



July 22, 2024

Occupational Safety and Health Administration
Docket Office
Room N-3508
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20001

Re: Docket No. OSHA-2007-0073

Our organizations represent the industry and professionals providing air medical services throughout the United States and worldwide. Our members are dedicated to safe operations providing life-saving emergency response by air. Most of our members also provide ground emergency services to help deliver high-quality, critical care. We support effective legislation and regulations to enhance the safety of all air medical flights to protect pilots, medical crews, ground crews and patients.

While we support OSHA's goal of enhancing the safety of emergency responders in the Emergency Response Standard Notice of Proposed Rulemaking (NPRM), we call on OSHA to recognize that existing FAA regulations comprehensively preempt all of the proposed OSHA safety and health standards that would regulate air medical flightcrews and cabin crewmembers, including medical personnel.

The FAA, as the expert aviation regulator, is the agency most capable of overseeing the safety of flight crews and medical personnel onboard an aircraft in operation. We are concerned that the proposed rule would establish new and potentially confusing and overlapping compliance regimes within the aircraft cabin and could be a significant impediment to safety. Beginning in 2000, OSHA and the FAA established an interagency process to review and implement any workplace safety and health standards that affect flightcrews and cabin crewmembers. We strongly urge OSHA to adhere to this proven process for considering any new regulations affecting aviation.

The FAA has also comprehensively addressed safety issues for air medical operations and personnel through its Safety Management Systems (SMS) regulations for 14 CFR Part 135 operators, under which air medical services are provided. On April 26, 2024, the FAA published the final rule which mandates that all air medical operators implement SMS. The rule notes that SMS "provides an organization-wide approach to identifying safety hazards, assessing and managing safety risk, and assuring the effectiveness of safety risk controls."

We recognize the critical importance of the health and safety of our emergency service personnel. However, we believe that OSHA's proposed rule goes beyond what is necessary to effectively protect our workforce, and we urge the agency to consider the unintended consequences and difficulties of implementing this proposed rule and applying it to air medical flightcrews and cabin crewmembers.

For example, the NPRM requires that Emergency Service Organizations perform comprehensive Community Vulnerability Assessments. The coverage area for a single helicopter air ambulance could have a radius of 150 miles or more. Attempting to conduct a comprehensive vulnerability assessment for the thousands of communities we serve would be technically infeasible, and economically impracticable. Further, identification of the “community” served is not possible due to the unpredictable nature of providing air medical services including in rural and remote areas. At a minimum, the final rule should clarify that the Community Vulnerability Assessment requirements, intended for localized ESOs such as fire departments, should not apply to air medical services.

We support efforts to improve workplace safety and are committed to initiatives that support our employees’ physical and mental health and wellness. However, the NPRM calls for comprehensive behavioral health, wellness and physical fitness programs for all emergency responders that will be operationally difficult and financially burdensome for members to provide. Moreover, air medical pilots are already subject to comprehensive FAA fitness for duty regulations which include medical, physical, and mental health requirements. The final rule should clearly confirm that the FAA is the sole regulator on this subject.

We are committed to providing a safe workplace for our employees. However, we are concerned that the provisions of the proposed rule will not contribute to a safer work environment and will be an unsustainable financial and operational burden for many air medical providers.

We strongly urge OSHA, in developing the final rule, to: (1) state clearly in the rule that none of the proposed health and safety standards apply to aircraft flightcrews and cabin crewmembers, including air medical personnel; (2) clarify that the Community Vulnerability Assessment requirements do not apply to air medical services; and (3) confirm that the FAA is the sole regulator regarding health and fitness requirements for air medical flightcrews and crew members.

Sincerely,

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