NEW MEXICO
RURAL ELECTRIC
COOPERATIVES

May 29, 2025

Submitted electronically via: *Public Comment Portal*

Kristy Peck
Occupational Health and Safety Bureau Chief
Environmental Health Division
New Mexico Environment Department

Phoebe Suina
Board Chair
Environmental Improvement Board
New Mexico Environmental Department

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

Dear Ms. Peck and Ms. Suina,

The New Mexico Rural Electric Cooperative Association (NMRECA) appreciates the opportunity to comment on proposed new regulation 11.5.7 NMAC – Heat Illness and Injury Prevention (Proposed Regulation). While NMRECA fully supports the Occupational Health and Safety Bureau and the Environmental Improvement Board's roles of assisting New Mexico employers in keeping their respective workforces safe, we oppose the Proposed Regulation as the current version presents drastic limitations and challenges that would make compliance impractical for our industry. Given the low incidents of heat-related illness and injury among electric cooperative employees, our view is that adequate protections are already in place. We believe OSHA's existing efforts and New Mexico Electric Cooperative's proactive measures are already suitable and effective in protecting rural electric cooperative workers from heat illness and injury.

By way of background, there are nineteen rural electric distribution cooperatives in New Mexico. NMRECA represents the interests of fifteen of them, along with two electric generation and transmission cooperatives, and three electric distribution associate member cooperatives. These not-for-profit rural electric cooperatives are governed by the very people they serve. As their names signify, these cooperatives serve over 434,700 people/members in the state's remote, rural communities, in 30 of the state's 33 counties. These characteristics make it comparatively more expensive for them to operate. Cost-effective and lawful federal/state regulations that minimize unnecessary burdens are critical to a rural electric cooperative's ability to provide affordable, reliable, and safe electricity to each of their consumer-members.

Rural electric cooperatives are aware of and already respond effectively to potential heat-related illnesses and injuries. Rural 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 regulation addressing heat-related illness and injuries limits the flexibility necessary to right-size these policies and may lead to unintended consequences. Heat illnesses and injuries are 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 illnesses and injuries in a manner that can coexist within that industry's unique operational paradigms.

I. Rural Electric Cooperatives' Commitment to Safety

NMRECA's cooperatives participate in the National Rural Electric Cooperative Association's Rural Electric Safety Achievement Program ("RESAP"). RESAP is 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. Rural Electric Cooperatives are also subject to stringent regulations from a host of other agencies and the National Electric Safety Code (NESC) which address many of the same concerns as the Proposed Regulation. The industry has already adopted its own consensus standards and best practices that are specifically designed for unique risks associated with electrical systems.

Rural electric cooperatives are proactively addressing heat related issues and are keenly aware of the dangers of working in extreme temperatures and continue to take appropriate measures to reduce related risks. They 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. Specifically, rural cooperative employees receive education in, and have implemented policies covering: Mayday procedures, personal protective equipment (PPE), CPR certification, hours of service, acclimatization, first aid, AED usage, rescue procedures, heat-related illnesses, recognition and ways of overcoming heat stress, exhaustion and dehydration. Policies for both mandatory and employee elected breaks, stop-work, and adjustment of work schedules based on conditions on site are also followed.

II. Data on Heat Injury and Illness

The data from the New Mexico Department of Health provided by the Office of General Counsel in support of the Proposed Regulation is not industry specific. NMRECA's members employee an average of just over 800 individuals per year in total. From 2009 to the present there has been *only one* minor heat related claim reported.

One minor incident in sixteen years proves the heat policies and training programs provided by New Mexico's rural electric cooperatives are already effectively mitigating heat injury and illness. It also evidences how serious our rural electric cooperatives take this issue and how successful their proactive measures have been in protecting their employees from heat illness and injury.

III. The Proposed Regulation Would Be Detrimental to Emergency Response and to the Performance of Work in General

Rural electric cooperatives have a robust mutual assistance network, and aid in response to and recovery from natural disasters, and in emergency situations. The Proposed Regulation would disrupt the operational efficiency needed during these situations, which is particularly concerning in rural areas where timely power restoration and response is critical.

Depending on the size and duration of the disaster, rural electric cooperatives may travel long distances to provide aid. It would be illogical for crews while up on a pole to come down during these periods where time is of the essence to take a prescribed break, while trying to restore power to life support systems or while providing assistance to first responders.

In many cases, lineworkers for rural electric cooperatives work in hard-to-access locations. This could mean the crew carries everything on foot to locations that are remote. The Proposed Regulation would be a tremendous detriment for rural electric cooperatives in responding to and providing aid in these situations. The mandate to provide "cooling areas" in such situations could also prove to be impossible. If such situations arose, rural electric cooperatives would be asked to make the decision between maintaining and servicing its equipment, assisting first responders and restoring critical infrastructure, or violating the Proposed Regulation. To the extent cooling areas could be established and canopies setup, given the winds in New Mexico, the canopies could also be blown into energized lines posing a safety hazard.

Climate and geography also varies greatly in New Mexico. In certain parts of the state, the Proposed Regulation would bring normal work in our industry almost to a stop for the better part of three months during the year. To the extent work could be performed, adding more work breaks would take away hours from the workday, reducing productivity and adding cost. These costs would have to be passed on to the consumers/members as rural electric cooperatives are non-profit.

In addition, lineworkers are regularly tasked with performing "hot-line" work; working on electrical equipment while it is energized. This work requires specific standards and equipment including PPE. This work would be deemed impossible during large portions of the year as it would be senseless and life-threatening to perform such work if the Proposed Regulation was adopted. If lineworkers are holding energized lines up in the air on a pole change, they cannot just stop and come down for a mandated break. Safety requirements would necessitate that the work continue until the job is completed.

To the extent work is performed on de-energized lines, the Proposed Regulation will have negative consequences for both residential and commercial business members as additional breaks will ensure they will be without power much longer than normal.

With respect to the heat retaining effects of required protective clothing and PPE, and the clothing adjustment factor included in the Proposed Regulation, OSHA already provides a standard that ensures 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. With respect to just PPE, the requirements for additional mandatory breaks will place unnecessary strain on a lineworker and will create a much larger hazard for our lineworkers, in responding to emergency situations and in their performance of work in general. Once lineworkers put on their gear and begin to climb poles, it becomes a challenge for them to remove their PPE for breaks, which would require them to climb back down from the poles. Multiple trips up and down in a hot and humid environment may actually 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.

IV. The Proposed Regulation Does Not Account for Employee Behavior or Individual Health Conditions

The Proposed Regulation would require employers to conduct 'heat exposure assessments' which mandate them to take into account an employee's personal risk factor for heat illness. Heat affects individuals differently based on a variety of factors, including medical conditions and prescribed medications to treat these conditions 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 regulation as proposed, rural electric cooperatives would be left without an understanding of how to comply as it relates to health susceptibilities if they have no knowledge of them, and an employee fails to provide them with the information needed to complete the mandated assessment.

V. Proposed Regulation Would Place New Mexico in a Competitive Disadvantage

A one-size-fits- all standard is not workable, and given the large variation and regional differences in temperatures in New Mexico, would vary per county. Rural electric cooperatives often operate on tight budgets and will struggle to absorb the additional expenses mandated by the Proposed Regulation. Rural 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.

As addressed above, the work associated with the Proposed Regulation would represent significant new costs for cooperatives that must be passed along directly to their rural community consumer-members. 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.

In addition, a number of rural electric cooperatives in this state contract work out to be performed. This Proposed Regulation would put them at an extreme disadvantage in receiving reasonable bids for the work to be performed, and for attracting contractors from outside the state to bid on work inside New Mexico. As aforementioned, the higher bid prices and increased costs associated with the work would have to be absorbed by its rural community consumer-members, would ensure less competition, and would potentially prevent critical maintenance and installation of equipment from occurring. Finally, New Mexico's Rural Electric Cooperatives are making generational investments in grid resiliency and wildfire mitigation strategies that come with a high cost and no increase in revenue. These are usually done through contracted work due to the scope of these projects and the other work the Cooperatives do to maintain reliable and affordable service to rural NM. As mentioned previously, this proposed rule will limit the competitive bidding process and increase the cost of these projects substantially and thus reduce the amount of investment the Cooperatives apply towards these very important projects as we balance these needs with affordability.

VI. Other Concerns

a. The acclimatization methods contained in the Proposed Regulation would place rural electric cooperative employees behind in training and place an exorbitant cost on almost all companies who conduct outside work. If an employee goes on vacation, the return-to-work requirements mandated under the Proposed Regulation would greatly reduce productivity and increase costs to the rural electrical cooperative, that would in turn be passed on to the consumer/members. The necessity for a supervisor or 'leader' to observe a new employee for the first week would compel adding another person on the job site. Being that rural electric cooperatives are generally small and run small crews, this places them in a potentially impossible situation of requiring the hiring of more employees in locations where those qualified are non-existent or taking another existing employee away from another task.

b. As referenced above, the 'cooling areas' would increase costs, reduce productivity to the extent they could even be established, and would necessitate the purchase of larger hauling equipment, storage facilities and can pose a hazard.

c. The tables provided in the Proposed Regulation do not provide a PPE Clothing Adjustment Factor for a sizable portion of the PPE mandated to be used in our industry.

d. The Proposed Regulation would increase longevity of work and service orders, which would also prolong exposure to employees and the public to hazards and delay improvements in rural communities.

NMRECA appreciates the opportunity to provide comments on the Proposed Regulation and remains committed to working with both OSHA and the New Mexico Environmental Department to achieve our shared goal of enhancing safety in the electric utility workplace. Rural Electric Cooperatives are well aware of the potential for heat injury and illness and already take a number of proactive measures to mitigate heat-related illnesses and injuries in the workplace. One minor heat-related incident in sixteen years proves the heat policies and training programs provided by New Mexico's rural electric cooperatives are already effectively mitigating heat injury and illness.

NMRECA believe's 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.

Respectfully submitted,

S. Vincent Martinez
CEO
New Mexico Rural Electric Cooperative Association
614 Don Gaspar Ave.
Santa Fe, NM 87505