



May 7, 2025

State of New Mexico
Environmental Improvement Board
New Mexico State Capitol Building
490 Old Santa Fe Trail Room 322
Santa Fe, NM 87501

Subject: Opposition to Proposed Regulation 11.5.7 NMAC – Heat Illness and Injury Prevention (No. EIB 25-11 (R))

Dear Members of the Environmental Improvement Board:

On behalf of NAIOP New Mexico, the Commercial Real Estate Development Association, and our 250 members representing 13,400+ jobs in New Mexico, we respectfully submit this letter in strong opposition to the proposed regulation 11.5.7 NMAC – Heat Illness and Injury Prevention.

We share the intent behind this proposal: protecting New Mexico's workforce from harm. However, the proposed rule, as drafted, will have serious unintended consequences that will impede New Mexico's ability to respond to critical economic needs—particularly in housing, infrastructure, and job creation. Our state is facing a housing crisis, labor shortages, inflation, property tax lighting increases, federal spending cuts, and rising material and construction costs. This regulation introduces rigid, one-size-fits-all mandates that will significantly disrupt construction timelines, inflate costs, and further constrain the already overburdened development industry.

Key Concerns from the Commercial Real Estate Development Industry:

1. Unworkable Compliance for Active Jobsites

Commercial development sites are complex, ever-evolving environments. The requirement for designated cooling areas, paid rest breaks triggered by heat index thresholds, and constant heat exposure assessments is logistically infeasible on large or multi-phase projects. Interruptions—such as a 40-minute break for every 20 minutes of work over 103°F—would grind critical processes like concrete pours or utility trenching to a halt, creating safety and structural concerns, not to mention scheduling chaos.

2. Economic Harm Across Multiple Sectors

Our industry does not operate in a vacuum. Every stalled commercial project impacts architects, engineers, contractors, subcontractors, suppliers, utilities, municipalities, and end users. At a time when public-private partnerships are being leveraged to build affordable housing, modern industrial facilities, and community-serving infrastructure, this rule risks slowing or stopping that progress altogether.

3. Increased Costs and Decreased Productivity

The rule's hydration quotas, cooling infrastructure mandates, and recordkeeping requirements place costly burdens on developers and contractors—especially smaller firms without the administrative capacity or financial flexibility to absorb them. These burdens ultimately translate

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to reduced output and increased project costs, which are passed on to tenants, consumers, and taxpayers.

4. Redundancy with Existing Federal Frameworks

Federal OSHA already has mechanisms in place—such as the General Duty Clause and its Heat Illness Prevention Campaign—to address heat-related workplace safety. The contracting and development community has embraced these standards and continues to invest in training, site-specific safety planning, and appropriate heat mitigation measures. The proposed regulation overreaches by duplicating and exceeding those standards without clear evidence of necessity.

5. Ignores the Realities of Diverse Job Sites

This regulation imposes uniform standards regardless of geography, seasonality, job type, or current practices. The difference between a fully shaded tilt-up construction site in northern New Mexico and an open grading site in Las Cruces is significant, yet both would be subject to the same inflexible requirements.

Rather than imposing an inflexible mandate, we urge the Board to collaborate with the industries impacted—development, construction, manufacturing, agriculture, and utilities—to identify practical, risk-based solutions. A more effective approach would build on OSHA’s existing standards, incentivize best practices, and allow flexibility for site-specific implementation.

New Mexico is in a critical moment of growth. Our chapter and its members are working together to create jobs, provide affordable housing, and strengthen the economic backbone of our communities. This rule, while well-intentioned, will set us back and cause an unknown increase to costs that we will be forced to pass on to the citizens of our state. In turn this ordinance will increase the cost of housing, food, as well as goods and services in our State.

We urge you to reject the proposed rule in its current form and instead craft practical, balanced policy that protects workers while allowing New Mexico’s economy to build and thrive.

Respectfully submitted,



Adam Silverman

President of the Board of Directors
NAIOP New Mexico



Rhiannon Samuel

Executive Director
NAIOP New Mexico
rsamuel@NAIOPNM.org
(505) 345-6976