

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0202-24\_

SPONSOR: Brenda Jesus.

**TITLE: An Action Relating to Resources and Development Committee; Approving the Navajo Nation Clean Air Act Minor Source Program Regulations**

***Date posted:*** September 10, 2024 at 12:30PM

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**LEGISLATIVE SUMMARY SHEET**

Tracking No. 0202-24

DATE: September 5, 2024

**TITLE OF RESOLUTION:** AN ACTION RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE; APPROVING THE NAVAJO NATION CLEAN AIR ACT MINOR SOURCE PROGRAM REGULATIONS

**PURPOSE:** The purpose of this legislation is to approve the Navajo Nation Clean Air Act Minor Source Program Regulations, which will establish a permitting program for minor sources of air pollution located on the Navajo Nation.

**Final Authority:** Resources and Development Committee

**Vote Required:** Simple Majority

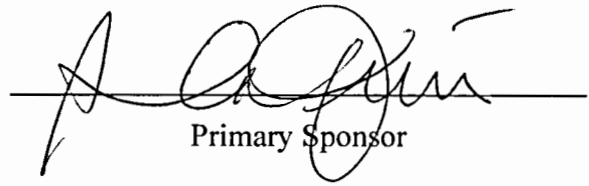
**This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each Council Delegate to review the proposed resolution in detail.**

OLC No. 24-090-1

5-DAY BILL HOLD PERIOD Al Mike III  
Website Posting Time/Date \_\_\_\_\_  
Posting End Date: 09/15/24  
Eligible for Action: 09/16/24

1 PROPOSED STANDING COMMITTEE RESOLUTION  
2 25<sup>th</sup> NAVAJO NATION COUNCIL—Second Year, 2024

3 INTRODUCED BY

4   
5  
6 Primary Sponsor

7  
8 TRACKING NO. 0202-24

9  
10 AN ACTION

11 RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE;  
12 APPROVING THE NAVAJO NATION CLEAN AIR ACT MINOR SOURCE  
13 PROGRAM REGULATIONS  
14

15 **BE IT RESOLVED:**

16 **SECTION ONE. AUTHORITY**

- 17 A. The Resources and Development Committee of the Navajo Nation Council has  
18 oversight over environmental protection “to oversee regulation of activities on  
19 Navajo Nation lands for disposition or acquisition of resources, surface  
20 disturbance, or alteration of the natural state of the resource, including the  
21 enforcement and administration of applicable Navajo Nation and federal laws,  
22 regulations, guidelines, and administrative procedures in the development and use  
23 of resources as a good steward.” 2 N.N.C. § 500(C); 500(C)(2).
- 24 B. The Resources and Development Committee of the Navajo Nation Council has  
25 the authority to “promulgate rules and regulations governing transportation,  
26 community development, local government units, land acquisitions for the Navajo  
27 Nation, environmental protection, and the use, sale, exchange, and development  
28 of Navajo Nation lands and/or resources, whether held in fee or in trust status. 2  
29 N.N.C. § 501(B)(1).  
30

1       **SECTION TWO. FINDINGS**

2       A. The Navajo Nation Environmental Protection Agency (or “Navajo EPA”) was  
3       established, among other things, to “protect the public health and the environment  
4       of the Navajo Nation through legislative proposals, monitoring and data  
5       collection, [and] rule making as may be authorized by the Navajo Nation Council,  
6       enforcement actions, public education, obtaining funding, and other appropriate  
7       means.” 2 N.N.C. § 1922(B).

8       B. The Navajo Nation Clean Air Act was approved by the Navajo Nation Council in  
9       order to create a coordinated program to control present and future sources of air  
10       pollution on the Navajo Nation, along with providing for the regulation of air  
11       pollution activities in a manner that ensures the health, safety and general welfare  
12       of all the residents of the Navajo Nation, protecting property values and  
13       protecting plant and animal life, among other purposes. 4 N.N.C. § 1102(A)(2).

14       C. Pursuant to the Navajo Nation Clean Air Act, including 4 N.N.C. §§ 1103,  
15       1112(A)(1)(c), and 1134(G), Navajo EPA has developed the Navajo Nation Clean  
16       Air Act Minor Source Program Regulations (or the “Minor Source Program  
17       Regulations”) herein attached as **Exhibit A**.

18       D. The Minor Source Program Regulations establish a permitting program for minor  
19       sources of air pollution located on the Navajo Nation. Navajo EPA will  
20       implement this permitting program in the place of the current federal permitting  
21       program, which will allow the Navajo Nation to have greater control over its air  
22       resources and greater protection of the environment and public health and welfare.

23       E. The Minor Source Program Regulations will require all minor sources of air  
24       pollution to obtain a “unitary” permit, which is a permit containing both  
25       preconstruction review and operating requirements related to air emissions. There  
26       are also permitting requirements for certain qualifying “modifications” to a new  
27       source or existing source of air pollution.

28       F. The Minor Source Program Regulations also allow Navajo EPA to develop a  
29       “general permit”, which is a permit that covers an entire category of activities.  
30       Sources that fall within the category would be covered by the general permit

1           rather than a site-specific permit. Registration requirements were also created for  
2           those sources of air pollution that emit less emissions than a “minor source”.

3           G. The proposed Minor Source Program Regulations were posted for public comment in  
4           accordance with Navajo EPA’s Uniform Regulations for Permit Review, Administrative  
5           Enforcement Orders, Hearings, and Rulemakings Under Navajo Nation Environmental  
6           Acts (the “Uniform Regulations”), Subpart 4.

7           H. Two public comment periods were held for the proposed Minor Source Program  
8           Regulations; one comment period in 2018 and another in 2021. As part of the public  
9           comment efforts, public hearings were also held by Navajo EPA in 2018 and 2021.

10          I. Two general permits (the General Permit for Gasoline Dispensing Facilities and the  
11          General Permit for Non-Major Sources and Minor Modifications to Non-Major Sources  
12          in the Oil and Gas Production and Natural Gas Processing Segments of the Oil and  
13          Natural Gas Sector) have already been developed by Navajo EPA, have gone out for  
14          public comment, and are herein attached for reference as **Exhibit B**.

15          J. In accordance with Section 408(a) of the Uniform Regulations, Navajo EPA  
16          developed its “Response to Comments” in 2019 and 2021, which are herein  
17          attached as **Exhibit C**.

18          K. The 164 Review Form (Document Number 016994) is attached as **Exhibit D**,  
19          including a review by the Navajo Nation Department of Justice deeming the  
20          Minor Source Program Regulations “legally sufficient”.

21          L. The Resources and Development Committee finds it in the best interest of the  
22          Navajo Nation to approve the Navajo Nation Clean Air Act Minor Source  
23          Program Regulations.

24  
25          **SECTION THREE. APPROVAL**

26          The Resources and Development Committee hereby approves the Navajo Nation  
27          Clean Air Act Minor Source Program Regulations herein attached as **Exhibit A**.