



Virginia
Regulatory
Town Hall

Exempt Action Final Regulation Agency Background Document

Agency Name:	Department of Labor and Industry / Safety and Health Codes Board
VAC Chapter Number:	16 VAC 25-90-1910.1030
Regulation Title:	Occupational Exposure to Bloodborne Pathogens
Action Title:	Amendment to Final Rule for Occupational Exposure to Bloodborne Pathogens
Date:	June 26, 2001

Where a regulation is exempt in part or in whole from the requirements of the Administrative Process Act (§ 9-6.14:1 *et seq.* of the *Code of Virginia*) (APA), the agency may provide information pertaining to the action to be included on the Regulatory Town Hall. The agency must still comply the requirements of the Virginia Register Act (§ 9-6.18 *et seq.* of the *Code of Virginia*) and file the final regulation with the Registrar in a style and format conforming with the *Virginia Register Form, Style and Procedure Manual*. The agency must also comply with Executive Order Fifty-Eight (99) which requires an assessment of the regulation's impact on the institution of the family and family stability.

Note agency actions exempt pursuant to § 9-6.14:4.1(B) do not require filing with the Registrar a Notice of Intended Regulatory Action, or at the proposed stage. When the regulation is promulgated and submitted to the Registrar, the agency need only provide a statement citing the specific Virginia Code section referencing the exemption and an authority certification letter from the Attorney General's Office. No specific format is required.

This form should be used for actions **exempt from the Administrative Process Act pursuant to § 9-6.14:4.1(C)** at the final stage. Note that agency actions exempt pursuant to § 9-6.14:4.1(C) of the APA do not require filing with the Registrar a Notice of Intended Regulatory Action, and at the proposed stage.

Summary

Please provide a brief summary of the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation, instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Federal OSHA revised the Bloodborne Pathogens (“BBP”) standard to conform with the requirements of the federal Needlestick Safety and Prevention Act (P. L. 106-430). The revision to the BBP standard added new requirements for employers, including additions to the exposure control plan and keeping a sharps injury log. It does not impose new requirements for employers to protect workers from sharps injuries. The original standard already required employers to adopt engineering and work practice controls that would eliminate or minimize employee exposure from hazards associated with bloodborne pathogens. The revision does, however, specify in greater detail the engineering controls, such as safer medical devices, which must be used to reduce or eliminate worker exposure.

The revisions to federal OSHA’s Bloodborne Pathogens standard required under the federal Needlestick Safety and Prevention Act can be broadly categorized into four areas: (1) modification of definitions relating to engineering controls; (2) revision and updating of the Exposure Control Plan; (3) solicitation of employee input; and (4) recordkeeping.

Specifically, in paragraph (b), Definitions, the revised standard added two additional terms, “Sharps with engineered sharps injury protections” and “Needleless systems.” The definition of one other term, “Engineering Controls,” was altered to clarify that safer medical devices are considered to be engineering controls under the standard.

Paragraph (c)(1)(iv) was revised to specifically require consideration of safer needle devices as part of the re-evaluation of appropriate engineering controls during the annual review of employer’s exposure control plan. The employer must:

1. take into account innovations in medical procedure and technological developments that reduce the risk of exposure (e.g., newly available medical devices designed to reduce needlesticks); and
2. document consideration and use of appropriate, commercially-available, and effective safer devices (e.g., describe the devices identified as candidates for use, the method(s) used to evaluate those devices, and justification for the eventual selection).

Paragraph (c)(1)(v) calls for employers to solicit input from frontline employees (non-managerial employees responsible for direct patient care) in choosing safer devices. Employees selected should represent the range of exposure situations encountered in the workplace, such as those in geriatric, pediatric, or nuclear medicine, and others involved in direct care of patients.

Paragraph (h)(5) requires that employers with employees who are occupationally exposed to blood or other potentially infectious materials, and who are required to maintain a log of occupational injuries and illnesses under existing recordkeeping rules must also establish a log to track needlesticks injuries, rather than only recording those cuts or sticks that actually lead to illness. Additionally, employers must maintain the privacy of employees who have suffered these injuries.

Please provide a statement of the final action taken by the agency including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On June 11, 2001, the Safety and Health Code adopted an identical version of federal OSHA's amendment to the final rule for the Occupational Exposure to Bloodborne Pathogens, §1910.1030. The effective date for the amendment is September 15, 2001.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The amendment to this regulation has no impact on the institution of the family or family stability.