

May 19, 2025

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

RE: Public Comment on Proposed Rule 11.5.7 NMAC – Heat Illness and Injury Prevention

Dear New Mexico Environment Department,

On behalf of New Mexico IDEA, the statewide professional association representing economic developers and local economic development organizations across our state, we appreciate the opportunity to offer public comment on the proposed Heat Illness and Injury Prevention Rule.

While we support the overarching intent to safeguard workers' health and safety, we are deeply concerned that the proposed rule in its current form may have significant unintended consequences that negatively affect New Mexico's business climate, economic competitiveness, and long-term development goals. In particular, the rule poses barriers to business recruitment and retention efforts and risks undercutting many of the targeted industry growth strategies laid out in the state's own 2025 Economic Development Strategic Plan.

Business Climate and Recruitment Challenges

A predictable, efficient, and balanced regulatory environment is among the most important factors site selectors and corporate decision-makers consider when evaluating prospective locations for expansion or relocation. The proposed rule, while well-intentioned, introduces a complex layer of requirements for all employers, regardless of scale or industry. These include acclimatization scheduling, hydration practices, mandated cooling areas, personnel monitoring systems, and recordkeeping protocols.

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 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.

Economic development professionals across the state work hard to showcase New Mexico as a pro-business, innovation-friendly destination. The perception that New Mexico is out of sync with peer states on occupational health and safety rules—especially those perceived as rigid or difficult to implement—can be enough to eliminate us from consideration in competitive site selection processes. In an already competitive national landscape, such regulatory uncertainty can be a disqualifying factor for capital-intensive industries.

Impact on Targeted Industry Growth Sectors

New Mexico's 2025 State Economic Development Plan identifies advanced manufacturing, clean energy, outdoor recreation, and tourism among its high-potential growth sectors. Each of these industries will face substantial compliance hurdles under the proposed heat rule.

- **Advanced Manufacturing & Clean Energy:** The state has made significant investments in attracting semiconductor and clean energy manufacturers, including those in solar, wind, battery storage, and hydrogen sectors. These employers often operate in large, semi-enclosed facilities or open industrial yards. Adapting operations to include frequent rest breaks and cooling infrastructure per the rule's specifications could impair productivity and elevate costs beyond what is sustainable in a low-margin, globally competitive environment.
- **Outdoor Recreation and Tourism:** These sectors collectively contribute billions to New Mexico's economy. Yet seasonal guides, event staff, and hospitality teams operate in dispersed, often mobile environments that are ill-suited to fixed shade and hydration infrastructure. The rule, as written, does not provide flexibility for these unique working conditions, creating compliance burdens that may shrink opportunities for growth in these rural and Tribal-driven sectors.

Retention of Existing Employers and Economic Developers

Local economic development organizations frequently cite regulatory friction as a key obstacle to retention. Employers already operating in New Mexico may view this rule as an additional cost driver that makes expansion or continued investment less attractive. The rule's uniformity also fails to account for existing infrastructure disparities between urban and rural communities. Without flexibility, the rule may drive a wedge between statewide economic development objectives and the lived realities of local employers.

Recommendations

We urge the New Mexico Environment Department to:

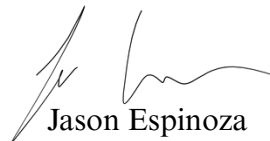
1. Postpone the rulemaking process for 12 months to allow time for meaningful stakeholder engagement across the state, including comprehensive input from all impacted industries, and to conduct a full economic impact analysis of the proposed rule on target industries identified in the State Economic Development Plan.
2. Provide scalable, tiered compliance pathways based on business size, industry type, and environmental conditions.
3. Align the rule more closely with OSHA's existing General Duty Clause and NEP to avoid duplicative or conflicting mandates.
4. In lieu of regulatory mandates, launch a statewide heat illness prevention campaign, in collaboration with industry associations, chambers of commerce, and worker safety groups. This voluntary initiative could promote best practices, provide multilingual education resources, and encourage employer participation in proven heat safety protocols without imposing inflexible mandates.

New Mexico IDEA and its members are committed to building a safer, more prosperous economy. We believe these goals can and must coexist. We respectfully request that the Board take time to collaborate with the economic development community to ensure that the final rule supports, rather than impairs, our shared mission of inclusive and sustainable economic growth.

Sincerely,



Cassie Arias-Ward
Chair, Board of Directors
New Mexico IDEA



Jason Espinoza
Executive Director
New Mexico IDEA