



Revised -- Regulatory Alert

(This document has been revised since it was originally distributed on July 17, 2001 – please read thoroughly)

TO: NHPCO Members
FROM: Director of Regulatory Affairs
RE: OSHA Needlestick Safety and Prevention Act
DATE: August 6, 2001
PAGES: 2, *including this page*

Enforcement of The Needlestick Safety & Prevention Act Began On July 17, 2001

I. Background:

The Needlestick Safety & Prevention Act (HR 5178) mandated that the 1991 Bloodborne Pathogens Standard (BBP Standard) be revised to require employees to review and update their exposure control plans to reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens. The Act also requires employers to document annually consideration and implementation of appropriate commercially available and effective "safer medical device" designed to eliminate or minimize occupational exposure. OSHA published the revised standard in the Federal Register on January 18, 2001 and it became effective April 18, 2001. OSHA then launched a ninety (90) day outreach effort to educate employers, healthcare workers and the general public while agreeing not to enforce the new provisions during that period. The outreach period is nearing its end and enforcement of the new provisions began July 17, 2001.

States and territories that operate their own OSHA-approved state programs must adopt the revisions to the federal bloodborne pathogens standard, or a more stringent amendment to their existing standards, by October 18, 2001. Although the original adoption date for state plan was July 17, 2001 (six months from the date the standard was originally published in the Federal Register), an additional three months was added which coincides with the federal government's education effort. The states with their own federally-approved plans are: Alaska, Arizona, California, **Connecticut**, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, **New Jersey**, New Mexico, **New York**, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virgin Islands, Virginia, Washington, Wyoming.

NOTE: *The **Connecticut**, **New Jersey** and **New York** plans cover public sector (State & local government) employment only.*

The OSHA-rule is directly enforceable in states that do not have their own federally-approved OSHA plans.

II. What Are the Main Changes?

- A. A revised and expanded definition of "engineering controls" which includes as examples, "safer medical devices, such as sharps with engineered sharps injury protection and needleless systems."
- B. A definition of "sharps with engineered sharps injury prevention protections" as a "non-needle sharp or a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids, with a built-in safety feature or mechanism that effectively reduces the risk of an exposure incident".
- C. A definition of "needleless systems" as "a device that does not use needles for: (1) the collection of bodily fluids or withdrawal of body fluids after initial venous or arterial access is established; (2) the administration of medication or fluids; or (3) any other procedure involving the potential for occupational exposure to bloodborne pathogens due to percutaneous injuries from contaminated sharps."
- D. A new requirement that exposure control plans include consideration of safer medical devices designed to eliminate or reduce exposure to bloodborne pathogens. The plans must be updated as necessary to "reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens" and "document annually consideration and implementation of appropriate commercially available and effective safer medical devices."

E. A requirement that sharps injury logs be kept, in addition to the OSHA 200 log. The sharps injury log must include detailed information on the injury, including the "type and brand of device involved in the incident, the department or work area where the exposure incident occurred, and an explanation of how the incident occurred".

F. A requirement that employers solicit input from frontline healthcare workers when identifying, evaluating, and selecting effective engineering and work practice controls, including safer medical devices.

III. Who Must Comply?

The standard applies to all employees covered under the Act with employees who have reasonably anticipated exposure to blood or other potentially infectious materials. Special rules apply in home health services (including hospice) and to personnel service firms that supply contract workers to hospitals and other healthcare facilities. Since the standard may apply to different types of employees depending on the state, we recommend that you consult OSHA's website for more information on the scope of the requirements. For more information, see the Enforcement Procedures for Occupational Exposure to Bloodborne Pathogens – section XI sections A, B, and C (see IV, E, below for the web address), OSHA's Q&A document entitled *Safer Needle Devices: Protecting Health Care Workers* (available at: <http://www.osha-slc.gov/SLTC/needlestick/saferneedledevices/saferneedledevices.html>), and OSHA's FAQ document (available at: <http://www.osha-slc.gov/needlesticks/needlefaq.html>).

IV. How Can Our Hospice Get Ready?

A. Assign responsibility for assuring compliance with revised BBP Standard.

B. Update or create a BBP Exposure Control Plan.

C. Identify, evaluate and/or implement commercially available safer medical devices where they are found to be effective in eliminating or minimizing occupational exposures. (Remember: Frontline healthcare workers must be a part of the evaluation and selection process... and there must be documentation to provide evidence of the process and of their involvement.)

Step One: Identify any "safer medical devices" that are commercially available. Employers will need to comply with the requirements to identify safer medical devices by soliciting information on safer medical devices from vendors or from non-managerial employees responsible for direct patient care who are potentially exposed to injuries from contaminated sharps.

Step Two: Conduct a review to determine whether the commercially available safer medical devices are: (a) appropriate; and (b) effective.

Step Three: Decide which products will be used in the workplace based on the results of the review.

Step Four: Document Steps 1-3. Describe, in writing: (a) the safer devices identified as candidates for adoption; (b) the method of methods used to evaluate devices, including the means used to solicit the input of non-managerial employees; (c) the results of the evaluations; and (d) the justification for selection decisions.

D. Continuously monitor the effectiveness of engineering controls. Remember that OSHA does not advocate the use of one particular device over another.

E. Update employee training to include training on engineering controls, including "safer medical devices," as appropriate.

F. Review OSHA Compliance Directive (Number: CPL 2-2-2.44D), titled "OSHA Instructions Re: Enforcement Procedures for Occupational Exposure to Bloodborne Pathogens" and read other reference materials (available at: http://www.osha-slc.gov/OshDoc/Directive_data/CPL_2-2_44D.html).

V. Are There Any "Loopholes" or Exceptions to the Use of "Safer Medical Devices":

There is no list of exceptions. Employers must review and update their exposure control plans to reflect changes in needlestick prevention technologies and consider the use of safer medical devices at their work sites.

VI. Where Can We Turn For More Help?

Suggested References:

* www.osha.gov

* www.cdc.gov/niosh

* www.needlestick.org

* www.bd.com/safety/resource/needlestick.html