Congress of the United States

Washington, DC 20515

September 23, 2026

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue N.W.
Washington, DC 20460

Dear Administrator Zeldin:
We write in opposition to the Environmental Protection Agency (EPA)'s misguided and costly decision to exempt "islanded" fossil fuel-fired power plants from the acid rain program (ARP).

EPA explicitly bills its new guidance as a means to facilitate data center development.[1] In so doing, EPA misapprehends its own mission, which is to "protect human health and the environment," as stated in black and white on the agency's own website.[2]

EPA's new ARP guidance is a handout to the richest and most powerful companies in the world. And this handout comes at the expense of Americans' health and the safety of our ecosystems and communities that were, prior to the inception of the ARP, regularly drenched in dangerous acidic rainfall.

The ARP was established via statute as part of the bipartisan Clean Air Act amendments of 1990, signed into law by President George H.W. Bush. The ARP requires emissions reductions of sulfur dioxide (SO2) and nitrogen oxides (NOx) from the power sector, including through a national cap-and-trade program which sets a cap on emissions of sulfur dioxide. SO2 and NOx are both harmful to human health: they damage the respiratory system and can worsen heart disease,[3] and they are associated with adverse pregnancy and birth outcomes, kidney damage, autoimmune disorders, and cancer.[4]

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[1] United States Environmental Protection Agency [EPA], "EPA Issues Permitting Guidance to Further President Trump's Agenda Promoting Data Centers and Safeguarding Communities" (July 27, 2026), https://www.epa.gov/newsreleases/epa-issues-permitting-guidance-further-president-trumps-agenda-promoting-data-centers

[2] United Stated Environmental Protection Agency, "Our Mission and What We Do," https://www.epa.gov/aboutepa/our-mission-and-what-we-do

[3] National Park Service, "Sulfur Dioxide Effects on Health" (Oct. 25, 2024), https://www.nps.gov/subjects/air/humanhealth-sulfur.htm; American Lung Association, "What Is Nitrogen Dioxide?" (Oct. 26, 2023), https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/nitrogen-dioxide

[4] American Lung Association, "What Is Nitrogen Dioxide?" (Oct. 26, 2023), https://www.lung.org/clean-air/outdoors/what-makes-air-unhealthy/nitrogen-dioxide

SO2 and NOx are also the primary causes of acid rain, which is exactly what it sounds like.[5] Because wind patterns blow pollution east across the United States, in the years before the ARP was established acid rain fell primarily in the midwestern and eastern United States, where it poisoned rivers, lakes, and streams; damaged forests; killed and sickened aquatic animals; and corroded buildings, monuments, and statues.[6]

Under the ARP, sources have the flexibility to select the most cost-effective approach to reduce emissions—whether that be selecting the emissions control technology or practice that works best for them or purchasing emissions credits from better-performing sources.[7] Using a market-based system to reduce emissions has been enormously successful: the ARP has driven SO2 and NOx emissions down farther and faster than required, and more cheaply than expected.[8] And the benefits speak for themselves: EPA found in 2010, two decades after the ARP's inception, that the annual public health benefits of the program were worth more than $120 billion; at least 40 times the annual cost.[9] That math does not even account for the reduction in acid rain itself, which is also significant: recent data showed an 81% reduction in the number of monitored streams and lakes that experienced harmful acid levels.[10] As of this year the ARP—together with more recent clean air programs including the cross-state air pollution rule (CSAPR)—has delivered annual reductions in NOx and SO2 of over 89% and 95%, respectively.[11]

Fossil fuel combustion is the largest source of both NOx and SO2 pollution nationwide.[12] Bizarrely, under EPA's new guidance, massive new gas-fired power plants large enough to power cities would be exempt from NOx and SO2 caps under the ARP only as long as they do not serve the public electricity grid and instead exclusively power a privately-owned data center. This is a perverse outcome, and it is contrary to Congress's design for the Clean Air Act, which creates specific and comprehensive regulatory requirements for significant pollution sources like these. Many Clean Air Act programs divide regulations by new and existing pollution sources—requiring stricter standards for "new" sources that can implement appropriate standards as part of their original build, rather than retrofitting them later onto an aging source. This is a cost-conscious measure meant to account for developing technology while allowing aging and near-retirement sources to avoid unmanageable costs where appropriate. The ARP guidance is completely contrary to this regulatory scheme. Here, EPA is specifically exempting new, highly-

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[5] EPA, "What is Acid Rain?" (Feb. 13, 2026), https://www.epa.gov/acidrain/what-acid-rain

[6] EPA, "What is Acid Rain?"; United States Geological Survey, "Acid Rain and Water" (Aug. 2, 2019), https://www.usgs.gov/water-science-school/science/acid-rain-and-water; Adirondack Council, "What is Acid Rain?" (2025), https://www.adirondackcouncil.org/adirondack-conservation-and-advocacy/clean-water/acid-rain/; Cary Institute of Ecosystem Studies, "Guide to acid rain: Causes, effects, and ongoing solutions" (2026), https://www.caryinstitute.org/news-insights/2-minute-science/guide-acid-rain-causes-effects-and-ongoing-solutions

[7] Clean Air Act Title IV – Subchapter A: Acid Deposition Control, 42 USC § 7651-7651o

[8] The White House, "Acid Rain Program Benefiting Environment, Human Health" (Jan. 19, 2012), https://obamawhitehouse.archives.gov/blog/2012/01/19/acid-rain-program-benefiting-environment-human-health

[9] EPA, "EPA Delivers 15 Years of Acid Rain Reductions" (Dec. 20, 2010), https://www.epa.gov/archive/epapages/newsroom_archive/newsreleases/964ff006fec32134852577ff0068637b.html

[10] EPA, "Acid Rain Program Results", https://www.epa.gov/acidrain/acid-rain-program-results.

[11] *Id.*

[12] EPA, "Sulfur Dioxide Basics" (Jan. 2, 2026), https://www.epa.gov/so2-pollution/sulfur-dioxide-basics; EPA, "Basic Information about NO2" (June 24, 2026), https://www.epa.gov/no2-pollution/basic-information-about-no2#What%20is%20NO2

polluting sources owned by companies with near unlimited capital from any obligation to adopt the basic, long-established control standards that apply to existing facilities.

In order to help us better understand the newly-issued ARP guidance for data centers, please respond to the following questions by October 7, 2026:

1. Did EPA do any modeling to see how increased SO2 and NOx emissions from "islanded" power plants would affect human health and the environment? If so, did EPA estimate the costs associated with such increased pollution? Please provide all modeling and other documents relating to any modeling or cost estimates done by EPA in relation to this new guidance.

2. Which companies, states, and state agencies contacted EPA regarding the islanded power generation facilities' compliance requirements with the Acid Rain Program? What were the methods and extent of communications with these entities?

3. Please provide any and all communication (emails, texts, phone logs, and any attached documents) EPA had with any operator, developer, or tenant of a data center regarding the ARP since January 20, 2025.

This decision is misguided, expensive, and regressive. We urge you to withdraw it.

Sincerely,

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

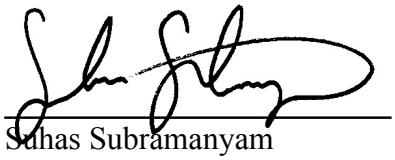
Jennifer L. McClellan
Member of Congress

Edward J. Markey
United States Senator

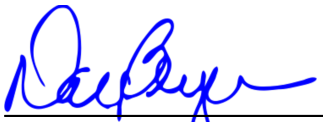
Chris Van Hollen
United States Senator



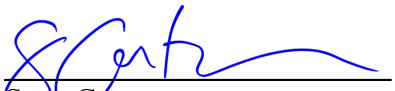
Alexandria Ocasio-Cortez
Member of Congress



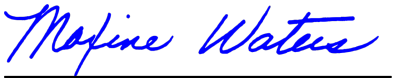
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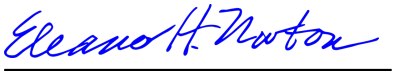
Donald S. Beyer Jr.
Member of Congress



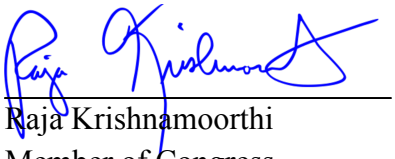
Sean Casten
Member of Congress



Maxine Waters
Member of Congress



Eleanor Holmes Norton
Member of Congress



Raja Krishnamoorthi
Member of Congress



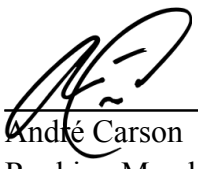
Eric Sorensen
Member of Congress



Dan Goldman
Member of Congress



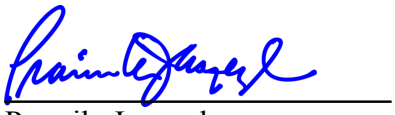
Madeleine Dean
Member of Congress



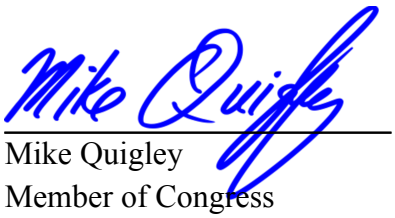
André Carson
Ranking Member, Aviation
Subcommittee



Steve Cohen
Member of Congress



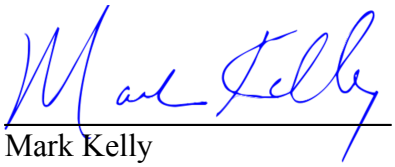
Pramila Jayapal
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Mike Quigley
Member of Congress



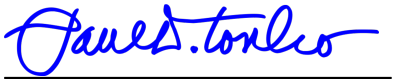
Jared Huffman
Member of Congress



Mark Kelly
United States Senator



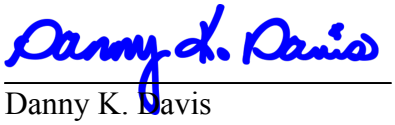
Veronica Escobar
Member of Congress



Paul D. Tonko
Member of Congress



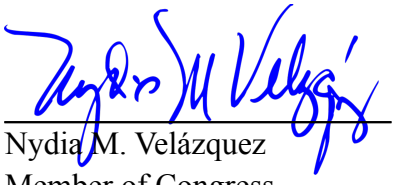
Dina Titus
Member of Congress



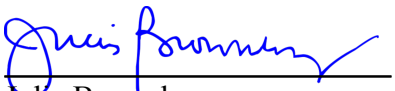
Danny K. Davis
Member of Congress



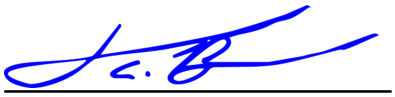
Seth Magaziner
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Nydia M. Velázquez
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Julia Brownley
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Cory A. Booker
United States Senator

Jan Schakowsky
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Adelita S. Grijalva
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