



May 20, 2025

New Mexico Environmental Improvement Board
c/o The Honorable Phoebe Suina, Chair
1190 St. Francis Drive, Suite N4050
Santa Fe, NM 87505

New Mexico Environment Department
c/o Ms. Kristy Peck, Acting Bureau Chief, Occupational Health and Safety Bureau
1190 St. Francis Drive, Suite N4050
Santa Fe, NM 87505

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

Dear Chair Suina, Respective EIB Board Members and Bureau Chief Peck,

The New Mexico Automotive Dealers Association welcomes the opportunity to submit comments to the proposed Heat Illness and Injury Prevention rules that are currently under consideration.

The New Mexico Auto Dealers Association represents over 100 franchised new car dealers in this state, directly employing over 14,000 New Mexicans. We respectfully submit this letter in strong opposition to the proposed regulation 11.5.7 NMADA – Heat Illness and Injury Prevention. While we appreciate the need and share the intent to protect our employees from excess heat illness and injuries, we oppose this rule as drafted. The proposed rule will have serious unintended consequences that will impede our ability to ensure safe and reliable transportation needs for all New Mexicans and for all industry sectors including emergency responders. In addition, we are concerned that this rule's one-size-fits all approach fails to recognize existing workplace safety practices now in place across New Mexico.

As you know, the federal government has already issued guidance on prevention of heat-related illness or injury. In 2016, the U.S. Department of Health and Human Services (DHHS), National Institute of Occupational Safety and Health issued Publication No. 2016-016, which already have mechanisms in place to address heat related workplace safety. It appears that the proposed rules under consideration far exceed the federal standards, which mean that your contemplated action is most likely out of alignment with the federal OSHA law, from which your board's regulations must be derived pursuant to Section 50-9-7 (A) NMSA.

The automotive industry does not work in a vacuum, where every New Mexican and every business in New Mexico expects and deserves safe and reliable transportation to get to and from work and satisfy basic needs such as traveling to and from school, work, medical appointments, grocery shopping etc.

Implementing the proposed heat-related protocols will require additional staffing and restructuring of work schedules, which will ultimately increase transportation service and maintenance costs to all New Mexicans. Our trained and certified automotive technicians will be most affected by the proposed rules, which will ultimately drive up the costs for automotive service and repairs. The combined cost of downtime, schedule delays and the additional number of employees needed will significantly increase the cost of automotive service and repairs, which will ultimately be passed on to the consumer.

The automotive technician workforce is a high-demand field, where auto dealers face a continuing challenge to find certified technicians in all corners of New Mexico to service and repair automobiles in a timely and cost-effective manner. Our dealerships understand this and take all the necessary steps and requirements to hire, train and ensure that all worksites meet or exceed federal safety standards.

The mandated breaks and acclimatization requirements in the Proposed Rule are overly prescriptive and disregard the unique operational challenges of the automotive industry, where efficiency and coordination are crucial. Under the rule, employees must receive paid rest breaks every two hours when the heat index reaches a certain temperature. This rigid requirement would disrupt workflows and may impact consumer's needs.

We collectively share the concerns regarding the need to protect workers from excessive heat exposure, but simply passing a new mandate that duplicates federal enforcement efforts and raises costs to employers without any assurance worker protections will improve is just another example of the over regulation of businesses that has been prevalent in New Mexico over the past six years.

Rather than imposing an inflexible mandate across most sectors, we urge the Board to reject the proposed rule and require the New Mexico Environment Department to collaborate with the industries impacted to identify practical solutions that protect employees while meeting the expectations that the public expects from our housing, construction and transportation sectors. We are ready to be at the table to discuss a more effective approach that would build on existing OSHA standards to incentivize best practices and allow flexibility for the multitude of different industry sectors across New Mexico.

Respectfully,

A handwritten signature in black ink, appearing to read "Ken Ortiz", written in a cursive style.

Ken Ortiz
Executive Director