-epa-response-letter.pdf>.

[11] U.S. EPA, Revision to “Begin Actual Construction” in the New Source Review Preconstruction Permitting Program, Spring 2025 Unified Agenda, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=2060-AW84>.

[12] See 40 C.F.R. § 52.21(b)(2)(i).

[13] Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Aggregation and Project Netting, 74 Fed. Reg. 2,376 (Jan. 15, 2009).

[14] Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Aggregation; Reconsideration, 83 Fed. Reg. 57,324 (Nov. 15, 2018).

[15] Letter from Anne Idsal, Acting Assistant Administrator of Air and Radiation, *Interpreting “Adjacent” for New Source Review and Title V Source Determinations in All Industries Other Than Oil and Gas* (Nov. 26, 2019), https://www.epa.gov/sites/default/files/2019-12/documents/adjacent_guidance.pdf.

[16] Review of New Source Performance Standards for Stationary Combustion Turbines and Stationary Gas Turbines, 89 Fed. Reg. 101,306 (Dec 13, 2024); see also U.S. EPA, Stationary Combustion Turbines New Source Performance Standards (NSPS) Technology Review, Spring 2025 Unified Agency, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=2060-AW21>.

[17] E.g., U.S. EPA, *Clean Air Act Permit Modeling Guidance*, <https://www.epa.gov/scram/clean-air-act-permit-modeling-guidance>.

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