



May 19, 2025

National Federation of Independent Business
Albuquerque, NM

New Mexico Environment Department
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87505

Dear New Mexico Environment Department:

**RE: Public Comment in Opposition to EIB 25-11 (R) – Proposed Rule
 11.5.7 NMAC (Heat Illness and Injury Prevention)**

The National Federation of Independent Business (NFIB) submits this letter in opposition to the New Mexico Environment Department proposed rules on Heat Illness and Injury Prevention and urges the Department to withdraw the rules.

The proposed rules are excessive and burdensome, requiring all employers, regardless of size, to continuously monitor workplace temperature, conduct heat exposure assessments, designate cooling areas, as well as provide personnel monitoring, training and recordkeeping. Small businesses already suffer from overregulation and this rule is yet another regulation attempting to intervene on how small employers run their businesses. NFIB members consistently rank overregulation as one of the most significant obstacles to running their small businesses. If enacted, the rules would disproportionately impact small businesses as many are not equipped with the resources or the specialized staff necessary to navigate rules and regulations, putting them at risk of frivolous lawsuits, financial harm and closure.

Among the many problematic provisions in the proposed rule is the requirement that "employers shall encourage workers to drink 8 ounces of fluids every fifteen minutes" (Section 11.5.7.10(B)(e)). This phrasing lacks clarity and invites overenforcement. To demonstrate compliance, employers would likely need to maintain detailed logs documenting how and when each employee was encouraged to hydrate throughout the day. This is an unrealistic expectation, especially in small or mobile workforces, and would result in an unmanageable recordkeeping burden that distracts from actual safety

improvements. The potential liability associated with an inability to prove compliance with such a subjective standard is deeply concerning.

The proposed rules, as drafted, are redundant and unnecessary. New Mexico's 166,000+ small businesses are already subject to the Federal Occupational Safety and Health Administration Standards' (OSHA) General Duty Clause as well as the state OSHA standards that provide worker temperature protections allowing them to regulate, punish, and fine employers who fail to keep their employees safe from any such hazards and harm. The rules also unfairly assume that businesses are not already taking preventative measures to keep their employees safe in hot and cold temperatures.

The proposed rules are an overreach and a one-size-fits-all approach that would be regulatory burdensome, costly and hinder small business growth in New Mexico. For the reasons listed above, NFIB strongly opposes the proposed rules and urges the New Mexico Environment Department to rescind them.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Espinoza". The signature is stylized with a large, sweeping initial "J" and a long, horizontal stroke at the end.

Jason Espinoza
New Mexico State Director
National Federation of Independent Business (NFIB)