

United States Senate

WASHINGTON, DC 20510

October 1, 2026

[Data Center owner/operators]

Dear XX,

We write regarding the rapid expansion of data center infrastructure across the United States and the importance of ensuring communities have a meaningful voice in decisions about projects that may affect the air they breathe.

Data center development is expanding across the country at an unprecedented rate, raising important questions from communities about impacts on electricity costs, water supply and safety, utility costs, air quality, noise, and more. As your industry continues to grow, developers have a responsibility to work transparently with the communities being asked to host these facilities.

That responsibility is particularly important in light of the Environmental Protection Agency's (EPA) July 2026 proposed rule that would eliminate longstanding minimum federal requirements for public notice and comment before certain new or modified sources of air pollution receive authorization to construct.

The Clean Air Act's New Source Review (NSR) program requires certain new or modified sources of air pollution to obtain permits and meet applicable air pollution control requirements before construction. Minor New Source Review ("Minor NSR") applies to sources with the potential to emit up to 249 tons per year of non-greenhouse gas pollution, such as particulate matter, NO_x, or SO₂,¹ and any amount of greenhouse gas pollution.

Despite the name, "minor sources" can be large, health-harming facilities. The category includes tens of thousands of sources nationwide, including almost all of the proposed fossil fuel-fired power plants and generators that would power data centers like yours.² These sources can significantly impact the health of surrounding communities. An estimated 80 million Americans, including approximately 17 million children, already live within 3 miles of a fossil fuel-fired

¹ Maxine Joselow, "E.P.A. Moves to Curb Public Input on Data Centers", *The New York Times* (Aug. 25, 2026), *See e.g.*, <https://www.edf.org/media/statement-epa-should-withdraw-proposal-would-erase-public-notice-and-comment-air-pollution>.

² 40 C.F.R. § 51.161(a)–(b); Minor New Source Review Program Air Permitting Public Participation Requirements for State Implementation Plans, (July 7, 2026), <https://www.federalregister.gov/documents/2026/07/07/2026-13667/minor-new-source-review-program-air-permitting-public-participation-requirements-for-state>

power plant,³ and these numbers will only grow as companies like yours build new power generation to power additional data centers.

States and local agencies administer minor NSR programs to ensure that construction does not interfere with federal air quality standards designed to protect the public health. While they have flexibility in administering these programs, for more than 50 years, federal requirements have included an opportunity for communities to understand and provide input on proposed facilities that may affect the air they breathe. Under current regulations, state and local permitting authorities must make relevant permit information and their analysis of a project's air quality impacts available for at least 30 days of public comment.⁴

EPA's proposal would eliminate that federal baseline and allow state and local permitting authorities to substantially scale back or even eliminate notice requirements and opportunities for public participation.⁵

As you know, data centers often rely on diesel generators, gas turbines, or other equipment that emit harmful pollution. As data center construction accelerates, communities are asking important questions about local impacts, including air quality. EPA should maintain public participation requirements in the permitting process, but as EPA finalizes this rule, data center companies like yours also have a responsibility not to use weaker requirements to limit public participation or communities' ability to meaningfully shape decisions that affect them. We strongly urge you to commit to providing timely notice of proposed facilities, information about potential air quality impacts, and a meaningful opportunity for affected communities to provide input before air permits are approved.

Public participation and efficient development go hand in hand. Early and transparent engagement is critical to identifying concerns before they become disputes, giving communities and developers a clearer understanding of potential impacts, and building the public trust necessary to responsibly develop infrastructure at scale.

With this in mind, please respond to the following questions by October 23:

1. Did your company or any organization acting on its behalf communicate with EPA, the White House, or any other federal agency regarding the public participation requirements applicable to minor NSR permits or the rule proposed by EPA? If so, please provide the relevant communications and describe the position your company advocated.

³ Memo from the Congressional Research Service to Senate Committee on Environment and Public Works, "Total Population within Specified Distance of Fossil-Fueled Power Plants (July 10, 2025); EPA, "Power Plants and Neighboring Communities," <https://www.epa.gov/power-sector/power-plants-and-neighboring-communities>; Per the 2023 U.S. Census, 21.7% of the United States population is under 18. U.S. Census Table S0201, <https://data.census.gov/table/ACSSPP1Y2023.S0201?q=percent+of+population+that+is+children>.

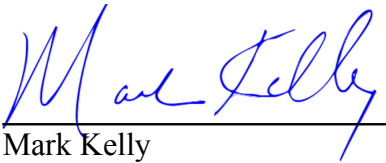
⁴ 40 C.F.R. § 51.161(a)–(b); Public availability of information. <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-C/part-51/subpart-I/section-51.161>

⁵ 42 U.S.C. § 7479.

2. Does your company currently have a policy or set of standards governing community engagement before constructing or significantly expanding a data center? If so, please describe the public notice, comment and consideration of community input.
3. If EPA finalizes its proposed rule, will your company commit to providing affected communities with at least the level of public participation currently required under regulations (40 C.F.R. § 51.161)? Will you provide access to relevant permit information and at least 30 days of public comment even where state or local law do not require this level of community engagement?

America can build the infrastructure needed to compete and innovate while keeping communities informed and involved in the decisions that affect them. We look forward to working with you to achieve this goal and receiving your response.

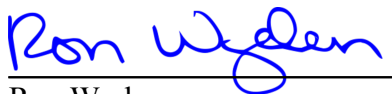
Sincerely,



Mark Kelly
United States Senator



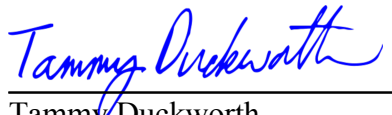
Sheldon Whitehouse
United States Senator
Ranking Member
Committee on Environment
and Public Works



Ron Wyden
United States Senator



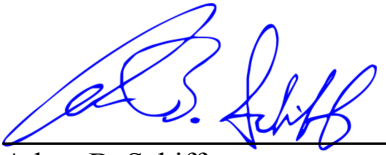
Martin Heinrich
United States Senator



Tammy Duckworth
United States Senator



Ruben Gallego
United States Senator

A handwritten signature in blue ink, appearing to read "A.B. Schiff", is positioned above a horizontal line.

Adam B. Schiff

United States Senator