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*Submitted electronically via regulations.gov*

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

Re: NPRM - Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings  
Docket No. OSHA-2021-0009  
RIN 1218-AD39

Dear Assistant Secretary Parker:

The Forest Resources Association (FRA) has reviewed the Notice of Proposed Rulemaking, *Heat Injury and Illness Prevention in Outdoor and Indoor Work Settings*, 89 Fed. Reg. 70698 (Aug. 30, 2024) (“NPRM”), and offers the following comments for the agency’s consideration.

The FRA is a national trade association that represents the interests of over 300 organizations and businesses in the forest products industry. Our members include forest landowners, suppliers, consuming mills, associated businesses, and state forestry associations. FRA has member representation in 49 states and 384 Congressional Districts.

We appreciate the opportunity to comment on the NPRM. The forestry industry encompasses countless different workplace environments across the country, both indoor and outdoor. In addition to working in manufacturing facilities, many forest sector employees work in remote locations on various terrains, planting trees and improving forest health through fuel reduction and thinning and harvesting large tracts of timber. These work locations frequently lack access to power and even cell phone service. The one-size-fits-all standard proposed in the NPRM simply is not feasible for forestry employers.

We do not believe the data and rationale provided in the NPRM demonstrates that additional federal standards and regulations in this area are warranted. OSHA’s own investigation and enforcement data demonstrate that heat-related illnesses and deaths are not among the most serious occupational hazards facing workers, given the size and diversity of the U.S. economy. OSHA claims

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there were 479 fatalities related to exposure to environmental heat over a 12-year period from 2011-2022. That equates to about 40 fatalities per year. According to the Bureau of Labor Statistics, the entire U.S. economy employs more than 160 million people, and so compared to other workplace hazards, environmental heat is far less of a risk than other conditions.

There are many other workplace hazards for which OSHA has long had a federal standard and enforcement efforts in place that result in far more deaths, injuries, and violations each year. For example, falls account for more than one-third of workplace deaths each year, more than 20 times the number of heat-related deaths, and OSHA already has multiple standards in place relating to fall protection, scaffolding, and ladders. See, e.g., 1926.501, 1910.269(g), 1926.451, 1926.1053.

Given the endless variations and complexities that impact temperature at a worksite and an individual's response to temperature, we believe a more tailored approach to this issue by the states is far preferable to a one-size-fits-all approach proposed in the NPRM. States (as they have already shown) can better tailor regulations based on local conditions and individual industries. Given the limited resources of OSHA and the numerous other hazards that result in more deaths and injuries that are less complicated to address (e.g., falls), we believe OSHA should focus its efforts on those areas.

In the NPRM, the agency has not demonstrated that existing federal, state, and private sector efforts are insufficient to address concerns related to workplace exposure to heat. Notably, exposure to environmental heat is such an infrequent cause of an on-the-job fatality that it does not readily appear in BLS statistics or OSHA citation statistics. Rather than lumping together all industries throughout the entire economy and creating a one-size-fits-all standard relating to heat, OSHA should instead rely on the states to address this issue in a more targeted manner where data demonstrates an actual problem exists.

Safety is a core value of the forest industry. Throughout the forestry sector, employers encourage and expect employees to report work-related safety incidents, illnesses/injuries, and near misses, including those related to working in high-heat conditions. Forestry employees routinely receive safety training that includes heat stress prevention. An example of heat stress training provided by FRA members includes the following measures, which we believe have been and continue to be sufficient in our industry:

- Hazard recognition
- Signs/symptoms of heat-related illness
- Emergency response procedures
- Importance of hydration
- Importance of acclimatization

Forestry employees work in all types of conditions across the country. Weather patterns, temperature, humidity, wind, rain, and days of sunshine vary greatly across the country, with some states subject to extreme swings of weather during a year or season and other states experiencing relatively stable weather patterns. Similarly, work environments and individual work situations are subject to countless variables that affect one's exposure to and response to temperature and

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humidity, including work locations, the type of work, an individual's clothing, wind, rain, shade, an individual's level of exertion, and duration of exposure to particular weather elements.

In addition, the endless potential variations in any one individual's physiology means there will be wildly different responses to each of those environmental factors, further illustrating the futility of a one-size-fits-all federal standard. Given the infinite number of variables affecting different individuals in various work situations in different parts of the country, the proposed federal standard described in the NPRM cannot be fairly applied throughout the economy and would impose significant economic burdens on employers, workers, and the U.S. economy.

The fact that various states have already adopted different standards applicable to some industries but not others, to indoor workplaces or outdoor workplaces or both, perfectly illustrates that a one-size-fits-all federal standard is not appropriate. Given the extensive variety of occupations, work environments, workloads, and localized weather conditions across the country, there are an infinite number of potential workplace scenarios that make compliance with the proposed federal standard exceedingly difficult and expensive or simply infeasible for many employers and industries, including forestry.

The proposed standard is neither practical nor feasible for the forestry industry. To mention just a few examples from the standard proposed in the NPRM, forestry employers routinely operate in remote locations planting trees, managing lands to improve forest health, and harvesting timber. These work locations are miles from paved roads and population centers and frequently can only be reached by specialized vehicles. No power source is available at these work locations, and it is impossible to provide air-conditioned enclosures or even cooling fans if the temperature reaches 80 degrees.

Moreover, given the remote nature of the work with no available cellular phone service, it would be difficult to determine the exact temperature, let alone the heat index, at any location. Even if the standard required employers to set up thermometers at each worksite (something not included in the cost-benefit analysis of the NPRM), employers would still not know what the heat index was at any particular location. Aside from the cost associated with that effort, it would not be feasible in many forestry work environments because crews are often spread out working over a large area encompassing dozens or even hundreds of acres. In addition, forestry workers on a single crew may work over an area that varies by hundreds of feet (or more) in elevation, which could dramatically affect the air temperature and general weather. In either situation, how does one know where to determine "the heat index" at the worksite?

Thus, aside from the excessive and burdensome record-keeping requirements associated with the proposed standard, the basic elements of the standard simply are not realistic for most forestry employers. Rather than additional federal regulation, we believe at this time that individual states are in the best position to evaluate and determine whether any sort of heat standard or standards are

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needed, and if so, what those standards should be, and which industries or work environments should be covered.

The information presented in the NPRM (and the ANPRM) seems to indicate that OSHA's prior and ongoing educational and enforcement efforts in this area have been successful, along with efforts by the states and the private sector. To the extent that any areas of the economy are identified as being of concern, OSHA (and the states) should focus additional educational efforts there rather than imposing additional federal mandates across the entire economy.

We urge OSHA to reassess the approach proposed in the NPRM and to recognize that the states are in the best position to determine whether any type of heat standard is needed in response to the specific weather and workplace conditions that exist in that state. OSHA should focus on its existing standards, continue its outreach and educational efforts, and leave development of standards to states, which are in a better position to evaluate and respond to any potential heat-related issues at the local and state levels.

Sincerely,

A handwritten signature in cursive script that reads "Tim J. O'Hara".

Tim O'Hara

President, Forest Resources Association

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