

May 19, 2025

NM Environmental Improvement Board  
c/o NM Environment Department  
1190 St. Francis Drive, Suite N4050  
Santa Fe, NM 87505



**RE: Proposed New Regulation, 11.5.7 NMAC - Heat Illness and Injury Prevention**

Dear New Mexico Environmental Improvement Board,

The New Mexico Council of Outfitters and Guides (NMCOG) is a 501(c)6 non-profit trade association that advocates the interests of professionals earning a livelihood as a NM hunting or fishing outfitter or guide. According to a 2023 economic impact study conducted on the NM outfitting industry, outfitters and guides contribute over \$306 million to NM's economy annually. The outfitted hunting/fishing industry is the highest grossing segment of outdoor recreation tourism in the state of New Mexico. In NM the term "outfitter" applies to a business owner who operates a tour business that sells hunting or fishing experiences to resident and non-resident clientele. While the term "guide" signifies the outfitter's employees.

Please accept the following comments as our official opposition to 11.5.7 NMAC, a newly proposed rule regarding Occupational Health and Safety.

NMCOG agrees that long-term exposure to heat can be life-threatening and is a workplace condition that should be taken seriously. We agree that employers should take steps to abate the hazards associated with employees working in high heat environments. However, we feel that newly proposed rule 11.5.7 NMAC generalizes NM's diverse professional industries by making incorrect assumptions regarding current workplace environments, would be overly burdensome to employers, and mandates unattainable requirements on outdoor recreation industries.

We would also like it further noted that our organization is broadly disgruntled that the EIB seems to have arbitrarily singled out heat danger as a matter to be strictly regulated by rule while turning a blind eye to all the other weather-related dangers that apply to all businesses operating outdoors.

There has been no consideration given to the fact that outdoor recreation businesses deal with various types of weather-related danger (the least of which is heat). Our operators routinely deal with the dangers related to all weather, which include extreme heat but also includes lightning, severe rain, snow, and extreme cold. Our business owners are already well prepared to deal with weather risks that could apply to their employees or clientele. The success of any outdoor recreation business depends on its weather preparedness.

Additionally, NM hunting and fishing outfitters frequently deal with clientele who have traveled from sea level to high alpine areas over 10,000ft in elevation where altitude sickness is a very dangerous

**NEW MEXICO COUNCIL OF OUTFITTERS AND GUIDES**

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threat in addition to weather related risks. NM outdoor business owners are already aware of these risks and have incorporated precautions into their business plans. These precautions are required for outfitters and guides to operate in outdoor environments, and this rule completely ignores the fact that responsible business plans are already in place to prevent weather related injury to employees and clientele.

We also have opposition to the newly proposed rule Sections 11.5.7.10 and 11.5.7.13. Our concerns are described in detail below.

**11.5.7.10 Control Measures subsection A. (Acclimatization Methods):** under this provision an employer “shall” closely observe new employees in a work area where the heat index exceeds 80 degrees Fahrenheit. This mandate completely ignores the fact that guides in the outfitting industry are characteristically unsupervised. Hunting/fishing outfitters hire guides so that they can provide services to multiple clients on any given day. Guides are routinely working many miles from their outfitter employer. Any requirement that a guide be “closely observed by a supervisor” is unachievable and simply is not consistent with existing workplace requirements for the outfitting industry.

Additionally, under provision A., an outfitter would be mandated to implement a work schedule based on percentages of “usual duration of work in the heat”. This is an impossible task for outfitters given the subjectivity of the activity of hunting. For example, on any given day during hunting season a hunter and guide may begin the hunt before sunrise and complete the activity before mid-morning, or they might begin in the heat of the afternoon and continue until sunset, or they may hunt from sunrise to sunset. A hunting guide’s work schedule will differ every day depending on movement and location of game animals.

**11.5.7.10 Control Measures subsection C. (Regular Rest Breaks):** under this provision an employer “shall” provide paid work breaks according to the Environment Department’s predesigned Work/Rest Table. However, the predesigned table wrongly assumes that an employer always has access to the exact temperature and relative humidity. Outfitters and guides are often working in locations in the remote backcountry where there is no internet access or cell phone service. It will be extremely difficult for an outfitter to judge the exact air temperature and relative humidity required to calculate the heat index without access to the internet. The rest requirements of a heat index of 90° as opposed to 95° are significant and it will be nearly impossible for outfitters/guides to know exactly when to implement predesignated rest requirements.

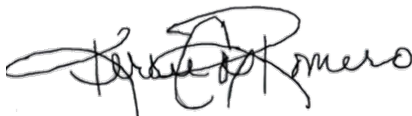
**11.5.7.10 Control Measures subsection D. (Cooling Areas):** This provision takes for granted that all employees workplaces are located in close proximity to manmade cooling devices such as air conditioning, misters, shade structures, or cooling garments. Hunting/fishing outfitters and guides frequently work in remote backcountry areas where any available shade consists of nature provided elements. Much of the time outfitters, guides, and their clientele will have no problem finding adequate cover during heat however, there will be times when shade is not available during the timing intervals required under this new rule. This rule also makes no distinction between a business that takes place without shade but on a river as opposed to on land without shade and without a water source.

**11.5.7.13 Record Keeping:** NMCOG is completely opposed to this section of the new rule. Requiring that employers keep “accurate record of the heat acclimatization schedule” for all employees for 5 years is

exceedingly overburdensome and entirely unenforceable. Keeping records of heat-related illness and injury is an acceptable requirement and would adequate.

In conclusion, NMCOG agrees that heat exposure is a very real risk and an important element for outdoor recreation business owners to consider. However, NMCOG also feels that this new rule would be unnecessarily burdensome to the outdoor recreation industry. The requirements under the rule are arbitrary and unapplicable to the working conditions faced by most hunting/fishing outfitters and guides. This rule is premature and needs extensive revision before being forced upon the business owners of the state of New Mexico.

Sincerely,

A handwritten signature in black ink, appearing to read "Kerrie Cox Romero". The signature is stylized with a large, looped "K" and "R".

Kerrie Cox Romero

Executive Director – New Mexico Council of Outfitters and Guides