

Healthy Climate NM + 34 Other NM Groups Representing 10's of 1,000's of New Mexicans

May 29, 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 35 New Mexico non-profit and community-based organizations representing tens of thousands of New Mexicans, write to support the petition to the Environmental Improvement Board to adopt a proposed rule (EIB 25-11 [11.5.7.1]) 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. In addition, to protecting public health, the proposed rule can benefit employers by reducing their medical and worker compensation costs, improving work quality, and reducing productivity losses when workers are exposed to occupational heat stress.

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.

While we support the Rule as proposed, we also believe there are five keyways that the standard could be improved even more.

- The standard should require employers to include references to existing New Mexico non-retaliation laws as part of employer HIIPP plans and worker training. Because the Occupational Health & Safety Administration (OSHA) system depends on workers coming forward when they perceive violations, this communication from their employers is critically important for good enforcement of the standard.
- The standard needs more clarity on emergency procedures. In cases of heat stroke and other severe heat-related illnesses every second counts and so employers and workers alike must be well versed on what actions to take as they wait for emergency medical staff to arrive.
- The standard has only a few reasonable exemptions for specific workplaces, but it needs to clarify that buildings and vehicles with mechanical cooling controls are exempt only when those systems are functioning. Many of the complaints the

NMED investigated between 2022-2025 found broken air conditioning for weeks, months, and in one case a year. Further, delivery workers should not be exempted if the cabs of their trucks have air conditioning, but they spend more than 15 minutes out of an hour either in the back of the truck or in the act of delivering packages to doorsteps.

- The NMED should strengthen the HIIPP provisions by urging employers to seek input and involvement of non-managerial staff in drafting the plans. Frontline workers who perform work tasks daily are best placed to understand the specific dangers of the workplace, adding crucial knowledge to the HIIPP.
- The standard should specify that training must be given in person with the opportunity to ask questions and employers should be required to re-deliver the training in the case of a serious heat-related illness or injury onsite, an OSHA Citation, fatality, or work processes changing significantly.

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 (it is not), the federal Occupational Safety and Health Administration (OSHA) is being systematically dismantled and is now weakened to the point where it cannot safeguard to protect workers.

The federal 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.

- 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. If all employers did provide preventative measures, 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 thirty-five (35) community-based and non-profit New Mexico organizations representing tens of thousands of New Mexicans, 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,

350 New Mexico

American Federation of Teachers New Mexico (AFT-NM)

American Lung Association in New Mexico

Center for Biological Diversity

Coalition of Sustainable Communities New Mexico

Conservation Voters New Mexico (CVNM)

CVNM Education Fund

Communications Workers of America (CWA Local 7076)

Earthworks

Environmental Defense Fund
Green Latinos
Healthy Climate New Mexico
Indivisible Albuquerque
Interfaith Power and Light (IPL-NM)
Little Green Bucket
NAEVA
National Education Association- New Mexico (NEA-NM)
National Employment Law Project
Navajo Nation Climate Change Program
New Energy Economy
New Mexico Sustainable Business Santa Fe / Green Chamber of Commerce
New Mexico Voices for Children
New Mexico Alliance of Health Councils
NM CAFE
New Mexico Center on Law and Poverty (NMCLP)
NMVC Action Fund
Noble Renewables Group
ProgressNowNM
Prosperity Works
Public Power NM
Semilla Project
Sierra Club, Rio Grande Chapter
Southwest Energy Efficiency Project (SWEET)
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While we support the Rule as proposed, we also believe there are five keyways that the standard could be improved even more.

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New Mexico Sustainable Business Santa Fe / Green Chamber of Commerce

New Mexico Voices for Children

New Mexico Alliance of Health Councils

NM CAFE

New Mexico Center on Law and Poverty (NMCLP)

NMVC Action Fund

Noble Renewables Group

ProgressNowNM

Prosperity Works

Public Power NM

Semilla Project

Sierra Club, Rio Grande Chapter

Southwest Energy Efficiency Project (SWEEP)

Western Environmental Law Center (WELC)

YUCCA