



BROADBAND  
WITHOUT  
BOUNDARIES

May 30, 2025

(Submitted via Public Comment Portal)

*RE: Opposition to Proposed Regulation 11.5.7 NMADA – Heat Illness and Injury Prevention  
(No. EIB 25-11)*

## INTRODUCTION

WISPA – *Broadband Without Boundaries* is a national trade association that represents the interests of fixed Wireless Internet Service Providers (WISPs), including seven providers headquartered in New Mexico, and the innovative ecosystem that supports fixed broadband connectivity, including service providers, equipment manufacturers, and other industry stakeholders. WISPA members bring fast, reliable internet to millions of rural, urban, and Tribal communities across the country and in New Mexico.

WISPA membership consists largely of small businesses that live and work in the communities they serve. These firms often deploy fixed wireless and fiber technologies to bring broadband to hard-to-serve areas, where large providers have not invested, and where access to education, healthcare, emergency response, and economic development is critical.

WISPA understands the need to ensure that outdoor workers can be safe in hot conditions, but respectfully objects to certain aspects of the Proposed Heat Illness and Injury Prevention Rule (Title 11, Chapter 5, Part 7) (the “Proposed Rule”) in its current form, as it fails to appreciate or account for the unique working conditions broadband workers face, regardless of whether they are deploying fixed wireless or fiber optic facilities. WISPA members’ work crews

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frequently must labor in varying outdoor conditions to install and maintain critical infrastructure. The Proposed Rule, as written, could inadvertently but significantly hamper necessary broadband deployment, **reduce workers' earning power**, and add excessive and costly compliance burdens that are more restrictive than federal OSHA standards.

## DISCUSSION

The Proposed Rule, while well-intentioned, would impose requirements that are operationally burdensome and impractical for small broadband providers, particularly those that rely on skilled technicians working in the field under variable heat conditions. WISPA members' work includes outdoor infrastructure deployment, tower climbing, fiber installation, and multi-site service calls, often in rural and remote areas of New Mexico. The Proposed Rule's lack of flexibility and ambiguous language, when combined with stringent control measures, threatens to severely disrupt these ongoing operations and reduce workers' earning potential without proportionate improvements in safety.

### **Acclimatization, Rest Break, and Cooling Area requirements do not sufficiently respond to Fixed Wireless Broadband industry conditions**

#### *A. Acclimatization Methods (11.5.7.10(A))*

The proposed acclimatization requirements, particularly Sections A(3)(a)-(c),<sup>1</sup> fail to reflect the realities of broadband deployment. The Proposed Rule sets an unreasonably low temperature threshold of 80 degrees Fahrenheit to trigger control measures. For indoor office workers, OSHA recommends temperatures “in the range of 68-76” degrees – close to the Proposed Rule’s threshold for activating control measures.<sup>2</sup> A similar California law requires access to shade and water above 80 degrees Fahrenheit, but only implements more stringent measures “when the temperature equals or exceeds 95 degrees Fahrenheit.”<sup>3</sup> The California law does not require the burdensome acclimatization process envisioned by New Mexico – rather, it focuses on close monitoring of workers and training for workers and supervisors, with appropriate rest periods – however, even in “high heat” scenarios, work may continue all day. Here, the Proposed Rule should follow California in setting an appropriate threshold for control measures to be required.

Further, WISPA members frequently conduct work across multiple “hot” job sites within a single day, moving from location to location, sometimes with a single worker or small 2-3 person crew performing various outdoor job duties. These workers are able to acclimatize to working in heat-intensive environments at the first work site, and this acclimatization carries over to subsequent sites. Imposing a mandatory phased work schedule for each new assignment

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<sup>1</sup> [https://www.env.nm.gov/occupational\\_health\\_safety/wp-content/uploads/sites/12/2025/03/NMED-Heat-Illness-and-Injury-Prevention-Rule.pdf](https://www.env.nm.gov/occupational_health_safety/wp-content/uploads/sites/12/2025/03/NMED-Heat-Illness-and-Injury-Prevention-Rule.pdf)

<sup>2</sup> OSHA FAQ, <https://www.osha.gov/node/57113>

<sup>3</sup> California statute §3395. Heat Illness Prevention in Outdoor Places of Employment, <https://www.dir.ca.gov/title8/3395.html>

location (even when temperatures and conditions are consistent) would create unnecessary delays, reduce operational efficiency, and impose financial strain on employers. The Proposed Rule's definition of "work area" should be amended to include multiple substantially similar job sites with a similar temperature in the same day or week.

Under the current acclimatization schedule, workers' safety could be jeopardized through a move toward working very early or very late in the day when temperatures are lower and the compliance burdens less onerous. For example, on an anticipated high-heat day, an ISP may choose to send a work crew to a site at sunrise, requiring the crew to wake up in the very early morning hours and drive an hour or more before dawn to arrive at the site on time, leading to workers being tired and less alert while conducting dangerous activities such as climbing a tower and raising equipment. Similar late-evening work, when it is typically cooler, could lead to workers operating in low-light conditions which would increase risk factors.

*B. Regular Rest Breaks and Index Table 3 (11.5.7.10(B))*

WISPA supports the use of paid rest breaks but objects to the prescriptive rest schedule in Index Table 3,<sup>4</sup> particularly for temperatures exceeding 105°F. Indeed, many WISPA members already use paid breaks as a heart-disease mitigation measure. However, tower climbers often ascend 500 to 1,000 feet, a process that can take up to two to five hours. Requiring these workers to descend mid-task or pause in the middle of a tower to satisfy a fixed rest schedule is

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<sup>4</sup> [https://www.env.nm.gov/occupational\\_health\\_safety/wp-content/uploads/sites/12/2025/03/NMED-Heat-Illness-and-Injury-Prevention-Rule.pdf](https://www.env.nm.gov/occupational_health_safety/wp-content/uploads/sites/12/2025/03/NMED-Heat-Illness-and-Injury-Prevention-Rule.pdf)



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both unsafe and inefficient. The Proposed Rule must take into account the need for broadband workers to fully complete certain tasks, such as tower climbs, before breaks are mandated; the Proposed Rule must also account for workers to take a break after ascending a tower, such that they are able to continue working on the tower after the break.

## CONCLUSION

WISPA opposes the Proposed Heat Illness and Injury Prevention Rule (Title 11, Chapter 5, Part 7) in its current form. The Proposed Rule's acclimatization mandates, rigid rest break requirements, and ambiguous terms, such as "work area" and "workroom", fail to account for the operational realities of small broadband providers. These provisions would impose significant burdens on field-based workers who travel long distances, work across multiple sites per day, and perform time-sensitive infrastructure tasks in variable heat conditions.

WISPA urges the Department to reconsider and revise the Proposed Rule to reflect the unique structure and mobility of the fixed wireless broadband workforce, and to avoid adopting a framework that mirrors failed policies from other states.