



New Mexico Environment Department
Occupational Health & Safety Bureau
Harold L. Runnels Building
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87505
Delivered via Public Comment Portal

RE: EIB 25-11 (R) – New Regulation, 11.5.7 NMAC – Heat Illness and Injury Prevention

Dear NMED Staff:

I am asking you to propose the strongest possible “Heat Illness and Injury Prevention” rule to the Environmental Improvement Board.

Heat is the leading cause of death among all hazardous weather conditions in the US. Almost 250,000 workers in New Mexico are in industries at the highest risk for heat-related illness, death, accident and reduced productivity. These work sectors include almost 80,000 construction workers, oil and gas field workers, almost 20,000 agricultural workers, educational workers, restaurant and fast food workers and others.

Exposure to heat conditions can lead to acute kidney illness, chronic kidney disease, and cardiovascular, respiratory, or kidney failure; those with underlying conditions - including lung disease, cardiovascular disease or pregnancy - are especially vulnerable. Heat also increases accidents and reduces productivity, imposing costs on both workers and employers.

In most circumstances, very simple and inexpensive solutions can prevent or mitigate the impacts of heat exposure for indoor and outdoor workers. These solutions include periodic rest intervals, shade or access to a cooler area, regular access to water, and easy access to sanitation. Research indicates that periodic pauses, shade and water can actually increase productivity beyond what it would have been without these measures, while helping prevent injury and illness.

In 2021, the federal Occupational Safety & Health Administration (OSHA) began the rulemaking process for a heat standard. In 2023-24, NMED developed a proposed rule based on state and national data, scientific and other consultations, and OSHA’s proposal; the proposed standard - “Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings” - was released in 2024. On February 4th, 2025, the Trump administration paused work on the federal heat standard and on March 13th, 2025, in the absence of a federal rulemaking process, NMED petitioned the Environmental Improvement Board to hold a hearing on the Department’s proposed “Heat Illness And Injury Prevention Rule”.

The proposed NMED “Heat Illness and Injury Prevention Rule” is a strong draft standard that incorporates many best practices. However, both employers and workers need clear and precise rules in order to make compliance easier and more effective and NMED needs clarity and precision to better educate workers and employers and enforce the rule. The NMED proposed rule would be better for workers, employers and the NMED with the following clarifications and additions:

- The standard should require employers to include references to existing New Mexico **non-retaliation** laws and training should include “know-your-rights” language about freedom from retaliation for reporting heat problems as part of employer Heat Injury & Illness Prevention (HIIP) plans and worker training. Because the Occupational Health & Safety Administration (OSHA) system depends on workers coming forward when they perceive violations, this communication from their employers is critically important for good enforcement of the standard
- The standard needs more **clarity on emergency procedures**. In cases of heat stroke and other severe heat-related illnesses, every second counts. Employers and workers alike must be well versed on what actions to take as they wait for emergency medical staff to arrive
- The standard has only a few **reasonable exemptions for specific workplaces**, but it needs to clarify that buildings and vehicles with mechanical cooling controls are exempt only when those systems are functioning. Many of the complaints the NMED investigated between 2022-2025 found broken air conditioning for weeks, months, and in one case a year. Further, delivery workers should not be exempted if the cabs of their trucks have air conditioning, but they still spend more than 15 minutes out of an hour either in the back of the truck or in the act of delivering packages to doorsteps
- The NMED should strengthen the HIIP provisions by urging employers to **seek input and involvement of non-managerial staff** in drafting the plans. Frontline workers who perform work tasks daily are best placed to understand the specific dangers of the workplace, adding crucial knowledge to the HIIP plans.
- The standard should specify that **training must be given in person** with the opportunity to ask questions, and employers should be required to re-deliver the training in the case of a serious heat-related illness or injury onsite, an OSHA citation, fatality, or work processes changing significantly

I want to thank the New Mexico Environment Department for pushing forward New Mexico protections for workers in the absence of a federal process, and the EIB for giving these important protections the attention they deserve.

Every worker in New Mexico deserves to be safe on the job.

Sincerely,

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