

May 20, 2025

New Mexico Environment Department  
1190 St. Francis Drive, Suite N4050  
Santa Fe, NM 87505

RE: Public Comment on Proposed Rule 11.5.7 NMAC – Heat Illness and Injury Prevention

Dear New Mexico Environment Department,

On behalf of the Mechanical Contractors Association-Sheet Metal and Air Conditioning Contractors' National Association (MCA-SMACNA) of New Mexico, we appreciate the opportunity to submit public comment on the proposed Heat Illness and Injury Prevention Rule (11.5.7 NMAC). MCA-SMACNA of New Mexico represents mechanical and sheet metal contractors across New Mexico who provide vital heating, ventilation, air conditioning, plumbing, and sheet metal services across commercial, industrial, and public sector markets. Our members are signatory contractors who take pride in employing highly trained, safety-focused craft professionals and delivering complex building systems that keep New Mexico's built environment functioning efficiently.

We support practical, evidence-based efforts to reduce heat-related injuries on job sites. However, the proposed rule, as currently drafted, imposes rigid and unrealistic standards that pose serious compliance burdens on mechanical and sheet metal contractors, especially in fast-paced, high-skill construction environments.

### **1. Conflicts with Real-World Construction Schedules**

Our industry operates under tightly sequenced schedules and productivity benchmarks coordinated across multiple trades. The rule's rest break and hydration timing mandates—including the requirement that employers encourage workers to drink 8 ounces of fluid every fifteen minutes—fail to recognize how dynamic and fluid the construction environment is. These mandates, while medically well-intended, are not practically enforceable and introduce new liability risks for contractors. For example, it is unclear how an employer could demonstrate compliance with encouragement requirements without maintaining intrusive and burdensome logs.

### **2. Jobsite Mobility and Cooling Area Requirements**

Sheet metal and mechanical workers frequently move across large, active construction zones and elevated work areas. Establishing "cooling areas" with shade or mechanical ventilation within close proximity to each active zone is often not feasible due to site logistics, crane activity, or interior mechanical system installation work. Contractors may not control overall site layout, and the rule places an unfair burden on subcontractors to comply with provisions beyond their scope of control.

### **3. Duplication of Existing Protections and Union Safety Standards**

In consultation with our industry's self-insured workers' compensation group fund, we worked to compile data on heat-related illness incidents over the past five years. After a review there have been no such incidents reported, reinforcing our view that existing prevention protocols have been effective.

Our signatory contractors already operate under rigorous safety protocols negotiated through collective bargaining agreements and supported by joint labor-management training centers. Mandating duplicative plans and recordkeeping diverts focus from actual on-site prevention and safety supervision.

#### **4. Recordkeeping and Enforcement Ambiguities**

The proposed rule requires extensive recordkeeping related to acclimatization, training, and potential symptoms, retained for five years. For contractors managing dozens of short-term workers across multiple concurrent jobsites, these documentation requirements introduce a new administrative burden that is disproportionate to the risk. Furthermore, vague standards, such as "encouragement to hydrate" or "equally effective" monitoring systems, create enforcement uncertainty and open contractors to citations based on subjective interpretations.

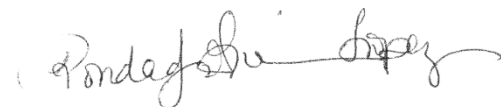
#### **Request for Withdrawal**

Given the substantial operational and compliance concerns raised above, MCA-SMACNA of New Mexico respectfully urges the New Mexico Environment Department to withdraw the proposed rule in its current form.

We recommend that the Department first conduct a full economic and operational impact analysis and then re-engage with construction industry stakeholders to develop a revised approach that reflects real-world jobsite conditions, trade-specific dynamics, employer discretion, and the effectiveness of existing union-led safety practices.

MCA-SMACNA of New Mexico are committed to worker safety, collaboration, and innovation. We welcome the opportunity to work with the Department to shape policies that are both effective and achievable.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronda Gilliland Lopez", written in a cursive style.

Ronda Gilliland Lopez  
Executive Director  
MCA-SMACNA of New Mexico