

Before the
**U.S. DEPARTMENT OF LABOR, OCCUPATIONAL SAFETY AND
HEALTH ADMINISTRATION**
Washington, D.C. 20210

In the Matter of

Heat Injury and Illness Prevention in
Outdoor and Indoor Work Settings

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Docket No. OSHA-2021-0009

COMMENTS OF THE WIRELESS INFRASTRUCTURE ASSOCIATION

The Wireless Infrastructure Association (“WIA”)¹ submits these comments in response to the Notice of Proposed Rulemaking (“NPRM”) issued by the Occupational Safety and Health Administration (“OSHA”) of the Department of Labor (“DOL”) on heat injury and illness prevention in outdoor and indoor work settings (“Proposed Rule”).² WIA and its members share OSHA’s commitment to ensuring worker safety and are active in contributing best practices and resources to ensuring a highly safe and skilled telecommunications workforce. WIA is also the national sponsor of the DOL-recognized Telecommunications Industry Apprenticeship Program (“TIRAP”) which provides industry- and occupation-specific expertise to employers nationwide and assistance with instruction and supportive services.³ However, this Proposed Rule raises several questions as to its applicability to the tower climber workforce, including the feasibility of compliance and the practical effects on worker safety. Accordingly, WIA requests an exemption, or further clarification, for this critical employee vertical which works to deliver connectivity across the country.

¹ The Wireless Infrastructure Association (“WIA”) is the principal organization representing companies that build, design, own, and manage telecommunications facilities throughout the world. WIA’s members include infrastructure providers, carriers, and professional services firms.

² Notice of Proposed Rulemaking; Request for Comments, RIN 1218-AD39, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, 89 Fed. Reg. 70698 (Aug. 30, 2024) [“Proposed Rule”].

³ See Telecommunications Industry Registered Apprenticeship Program, www.tirap.org.

Specifically, WIA is concerned that requirements related to mandated rest periods would require additional ascents and descents of the structure, which can unnecessarily and perversely increase the risk of serious injury to these workers. In addition to this real potential of increased risk, if these rules are applied to the communications sector further clarification is needed to recognize the unique working conditions for communications infrastructure employees—such as the disparity in effective temperature experienced at the base of the tower compared to the level where the employees are engaged in activity, the needed mobility for tower crews, and the limited physical space to implement the proposed heat risk accommodations at tower sites.

Employees in the communications infrastructure industry are critical to ensuring the widely available and high-quality networks millions of Americans rely on every day. Tower climbers, in particular, work hundreds to thousands of feet above the ground to deploy new infrastructure and perform needed repairs and maintenance to these systems. Due to the inherent risk from working at these heights, prospective tower climbers must complete rigorous training and instruction in how to safely complete this work including the use of several safety mechanisms.⁴ This training includes the physical safety systems, such as personal fall arrest systems and other Personal Protective Equipment (“PPE”), as well as best practices to maintain a safe environment including avoiding over exertion and dehydration. However, despite this commitment to worker safety, the Proposed Rule would implement a new arbitrary standard that could cause serious disruption to this work and introduce additional risk for employees.

⁴ See, e.g., Dep’t of Labor and Fed. Commc’ns. Comm’n., *Communications Tower Best Practices*, OSHA 3877-06 (June 2017), <https://www.osha.gov/sites/default/files/publications/OSHA3877.pdf> (providing industry best practices for communications workers including utilizing PPE and comprehensive safety planning); *Communications Towers*, OSHA, <https://www.osha.gov/communication-towers/compliance-assistance> (last visited Jan. 14, 2025) (detailing compliance assistance and standards for communications tower workers).

I. The Proposed Rule is Poorly Tailored to the Unique Issues Faced by Communications Infrastructure Workers Engaged in Tower Climbing.

The Communications industry is supported by thousands of workers engaged in various activities from designing and developing network architecture to deploying the physical infrastructure. In this diverse ecosystem, the individuals engaged in climbing communications infrastructure, including radio and broadcast towers and other tall structures, have unique considerations for the applicability of any heat mitigation rules. Working at elevation is particularly salient to the Proposed Rule for two reasons; first, the time and effort needed to ascend and descend the structure and second, the effective temperature experienced by workers compared to the temperature at ground level. Taken in context, these considerations should lead OSHA to explicitly exempt tower climbers from the proposed rule or, at a minimum, provide further clarification on application of these rules to these workers to prevent introducing additional risk to the occupation.

A. Compliance Would Present Significant Challenges for the Communications Industry and Potentially Endanger Workers.

As an initial matter, it is unclear that compliance with the Proposed Rule would be feasible for employers of tower climbers. Specifically, the Proposed Rules require shaded rest areas and access to water be located in “readily accessible” locations; and goes on to state that if these accommodations are significantly far to deter utilization, they may be impermissible.⁵ However, the time a tower climber would need to pause work and safely descend the structure, and provide time to return to the working height, would likely be seen as a deterrent to use. Indeed, the fifteen-minute break the Rule recommends could quickly take a tower climber thirty minutes to an hour

⁵ Proposed Rule at 70778 (“Water would also not be readily accessible if it is placed at a distant or inconvenient location in relation to where employees work.”); *id.* at 70779 (“Locations that are so far from work area(s) that they deter employees from taking breaks would not be considered readily accessible.”).

to actually utilize.⁶ Work sites may also be tightly constrained in physical space, with cell sites often abutting other private property and the space inside the compound heavily utilized for various networking equipment, leaving little room to erect the shading structure OSHA recommends that could accommodate a substantial portion of the crew.⁷

The Proposed Rules are also generally geared towards a single, or at a minimum persistent, worksite. While it may be feasible to outfit a factory or single construction site with heat monitors and cooling stations, tower crews are inherently mobile and may need to visit several sites in a single work period to complete planned work. These sites can be separated by several miles and may not require the full crew for each site. In these instances, a heat safety manager would have to be designated for each site along with the acquisition of appropriate cooling stations, significantly increasing costs of compliance for this industry. Importantly, even where these accommodations could be deployed, the rules would require additional ascents and descents from the tower climbers, increasing fatigue and injecting additional risk into the project.

Regardless of questions of feasibility, the compliance with the Proposed Rule would introduce additional risk to tower climbers. As OSHA had recognized in its rules allowing tower climbers to utilize mechanized lifts for ascending and descending structures, the act of climbing up or down a structure is the riskiest part of the operation and is likely the most physically demanding aspect of the work.⁸ Once workers have reached the intended height, numerous mechanisms ensure workers can safely proceed with the operations—but these systems are often

⁶ See *Comments of the National Association of Tower Erectors*, Docket No. OSHA-2021-0009, at 3 (Jan. 10, 2025) (reporting that a climber working on a 200-foot tower would require over sixty minutes to comply with these provisions).

⁷ Proposed Rule at 70779 (discussing requirements for break areas including being able to accommodate all employees on break with adequate room for airflow).

⁸ See CPL 02-01-056, *Inspection Procedures for Accessing Communication Towers by Hoist* (Jul. 17, 2014).

not available while traversing the structure. Further, mandating additional climbs of the tower could contribute to worker fatigue, possibly exasperating the issues this Proposed Rule is intended to mitigate.⁹

Workers in the telecommunications industry, particularly those climbing support structures to perform needed maintenance and repairs on wireless infrastructure, are a critical component of our nation's wireless networks. WIA and its members share OSHA's commitment to ensuring a safe and productive work environment; however, the Proposed Rule would present significant difficulties for compliance for this industry and may actually increase worker risk. For these reasons, WIA recommends an exemption for tower climbers and other industries that may be unable to facilitate the proposed heat mitigation procedures.

B. Tower Climbers Frequently Experience Lower Temperatures than Ground Measurements.

WIA and its members are further concerned that the Proposed Rule fails to account for the actual ambient temperature where the employee is working. This is increasingly relevant as the height of the worksite increases. Either by relying on weather forecasts or on-site measurements the rule contemplates¹⁰—which will likely present their own challenges for employers—it will be extremely difficult for employers of tower climbers to accurately gauge the effective temperatures the employees are operating in. Despite the workers experiencing lower temperatures, limiting work during the proposed heat triggers would reduce the viable building season for these operations which could delay needed deployments and upgrades to communications infrastructure.

⁹ Cf. Proposed Rule at 70709 (examining the detrimental effects of overheating, including fatigue and exhaustion).

¹⁰ Proposed Rule at 70775 (providing how employers can assess high heat trigger including heat index from reputable sources or “wet bulb globe temperature” measurements).

Generally, an individual engaged in activity only one hundred feet above ground can experience lower temperatures than the ground due to windchill and other factors.¹¹ This could present significant difficulty for accurately measuring when heat mitigation steps must be initiated, as monitoring will likely occur at the ground level where the temperature is higher. Faced with uncertainty, employers are likely to err on the side of caution and require employees to stop work for periods of time, regardless if the employee is actually experiencing temperatures at that level. This disruption is not only detrimental to completing the project in the proposed time but, as discussed above, will also expose the workers to additional strain and risk which would unnecessarily compromise workplace safety.

II. Conclusion

The communications infrastructure industry is deeply committed to ensuring the health and safety of its workforce, including mitigating risk from environmental factors like heat. However, OSHA's Proposed Rule presents significant difficulties for employers to comply with and fails to demonstrate it would actually contribute to a safer working environment. Indeed, compliance with these rules may actually increase risk to some employees, such as those working on tall structures. For those reasons, WIA recommends that OSHA pause implementation of the Proposed Rule and more narrowly tailor heat mitigation rules to be more practically effective. We appreciate the Department's continued attention to these issues and stand ready to assist further as needed.

¹¹ See, Paul Shepson, *If Heat Rises, Why Does The Temperature Decrease At Higher Elevations?*, SCI. AM. (Dec. 22, 2003), <https://www.scientificamerican.com/article/if-heat-rises-why-does-th/>; *Comments of the National Association of Tower Erectors*, OSHA-2021-0009, Appendix B (Jan. 10, 2025) (providing comparative reports of ground temperature versus temperature measurements at height); *Comments of the National Association of Tower Erectors*, OSHA-2021-0009 (Jan. 14, 2022) ("while working at elevation, a tower technician or tower crew could be experiencing temperatures 10-20 degrees cooler than the temperature on the ground.").

Respectfully submitted,

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