

**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.

**THIRD MOTION TO VACATE HEARING DATE
AND RESCHEDULE 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 May 4-8, 2026, on the Bureau’s Petition before the Environmental Improvement Board (“EIB”) in the matter of the proposed adoption of new regulation 11.5.7 NMAC – *Heat Illness and Injury Prevention* currently. As grounds for this motion, the Bureau states as follows:

1. On March 13, 2025, the Bureau filed a petition with the Environmental Improvement Board for the adoption of a proposed new *Heat Illness and Injury Prevention* rule.
2. The EIB scheduled a public hearing on the Bureau’s petition for July 16, 2025.
3. On May 30, 2025, the Bureau subsequently moved to vacate the July 16, 2025, hearing date. Following a public meeting, the EIB rescheduled the hearing on the Petition for January 12-14, 2026.

4. On October 21, 2025, the Bureau filed a Second Motion to Vacate Hearing Date and Reschedule Hearing Date and the Hearing Officer, Felicia Orth, issued an Order resetting the hearing date for May 4-8, 2026.
5. The Bureau has been informed that the Environmental Improvement Board will not have a quorum during the week of May 4-8, 2026, and therefore will be unable to conduct the scheduled hearing.
6. It is also necessary for the Bureau to publish the revised draft of the proposed new Heat Illness and Injury Prevention regulation and provide sufficient time for stakeholder comments and engagement on the revised proposed rule.
7. Additional time will allow the Bureau's new Director, Dr. Graciela Perez, who assumed her role on March 2, 2026, to meaningfully participate in stakeholder engagement regarding the revised proposed rule.
8. 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. The positions of the parties are as follows: Nicholas Maxwell does not oppose this Motion. Bruce Wetherbee opposes the Motion and indicated that he will be filing a written response and requesting a hearing on the Motion.
9. 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, vacate the hearing scheduled for May 4-8, 2026, and reschedule the hearing for the week of August 3-7, 2026. 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**

/s/ Michael Prinz _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Third Motion to Vacate Hearing Date and Reschedule Hearing Date was served on the following parties by email, on March 9, 2026, a hard copy will be mailed upon request:

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/s/ Michael Prinz _____
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