STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED NEW REGULATION.
11.5.7 NMAC – *Heat Illness and Injury Prevention*

No. EIB 25-11(R)

Occupational Health and Safety Bureau
Environmental Health Division
New Mexico Environment Department,

Petitioner.

FOURTH MOTION TO VACATE AND RESCHEDULE RULEMAKING HEARING DATE

The Occupational Health and Safety Bureau ("Bureau") of the Environmental Health Division, New Mexico Environment Department, pursuant to 20.1.1.307 NMAC, respectfully moves to vacate the hearing scheduled for September 21, 2026, on the Bureau's Petition before the Environmental Improvement Board in the matter of proposed new regulation 11.5.7 NMAC – *Heat Illness and Injury Prevention* ("Petition") and reschedule the hearing at a later date as requested below. As grounds for this motion, the Bureau states as follows:

1. The Bureau has engaged in extensive outreach with employers, employees, labor organizations, industry representatives, public health advocates, and other stakeholders. The Bureau evaluated multiple regulatory alternatives to address stakeholder concerns and achieve broad support; however, consensus on a proposed heat illness and injury prevention standard has not been reached.
2. The Bureau has determined that additional evaluation is warranted before proceeding with rulemaking. The Bureau will continue to analyze New Mexico-specific occupational safety, public health, and labor data to inform a future proposal that is responsive to the

needs of New Mexico employers and workers. Accordingly, the Bureau requests that the hearing scheduled to begin September 21, 2026, be vacated and reset for the week of March 22-26, 2027.

3. The Bureau continues to recognize occupational heat exposure as a significant workplace hazard and believes that the absence of a comprehensive heat illness and injury prevention standard presents risks to New Mexico workers, employers, and the State's economy. Pending the future rulemaking hearing, the Bureau will continue to enforce the New Mexico Occupational Health and Safety Act**,** including the General Duty Clause, Section 50-9-5(A) NMSA 1978**,** which requires every employer to furnish employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm, including heat-related hazards.
4. Pursuant to 20.1.1.307 NMAC, the Bureau sought the positions of all parties who have entered appearances in this matter regarding the relief requested herein.

a. Nicholas Maxwell does not oppose this Motion.
b. Bruce Wetherbee opposes this Motion and indicates he will file a written opposition to the Motion and request a hearing.
c. The position of Shelley Mann-Lev on this Motions was sought, but no response was received by the time of the filing of this Motion.

5. The Bureau requests that this Motion be decided by the Hearing Officer pursuant to 20.1.1.307(F) NMAC.

WHEREFORE, the Bureau respectfully requests that the Hearing Officer, pursuant to 20.1.1.307(F) NMAC, the hearing scheduled for September 21, 2026, be vacated and

reschedule the hearing for the week of March 22-26, 2027. The Bureau will appear before the Hearing Officer or the Board if further support for this Motion is requested.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Fourth Motion to Vacate and Reschedule Rulemaking Hearing Date was served on the following parties by email, on July 24, 2026, a hard copy will be mailed upon request:

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