

Otero County Cattleman's Association

May 8, 2025

New Mexico Environment Department
Occupational Health and Safety Bureau
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87505

RE: Proposed Heat Illness and Injury Prevention Rule

Greetings,

My name is Darrell Brown and I am the president of the Otero County Cattleman's Association (OCCA) in Otero County, New Mexico. I am writing on behalf of the members of OCCA in regards to the "Proposed Heat Illness and Injury Prevention Rule" by the New Mexico Environment Department (NMED), Occupational Health and Safety Bureau (OHSB).

As our name depicts, most of our members are directly involved in agriculture in some form or fashion. Requiring so many and such detailed regulations on this industry is not workable, nor feasible. We in the agricultural industry do not always get to choose when we go out to work or what the conditions are when we have to attend to the animals and/or crops. Animals and crops don't wait for the conditions to be optimal solely for human benefit.

Farming and ranching are century-old practices that have endured the test of time...and heat. Most employers use common sense and will do all that is possible to take care of their employees without being forced by government to do so. If not, such employer most likely won't have employees for any length of time.

In reading New Mexico Statute Chapter 50, Article 9.2.1, Legislative Findings, it appears that the New Mexico legislature's statutory intent was the assurance that every employee is safe and protected from the proliferation of hazardous chemicals and from hazardous substances in places of employment. NMED/OHSB's proposed Heat Illness and Injury Prevention Rule goes beyond the scope of hazardous chemicals and substances.

Also, in the New Mexico Administrative Code (NMAC), Title 11, Chapter 5, Part 4, Occupational Health and Safety—Agriculture deals with the occupational health and safety issues related to agriculture. Section 11.5.4.9(A) of the NMAC incorporates the federal standards of the provisions of the U.S. Code of Federal Regulations (CFR), Title 29, Part 1928, Occupational Safety and Health Standards---Agriculture. 29 CFR, Part 1928, Subpart B, Section 1928.21(b) which exempts agriculture from the Occupational Safety and Health Standards except for what is listed in 29 CFR, Part 1928, Subpart A, Section 1928.21(a)(1-8). New Mexico specifically adopted those federal regulations. NMED/OHSB's proposed Heat Illness and Injury Prevention Rule does not fit within the confines of Subpart A, Section 1928.21(a)(1-8). Including "agriculture" in the proposed rule is in conflict with the exemption for agriculture as stated in 29 CFR 1928.21(b) adopted by Section 11.5.4.9(A) of the NMAC.

The proposed Heat Illness and Injury Prevention Rule is oppressive and unattainable in most cases. It lacks sufficient data to justify its stringent requirements and fails to properly address the economic impacts that it will have on the employers, workers, and the state of New Mexico as a whole. This proposed rule is a classic example of government overreach; impossible to apply evenly across the numerous industries, is burdensome to both businesses and employees, is out of touch with reality, is expensive to implement, and is impossible to enforce statewide.

For all of the above stated reasons, OCCA respectfully requests that NMED/OHSB withdraw the Proposed Heat Illness and Injury Prevention Rule or in the very least remove agriculture from its proposal in order to adhere to current rules.

Thank you.

Sincerely,
/s/Darrell Brown
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Cc: Board of Otero County Commissioners
Senator Jim Townsend
Representative Harlan Vincent
Representative Jonathan Henry
New Mexico Cattle Grower's Association
New Mexico Federal Lands Council