

January 14, 2025

Submitted electronically via <http://www.regulations.gov>

Douglas L. Parker, Assistant Secretary
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

Re: Comments on OSHA's Proposed Rulemaking: *Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings Standard* (Docket No. OSHA-2021-0009)

Dear Mr. Parker,

The National Rural Electric Cooperative Association (NRECA) appreciates the opportunity to comment on the Occupational Safety and Health Administration (OSHA) Proposed Standard, "Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings," (Proposed Rule) published in the *Federal Register* on August 30, 2024. We oppose the proposed rule for a national heat injury and illness standard. Given the low incidence of heat-related injury and illness among electric cooperative employees, our view is that adequate protections are in place. We believe that OSHA's existing efforts and authorities are both adequate and effective in protecting electric cooperative workers from hazardous heat. For example, OSHA-NIOSH Heat Safety Tool has provided a very useful tool for use by electric cooperatives and their workers. In addition, OSHA's Water, Rest, Shade campaign has been emphasized by electric cooperatives.

By way of background, NRECA is the national trade association representing nearly 900 electric cooperatives and other electric utilities. America's electric cooperatives comprise a unique sector of the electric industry. NRECA's member cooperatives include 64 generation and transmission (G&T) cooperatives and 832 distribution cooperatives. The G&Ts generate and transmit power to distribution cooperatives that provide it to the end of line cooperative consumer-members.

These not-for-profit entities are independently owned and governed by the people they serve. From growing exurban regions to remote farming communities, electric cooperatives provide power to 42 million Americans across 48 states. They keep the lights on across 56% of the American landscape – areas that are primarily residential and sparsely populated. Those characteristics make it comparatively more expensive for electric cooperatives to operate than the rest of the electric sector, which tends to serve more compact, industrialized, and densely populated areas. Cost-effective and lawful federal regulations that minimize unnecessary burdens are critical to cooperatives' ability to provide affordable, reliable, and safe electricity to their consumer-members.

NRECA members are eligible to participate in the organization's Rural Electric Safety Achievement Program ("RESAP"). RESAP, our national safety program in partnership with statewide and cooperative safety leaders, utilizes a framework for continuous improvement to develop and enhance safety performance and culture. The program requires written executive commitment, regular audits of safety programs conducted by third parties, and development and update by participants of safety improvement plans. The safety improvement plans include a system of accountability for the completion of specific targets documented in the plan and communicated to all employees on a regular basis.

I. Executive Summary

Electric cooperatives are aware of and responding effectively to potential heat-related illnesses and injuries. Electric cooperatives are a part of the communities they serve and, therefore, are particularly adept at tailoring heat illness and injury policies to meet the unique climate conditions within their service territories. A one-size-fits-all approach to federal regulation addressing heat-related illness and injuries limits the creativity and flexibility necessary to right-size these policies and may lead to unintended consequences. While heat illnesses can be deadly, it is preventable with proper education and teamwork. However, the content of the education should be tailored to the task being performed, and each industry must develop its own methods for addressing heat stress in a manner that can coexist within that industry's unique operational paradigms. Many proven strategies to combat heat stress are commonsense, including the OSHA "Water, Rest, Shade" campaign approach.

Electric cooperatives are proactively addressing heat exposure and are keenly aware of the dangers of working in extreme temperatures and continue to take appropriate measures to reduce related risks. These measures include scheduling work earlier or later to avoid performing tasks during times of extreme heat, setting up cool-down areas at job sites, and taking a wellness approach to educating employees on the importance of managing health, diet, and hydration. In many cases, electric cooperatives have stop-work policies, under which any worker can stop work if unsafe practices are observed. This includes stopping work if a worker or workers are exhibiting signs of heat-related injuries or illnesses.

II. Electric Cooperative Commitment to Safety

As stated above, electric cooperatives are eligible to participate in the Rural Electric Safety Achievement Program (RESAP), a national safety initiative developed in partnership with statewide and cooperative safety leaders. RESAP promotes continuous improvement in safety performance and culture, requiring written executive commitments, regular third-party safety program audits, and the development of safety improvement plans. These plans incorporate accountability systems to ensure the completion of specific targets, which are communicated to all employees regularly.

Electric cooperatives adhere to several policies and programs that protect workers from heat injury or illness. These include rigorous and frequent training programs, detailed job briefings including information on weather and terrain, and the use of designated observers to determine whether workers are performing work properly and are not suffering from ill health.

Many electric cooperatives have instituted annual training and review of heat-related hazards and prevention. In addition, heat stress risk is identified where appropriate in pre-job safety briefings. Electric cooperatives notify employees when work/rest cycles are enacted based on current heat index levels. Many electric cooperatives have adopted adjusted work schedules to avoid employees being outside during the hottest times of the day. Seasonal work hours are also encouraged to avoid having workers exposed to the heat of the day. NRECA believes this proactive approach to safety has led to low incidents of heat-related illness or injury across the electric cooperative network.

Electric cooperatives provide employee training to recognize the signs and symptoms of heat illness. Many cooperatives offer formal presentations and self-paced computer-based training on heat stress and prevention programs consisting of acclimating employees, access to water, shade and air conditioning as well as work/rest cycles based on Heat Index levels. These techniques, combined with job hazard briefings (including identifying heat stress as a potential hazard), field observations and use of the buddy system have led to successful campaigns against heat stress, as evidenced by the data presented in the following section.

III. Data by Federated Rural Electric Insurance Exchange

The Federated Rural Electric Insurance Exchange was founded in 1957 to provide superior, value-oriented insurance programs to electric cooperatives with a focus on safety, service, and stability. It is the workers compensation provider for most electric cooperatives. As displayed in Table 1, data provided by Federated Rural Electric Insurance Exchange shows that the number and rates of heat-related claims among electric cooperative employees for the years 2016 to 2020 were very low. This is during the period when OSHA collected information from industries with workers impacted by heat while working in outdoor and indoor settings.

Table 1

Year	Total Employees Covered by Federated Rural Electric Insurance Exchange	Number of Heat-Related Claims Filed with Federated	Rate of Heat-Related Claims per Employees Covered by Federated Rural Electric Insurance Exchange
2016	42,600	25	.05
2017	42,600	26	.06
2018	43,200	21	.04
2019	43,200	21	.04
2020	43,200 (est.)	19	.04

While even one avoidable heat stress claim is too many, the notable decline in heat-related claims demonstrated by the data is evidence that heat policies and training programs provided by electric cooperatives are effectively mitigating heat injury and illness. We also note that the percentage, even in

its decline, is below the threshold sufficient to empower the agency to regulate a health risk. For example, while courts have found that a risk of 1/1000, may qualify as a “significant risk,” *Indus. Union Dept. v. Amer. Petroleum Inst.*, 448 U.S. 607, the agency should refrain from regulating a risk as low as that established in the table above, 4/10,000, particularly when the industry is actively bringing that risk rate into steady decline every year.

IV. OSHA-2021-0009-1059, SBREFA Panel

The majority of electric cooperatives are classified as small businesses under the North American Industry Classification System. In December 2023, the Small Business Regulatory Enforcement Fairness Act (SBREFA) conducted a panel to hear comments from members of electric cooperatives. Three NRECA members from Sulphur Springs Valley Electric Cooperative (AZ), Vermont Electric Cooperative (VT) and SEMO Electric Cooperative (MO), served as panelists during the SBREFA phase of this rulemaking. During the panel, each of the electric cooperative panelists discussed their programs and policies to mitigate excessive heat exposure. The input provided by the three electric cooperative panelists is representative of electric cooperatives across the country that provide training, personal protective equipment (PPE), breaks, hydration, flexible work hours during extreme heat, air-conditioned trucks, and other tools to address heat.

The electric cooperative panelists observed that a “one size fits all” heat standard is not workable given the large variation and regional differences in temperatures. As NRECA pointed out in our response to OSHA’s Request for Information, “Addressing heat hazards in the various regions [of the country] is a matter of focus and intensity.” While virtually all electric cooperatives have a heat illness and injury policy, the application of it may vary with geographic regions.

Electric cooperatives have a robust mutual assistance network that aids in response to and recovery from natural disasters. Depending on the size and duration of the disaster, electric cooperatives may travel long distances to aid their fellow cooperatives. When this happens, typically in the case of hurricanes in the southeast portions of the US, crews from more temperate regions travel to very hot and humid regions. Part of the safety protocols for this response includes information and training on heat stress. Observers are careful to monitor crews for any signs of heat stress. It is a challenge for crews while up on a pole to come down during these periods to take a prescribed break, while trying to restore power to life support systems.

In many cases, electric cooperatives work in hard-to-access locations. This could mean the crew carries everything on foot to locations that may be remote. Crew size could vary depending on work that must be completed in these locations and the PPE gear that has been donned on prior to the start of work. The requirements for mandatory breaks will place unnecessary strain on a lineworker and will become a distraction, creating a much larger hazard for our lineworkers. Once lineworkers put on their gear and begin to climb poles, it becomes a challenge for them to remove their PPE for breaks, which requires them to climb down from poles. Multiple trips up and down in a hot and humid environment may lead to more heat injuries and illnesses, as most crews find it to be more strenuous and exhausting to climb down poles and remove their PPE.

Electric cooperative crews have established a safety program that requires each crew member to look out for each other through what is known as the “buddy system” process. This process allows each worker the responsibility of ensuring that a fellow crew member is not showing symptoms of heat-related injuries or illness. Supervisors have safety pre-briefings to report hazardous conditions that include environmental conditions prior to the start of the operation. Crews often consider conditions when planning work and will try to avoid times when crews may be exposed to excessive heat. The size of the crew may also be adjusted by increasing the number of workers to allow them to share the workload and to reduce exposure to the heat. Additionally, crews are trained in first aid procedures and provided with hydration options.

The electric cooperative panelists also recommended against requiring the use of a wet bulb standard as an option and a requirement for the employer to record daily temperatures, citing the availability of many sources of well-respected weather services that provide daily temperatures.

V. Recognizing Current Standards and Regulations

Electric cooperatives are currently subject to the existing OSHA standard under the Code of Federal Regulations (CFR) Title 29, Subpart R 1910.269, electric power generation, transmission, and distribution. This standard requires that before each job, the person in charge is required to conduct a job briefing with all workers that in addition to the control of energy sources, covers at a minimum, hazards associated with the work, procedures to be used, and personal protective equipment required. Electric cooperatives incorporate the requirements of 29 CFR 1910.269 into their daily operations.

Electric cooperatives also follow the OSHA standard 29 CFR 1926.952, Job Briefings, which requires that before each job, the employer shall ensure that the employee in charge conducts a job briefing. The briefing shall cover at least the following subjects: Hazards associated with the job, work procedures involved, special precautions, energy-source controls, and personal protective equipment requirements. Additional job briefings shall be held if significant changes, which might affect the safety of the employees, occur during the course of the work. Any special precautions already provide comprehensive safety requirements for electric power generation, transmission, and distribution in support of workforce protection during outdoor and indoor work operations.

Electric cooperatives are also subject to stringent regulations from a host of other agencies, such as the North American Electric Reliability Corporation (NERC), the Federal Energy Regulatory Commission (FERC), and the National Electric Safety Code (NESC) which address many of the same concerns as the Proposed Rule. Finally, the industry has already adopted its own consensus standards and best practices that are specifically designed for unique risks associated with electrical systems.

VI. Specific Comments on the Proposed Rule

A. The Proposed Rulemaking is Overly Broad

NRECA recognizes OSHA’s intent to enhance safety through the Proposed Rule. However, climates vary from region to region and workers in certain regions are often naturally

acclimated. For example, what is considered warm in the Pacific Northwest, would be considered a mild day in more southern regions.

Electric cooperatives are concerned with the cost and time that will be consumed by having to implement additional standards that may be counterproductive. Electric cooperatives often operate on tight budgets and may struggle to absorb these additional expenses. Electric cooperatives operate at cost and without a profit incentive and have an obligation to serve their consumer-members by providing affordable, reliable, and safe electric service.

The work associated with the Proposed Rule could represent significant new costs for cooperatives that must be passed along directly to their consumer-members, who are disproportionately located in rural communities, including 92% of all persistent poverty counties. Resources required to implement new standards could be better spent on improving existing technologies and systems, further enhancing the resilience and reliability of the electrical grid.

B. The Proposed Rule Does Not Account for Employee Behavior or Individual Health Conditions

The proposed rule requires employers to manage their employees' heat stress without sufficient information about their employees' various contributing health conditions. Heat affects individuals differently based on a variety of factors, including medical conditions and prescribed medications to treat these illnesses that make some individuals more susceptible to heat injuries and illnesses. The agency seeks to place an unworkable burden on the employer to identify those personal factors such as medications, prior non-work activity, and medical conditions, when in most cases the employer is prohibited by law from making the necessary inquiries to do so, or from taking action upon any such information it may lawfully obtain.

Additionally, there are lifestyle choices and behaviors unrelated to medical conditions that also increase the potential for an individual to suffer adverse effects from heat exposure. Should OSHA finalize this standard as proposed, electric cooperatives would be left without an understanding of how to comply as it relates to health susceptibilities.

C. The Proposed Rule Could Create Unintended Safety Hazards and Impede Emergency Response

While the Proposed Rule aims to enhance safety, imposing an additional layer of duplicative, burdensome, and confusing regulations could disrupt the operational efficiency needed during emergency situations and is particularly concerning in rural areas where timely power restoration is critical. The OSHA standard applicable to electric power generation, transmission, and distribution (29 CFR 1910.269), which applies to utility service workers, covers identical elements of the Proposed Rule.

Specifically, the standard ensures that utility workers have and utilize appropriate PPE while working. Many types of PPE are designed to protect against electrical hazards but do not

allow for adequate ventilation. This can exacerbate the effects of high temperatures and humidity, leading to quicker onset of heat stress. PPE, such as flame-resistant clothing and insulated gloves, can trap body heat, making it harder for workers to cool down. PPE that must be worn by utility workers can make it cumbersome to remove gear for breaks, further complicating the situation. In essence, the nature of electric utility work can sometimes limit opportunities for workers to take breaks and hydrate, which are crucial for preventing heat-related illnesses.

These are just a few examples of how the Proposed Rule may inadvertently create additional hazards and risk to electric cooperative operations and delay power restoration efforts.

VII. Conclusion

NRECA appreciates the opportunity to provide input into OSHA's rulemaking process. Electric cooperatives are well aware of the potential for heat injury and illness and are taking proactive measures to mitigate heat-related illnesses and injuries in the workplace. The small number of workers' compensation claims for heat illness and injury reflects that the programs and policies developed and implemented by electric cooperatives to address heat illness and injury are effective.

Electric cooperatives believe that OSHA's existing efforts and authorities are both adequate and effective in protecting electric utility workers from the hazards of heat. We encourage OSHA to use the tools currently available to address industries and areas where heat injury and illness are a problem, rather than adopting new regulations that may be overly broad, difficult to interpret, and subject to compliance problems.

NRECA appreciates the opportunity to file these comments and remains committed to working with OSHA to achieve our shared goal of enhancing safety in the electric utility workplace.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Bronson Brown", with a stylized flourish at the end.

Bronson Brown
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