

## **Alert** | Digital Infrastructure



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### **Trump Administration Seeks to Streamline Federal Permitting for Data Centers with New Executive Order and Action Plan**

Data center developers face a dizzying set of energy and environmental regulations and permitting requirements at both the federal and state levels. Securing the necessary approvals can be an expensive and protracted process. The Trump administration hopes to change that starting with an executive order on [“Accelerating Federal Permitting of Data Center Infrastructure,”](#) (EO), along with [“Winning the Race: America’s AI Action Plan,”](#) both issued on July 23, 2025.

The EO and the Action Plan seek to reshape the federal regulatory landscape for constructing data centers and associated power-generation infrastructure by directing federal agencies to establish tailored environmental review frameworks and streamlined permitting processes.

#### **Presidential Directive to Speed Up Data Center & Power Infrastructure Development**

The EO targets “Data Center Projects” that require greater than “100 megawatts (MW) of new load dedicated to AI inference, training, simulation, or synthetic data generation.” It directs the executive branch to accelerate permitting and approvals for “Qualifying Projects,” which includes Data Center Projects with an incremental electrical load of greater than 100 megawatts, have committed at least \$500 million in capital expenditures, or protect national security.

Importantly, Qualifying Projects include both Data Center Projects and “Covered Components” associated with data centers, including power sources constructed or otherwise used for Data Center Projects (specifically, “natural gas turbines, coal power equipment, nuclear power equipment, geothermal power equipment, and any other dispatchable baseload energy sources”), electrical transmission infrastructure, natural gas pipelines, substations, semiconductors, networking equipment, and data storage systems. To fast-track development of Qualifying Projects, the EO directs the:

- **Administrator of the Environmental Protection Agency** to develop or modify regulations implementing key environmental statutes including the Clean Air Act, Clean Water Act, and Comprehensive Environmental Response, Compensation and Liability Act to accelerate permitting on federal and non-federal lands, and issue guidance to speed up environmental reviews for projects on Brownfield and Superfund sites.
- **Secretaries of the Interior and Energy** to initiate a programmatic consultation under section 7 of the Endangered Species Act for Qualifying Projects that may be developed over the next decade and impact listed species and their habitats, and to authorize use of federal lands for these projects.
- **Secretary of the Army** to consider establishing a Clean Water Act Section 404 nationwide permit for Qualifying Projects.
- **Secretary of Defense** to identify sites on military installations for Covered Components and competitively lease lands for Qualifying Projects.
- **Council on Environmental Quality** to coordinate with agencies to identify currently applicable categorical exclusions, and establish new categorical exclusions, under the National Environmental Policy Act (NEPA).
- **Federal Permitting Improvement Steering Council** to designate Qualifying Projects as FAST-41 projects.
- **Secretary of Commerce** to provide loans, loan guarantees, grants, tax incentives, and/or offtake agreements. Additionally, if this financial assistance comprises less than 50% of a Qualifying Project’s cost, the EO declares that the financial assistance shall not be considered a major federal action subject to NEPA review.

### **AI Action Plan Provides Innovation-Focused Policy Recommendations**

The AI Action Plan complements the EO with 90 specific policy recommendations aimed at removing regulatory barriers to AI infrastructure development. Many of the environmental and energy-focused recommendations are included in the EO, such as establishing new NEPA review categorical exclusions, considering an activity-specific nationwide Section 404 permit, and streamlining air, water, and waste regulations.

Although the Action Plan discusses stabilizing and optimizing grid reliability, absent from both the Action Plan and the EO is express direction to the Federal Energy Regulatory Commission (FERC), the agency responsible for power transmission. FERC has raised concerns about grid reliability and costs associated with co-locating data centers with power-generating facilities rather than adding new power to regional grids. For example, earlier this year, [FERC issued a show cause order](#) to PJM Interconnection, L.L.C. (the largest regional grid operator) questioning whether PJM’s tariff adequately and fairly addresses co-located customers and load.

## Opportunities Abound, but Challenges Remain for Project Developers and the Energy Sector

Data center load energy use doubled during the past decade and is projected to double or triple by 2028, according to a [December 2024 report](#) by the Lawrence Berkely National Laboratory. The report predicts data centers will consume 6.7 to 12% of total U.S. electricity. The facilities require consistent baseload power and reliable backup power to ensure uninterrupted operations. Currently, most data centers use diesel generators for backup power, which can become major sources of air pollution if run for a significant amount of time.

Developing and operating data centers and the associated power-generation infrastructure typically necessitates multiple federal, state, and/or local permits and approvals. In addition to air permits, data centers also require large volumes of water for cooling purposes, requiring developers to procure water rights or approvals from municipal systems to address the water supply and wastewater management. These cooling systems, together with the core data center, power generation, and power transmission infrastructure can also have large footprints and must be evaluated for potential impacts to protected species, wetlands, and cultural resources to determine what, if any, additional permits and approvals are required.

Navigating air, water, power, and land issues often is a protracted, and expensive, affair. The EO is an important first effort to reform federal permitting for critical infrastructure to keep pace with evolving AI technology. Streamlined processes could help reduce project timelines and some regulatory compliance costs, and potentially focus data center projects and associated infrastructure towards federal lands.

The success of the federal streamlining initiatives will depend on the ability of affected federal agencies to implement these sweeping directives amongst a growing number of priorities for this administration, exacerbated by significant budget cuts and personnel losses. Even if federal agencies successfully reduce permitting burdens, developers will still need to navigate state requirements, particularly related to air and water permitting, and local siting approvals.

## Authors

This GT Alert was prepared by:

- [Courtney M. Shephard](#) | +1 303.572.6531 | [Courtney.Shephard@gtlaw.com](mailto:Courtney.Shephard@gtlaw.com)
- [Bernadette M. Rappold](#) | +1 202.331.3127 | [rappoldb@gtlaw.com](mailto:rappoldb@gtlaw.com)
- [Eric Waeckerlin](#) | +1 303.685.7444 | [Eric.Waeckerlin@gtlaw.com](mailto:Eric.Waeckerlin@gtlaw.com)
- [Joshua B. Forman](#) | +1 305.579.0500 | [Josh.Forman@gtlaw.com](mailto:Josh.Forman@gtlaw.com)
- [Chelsea Pullen](#) | +1 703.903.7533 | [pullenc@gtlaw.com](mailto:pullenc@gtlaw.com)
- [Shawn K. Ronda](#) | +1 312.476.5137 | [rondas@gtlaw.com](mailto:rondas@gtlaw.com)

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