

## Timothy Norris

As an employer in an outside environment we find the proposed rule duplicative, vague, and an additional expense and hardship on employers. In addition it is largely unnecessary. The rule must have been written by someone not familiar with outside work in rural areas.

There would be little cost benefit as this proposed rule is largely duplicative of the new Proposed rule by OSHA. On August 30, 2024, the Occupational Safety and Health Administration (OSHA) published a Notice of Proposed Rule making (NPRM) for "Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings" in the Federal Register. The proposed OSHA rule would require employers to develop a written heat injury and illness prevention plan (HIIPP) for all employers with more than ten employees. The plan would include a comprehensive list of the types of work activities covered, a description of how the employer complies with the OSHA standard, the means for monitoring temperatures, emergency phone numbers and procedures, and a list of heat safety coordinators. New Mexico's rule would require duplicative reporting to two separate agencies and, like other areas such as fire protection, conflicts of opinions will occur.

The New Mexico rule does not allow for the 10 employee person criterion.

The OSHA rule is not finalized so it will be a burden on the employer to determine differences between the two rules and determine which is more restrictive and the reporting requirements for each.

The New Mexico Environment Department has no way to determine or justify why its rule is different on a scientific basis from the federal rule as the public hearing on the federal proposed rule is scheduled to be held virtually and begin on June 16, 2025.

The proposed rule is not practical for many industries and will take on an exceptional burden to the state. For example There are 8,989 ranches in New Mexico with beef cattle ranching as their primary industry. The beef cattle industry directly contributes 11,218 jobs, \$1.1 billion in output, and \$274 million in labor income, generating additional economic impacts of 4,868 jobs, \$615 million in output, and \$174 million in labor income. It is not practical when rounding up and working cattle (which is usually done only twice a year) to comply with the localized weather monitoring equipment, shade equipment, and especially the use of misters or active cooling garments may be provided in lieu of shade. When gathering and pushing 200 head of cows and calves from the juniper/pinon foot hills across the plains of San Agustin for example, how will one provide the shade? What does one do with the cattle and horses while the cowboys take their shade break?

The regulations are vague and raise many questions that could be impossible to scientifically answer. For example: Table 3 provides terms such as Light, Moderate, or Heavy work. There is no definition of light, moderate, or heavy. Which category does riding a horse fall into? What if the wrangler is turning the horse rapidly, walking, trotting or cantering? What about mounting and dismounting the horse frequently (to rid oneself of the 8 ounces of fluids drank every fifteen minutes). Frequent mounting and dismounting actually increases the effort involved in the work and increases the risk to cattle workers.

What is the basis for 8 oz. of fluids every 15 minutes? The paper titled: Marathon Runners: Beware Of Drinking Too Much Water, Methodist Hospital, Houston, January 8, 2008 states "Many runners know it's important to drink plenty of water during a marathon to keep their bodies hydrated. However, drinking too much water during the course of a 26-mile race can actually kill them. The abundance of water will cause the cells to swell. Most cells can adapt to change, however, the brain cannot. When this occurs in less than 48 hours, it can be fatal if not treated immediately." That paper only recommends a MAXIMUM of 8 oz of water, every 20 minutes for people RUNNING A MARATHON! (Is that moderate or heavy work?) Will the state take responsibility for hyponatremia? There is no mention of salt in the proposed rule.

Section 11.5.7.9 Heat Exposure Assessment, is so vague as to be borderline ridiculous. The proposed rule forces the employer to assess vague criteria that the authors of the rule could not assess, such as "Acclimatization of the employee," or "Personal risk factors for heat illness." We all know (or should know) that the highest risk factor for heat illness is being overweight. Yet the proposed rule provides no guidance or criterion for this fat assessment. What if the person is 20 lbs overweight?; 30 lbs?; Obese? (See: Relevance of individual characteristics for human heat stress response is dependent on exercise intensity and climate type; G Havenith, JML Coenen, L Kistemaker, WL Kenney; European journal of applied physiology and occupational physiology, 1998). OSHA states factors such as lack of physical fitness, previous episodes of heat-related illness, alcohol consumption, drugs, and use of certain medication increases the risks. How is the employer supposed to assess this, and take action, especially with New Mexico's privacy and discrimination rules? This vague language is too much to expect the employer to be able to assess and an huge burden upon the employer to even stay aware of non-specific assessment criteria.

I propose that the comments and issues in my comments be resolved before the finalization of the rule. With the proposed OSHA rule, I see no reason to waste anymore taxpayer dollars for a duplicative, vague, rule, that may be contrary to current science and an additional expense and hardship on employers. Since heat illness is a condition of individual acceptability, It is my experience that education about the prevention, symptoms, and treatment of heat illness is appropriate and the best method of reducing its occurrence. Making additional regulations only increases the cost of labor and shifts responsibility of understanding the issue from the individual to the employer.

I sincerely doubt if this rule will have any positive effect on reducing heat illness. I really appreciate the opportunity to comment about this rule and the negative impact it will have upon employers not in an office environment. and the negative impact it will have upon employers not in an office environment.