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May 27, 2025

Via USPS and Electronic Mail

Heat Injury and Illness Prevention Rule
New Mexico Environment Department
P.O. Box 5469
Santa Fe, New Mexico 87502
Heatrule.Comments@env.nm.gov

Re: Intrepid Potash – New Mexico, LLC's Comments on the Proposed Heat Illness and Injury Prevention Rule

To whom it may concern:

Intrepid Potash – New Mexico, LLC ("Intrepid"), respectfully submits these comments for consideration to the proposed Heat Illness and Injury Prevention Rule ("Heat Injury Rule") Rulemaking. This comment letter is intended to assist the New Mexico Environment Department ("NMED") in its final draft of the proposed Heat Injury Rule. Intrepid appreciates the opportunity to provide its comments for the NMED's consideration.

Scope Section (NMAC 11.5.7.2)

Intrepid requests clarification on whether entities subject to the Mine Safety and Health Administration ("MSHA") are intended to be included or excluded from this rule set.

Definition Section (NMAC 11.5.7.7)

Intrepid recommends adding definitions to the proposed Heat Injury Rules to provide clarifications that will assist the agency in implementing and administering the rules. Absent the proposed clarifying definitions, the NMED may be required to litigate the definitions if and when the Heat Injury Rules are implicated in future administrative hearings, or before the District Court.

Intrepid recommends adding definitions for the levels of work described in Table 3: light, moderate, and heavy work. An employers' understanding of the levels of work contemplated in Table 3 is critical to the employers' understanding of modifications that may be required during "high heat conditions," in conducting "heat exposure assessments," and in ensuring that employees are provided "regular rest breaks." It appears that the schedule described in Table 3 is derived from CDC Guidance: "Heat Stress Work/Rest Schedules," which includes examples of work at different intensity levels. *See* Heat Stress: Work/Rest Schedules (last visited Apr. 29, 2025). The inclusion

of examples of different intensity activities is valuable information for employers to ensure that employees are adequately protected from the risks of heat injury and illness.

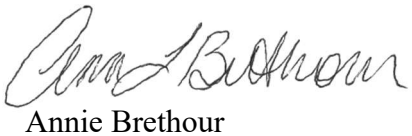
Control Measures Section (NMAC 11.5.7.10)

The section regarding acclimatization methods does not account for employees who, in the course of their typical schedule with a company, may have more than seven (7) days off in a row, due to the fluctuating schedule. In light of the changing schedule, Intrepid would recommend changing the language in 11.5.7.10(A)(c) to "[f]or workers returning from an absence of seven or more days, excluding days off that occurred in the normal course of the worker's schedule . . ." in order to account for absences that occur naturally in a company's schedule.

The CDC states that acclimatization for heat tolerance *begins* to be lost at seven (7) days and returns to baseline, where acclimatization is completely lost, after thirty (30) days. *See* Exhibit 1. Therefore, unless an employee was out for seven (7) or more days following a heat related issue, it would be reasonable for the acclimatization methods for an employee to not trigger for an employee until that employee was off from work for at least fourteen (14) days. The onus should still be on the employer to properly educate employees about heat related illness and injury risks, and providing hydration and cooling stations, but increasing the acclimatization method language to return to work after fourteen (14) days would benefit the employer without exposing the employee to undue risk.

Once again, Intrepid appreciates the opportunity to review and comment on the proposed rule and appreciates your consideration of Intrepid's comments. If you have any questions, please let me know.

Sincerely,



Annie Brethour
Deputy General Counsel

HEAT STRESS
Work/Rest Schedules

Using work/rest schedules can decrease the risk of heat illness

Sample Work/Rest Schedule for Workers Wearing Normal Clothing*

The NIOSH work/rest schedule is based on air temperature, with adjustments for direct sunlight and humidity. It may not be applicable to all worksites. Other work/rest schedules are available, some of which are based on Wet Bulb Globe Temperature.

See reverse for temperature adjustments for the NIOSH work/rest schedule and examples of light, moderate, and heavy work.

Temperature (°F)	**Light Work** Minutes Work/Rest	**Moderate Work** Minutes Work/Rest	**Heavy Work** Minutes Work/Rest
90	Normal	Normal	Normal
91	Normal	Normal	Normal
92	Normal	Normal	Normal
93	Normal	Normal	Normal
94	Normal	Normal	Normal
95	Normal	Normal	45/15
96	Normal	Normal	45/15
97	Normal	Normal	40/20
98	Normal	Normal	35/25
99	Normal	Normal	35/25
100	Normal	45/15	30/30
101	Normal	40/20	30/30
102	Normal	35/25	25/35
103	Normal	30/30	20/40
104	**Normal**	**30/30**	**20/40**
105	Normal	25/35	15/45
106	45/15	20/40	Caution
107	40/20	15/45	Caution
108	**35/25**	**Caution**	**Caution**
109	30/30	Caution	Caution
110	15/45	Caution	Caution
111	Caution	Caution	Caution
112	Caution	Caution	Caution

Things you need to know:

- Continuous work in the heat is not advisable—you must take rest breaks periodically to allow your body to cool down.
- A variety of work/rest schedules are available that can be adapted to your worksite. Relying on self-pacing alone may not be sufficient.

Example

A worker performing heavy work in 104 °F temperatures should work for 20 minutes and rest for 40 minutes.

Example

A worker performing moderate work at 108 °F should use extreme caution! The risk for heat injury is high in this situation.

* From NIOSH Criteria for a Recommended Standard, Occupational Exposure to Heat and Hot Environments, https://www.cdc.gov/niosh/docs/2016-106/pdfs/2016-106.pdf. **Assumptions:** workers are physically fit, well-rested, fully hydrated, under age 40, and environment has 30% humidity and perceptible air movement.

EXHIBIT 1

HEAT STRESS Work/Rest Schedules

Temperature Adjustments for this Work/Rest Schedule

Adjust the temperature in the table based on:

Environmental conditions	AND	Humidity
• Full sun (no clouds): Add 13 °F • Partly cloudy/overcast: Add 7 °F • No shadows visible, in the shade, or at night: No adjustment		• 40% humidity: Add 3 °F • 50% humidity: Add 6 °F • 60% humidity or more: Add 9 °F

Example Adjustment

Conditions at a mine are 90 °F, with partly cloudy skies and 50% humidity. Adjust the table as follows:

Add 7 °F for partly cloudy skies and 6 °F for 50% humidity, to arrive at 103 °F.

Photo by ©Thinkstock

Examples of Work at Different Intensity Levels

Light work

- Operating equipment
- Inspection work
- Walking on flat, level ground
- Using light hand tools (wrench, pliers, etc.). However, this may be moderate work depending on the task
- Travel by conveyance

Moderate work

- Jack-leg drilling
- Installing ground support
- Loading explosives
- Carrying equipment/supplies weighing 20–40 pounds
- Using hand tools (shovel, fin-hoe, scaling bar) for short periods

Heavy work

- Climbing
- Carrying equipment/supplies weighing 40 pounds or more
- Installing utilities
- Using hand tools (shovel, fin-hoe, scaling bar) for extended periods

Case Study: Use of Work/Rest Schedule

A crew was shoveling ore out from under the primary conveyor at a surface mine in Arizona in August. The high temperature that day was 113 °F. The crew was rotating in 10-minute shifts and hydrating between shifts. Coworkers noticed signs of heat illness in two employees, and they were transferred to the medical station for evaluation. From there they were sent to the hospital, where they were given IV saline and released home. Both employees recovered after rehydration at the hospital.

Lessons Learned

In extreme heat, even a work/rest schedule may not eliminate the risk of heat illness. In this case, use of work/rest schedules, frequent hydration, and team monitoring helped keep this situation from becoming even more serious. Without those safety precautions the workers could have potentially suffered more severe heat illness, possibly including heat stroke, which is life threatening.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Disease Control and Prevention
National Institute for Occupational Safety and Health

DHHS (NIOSH) Publication No. 2017-127

EXHIBIT 1