

NM Senate Minority

See attached letter.



New Mexico State Senate

State Capitol Santa Fe

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- Indian, Rural & Cultural Affairs

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- Tax, Business & Transportation
- Committees' Committee

SENATOR WILLIAM E. SHARER

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NM Environmental Improvement Board
c/o NM Environment Department
1190 St. Francis Drive, Suite N4050
Santa Fe, NM 87505

Dear Environmental Improvement Board:

While state law certainly grants your board the authority to promulgate regulations regarding the health and safety of employees, the clear legislative intent of this state statute is that such regulations be aligned "to the federal Occupational Safety and Health Act of 1970."

As you know, the federal government has already issued guidance on prevention of heat-related illness or injury via its 2016 publication: U.S. Department of Health and Human Services (DHHS), National Institute for Occupational Safety and Health (NIOSH) Publication No. 2016-106. In light of these existing federal standards, the issuance of new state standards at the state level appears redundant and unnecessary.

Furthermore, the proposed state standards your board is considering far exceed the federal standards. This means that your contemplated action is likely out of alignment with the federal OSHA law, from which your board's regulations must be derived pursuant to 50-9-7 (A) NMSA 1978.

Even worse, these proposed state standards fail to take into account the occupational diversity across New Mexico's various industries. It is unreasonable to mandate identical standards for construction, manufacturing, agriculture, and the extractive industries. These standards also fail to accommodate existing union contracts or workplace policies, many of which may have been negotiated in good faith and which may now need to be renegotiated to meet a significantly higher standard.

Moreover, the administrative burden on each employer to maintain medical logs and heat acclimatization schedules for each individual employee represent an unfunded mandate that will significantly increase labor costs and slow productivity, despite seasonal deadlines over which these employers have no control.

Finally, the proposed standards use far too subjective language, including “equally effective measures” and “as close as practical.” A determination that an employer has failed to comply with these loosely defined standards could subject that employer to penalties and other unforeseen consequences.

Respectfully submitted,

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

Senator William Sharer
Minority Floor Leader