Enterprise Products

Comments attached in pdf

Enterprise Products

ENTERPRISE PRODUCTS PARTNERS L.P.
ENTERPRISE PRODUCTS HOLDINGS LLC
(General Partner)

ENTERPRISE PRODUCTS OPERATING LLC

May 29, 2025

New Mexico Environmental Department
Submitted via Public Comment Form

RE: EIB 25-11 (R) - Proposed New Regulation, 11.5.7 NMAC - Heat Illness and Injury Prevention

To Whom It May Concern:

Opening

Enterprise Products Operating LLC respectfully submits the following comments regarding New Mexico's proposed Heat Illness Prevention rule. Our company and industry place great value on worker safety and have invested significant effort to protect workers from numerous hazards, including those posed by extreme heat, for many years. While we applaud the New Mexico Environment Department's concern for our industry's workers, and share the proposal's goals, as written the proposal presents several concerns around the rule's necessity, practicality, effectiveness, and potential unintended consequences for businesses and workers alike. We ask for the reasons noted below that the NMED pivot from the proposal and instead focus on assuring that companies establish and implement procedures that follow the applicable OSHA directives.

Potential for Confusion and Lack of Clear Guidance

The proposal includes complex and ambiguous rules that could create confusion among both employers and employees. For example, the proposal includes confusing language that uses mandatory language (such as "shall") to apply to ambiguous and non-encapsulating examples, and thereby challenges the most diligent operators in attempting to define compliance. Instead, we believe that a successful heat illness prevention strategy requires clear communication, practical guidelines, and employer-employee collaboration—elements better supported through existing OSHA initiatives rather than complex new regulations. Enforcing OSHA's existing National Emphasis Program (NEP) and leveraging proven heat illness prevention strategies would provide clearer, more actionable guidance, especially when companies operating in multiple states already have established procedures that meet the OSHA directives.

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Established Guidance from OSHA

OSHA's Heat Illness Prevention Campaign, launched in 2011, delivers comprehensive resources for managing heat-related risks. It presents a practical, adaptable approach that reduces the need for additional state regulations. Through this initiative, employers and employees gain access to essential tools and guidance for identifying and mitigating heat hazards, including awareness programs, training materials, and acclimatization strategies. In April 2022, OSHA launched a National Emphasis Program (NEP) to strengthen its ongoing efforts in preventing heat-related illnesses. The NEP aligns with many of the concerns expressed by the state of New Mexico, and offers universal guidance, control measures, and established resources to help employers safeguard their workers from heat-related hazards and applies across national operating areas. Given OSHA's already well-established NEP CPL 03-00-024 framework, which includes recommended protective measures on all the topics covered in the proposal, these state regulations are redundant and unnecessary and do not create meaningful improvements to existing guidelines.

Acclimatization Requirements

We are also especially concerned by the restrictive definition of acclimatization. This aspect of the proposal is unnecessary and discounts the effects of every other practice required by this proposal to support employees working in hot environments. The language for acclimatization also creates a work schedule measurement, 20%, with no denominator whether it applies to each hour, day, or some other period when a worker's entire shift is not spent in heated conditions. Similarly, the proposal provides no methodology for tracking or verifying compliance. As a third example of the problem with the proposal's construct, by mandating full acclimatization requirements at 80ºF, the proposal as written does not provide for additional process changes as temperatures rise, even though conditions above that level present greater risk and occur frequently. Instead, we request that NMED follow the approach of the OSHA NEP, which better protects employees by giving the employer the responsibility to define the structure of an acclimatization program.

Regular Rest Breaks

We are also concerned by Table 3 of the proposal, which outlines a mandated break schedule that is impractical, unnecessarily burdensome, and does not clearly define what constitutes light/moderate/heavy work. The Table 3 approach is both overly prescriptive, and also lacking in guidance and assumptions of worker health, wellness, age, hydration, and rest. Many of these factors cannot be reasonably known by the employee's supervisor and rely on the employee's providing accurate personal health information. Employees can define a schedule "at least as effective" as Table 3, but there is no way to understand by what measure the break schedule is effective. OSHA NEP guidance, along with NIOSH tiering guidance, do provide the necessary framework on both requirements and additional mitigations to help keep businesses operating and protecting workers. Defining this schedule as in proposed Table 3 does not provide an identifiable benefit.

Conclusion

OSHA requires members of industry to already have established Heat Illness programs with manageable requirements and levels of resources to support both employers and employees. Excessive heat is not just a worker risk in New Mexico. Several sections of the proposed regulations are overly restrictive, unclear, and lacking in actionable mitigation strategies. Leveraging OSHA's existing programs, refining employer education, and enhancing adaptable mitigation strategies would be a more effective approach. By focusing on practical solutions rather than overly prescriptive regulations, we can ensure worker safety without imposing unnecessary burdens on businesses. Therefore, Enterprise requests that the NMED not go forward with the proposal as written.

Respectfully,

Dean Duplantis
Manager, Safety Services
Enterprise Products

Supporting Materials:

OSHA has 2 tiers, 80ºF and 90ºF, with 90ºF carrying more elevated mitigations

11.5.7.10 Control Measures:

For all outdoor and indoor working environments where the heat index **exceeds 80 degrees Fahrenheit or 27 degrees Celsius** employers shall implement the measures below:

A. Acclimatization Methods:

a. An employee who has been newly assigned to a work area where the heat index exceeds 80 degrees Fahrenheit (27 degrees Celsius) shall be closely observed by a supervisor or designee for the first seven days of the employee's employment.

b. A work schedule must be no more than 20% of the usual duration of work in the heat on day one and a no more than 20% increase on each additional day.

c. For workers returning from an absence of seven or more days, the work schedule must be no more than 50% of the usual duration of work in the heat on day one, 60% on day two, 80% on day three, and 100% thereafter.

- Rather restrictive for 80ºF. These measures would be more applicable to extreme heat cases, more along the lines of the 3rd and 4th tier in the guidance from NIOSH (Next slide).
- Appropriate additional mitigations as discussed on the next slide, along with a simplified work/rest schedule would, in my opinion, provide greater protection to personnel compared to requirements above.
- Personnel on shift work (4x10's, DuPont, etc.) would spend their entire work set restricted to these requirements, which would be a hinderance to acclimatization.
- Providing personnel with the tools, guidance and conditions needed to complete their tasks as designed will provide greater protection than limited work scopes.

NIOSH Guidance

Table 4-1. Acclimatization in workers

Topics	Additional information
Disadvantages of being unacclimatized	• Readily show signs of heat stress when exposed to hot environments. • Difficulty replacing all of the water lost in sweat. • Failure to replace the water lost will slow or prevent acclimatization.
Benefits of acclimatization	• Increased sweating efficiency (earlier onset of sweating, greater sweat production, and reduced electrolyte loss in sweat). • Stabilization of the circulation. • Work is performed with lower core temperature and heart rate. • Increased skin blood flow at a given core temperature.
Acclimatization plan	• Gradually increase exposure time in hot environmental conditions over a period of 7 to 14 days. • For new workers, the schedule should be no more than 20% of the usual duration of work in the hot environment on day 1 and a no more than 20% increase on each additional day. • For workers who have had previous experience with the job, the acclimatization regimen should be no more than 50% of the usual duration of work in the hot environment on day 1, 60% on day 2, 80% on day 3, and 100% on day 4. • The time required for non-physically fit individuals to develop acclimatization is about 50% greater than for the physically fit.
Level of acclimatization	• Relative to the initial level of physical fitness and the total heat stress experienced by the individual.
Maintaining acclimatization	• Can be maintained for a few days of non-heat exposure. • Absence from work in the heat for a week or more results in a significant loss in the beneficial adaptations leading to an increased likelihood of acute dehydration, illness, or fatigue. • Can be regained in 2 to 3 days upon return to a hot job. • Appears to be better maintained by those who are physically fit. • Seasonal shifts in temperatures may result in difficulties. • Working in hot, humid environments provides adaptive benefits that also apply in hot, desert environments, and vice versa. • Air conditioning will not affect acclimatization.

OSHA NEP has 2 tiers, 80ºF and 90ºF, with 90ºF carrying more elevated mitigations

11.5.7.10 Control Measures:

For all outdoor and indoor working environments where the heat index **exceeds 80 degrees Fahrenheit or 27 degrees Celsius** employers shall implement the measures below:

C. Regular Rest Breaks:

Employers must provide paid rest breaks to employees when working in the heat. Rest periods may be provided concurrently with any other meal or rest period required by policy, rule, or law if the timing of the preventative rest break coincides with the otherwise required meal or rest period. Rest periods must either:

a. Follow the rest schedule provided in Index Table 3, or

b. Establish a rest schedule in the written heat illness and injury prevention plan that is at least as effective as presented in Index Table 3.

Table 3: Work Rest Schedule

Work/rest schedules for workers wearing normal work clothing			
Heat Index (°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‡

OSHA NEP Guidance

- Implement control measures at or above the Initial Heat Trigger (i.e., a **heat index of 80°F** or a wet bulb globe temperature equal to the NIOSH Recommended Action Limit) that include providing employees:
  - cool drinking water;
  - break areas with cooling measures;
  - indoor work area controls;
  - acclimatization protocols for new and returning unacclimatized employees;
  - paid rest breaks **if needed** to prevent overheating; and
  - regular and effective two-way communication.
- Implement additional control measures at or above the High Heat Trigger (i.e., **heat index of 90°F** or wet bulb globe temperature equal to the NIOSH Recommended Exposure Limit) that include providing employees:
  - **mandatory** rest breaks of 15 minutes at least every two hours (unpaid meal break may count as a rest break);
  - observation for signs and symptoms of heat-related illness;
  - a hazard alert to remind employees of key parts of the HIIPP; and
  - warning signs at indoor work areas with ambient temperatures that regularly exceed 120°F.

- **Proposed Work/Rest schedule is over-reaching and prohibitive in implementation**
- **Instituting appropriate mitigations during times of elevated heat would be more conducive and flexible, as illustrated with OSHA's guidance.**
  - **I.E; Once a heat index of 90F or greater is attained, implementation of at least 2 of the below mitigations is required.**
    - **Shade directly at job site**
    - **Mechanical ventilation**
    - **Cooling Fans**
    - **Cooling vests**
    - **Hydration Records**
    - **Heart rate monitors**

NIOSH Tiering Guidance

Table C-1. Heat index–associated protective measures for worksites

Heat index	Risk level	Protective measure
Less than 91°F (33°C)	Lower (caution)	Basic health and safety planning
91°F to 103°F (33°C to 39°C)	Moderate	Implement precautions and heighten awareness
103°F to 115°F (39°C to 46°C)	High	Additional precautions to protect workers
Greater than 115°F (46°C)	Very high to extreme	Even more aggressive protective measures

Adapted from OSHA [2012c].
Additional information about protective measures mentioned in the above table can be found on OSHA's website.
Note: The presence of a radiant heat source may decrease the accuracy and usefulness of the above heat index.

Example of Heat Index Tiering, with protective measures

Heat Index	Risk Level	Protective Measures
80ºF to 90ºF	Lower (caution)	Encourage employee hydration Acclimatize workers If workers must wear heavy protective clothing, perform strenuous activity, or work in direct sunlight, additional precautions are recommended
91ºF to 103ºF	Moderate	Encourage employee hydration (4 cups per hour) Use a "buddy system" and watch workers for signs of heat-related illness If using additional PPE: * Fluids mandatory every 30 minutes * Use of cooling devices recommended
103ºF to 115ºF	High	Fluids mandatory every 30 minutes Self-paced rest breaks If using additional PPE: * Fluids mandatory every 15 minutes *Implement at least ONE of the following: *External cooling device (AC) * Personal cooling devices * Documented personnel rotation * Re-schedule work for cooler times of the day
Greater than 115ºF	Very High to Extreme	Fluids mandatory every 15 minutes Self-paced rest breaks Implement at least TWO of the following: *External cooling device (AC) * Personal cooling devices * Documented personnel rotation * Re-schedule work for cooler times of the day