



NOTICE OF DIRECT FINAL RULEMAKING ON CHANGES TO ARTICLE II: PART 2 OF THE RESERVATION AIR CODE



The Southern Ute Indian Tribe/State of Colorado Environmental Commission is publishing notice of revisions to the Commission's Reservation Air Code ("RAC").

I. Dates.

The revisions to the RAC became effective on October 29, 2025.

II. Authority under which the changes are proposed.

Authority is vested in the Southern Ute Indian Tribe/State of Colorado Environmental Commission by the *Intergovernmental Agreement Between the Southern Ute Indian Tribe and the State of Colorado Concerning Air Quality Control on the Southern Ute Indian Reservation* dated December 13, 1999 ("IGA"), tribal law (Resolution of the Council of the Southern Ute Indian Tribe No. 00-09), state law (C.R.S. § 24-62-101), and federal law (Act of October 18, 2004, Pub. L. No. 108-336, 118 Stat. 1354) to adopt rules and regulations for air quality programs applicable to all lands within the exterior boundaries of the Southern Ute Indian Reservation. The Commission's rulemaking procedures can be found in section IV of the Commission's Procedural Rules.

The Commission's Procedural rules can be viewed at the following website:
<https://www.southernute-nsn.gov/wp-content/uploads/sites/15/2018/04/Procedural-Rules-Amended-4.12.17.pdf>

III. Supplementary information and summary description of RAC changes.

The Commission revised RAC Article II Part 2 by:

- (1) adding, in RAC Article II Part 2, New Source Performance Standard Subpart ("NSPS") OOOOb, unchanged and as published as of July 31, 2025; and
- (2) updating the effective end date of NSPS Subpart OOOOa; and
- (3) updating the "published as of" date of the NSPS standards incorporated in the RAC to match the most recent publication date of NSPS Subpart OOOOb.

These revisions are described in more detail below.

The Commission adopted the NSPS Subpart OOOOb, titled *Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification, or Reconstruction Commenced After December 6, 2022*, unchanged into RAC Article II Part 2.

The Commission updated the applicability date of NSPS OOOOa, titled *Standards of Performance for Crude Oil and Natural Gas Facilities for Which Construction, Modification, or Reconstruction Commenced After September 18, 2015 and On or before December 6, 2022*, to align with the most current rule version.

Lastly, the Commission updated the “*published as of*” date in RAC Article II Section 3-102 to July 31, 2025, the date of publication of the most current NSPS OOOOa and OOOOb versions. Updating the “published as of” date, was necessary for the inclusion of the NSPS OOOOb rule and to include the most current applicability ending date of NSPS OOOOa. The update also ensures that all NSPS standards previously adopted by the Commission and incorporated by reference in the RAC reflect the most current published versions.

IV. Finding for Good Cause

Subsection IV.G of the Procedural Rules allows the Commission to take final actions without the need for public comment and notice, when good cause for such action is determined by the Commission. Here, there is good cause because these adoptions and revisions fulfill federal delegation terms, prevent regulatory duplication, preserve tribal primacy, and deliver regulatory certainty without altering any technical or policy provisions of the federal standard.

V. Notification to the Environmental Protection Agency (“EPA”)

The Tribe’s Air Quality Division Head was directed to (1) ensure that a notice of direct final rulemaking for the above mentioned changes to the RAC is published in accordance with the requirements of the Commission’s Procedural Rules and (2) send a letter notifying EPA, with a copy to the State of Colorado, of the Environmental Commission’s incorporation of New Source Performance Standard Subpart OOOOb, unchanged, into the Reservation Air Code.

VI. Where a complete copy of the RAC and RAC changes can be obtained.

A redlined version of the RAC showing the changes is available upon request from the Tribe’s Air Quality Division Head who can be contacted by e-mail or phone, as noted below. The final revised RAC is available at the following website:

<https://www.southernute-nsn.gov/wp-content/uploads/sites/15/2024/12/240929-Reservation-Air-Code-FINAL.pdf>

For further information contact: Danny Powers, Division Head, Air Quality Program, Southern Ute Indian Tribe, P.O. Box 737 MS#84, Ignacio, Colorado, 81137; telephone number (970) 563-2265; e-mail dpowers@southernute-nsn.gov.