

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

Submitted to: New Mexico Environmental Improvement Board

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Dear Members of the Environmental Improvement Board,

Thank you for the opportunity to comment on the proposed Heat Illness and Injury Prevention Rule, 11.5.7 NMAC. I appreciate the Board's effort to prioritize worker safety in New Mexico's diverse environmental conditions. However, as a long-time worker and representative of desert-acclimated tradespeople, I offer the following comments and suggested amendments to improve the feasibility of the rule for outdoor industries in arid climates.

Key Concerns

1. **Lower Thresholds May Not Reflect Regional Acclimatization**
The proposed 80°F threshold for heat exposure assessments and mandatory rest breaks does not adequately reflect the physiological acclimatization of New Mexico's desert workforce. Decades of experience show that well-hydrated, acclimated workers can safely operate at higher thresholds without increased risk, especially in low humidity environments.
2. **Impacts on Productivity and Construction Costs**
Mandatory break schedules and fluid intake standards based on generalized national models may inadvertently reduce productivity, increase project timelines, and drive-up construction costs in sectors that are already operating with strong heat safety practices tailored to our environment.
3. **Flexibility Needed for Desert Work Conditions**
Employers and crews working in arid regions often already use a range of effective, site-specific safety strategies—such as shade structures, cooling gear, and rotation schedules—that achieve the same level of protection without disrupting work unnecessarily.

Proposed Amendments

1. Revise Definition (11.5.7.7):

Add a definition for “Acclimated Worker”:

“Acclimated Worker” means an employee who has worked in outdoor desert conditions in New Mexico for at least 10 of the past 14 consecutive days for a minimum of two hours per day.

2. Adjust Heat Exposure Thresholds (11.5.7.9):

Employers shall conduct a heat exposure assessment when the heat index reaches 90°F for acclimated workers, and 85°F for non-acclimated workers. In regions with relative humidity at or below 15%, a downward adjustment of up to 5°F may be applied to account for lower physiological heat stress.

3. Modify Acclimatization Schedule (11.5.7.10.A):

Acclimatization protocols shall apply only to workers newly assigned to heat-intensive tasks or returning from absences of seven days or more. Acclimated workers may follow regular schedules unless symptoms of heat illness are observed.

4. Allow Alternative Rest and Cooling Measures (11.5.7.10.C–D):

Employers may implement task-based rest schedules and use alternative cooling measures (e.g., cooling vests, misting stations) that offer equivalent protection to the Table 3 schedule, as long as they are supported by monitoring and training.

5. Add Feasibility Clause (New 11.5.7.14):

Employers operating in arid or semi-arid zones may develop alternative compliance plans that meet the intent of the rule using locally appropriate methods. These plans must be documented and available for review upon request.

These amendments would preserve the intent of the rule—protecting workers from heat illness—while making it practical and sustainable for industries operating in New Mexico’s unique climate. I urge the Board to consider these changes to maintain both safety and economic viability.

Thank you for your time and commitment to New Mexico’s workforce.

Sincerely,
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