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May 20, 2025

by email--james.kenney@env.nm.gov

The Honorable James C. Kenney, Secretary
New Mexico Environment Department
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87505

Re: Heat Exposure Rule

Dear Secretary Kenney:

The New Mexico Livestock Board has reviewed the NMED's proposed Heat Exposure Rule.

The New Mexico Livestock Board understands the importance of workplace safety and fully adheres to all applicable rules and laws. However, the proposed rule would make it impossible to fulfill our agency's statutory purpose. The proposed rule under 11.5.7.9, the agency would be required to "conduct a heat exposure assessment...as part of the normal scope of work". NMLB agrees that employee safety is an extremely important issue. However, this would be unworkable for the NMLB since our inspectors, 50 full-time employees, are working in all areas of the state daily. There would be no feasible way to conduct an assessment of each one of those working conditions.

Furthermore, an inspector may have, on any given day, 15 scheduled inspections that may cover an area several hundred miles apart. Those inspections may require an inspector to stand in a pen for anywhere from ten minutes to two hours. Inspecting several hundred head of cattle or sheep is not something that can be stopped for a break and then re-started, due to the need to complete the inspection, get the cattle loaded and shipped, and drive to the next inspection.

Under 11.5.7.10, an employer is required to implement certain measures. Sections A through E are all unworkable due to the reasons stated above. Our inspectors do not work in a group but are usually alone in the field. In many cases, they do not have cell phone service in these remote locations, or any other "reliable means

of communication". For instance, an inspection on a ranch in Hidalgo County can mean not having cell service of any kind for hours on end. There would be no way to keep in contact with the supervisor, and no way for that supervisor to have any idea what the weather and heat index was at that inspection. Our inspectors and investigators can work several days without ever speaking to their supervisors, which would make "Conducting pre-shift meetings" impossible.

By enacting this rule, it would hinder or possibly prevent the New Mexico Livestock Board from fulfilling its statutorily required duties to the livestock industry in New Mexico. *See generally 77-9-3 through 77-9-56 NMSA.*

In short, while heat exposure training may be a very good idea, the rest of this rule would be untenable for the NMLB to implement.

Respectfully, Mr. Secretary, we urge you to abandon this rule as not necessary or, at the least, limit it to training.

Sincerely:

A handwritten signature in blue ink, appearing to read 'Tobin Dolan', with a long horizontal flourish extending to the right.

Tobin Dolan
New Mexico Livestock Board Chair