

Senate Bill 3 – Data Center Regulations

Lancaster City Council votes to pass amendment to regulate data centers

<https://www.wgal.com/article/lancaster-city-council-votes-pass-amendment-regulate-data-centers/71937439>

By: Tasmin Mahfuz

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The Lancaster City Council voted to pass an amendment to regulate data centers in the city of Lancaster on Tuesday night.

A motion to amend a proposed zoning ordinance clarifies that two data centers approved before June 24 will be permitted.

The ordinance, already approved in a previous meeting, would allow the two current data center projects on 216 Greenfield Road and 1375 Harrisburg Pike to continue. Council members say it was negotiated under a community benefits agreement between former Mayor Danene Sorace's administration and Chirisa Technology Parks.

The council says the amended ordinance puts in protections for future data centers to reduce the number of properties that could be approved.

Residents who attended the meeting said they were blindsided by the projects that are currently under construction, would like to see them paused and expressed how they could affect their quality of life.

"In all these meetings, not a single resident has stood up here to advocate for these data centers, with good reason, the evidence is clear about the damage they'll cause -- noise pollution, water pollution and overtaxing the power grid. Our electrical grid has been in shock since the July 4th storms. Imagine adding two data centers that will consume as much energy yearly as all of Lancaster City," said one resident.

"We do not have the ability to ban a use in the Commonwealth of Pennsylvania without action from the legislature. The ordinance, if passed, would limit data center development to just 16 parcels and only by special exception and only after public hearing and providing numerous reports," said Lancaster City Council Vice President John Hursh.

Tuesday's vote cuts 200 potential sites to 16 properties in the future to build data centers. The council also said the current agreement with Chirisa has a noise mitigation plan and annual air quality reports. It will also use air cooling and a closed-loop water system for cooling that won't require a regular supply of water.

Some council members said they are voting to approve the regulations but would like to see stronger text including a vibration study and a study on inaudible low frequency and infrasound.

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EPA Hands Over AI Data Center Regulation to States and Communities to Develop Best Practices

<https://www.crowell.com/en/insights/client-alerts/epa-hands-over-ai-data-center-regulation-to-states-and-communities-to-develop-best-practices>

June 23, 2026

What You Need to Know

Key takeaway #1

EPA's decision not to set nationwide environmental standards for AI data centers eliminates a potential layer of regulatory complexity but does not suspend existing environmental obligations.

Key takeaway #2

With EPA stepping back, citizen suits under the Clean Air Act and Clean Water Act may increasingly become a tool for environmental advocates and a threat to data center developers and operators.

Key takeaway #3

Without a national permitting mandate, data center developers will likely face an increasingly inconsistent patchwork of state and local environmental, permitting, and land use requirements across jurisdictions, requiring vigilant attention to regulatory updates.

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Overview

The nation's power grid and infrastructure are facing increased pressure from artificial intelligence (AI) data centers, prompting new questions around environmental regulatory design and compliance. As technology companies race to build and expand new data center factories, they face a web of permitting requirements as well as potential community opposition, and environmental litigation — all against a backdrop of rapid and still-evolving agency guidance.

EPA's Evolving Approach to Data Center Permitting

The rapid growth of AI data centers has generated a flurry of activity — in litigation, in Congress, from the Executive Branch, and at federal agencies — but a cohesive regulatory landscape has yet to emerge. In May 2025, EPA issued regulatory guidance, in the form of a press release and FAQs, permitting certain emergency engines to operate up to 50 hours per year in non-emergency conditions to ensure power grid reliability for data centers.[1] In September 2025, EPA issued new guidance on New Source Review (NSR) preconstruction permitting requirements, providing flexibility to begin certain non-emissions-related building activities prior to obtaining a Clean Air Act (CAA) permit.[2] Then, in January 2026, EPA convened a roundtable with the Data Center Coalition, the trade association for the data center industry, to discuss how the rapid growth of data centers can be harnessed.[3]

Most recently, EPA in May 2026 proposed to further clarify preconstruction permitting requirements for building non-emitting components or structures prior to obtaining a major NSR permit to support power generation, data centers, and manufacturing.[4] Following that proposed rule, EPA Administrator Lee Zeldin announced at the Politico Energy Summit on June 10, 2026, that EPA will not pursue any nationwide environmental requirements or recommendations targeting the AI industry.[5] While acknowledging that technologies exist to reduce water consumption and air pollution from data centers, Zeldin stated that determining appropriate practices for each facility is a matter for states and local communities, not EPA. The announcement shifts the burden for data center environmental regulation to state and local governments, creating a potentially fragmented regulatory landscape. At the same time, civil rights and environmental advocacy organizations are increasingly using citizen suits to enforce environmental laws.

Citizen Suits as an Enforcement Tool in a Federal Regulatory Vacuum

On April 14, 2026, the NAACP, the Southern Environmental Law Center, and Earthjustice filed a citizen suit under the CAA against xAI and its subsidiary, MZX Tech, alleging that the companies operated 57 unpermitted portable methane gas turbines to power xAI's Colossus 2 data center in South Memphis without obtaining the required air permits.[6] The suit seeks substantial penalties and alleges that the unpermitted operations create added health risks for families in South Memphis and neighboring North Mississippi.[7][8] Beyond its project-specific implications, the suit is a likely harbinger of further environmental litigation against AI data centers by third-party organizations.

DOJ's Motion to Intervene Seeking to End Citizen Suit

In a surprising move, on June 16, 2026, the Department of Justice filed a motion to intervene, seeking to throw out the lawsuit against xAI. Senior DOJ officials who signed the filing argued that the NAACP's lawsuit poses a national security threat by seeking to shut off the power supply for AI infrastructure that directly supports the Department of War's military operations, framing xAI's unpermitted gas turbines as essential to American AI dominance. The DOJ further aggressively contended on constitutional grounds that the federal executive branch holds exclusive authority to enforce federal law, and that private citizens and organizations cannot pursue CAA citizen suits over the government's objections.[9] If accepted, DOJ's theory would seriously inhibit citizen suits under the CAA, weakening Congress's grant of a private right of action. DOJ's theory also raises separation of powers concerns – allowing the executive branch to control which cases reach the judiciary. While it's unlikely that the court will accept DOJ's novel theory, its consequences would be extremely broad, making this an essential case to watch.

Compliance Considerations for the AI Industry

While Zeldin's announcement removes the immediate prospect of nationwide environmental mandates and controls, it creates new uncertainty as states and localities step in to regulate and may prompt additional citizen suits by environmental organizations to enforce federal laws. Thus, while state environmental agencies, public utility commissions, and local land use authorities may become the primary regulators of data center environmental impacts, compliance with federal law can mitigate the risk from citizen suits and to environmental enforcement from future presidential administrations.

These factors drive the need for careful consideration of the implications of a federal regulatory vacuum. Voluntary adoption of best practices — including permitting and adoption of efficient technologies such as closed-loop cooling systems — may become an important hedge against state regulatory action and reputation risk. Data center operators powering facilities with gas turbines or other combustion equipment should carefully assess whether their operations trigger major source permitting thresholds and subsequent citizen suits.

How Industry Actors Can Remain Proactive

While EPA's decision to forgo nationwide environmental standards for AI data centers simplifies the development process, it does not eliminate environmental risks or litigation. To remain compliant and ahead of rapid changes, companies should consider:

Auditing environmental permit status before breaking ground. Confirm whether existing or planned operations trigger environmental permit requirements, including major source thresholds under the CAA, before commencing construction or operation. Until the May 2026 proposed rule is finalized, major NSR permits remain required prior to any construction.

Monitor state and local regulatory developments continuously. With EPA explicitly deferring to states and localities, the regulatory environment will vary significantly by jurisdiction. Companies should track legislative activity, permitting rule changes, and enforcement trends in every state where they operate or plan to develop.

Proactively assess potential citizen suit exposure. Citizen suits challenging AI data centers under the CAA, Clean Water Act, and other major environmental statutes may be on the rise. Companies should evaluate whether their operations present the kind of alleged violations that could attract citizen suits and take possible corrective actions before a 60-day notice letter arrives.

Coordinate with legal counsel on permitting strategy. Given the pace of regulatory change and the complexity of overlapping federal, state, and local requirements, companies should ensure that legal counsel is integrated into location siting, permitting, and construction planning from the outset, rather than being brought in reactively when a violation is alleged.

The Crowell & Moring team will continue to monitor updates and post updates to assist companies navigate this fast-developing legal landscape.