

Associated Contractors of New Mexico

We believe that NM OSHA is on the right track to set a base line for companies to comply with a higher safety standard of care and to make a conscious effort to ensure that the proper PPE's, Hydration, enhanced worker training and to have active plan to protect employees. The rule, as presented lacks significant application in the development and process to warrant the expedited timeline set forth in the two meetings that I have attended.

The press release (3/14/2025-Jorge Estrada PR Coordinator) stated that there were over 800 heat related emergency room visits in 2024 but does not distinguish how many were occupational. Our simple research through NM OSHA logs showed 7, in the same timeline, so the information was conflated to support the storyline. When asked if there was an economic impact study, Ms. Peck, NM OSHA said that they did not have one. The heat rest part of the rule will be devastating to the entire Heavy Highway community and will completely shut down road work and maintenance operations in the state. If industry was asked for input, the building industry and Heavy Highway contractors were not asked to participate.

Key Concerns Raised Include:

- **Unworkable Rest Break Requirements:** The proposed mandate for paid rest breaks when the heat index exceeds 103°F would trigger a 40-minute break every 20 minutes. Given New Mexico's climate and solar exposure adjustments, this threshold would be reached frequently, making the requirement impractical on most jobsites.
- **Operational Disruption:** Time-sensitive activities such as concrete and asphalt pours cannot be paused without compromising structural integrity and safety. A rigid rest schedule would directly impact these critical operations.
- **Exacerbation of Labor Shortages:** With the construction industry still operating below its pre-recession workforce levels, the regulation would further strain limited labor resources and reduce overall productivity.
- **Increased Costs and Logistical Challenges:** The proposed rule introduces significant administrative burdens—such as mandatory heat exposure assessments, detailed recordkeeping, and provision of shaded rest areas—that are not feasible on large or multi-phase job sites.
- **Safety Risks of Alternative Work Hours:** Suggestions to shift work to night or early morning hours are unrealistic due to childcare obligations, apprenticeship training schedules, mental health concerns, and the elevated safety risks associated with low-light conditions.
- **Existing Protections Are Already in Place:** Contractors are already accountable for heat-related safety under the federal General Duty Clause, and many voluntarily follow OSHA's Heat Illness Prevention Campaign guidelines. The proposed rule duplicates and overextends these existing requirements.
- **One-Size-Fits-All Doesn't Work:** Applying the same standard across diverse industries and regions ignores the unique conditions and safety controls already in place on New Mexico's construction sites.

AGC NM and ACNM urge the Environmental Improvement Board to reject this sweeping mandate. A more effective approach would focus on flexible, industry-informed solutions and incentive-based compliance strategies that support both worker safety and project viability.

NM OSHA is not considering the business and economic impact this rule will have on the workers, their families and taxpayers. We wholeheartedly endorse a tempered approach that brings industry and regulation to the table to discuss acceptable measures, processes for all industries. Safety is

paramount in our approach, design and delivery-

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