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Summary of Trump Administration's Release of AI Action Plan



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Earlier this week, President Trump signed an Executive Order as part of the release of his AI Action Plan entitled “Winning the AI Race: America's AI Action Plan.” Led by White House AI and Crypto Czar, David Sacks, the plan's release follows a larger White House summit on AI attended by the President. The plan has three core components: (1) addressing regulatory barriers, (2) building AI infrastructure, and (3) leading in AI diplomacy and security.

This initiative is driven by tech leaders who have advocated streamlined permitting for data centers and their energy generation sources. The announcement states the goal of: “Expediting and modernizing permits for data centers and semiconductor fabs, as well as creating new national initiatives to increase high-demand occupations like electricians and HVAC technicians.”

- First, the Action Plan specifically requests new Categorical Exclusions under the National Environmental Policy Act (NEPA) to cover data center related actions “that normally do not have a significant effect on the environment.”
- Second, it advocates expanding the use of the FAST-41 program to include qualifying data center and related energy projects on the Permitting Dashboard.
- Third, the President calls for the potential use of a national Clean Water Act section 404 permit for data centers to obviate the needs for a Pre-Construction Notification. This national permit would be applicable to “development sites consistent with the size of a modern AI data center.”
- Fourth, the Action Plan orders expedited permitting by reducing regulations under the Clean Air Act, Clean Water Act, Comprehensive Environmental Response, Compensation and Liability Act, and “other relevant related laws.”
- Fifth, it directs making Federal lands available for data center construction and related power generation infrastructure. Agencies with large Federal land portfolios are directed to identify sites suitable for large-scale development.
- Finally, the Action Plan advocates expanding the number of agencies participating in the Department of Energy's PermitAI project to “accelerate and improve environmental reviews.”

A separate section of the Action Plan focuses on transmission security by



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protecting existing energy sources, implementing modern grid management technologies, and improving transmission planning and interconnection. The Action Plan distinguishes “reliable, dispatchable power sources,” such as geothermal and nuclear energy, as priorities for the power grid to meet increasing the demand from AI and data centers.

The Executive Order defines “Data Center Project” as a facility that requires greater than 100 MW of new load. It also identifies natural gas turbines, coal power equipment, geothermal power equipment, and any other dispatchable baseload energy sources as “Covered Components” of a data center project. To be considered a Qualified Project, the sponsor must commit at least $500 million in capital expenditure.

The Executive Order specifies that within 10 days, each relevant agency shall identify to the Council on Environmental Quality any categorical exclusions established or adopted that could facilitate the construction of Qualified Projects. It also specifies that common forms of federal financial assistance should not be considered a “major Federal action” under NEPA. Qualified Projects identified to the Federal Permitting Steering Council can be designated as a qualified project and published on the Permitting Dashboard.

The Administrator of the Environmental Protection Agency (EPA) is designated to assist in expediting permitting on both federal and non-federal lands through developing or modifying regulations under their jurisdiction. In addition, the Administrator is directed to identify Brownfield and Superfund Sites for use by Qualifying Projects. The Administrator is directed to develop guidance to expedite siting at these locations within 180 days.

The Department of the Interior (DOI) and Department of Energy (DOE) are tasked with consulting with industry and the Department of Commerce (DOC) to identify and authorize the use of federal land for data center locations. Upon identification of these sites, the Secretaries of the Interior and Energy shall initiate section 7 Endangered Species Act consultation for projects over the next 10 years through the use of programmatic consultation. Additionally, the Secretary of Commerce, in consultation with the Office of Science and Technology Policy, is directed to launch “an initiative to provide financial support for Qualifying Projects, which could include loans and loan guarantees, grants, tax incentives, and offtake agreements.”

With respect to water permitting, the Assistant Secretary for the Army of Civil Works is directed to determine if an activity-specific nationwide permit is needed to facilitate permits under section 404 of the Clean Water Act and section 10 of the Rivers and Harbors Act.

Finally, the Secretary of Defense is required to identify sites on military installations that would support Covered s (i.e., materials, products, and infrastructure) and leased areas for projects that would support mission needs.

Entities potentially impacted by the Action Plan and the Executive Order

should prepare strategies to engage with EPA, the Army Corps of Engineers, DOI, DOC, DOE, and the White House to assist in implementation. Both the Action Plan and Executive Order will generate policies and rulemakings across the Federal government and input from tech and energy leaders will be crucial to ensure that streamlining initiatives are effective. It will be important to know who at the White House and the various involved Federal agencies is tasked with streamlining the existing environmental regulatory process for data centers. Where wind or solar projects might require permits from agencies within the DOI, it will be critical to understand how this Executive Order interacts with the new requirement for Secretarial review of wind and solar permitting decisions.

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