VOSH PROGRAM DIRECTIVE: **12-411A** **ISSUED: 15 December 2012**

SUBJECT: **Occupational Exposure to Bloodborne Pathogens, § 1910.1030**

Purpose. **CHANGE I:** This Change transmits to field personnel the revised standard for Occupational Exposure to Bloodborne Pathogens as it relates to needlesticks and other sharps injuries.
CHANGE II: This Change corrects errors and publishing oversights by the *Federal Register* in its Bloodborne Pathogens standard.

This Program Directive is an internal guideline, not a statutory or regulatory rule, and is intended to provide instructions to VOSH personnel regarding internal operation of the Virginia Occupational Safety and Health Program and is solely for the benefit of the program. This document is not subject to the Virginia Register Act or the Administrative Process Act; it does not have general application and is not being enforced as having the force of law.

Scope. This directive applies to all VOSH personnel.

Reference **CHANGE I:** 66 FR 5317, dated January 18, 2001; OSHA Memorandum 01-02 (April 19, 2001).
CHANGE II: 77 FR 46948 (August 7, 2012)

Cancellation VOSH Program Directive 12-411 (November 1, 2001).

Action The Directors and Managers shall ensure that field personnel understand and comply with the standard included in this directive.

Effective Dates **CHANGE I:** 15 November 2001
CHANGE II: 01 January 2013

Expiration Date Not Applicable.

Courtney M. Malveaux
Commissioner

Distribution: Commissioner of Labor and Industry
Assistant Commissioner – Programs
VOSH Directors and Managers
Legal Support and IMIS Support Staffs
Cooperative Programs Director and Manager
VOSH Compliance and Cooperative Programs Staff
OSHA Region III and Norfolk Area Offices

E-Attachments:

CHANGE I: None.
CHANGE II: 77 FR 46948 (August 7, 2012) or refer to: http://www.osha.gov/FedReg_osha_pdf/FED20120807.pdf

I. Background

CHANGE I: Blood and other potentially infectious materials have long been recognized as a potential threat to the health of employees who are exposed to these materials by percutaneous contact (penetration of the skin). Needlesticks and other percutaneous injuries resulting in exposure to blood or other potentially infections materials continue to be of concern because of the high frequency of their occurrence and the severity of the health effects associated with exposure.

Injuries from contaminated needles and other sharps have been associated with an increased risk of disease from more than 20 infectious agents [i.e., human immunodeficiency virus (HIV), hepatitis B virus (HBV) and hepatitis C virus (HCV)].

Since the Board adopted the original Bloodborne Pathogens ("BBP") standard on February 25, 1992, a wide variety of medical devices have been developed to reduce the risk of needlesticks and other sharps injuries. These medical devices replace sharps with non-needle devices or incorporate safety features designed to reduce the likelihood of injury.

In a September 9, 1998 Request for Information (RFI), federal OSHA solicited information on occupational exposure to BBP due to percutaneous injury. Based, in part, on responses to the RFI, OSHA pursued an approach to minimize the risk of occupational exposure to BBP that involves three components:

(1) Federal OSHA proposed that the revised Recordkeeping standard (29 CFR 1904) include a requirement that all percutaneous injuries from contaminated needles and other sharps be recorded on OSHA logs;

(2) Federal OSHA issued a revised compliance directive for the BBP standard on November 5, 1999 to reflect advances made in medical technology and treatment; and

(3) Federal OSHA placed amendment of the BBP standard on its regulatory agenda to more effectively address sharps injuries.

At the national level, Congress was prompted to take action in response to growing concerns over BBP exposures from sharps injuries and in response to above-mentioned technological developments that increase employee protection. The federal Needlestick Safety and Prevention Act (Pub.L. l06-430) which was signed on November 6, 2000, directs federal OSHA to revise the BBP within six months to clarify the need for employers to select safer needle devices as they become available and to involve employees in identifying and choosing the devices.

On June 11, 2001, the Safety and Health Codes Board adopted federal OSHA's final rule on Occupational Exposure to Bloodborne Pathogens; Needlesticks and Other Sharps Injuries, §1910.1030, with an effective date of September 15, 2001.

CHANGE II: On January 18, 2001, federal OSHA revised the Bloodborne Pathogens Standard, §1910.1030, to include requirements of the Needlestick Safety and Prevention Act, November 6, 2000 (Pub.L. 106-430). These revisions included adding a fifth subparagraph, entitled "Sharps injury log," to paragraph (h) of §1910.1030 (66 FR 5325). However, in the July 1, 2001, publication of the *Code of Federal Regulations* (CFR), subparagraph (5) was placed under paragraph (i) ("Date").

On June 11, 2001, the Safety and Health Codes Board adopted federal OSHA's revised final rule for Bloodborne Pathogens, §1910.1030, as it related to needlesticks and other sharps injuries, with an effective date of September 15, 2001.

At its meeting on September 12, 2012, the Safety and Health Codes Board adopted federal OSHA's Corrections and Technical Amendment to the Bloodborne Pathogens Standard, §1910.1030,with an effective date of January 1, 2013.

II. Summary.

CHANGE I: Federal OSHA revised the Bloodborne Pathogens ("BBP") Standard to conform to the requirements of the federal Needlestick Safety and Prevention Act (Pub.L. 1006-430). The revision to the BBP standard added new requirements for employers including additions to the exposure control plan and that of 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 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. This revision specifies 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 categorized into four major 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 the 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 car) in choosing safer devices. Employees selected shout 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 infections 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 needlestick 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.

NOTE: **See attachment for Frequently Asked Questions Concerning the Needlestick Act and OSHA's Boodborne Pathogens Standard.**

CHANGE II: Federal OSHA made a technical amendment to its Bloodborne Pathogens Standard by moving the paragraph on sharps injury log requirements from paragraph (i), entitled "Dates," to paragraph (h), entitled "Recordkeeping."

Frequently Asked Questions

1. **What is the Needlestick Safety and Prevention Act?**

   The Needlestick Safety and Prevention Act (the Act) (Pub. L. 106-430) was signed into law on November 6, 2000. Because occupational exposure to bloodborne pathogens from accidental sharps injuries in healthcare and other occupational settings continues to be a serious problem, Congress felt that a modification to OSHA's Bloodborne Pathogens Standard was appropriate (29 CFR 1910.1030) to set forth in greater detail (and make more specific) OSHA's requirement for employers to identify, evaluate, and implement safer medical devices. The Act also mandated additional requirements for maintaining a sharps injury log and for the involvement of non-managerial healthcare workers in evaluating and choosing devices.

2. **How does the "Needlestick Act" apply to OSHA's Bloodborne Pathogens Standard?**

   The Act directed OSHA to revise its Bloodborne Pathogens Standard (29 CFR 1910.1030). OSHA published the revised standard in the Federal Register on January 18, 2001; it took effect on April 18, 2001. The agency implemented a 90-day outreach and education effort for both OSHA staff and the regulated public before beginning enforcement of the new requirements. Accordingly, OSHA will not enforce the new provisions of the standard (requiring employers to maintain a sharps injury log and to involve non-managerial employees in selecting safer needle devices) until July 17, 2001. (The requirement to implement the use of engineering controls, which includes safer medical devices, has been in effect since 1992).

3. **How does the revision affect states that operate their own federally-approved occupational safety and health programs?**

   States and territories that operate their own OSHA-approved state programs must adopt the revisions to the bloodborne pathogens standard, or adopt a more stringent amendment to their existing standard, by Oct. 18, 2001. (NOTE: The original adoption date for state plan states was July 18, 2001 (or six months from the date the standard was published in the Federal Register). However, an additional three months was added which coincides with the Federal 90-day education campaign).

4. **Does the standard apply to public sector (State and local government) employees?**

   Federal OSHA standards do not apply to public sector employees, but the 24 states and two territories that operate OSHA-approved state plans are required to enforce an "at least as effective" standard in the public sector.

5. **Does the "Needlestick Act" apply to me?**

   OSHA's Bloodborne Pathogens Standard, including its 2001 revisions, applies to all employers who have employees with reasonably anticipated occupational exposure to blood or other potentially infectious materials (OPIM). These employers must implement the applicable requirements set forth in the standard. Some of the new and clarified provisions in the standard apply only to healthcare activities, but some of the provisions, particularly the requirements to update the Exposure Control Plan and to keep a sharps injury log, will apply to non-healthcare as well as healthcare activities.

6. **By what date do we have to implement safer medical devices?**

   The requirement to implement safer medical devices is not new. However, the revised standard further clarifies what is meant by "engineering controls" in the original 1991 Bloodborne Pathogens standard by adding language to the

definition section of the standard that reflects the development and availability of new safer medical devices over the last decade. The 1991 standard states, "**engineering and work practice controls shall be used to eliminate or minimize employee exposure.**" The revision defines Engineering Controls as **"controls (e.g., sharps disposal containers, self-sheathing needles, safer medical devices, such as sharps with engineered sharps injury protections and needleless systems) that isolate or remove the bloodborne pathogens hazard from the workplace."** Consequently, you should already have safer devices in place. If you have not already evaluated and implemented appropriate and available engineering controls, you must do so now. Also, employees with occupational exposure to blood and OPIM must be trained regarding the proper use of all engineering and work practice controls.

7. **What if I've never had an employee experience a needlestick, do I still need to use safer devices?**

   Yes. OSHA standards are intended to be implemented as a means to **prevent** occupational injuries and illnesses. In order to most effectively avoid percutaneous injuries from contaminated sharps, employees must use engineering controls, including safer medical devices.

8. **How many non-managerial employees do I need to include in the process of choosing safer medical devices?**

   Small medical offices may want to seek input from all employees when making their decisions. Larger facilities are not required to request input from all exposed employees; however, the employees selected should represent the range of exposure situations encountered in the workplace (e.g., pediatrics, emergency department, etc.). The solicitation of employees who have been involved in the input and evaluation process must be documented in the Exposure Control Plan.

9. **Does OSHA have a list of available safer medical devices?**

   No. OSHA does not approve or endorse any product. It is your responsibility as an employer to determine which engineering controls are appropriate for specific hazards, based on what is appropriate to the specific medical procedures being conducted, what is feasible, and what is commercially available.

10. **What if a safer option is not available for the medical device that I use?**

    A key element in choosing a safer medical device, other than its appropriateness to the procedure and effectiveness, is its availability on the market. If there is no safer option for a particular medical device used where there is exposure to blood or OPIM, you are not required to use something other than the device that is normally used. During your annual review of devices, you must inquire about new or prospective safer options and document this fact in your written Exposure Control Plan. With increasing medical technology, more devices are becoming available for different procedures. If no engineering control is available, work practice controls shall be used and, if occupational exposure still remains, personal protective equipment must also be used.

11. **What if the safer device that I choose is on back order?**

    Safety equipment must be available at all times. If for some reason an engineering control is not available (due to supply shortages, back orders, shipping delays, etc.), this must be documented in your Exposure Control Plan. You would then be responsible to implement the chosen control(s) as soon as it becomes available and adjust your exposure control plan to illustrate such. In the meantime, work practice controls must be used and, if occupational exposure still remains, personal protective equipment must also be used.

12. **Do I have to keep a sharps injury log? Does it have to be confidential?**

    If, as an employer, you are required to maintain a log of occupational injuries and illnesses under 29 CFR 1904, you must also establish and maintain a sharps injury log for recording percutaneous injuries from contaminated sharps. The Sharps Log must contain, at a minimum, information about the injury, the type and brand of device involved in the injury (if known), the department or work area where the exposure occurred, and an explanation of how the incident occurred. The log must be recorded and maintained in such a manner so as to protect the confidentiality of the injured employee (e.g., removal of personal identifiers).

13. **Does the revised Bloodborne Pathogens Standard apply to medical or dental offices that have fewer than 10 employees?**

    OSHA's Bloodborne Pathogens Standard applies to all employers with employees who have occupational exposure to blood or other potentially infectious materials (OPIM), regardless of how many workers are employed. However, workplaces with 10 or fewer employees are exempt from OSHA recordkeeping requirements and are also exempt from recording and maintaining a Sharps Injury Log. (See 29 CFR 1904 for applicability of recordkeeping requirements). All other applicable provisions of the Bloodborne Pathogens Standard still apply.

14. **What new information do I need to include in my written Exposure Control Plan? How often do I need to update it?**

    In addition to what is already required by the 1991 standard, the revised standard requires the documentation of (1) **annual** consideration and implementation of appropriate engineering controls, and (2) solicitation of non-managerial healthcare workers in evaluating and choosing devices. The plan must be reviewed and updated at least annually.

15. **Where can I get information about what is expected of me?**

    There are several resources available for employers and employees with regard to occupational exposures to blood and OPIM. First, of course, is the OSHA Bloodborne Pathogens Standard (29 CFR 1910.1030). Also available are "CPL 2-2.69 (November 2001). ***Enforcement Procedures for the Occupational Exposure to Bloodborne Pathogens***, and many other related documents. You may access this information, as well as information from OSHA's Consultation and State Plan State Offices, via OSHA's website at http://www.osha.gov/index.html or by phone at 1-800-321-OSHA. The National Institute for Occupational Safety and Health (NIOSH) and the Centers for Disease Control and Prevention (CDC) also have several documents related to the prevention of occupational exposure to blood and OPIM.

CHANGE I

Occupational Exposure to Bloodborne Pathogens; Needlestick and Other Sharps Injuries, §1910.1030; Revised Final Rule

As Adopted by the

Safety and Health Codes Board

Date: June 11, 2001

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: September 15, 2001

16 VAC 25-90-1910.1030, Occupational Exposure to Bloodborne Pathogens, §1910.1030; Revised Final Rule

When the regulations, as set forth in the revised final rule for the Occupational Exposure to Bloodborne Pathogens; Needlestick and Other Sharps Injuries, §1910.1030, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
April 18, 2001	September 15, 2001
29 CFR 1904.6	16 VAC 25-60-60, Administrative Regulations for the VOSH Occupational Safety and Health Program, Occupational Injury and Illness Records, §60

CHANGE II

Occupational Exposure to Bloodborne Pathogens, §1910.1030

As Adopted by the

Safety and Health Codes Board

Date: September 12, 2012

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

VIRGINIA OCCUPATIONAL SAFETY AND HEALTH PROGRAM

VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY

Effective Date: January 1, 2013

16VAC25-90-1910.1030, Occupational Exposure to Bloodborne Pathogens, §1910.1030

When the regulations, as set forth in the revised final rule for the Occupational Exposure to Bloodborne Pathogens, §1910.1030, are applied to the Commissioner of the Department of Labor and Industry and/or to Virginia employers, the following federal terms shall be considered to read as below:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
August 7, 2012	January 1, 2013