



New Mexico State Senate
State Capitol
Santa Fe

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SENATOR
ELIZABETH "LIZ" STEFANICS

D-San Miguel, Santa Fe, Torrance &
Valencia-39

P.O. Box 720
Cerrillos, NM 87010

Cell: (505) 699-4808
E-mail: lstefanics@msn.com

May 19, 2025

NM Environmental Improvement Board
c/o NM Environment Department
1190 St. Francis Drive, Suite N4050
Santa Fe, NM 87505

Dear Chair Suina and Bureau Chief Peck:

We, the undersigned members of the New Mexico Senate, write to support the petition to the Environmental Improvement Board to adopt a proposed rule (EIB 25-11 [11.5.7.1 NMAC- N x/x/xx]) on occupational heat illness and injury prevention, as proposed by the New Mexico Environment Department (NMED), Occupational Health and Safety Bureau (OHSB). The need to protect employees from more frequent and more intense excess heat illnesses and injuries grows with our changing weather, and we support this proposed rule.

The need to protect employees from more frequent and more intense excess heat illnesses and injuries grows with our changing weather. In addition, the proposed rule can benefit employers by mitigating the productivity losses seen when workers are exposed to occupational heat stress. As such, we support this proposed rule.

The NMED proposed Rule incorporates best practices and science-based solutions to keep workers safe from exposure to heat at the workplace, including: coverage of both indoor and outdoor workers; calling for written Heat Injury and Illness Prevention Plans; providing for comprehensive worker training; implementing common sense preventive strategies including water, shade/cooling rooms, paid rest breaks, and acclimatization; and using trigger temperatures that are based on physiological science and years of experience from other states with heat standards. This standard will save lives.

Public comments opposed to the Rule include a great deal of unscientific claims, compounded with echoes of the federal administration's ideological bent to oppose all government action, and specifically to dismantle enforcement agencies and Rules that impose any requirement on the private sector.

The evidence shows OSHA and voluntary employer action is not sufficiently protective, and the situation is rapidly deteriorating as [Emergency Department visits due to heat stress in New Mexico doubled between early 2010s and 2023](#). Deaths due to heat stress more than tripled between early 2010s and 2023. The southeast and southwest regions experience the highest rate of heat stress ED visits and deaths. [Heat waves are becoming more frequent, last longer and are more intense than in the past](#).

It is quite likely current federal standards will soon be weakened as they continue to cut agencies and their missions. Even if the federal rule was sufficient, which it is not, the federal OSHA is being systematically dismantled and is now weakened to the point it cannot safeguard to protect workers.

The federal Occupational Safety and Health Administration (OSHA) requirements are insufficient to address heat-related illnesses and safety –and so too is a reliance solely on the good will of employers who are in business to maximize their profits by keeping labor costs low.

- Federal OSHA did a literature review to determine its temperature triggers and concluded that a heat trigger of 80 degrees would capture 96-100 percent of heat-related fatalities and virtually all non-fatal illnesses. ([starting on page 70745](#)). They cited studies that showed that even acclimatized workers exceeded the exposure limits for safety in heat at 90 degrees and needed preventive work breaks, and that unacclimated ones hit the exposure limits at 80 degrees.
- A CalOSHA (state of California) investigation in 2006 (right after their outdoor rule went into effect) found that heat illnesses occurred in temperatures as low as 80 degrees. <https://www.dir.ca.gov/dosh/heatillnessinvestigations-2006.pdf>

The Rule will not create duplicate standards for employers since following the new state rule would ensure they are in complete compliance with federal requirements too. The administrative requirements on employers will help employers understand how compliance with the Rule is sure to increase employee productivity, and retention, thereby lowering costs.

The Rule will have a positive impact on all New Mexico employers, including outdoor recreation businesses and the agricultural/ranching industry. Both industries simply cannot continue with the status quo. Maintaining the status quo in the face of our increasing temperatures leads to a loss of productivity, and [increased accidents](#). It is true some employers provide shade, cooling gear, and work rotation, but this is not the case across the entire state economy, so if all employers did so, costs would equalize among employers. Compliance with these rules will not only protect workers but will also level the playing field between businesses.

Critics of the Rule who mistakenly believe the Rule will hurt businesses do not consider the productivity losses that businesses experience now due to workers suffering the effects of heat-related illnesses. A systematic review of studies on work and heat [published in the Lancet](#) (The highly regarded medical profession publication) found that at the end of a work shift under heat stress 30 percent of workers reported lost productivity. A meta study of [heat and productivity loss among construction workers](#) found that 60 percent of those workers exposed to high heat lost productivity.

Employers who adopt measures such as those in the proposed Rule benefit from such action with lower staff turnover; reduced absenteeism; reduced accidents; and reduced hospital care costs.

A [study of Washington State workers compensation claims](#) found that the median number of lost working days for time loss claims was 6 days. In the U.S. as a whole, in 2021 agriculture,

construction, manufacturing, and service sectors [lost 2.5 billion hours of labor to worker exposure to heat](#), and in 2020 the costs to the economy may have been roughly \$100 billion.

It has wrongly been suggested employers should be able to substitute PPE like cooling vests or other controls like misters for preventive work breaks: this will leave workers unprotected from heat-related illnesses and [does not adhere to the best practice of following the hierarchy of controls](#).

PPE is the least effective tool for health and safety goals and places an undue burden on the worker to protect themselves, while isolation (or removing people from the hazard) ranks more highly. A [study conducted by UT Houston](#) found that cooling vests were initially effective in lowering worker temperature, but rapidly lost effectiveness as gel packs warmed.

We, the undersigned members of the New Mexico Senate urge the Environmental Improvement Board to adopt the proposed Occupational Heat Illness and Injury Prevention rule currently under consideration.

Thank you for your consideration of our concerns and views.

Respectfully yours,

Senator Liz Stefanics
District 39

Senator Heather Berghmans
District 15

Senator Angel M. Charley
District 30

Senator Katy Duhigg
District 10

Senator Carrie Hamblen
District 38

Senator Leo Jaramillo
District 5

Senator Micaelita Debbie O'Malley
District 13

Senator Harold Pope
District 23

Senator Antionette Sedillo Lopez
District 16

Senator Mimi Stewart
District 17

Senator Peter Wirth
District 25