

THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0131-20\_\_

SPONSOR: Kee Allen Begay, Jr.

**TITLE: An Action Relating To Resources And Development; Approving The Navajo Nation Comprehensive Environmental Response, Compensation, And Liability Act (NNCERCLA) Regulations**

***Date posted: June 5, 2020 at 7:30 PM***

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**LEGISLATIVE SUMMARY SHEET**

**Tracking No. 0131-20**

**DATE:** June 4, 2020

**TITLE OF RESOLUTION:** PROPOSED STANDING COMMITTEE RESOLUTION;  
AN ACTION RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE  
NAVAJO NATION COMPREHENSIVE ENVIRONMENTAL RESPONSE,  
COMPENSATION, AND LIABILITY ACT (NNCERCLA) REGULATIONS

**PURPOSE:** The purpose of this legislation is to approve five Navajo Nation Comprehensive Environmental Response, Compensation, and Liability Act ("NNCERCLA") regulations regarding: Fees for Environmental Review Services; Release Reporting Regulations; Regulations Governing the Preservation of Records Under 4 N.N.C. § 2202; Regulations Governing Notice of Intent to bring a Citizen Suit Under 4 N.N.C. §2804; and Voluntary Cleanup Program Regulations.

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

5-DAY BILL HOLD PERIOD: J. Johnson  
Website Posting Time/Date: \_\_\_\_\_  
Posting End Date: 06-10-20  
Eligible for Action: 06-11-20

PROPOSED STANDING COMMITTEE RESOLUTION  
24<sup>th</sup> NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY

\_\_\_\_\_  
(Prime Sponsor) *W. Stewart*

TRACKING NO. 0131-20

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT; APPROVING THE  
NAVAJO NATION COMPREHENSIVE ENVIRONMENTAL RESPONSE,  
COMPENSATION, AND LIABILITY ACT (NNCERCLA) REGULATIONS

BE IT ENACTED:

**Section One. Authority**

- A. Pursuant to 2 N.N.C. Section §500(C), the Resources and Development Committee of the Navajo Nation Council has oversight authority over environmental protection.
- B. Pursuant to 2 N.N.C. Section §500(C)(2), the Resources and Development Committee of the Navajo Nation Council has the authority “[t]o oversee regulation of activities on Navajo Nation lands for disposition or acquisition of resources, surface disturbance, or alternation of the natural state of the resource, including the enforcement and administration of applicable Navajo Nation and federal laws, regulations, guidelines, and administrative procedures in the development and use of resources as a good steward.”
- C. Pursuant to 2 N.N.C. Section §501(B)(1), the Resources and Development Committee of the Navajo Nation Council has the power “[t]o promulgate rules and regulations governing transportation, community development, local government

1 units, land acquisitions for the Navajo Nation, environmental protection, and the  
2 use, sale, exchange, and development of Navajo Nation lands and/or resources,  
3 whether held in fee or trust status.”  
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## 5 **Section Two. Findings**

- 6 A. The Navajo Nation Comprehensive Environmental Response, Compensation, and  
7 Liability Act (“NNCERCLA”), Fees for Environmental Review Services,  
8 attached as **Exhibit A**, is promulgated pursuant to the NNCERCLA, 4 N.N.C. §  
9 2105(A) (11), for the purpose of preventing the release of hazardous substances  
10 on the Navajo Nation.
- 11 B. The Navajo Nation Comprehensive Environmental Response, Compensation, and  
12 Liability Act, Release Reporting Regulations, attached as **Exhibit B**, are  
13 promulgated pursuant to NNCERCLA, 4 N.N.C. §2801(A), for the purpose of  
14 reporting of releases of hazardous substances in accordance with 4 N.N.C. §2201.
- 15 C. The Navajo Nation Comprehensive Environmental Response, Compensation, and  
16 Liability Act, Regulations Governing the Preservation of Records Under 4 N.N.C.  
17 §2202, attached as **Exhibit C**, are promulgated to preserve records that have been  
18 created pursuant to the recordkeeping requirements of Section 103(d) of the  
19 Comprehensive Environmental Response, Compensation, and Liability Act  
20 (“CERCLA”), 42 U.S.C. §9603(c). These regulations prescribe (a) the notice to  
21 be given to the Director regarding the existence of facilities within the Navajo  
22 Nation at which hazardous substances are or have been stored, treated, or  
23 disposed of; (b) the records required to be retained under NNCERCLA §  
24 2202(A); (c) requirements for preserving these records; (d) procedures for waivers  
25 from the record preservation requirements; and (e) penalties for violations of the  
26 record-preservation requirements.
- 27 D. The Navajo Nation Comprehensive Environmental Response, Compensation, and  
28 Liability Act, Regulations Governing Notice of Intent to bring a Citizen Suit  
29 Under 4 N.N.C. §2804, attached as **Exhibit D**, authorizes any person to bring a  
30 civil action in Navajo Nation District Court to enforce the NNCERCLA. Such an  
action may

1 be brought against any person except the Navajo Nation or any instrumentality of  
2 the Navajo Nation, but not excepting tribal enterprises, who is alleged to be in  
3 violation of a requirement or standard of the NNCERCLA, a regulation  
4 promulgated pursuant to the NNCERCLA, or an agreement or order agreed to or  
5 issued pursuant to the NNCERCLA. This action must be filed in accordance with  
6 the rules of the Navajo Nation District Court in which the action is brought.  
7 These regulations prescribe the procedures governing the notice required by the  
8 NNCERCLA, 4 N.N.C. §2804 (B) as a prerequisite to the commencement of such  
9 civil actions.

10 E. The Navajo Nation Comprehensive Environmental Response, Compensation, and  
11 Liability Act, Voluntary Cleanup Program Regulations, attached as **Exhibit E**, are  
12 promulgated pursuant to 4 N.N.C. §2402. They set forth policies and procedures  
13 for a Voluntary Cleanup Program (“VCP”) to provide for voluntary cleanup  
14 activities at contaminated sites within the Navajo Nation that are not already  
15 undergoing or scheduled for remediation. These regulations include requirements  
16 for applications to the Voluntary Cleanup Program, VCP Agreements, and work  
17 plans. The VCP is intended to increase the pace of response activities at  
18 contaminated sites and to promote the economic security, political integrity, and  
19 health, welfare, and environment of the Navajo Nation by returning contaminated  
20 sites to economically productive uses.

21 F. The above five NNCERCLA regulations regarding Fees for Environmental  
22 Review Services; Release Reporting Regulations; Regulations Governing the  
23 Preservation of Records Under 4 N.N.C. §2202; Regulations Governing Notice of  
24 Intent to bring a Citizen Suit Under 4 N.N.C. §2804; and Voluntary Cleanup  
25 Program Regulations were published in newspapers August 23, 2012 and public  
26 hearings were conducted September 19-21, 2012. See attached **Exhibit F**,  
27 memorandum concerning the public hearings for NNCERCLA.

### 28 **Section Three. Approval**

29 A. The Resources and Development Committee of the Navajo Nation Council hereby  
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1 approves the Navajo Nation Comprehensive Environmental Response,  
2 Compensation, and Liability Act, Fees for Environmental Review Services  
3 attached as **Exhibit A.**

4 B. The Resources and Development Committee of the Navajo Nation Council hereby  
5 approves the Navajo Nation Comprehensive Environmental Response,  
6 Compensation, and Liability Act, Release Reporting Regulations attached as  
7 **Exhibit B.**

8 C. The Resources and Development Committee of the Navajo Nation Council hereby  
9 approves the Navajo Nation Comprehensive Environmental Response,  
10 Compensation, and Liability Act, Regulations Governing the Preservation of  
11 Records Under 4 N.N.C. 2202 attached as **Exhibit C.**

12 D. The Resources and Development Committee of the Navajo Nation Council hereby  
13 approves the Navajo Nation Comprehensive Environmental Response,  
14 Compensation, and Liability Act, Regulations Governing Notice of Intent to bring  
15 a Citizen Suit Under 4 N.N.C. § 2804 attached as **Exhibit D.**

16 E. The Resources and Development Committee of the Navajo Nation Council hereby  
17 approves the Navajo Nation Comprehensive Environmental Response,  
18 Compensation, and Liability Act, Voluntary Cleanup Program Regulations  
19 attached as **Exhibit E.**

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