



District 12

Gaylan Z Prescott
District Director

May 28, 2025

Via Email

Bureau Chief Kristy Peck
Occupational Health and Safety Bureau
New Mexico's Environment Department
Santa Fe, NM 87505

RE: United Steelworkers District 12 supports the New Mexico Occupational Health and Safety Bureau's proposed Heat Illness and Injury Prevention rule.

Dear Chief Peck,

On behalf of the United Steelworkers (USW) District 12 members in New Mexico, I write in support of the proposed Heat Illness and Injury Prevention rule. USW is the largest industrial union, representing 850,000 members across North America — including workers across the state of New Mexico. Here in the Land of Enchantment, our members work in a variety of industries, including mining, public sector, nuclear waste cleanup, and many more.

All of our workers understand the unique challenges that a warming climate poses to their well-being on the job. Whether it's the higher ambient temperatures for our potash miners in Carlsbad or the heat hazards faced by our municipal workers in Las Cruces, every worker is being impacted by increased heat stress on the job.

As such, it is critical for the government to take action to protect workers from these new hazards. In the absence of federal intervention, we applaud state governments like New Mexico in accepting the responsibility to tackle this crisis. In our comment below, we wish to provide brief remarks on where we think the proposed rule makes progress, while also highlighting a few areas for improvement.

Scope

First and foremost, we applaud the proposed rule's intention to cover all indoor and outdoor workers. Although high heat hazards are often thought to primarily impact outdoor workers, many indoor workplaces are affected as well. Our members work in a variety of settings — both outdoor and indoor — and workers can experience heat illness and injury in both settings. For example, USW Local 9424 includes employees in parks and recreation for the City of Las Cruces, NM who obviously spend a lot of time outside on hot

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days. Also, in that same local, we have municipal custodians who can be exposed to high heat even though they work indoors. Lastly, we have members at several facilities who wear heavy personal protective equipment (PPE) that can amplify the intense temperatures they already experience on the job.

In that same vein, we encourage the state's Occupational Health and Safety Bureau (OHSB) to reconsider some of the exempted categories in the proposed rule. In particular, we represent many emergency responders who put their lives on the line to keep communities safe (oftentimes exposing themselves to high heat environments in the process), and they deserve the same sort of protections afforded to other workers. We also have concerns about the exemption of workplaces that "have a mechanical ventilation system that keeps the heat index below 80 degrees Fahrenheit for all working areas." While understandable, this exemption could potentially lead to a major loophole, namely workplaces that technically have air conditioning units, but those units are not operational. We have heard stories from our members where a workplace's ventilation systems do not work, either because the employer never turns them on or because they've been broken and never repaired. Our concern is that employers could claim they meet this exemption, without actually protecting their workers. As such, we encourage the state to limit the types of exempted workers.

Heat Illness and Injury Prevention Plan

The first step in addressing any hazard is to have a plan. We commend New Mexico for requiring each employer (regardless of size) to have a Heat Injury and Illness Prevention Plan (HIIPP). One major concern we have with the proposed rule, though, is that as currently written, the employer is the sole party that gets to "establish, implement, and maintain" the HIIPP. Although the employer must play a role, we believe it is critical to give workers and their representatives a seat at the table as well. We encourage the state to amend the first sentence of this section to read: "The employer shall consult with workers and their representatives in all stages of establishment, implementation, and maintenance of an effective heat injury and illness plan." Such language would ensure that workers have a voice in creating a plan that actually works.

Additionally, we agree that the HIIPP should be provided in writing and in a language that employees understand. However, we suggest the state modify the language requirements to align with those outlined in the Training section of the proposed rule. Specifically, instead of providing the HIIPP in "the language understood by the majority of the employees," the HIIPP must be provided in "a language and vocabulary readily understood by *all* employees". USW had a tragic heat-related fatality occur in a steel mill due to a language barrier by one of our employees. It is essential that workplace health and safety documents, such as a HIIPP, can be understood by all workers, not just "the majority of workers."

Heat Exposure Assessment

We strongly agree that a heat exposure assessment is key to identifying the specific heat-related risks workers experience at their job sites, and as such, it must be included in all HIIPPs. Like the HIIPP section though, we strongly urge the state to modify the first

sentence of this section to read: “Employers, along with workers and their representatives, shall conduct a heat exposure assessment...” Doing so will ensure that employers are thorough in their assessments. Including workers in all stages of a heat exposure assessment will guarantee that they are as accurate as possible.

Also, we agree that the heat exposure assessment must take into consideration “the intensity of the work being committed,” “the acclimatization of the employee,” and “the heat remaining impacts of required protective clothing and PPE.” As mentioned before, many workers — including workers at Local 188A in Mosaic’s potash mine and Local 12-09477 employees at the Waste Isolation Pilot Plant (WIPP) nuclear cleanup site — must wear heavy PPE as part of their labor-intensive jobs. It is essential that any heat exposure assessment consider all of these factors when evaluating the level of heat a worker is being exposed to.

Control Measures

The most important part of this proposed rule, clearly, is the control measures. Having a plan to mitigate heat exposure and a system for evaluating when a worker has been exposed to dangerous heat levels are key, but they only matter if an employer implements effective control measures to deal with the exposure.

We support the proposed rule’s inclusion of several key control measures, including acclimatization, fluid provision, rest breaks, cooling areas, and personnel monitoring. For acclimatization, we agree with the schedule for new workers, but suggest that the final rule apply that same five-day schedule for returning workers as well. When workers have been away from their job site for an extended period of time, it is key to give their bodies the proper time to readjust. Regarding water and rest breaks, we agree that both are essential components of an effective control measure system. Crucially, these break times must not include the time needed to take heavy clothing on or off (i.e., donning and doffing).

For cooling areas, we commend the state for requiring employers to provide both shade and artificial cooling systems. We also agree that employers must be obligated to ensure those shade areas are large enough and that the artificial cooling systems are always operational. Making the cooling areas as close as practicable to where workers are stationed is also essential. Lastly, we support the personnel monitoring requirement, but instead of offering employers the ability to implement “one or more of the following,” we suggest you require them to implement “all of the following.” Radio communication for workers working alone, a buddy system, and self-monitoring are all effective control measures, and they work best in combination with each other, so an employer should be required to implement all three of them, not just one.

Finally, we suggest that the state give some thought to outlining specific minimum control measures for the high heat conditions (i.e., above 90 degrees Fahrenheit). The federal proposed rule on heat from the U.S. Occupational Safety and Health Administration (OSHA) has two separate lists of control measure requirements: one at their initial heat trigger (i.e., 80 degrees) and a different list for exposures above their high heat trigger (i.e., 90 degrees). We think New Mexico should take a similar approach when finalizing their

rule, rather than just leaving that responsibility to the individual employer, which is how it is currently written.

Training and Recordkeeping

We are also pleased to see that the proposed rule includes such strong language on training and recordkeeping. Our members know firsthand that a hazard mitigation plan is only effective when everyone is fully trained up on it. As such, we applaud the proposed rule for requiring training to be conducted “at the employer’s expense.” No worker should feel incentivized to skip the training in order to save money, nor should the cost of the training fall on the individual worker. Second, we appreciate the requirement for the training to be conducted in “a language and vocabulary readily understood by all employees.” Ensuring full comprehension of the company’s policies is critical. Lastly, we agree that this training must occur “at the beginning of employment for each employee and annually thereafter.” However, we would encourage the state to add a specific provision stating that training refreshers should also occur after any heat-related injuries or illnesses at the facility. Lessons learned are best internalized when the training happens soon after an incident.

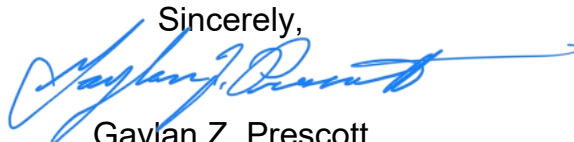
As for recordkeeping, we agree with the proposed rule that employers must keep track of acclimatization schedules, training attendance, and any heat-related incidents for a period of five years. Doing so will allow the employer, the workers and their representatives, and the state to monitor any concerning patterns, while also maximizing the chances that heat-related injuries and illnesses rarely (if ever) occur, and to the extent that they do, that they decrease over time.

Conclusion

In closing, the warming climate is presenting new challenges for workplace health and safety. Although the problem is most immediately clear for outdoor workers (e.g., those in the agriculture and construction sectors), the fact of the matter is that all workers are being impacted. As discussed here, USW members are among some of the most directly impacted workers, and as such, they would benefit enormously from a well-designed heat standard.

Thank you for taking the time to propose this standard and to take our comments into consideration as you finalize the rule. We look forward to continuing to work together in establishing a comprehensive, effective Heat Illness and Injury Prevention final rule that protects all New Mexican workers.

Sincerely,



Gaylan Z. Prescott
Director, USW District 12