

September 20, 2022

Carmyn Shute
Washington State Department of Labor and Industries
7273 Linderson Way SW
Tumwater, WA 98501
Provided via email: Carmyn.Shute@Lni.wa.gov

RE: Comments Regarding Outdoor Heat Exposure Rulemaking - WAC 296-62-09510 through 296-62-09560

Dear Ms. Shute:

The Washington Public Utility Districts Association (WPUDA) appreciates the opportunity to expand upon and further explain comments provided at the August 31 stakeholder meeting regarding the Outdoor Heat Exposure Rule. We begin by noting that utilities have a long history of working in adverse weather conditions and ceaselessly strive to provide and maintain safe working conditions for our workers. We are intimately familiar with the hot weather conditions at the center of this regulatory effort. We have procedures and protocols that allow us to safely perform in all types of weather the work necessary to maintain the vital utility services so important to the health and well-being to Washington state citizens. With this in mind, we offer five changes to avoid unintended adverse outcomes, and lessen health and safety risks to utility workers and the public.

1. **Mandatory Work/Rest Cycles:** Prior to engaging in any type of work on utility systems, whether the task involves laying conduit in a trench or performing maintenance at the top of a transmission tower, utility protocol is for workers to determine a work plan including steps, timing, individual responsibilities, worksite locations, and communication. Utility workers are trained to evaluate work site conditions *including temperature* and develop these workplans to minimize the collective risks for the duration of the job. This plan is to ensure the work proceeds safely and efficiently. Mandatory rest cycles, which fail to account for other potential hazards, can increase overall worker risk. ***We ask the regulation to specify “Recommended Work/Rest Cycles” for the utility industry.***
2. **Utility Service Disruptions:** Because utilities provide services necessary for the health and welfare of state citizens, it is vital not to encumber utilities’ ability to respond to actual or potential disruptions of those services. ***We ask that the regulation include an explicit exemption applicable to utility work intended to prevent utility disruptions or restore service.***
3. **Exigent Circumstances:** Utility infrastructure can expose the public to direct risks in certain circumstances (e.g., car-power pole collisions resulting in live power lines lying on the ground; water main breaks that create flooding risk). In addition, utilities confront work that is highly time-sensitive (e.g., emergency vegetation management in response to wildfires, replacement/repair of failed transformers and pumps). ***We ask for an exemption from these rules when utilities perform work necessary to address exigent risks to the public.***

4. **Heat Index:** Table 1 in the draft rule uses only temperature to determine when its provisions apply to workers and employers. However, NIOSH literature indicates that humidity is equally important to human heat load. While we applaud the department for working to keep the rules simple, ***we ask for the option of using the more accurate heat index standard for determining when workers may be at risk.*** It is reasonable to presume that utilities who effectively construct, operate, and maintain electric, water, wastewater, natural gas, telecommunications, and other infrastructure have the capability to accurately apply the heat index standard.
5. **Notification:** For safety purposes, it is important that employees that take “preventative cool-down rest periods when they feel the need to do so to protect themselves from overheating” notify their supervisor at the beginning and end of each cool-down period. This will alert the supervisor that a worker is at risk of heat-related illness and will allow appropriate steps to be taken in response (e.g., enhanced worker monitoring, alternate work schedules, revised work assignments). ***We ask that the rule require workers to directly inform their employer or employer’s representative at the start and end of every “preventive cool-down rest period.”***

In conclusion, we applaud the dedication of the department in its efforts to enhance worker safety. However, the rules under development must accommodate the complex and unique nature of utility work, both because disrupting workflow will create its own set of worker risks, and because disruptions to the services we provide creates its own set of public risk. We offer to assist the department to develop appropriate worker heat exposer rules for the utility sector that avoid the creation of unintended risks to workers and the public.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nicolas Garcia', with a long horizontal flourish extending to the right.

Nicolas Garcia, Policy Director
Washington Public Utility Districts Association