Adapted from a factsheet by the New York Committee on Occupational Safety and Health

Using OSHA's Bloodborne Pathogens Standard to Protect Your Health on the Job

What employees are covered by the bloodborne pathogens standard?

All employees who could be "reasonably anticipated" to face contact with blood and other potentially infectious materials as the result of performing their job duties. In addition to blood, potentially infectious materials include "semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid visibly contaminated with blood and all body fluids in situations where it is difficult or impossible to differentiate between body fluids."

Is your employer required to provide you with specific kinds of equipment?

Yes. The compliance directive issued in 1999 requires employers to provide workers with the best available devices, such as safer needles, to eliminate bloodborne pathogen exposure or reduce it to the greatest extent feasible. According to the new directive, an "employer must use engineering and work practice controls that eliminate occupational exposure or reduce it to the lowest feasible extent. . . . Where engineering controls will reduce employee exposure either by removing, eliminating or isolating the hazard, they must be used."

What, specifically, is the employer required to do about engineering controls?

Every employer with employees who may be exposed to bloodborne pathogens is required to have an Exposure Control Plan, which describes the methods the employer uses to comply with the standard. Under the new compliance directive, employers are required to familiarize themselves with the devices that are commercially available and document the basis for choosing one device over another in their Exposure Control Plan. At least once a year, all employers must evaluate their Exposure Control Plans, and document the technical basis for deciding to stick with an existing program or change it. The employer's evaluation must conform to OSHA's policy that the use of engineering controls is mandatory if they will reduce exposure.

Can OSHA decide that an employer's decision about engineering controls is wrong, and violates the law?

Yes. Under the new directive, an OSHA inspector reviews the evaluation of engineering controls in the employer's Exposure Control Plan and the employer's documentation of the basis for it. The inspector is directed to independently confirm the evaluation's accuracy and completeness by comparing the equipment included in the plan with "other devices that are commercially available," and considering "evidence that the other engineering controls would reduce exposure" below the level achieved by the employer's plan. If there are other devices that would protect workers better than the devices in the Exposure Control Plan, it may be a violation. To carry out this section, the inspector is directed to consult with an OSHA official, the Regional Bloodborne Pathogens Coordinator, who is supposed to have up-to-date information about available engineering controls.
Can employees see an employer’s Exposure Control Plan?

Yes. An employee or an employee’s representative, such as a union, has a right to obtain a copy of the employer’s Exposure Control Plan. If you request a copy of your employer's Exposure Control Plan, the employer must give you a copy of the plan or let you make a copy of it within 15 working days.

What can an employee do with an employer’s Exposure Control Plan?

Workers and unions do not need to wait for an OSHA inspection if an employer’s Exposure Control Plan does not comply with the regulations. In that case, an employee or employee representative can file a complaint with OSHA or PESH. Employees can evaluate the Exposure Control Plan in light of the kinds of equipment that are available. For example, retractable needles are generally considered to provide greater protection than needle that must be manually sheathed after use. An employer’s decision to use manually sheathed needles could be a violation of the requirement to use equipment that reduces exposure as much as possible. Here are examples of reasons that a plan would not comply with the regulations:

- it does not minimize exposure to bloodborne pathogens to the greatest extent feasible
- the employer is not following the procedures called for by the plan
- the plan does not include a record showing that it has been “reviewed and updated” during the previous 12 months
- the record of review and updating does not “document consideration and implementation of appropriate commercially available and effective engineering controls. . . .”

Under the new policy, an employer must consider, and make a record of considering, using any commercially available engineering controls that came on the market after the last time the plan was reviewed by the employer. New engineering controls are coming on the market at least weekly, so it would not be possible for an employer to review the plan without making a record of having considered using some new equipment. Even if the employer decides to not use any new equipment, the directive requires the employer to make a record of the reasons for not changing equipment. If an employer has not documented such a review, an employee can file a complaint. OSHA can cite an employer for an Exposure Control Plan that does not include a record of having been reviewed in the past year. OSHA can also issue a citation if the employer does not select a device that "would be clearly more effective than the one in use."

What does the directive say about training and personal protective equipment?

- The employer must provide training to all affected workers that includes an explanation of the uses and limitations of engineering controls, work practices, and personal protective equipment
- The employer must provide personal protective equipment (PPE) at no cost to the employee.

What does the directive say about removal of contaminated needles?

The Bloodborne Pathogens Standard prohibits the removal of contaminated needles, but the new compliance directive explains the meaning of the prohibition. "Bending, recapping, or removing contaminated needles is prohibited as a general practice. . . . Certain circumstances may exist, however, in which recapping, bending, or removing needles is necessary (e.g., administering incremental doses of a medication such as an anesthetic to the same patient). . . . An acceptable means of demonstrating that no alternative to bending, recapping, or removing contaminated needles is feasible or that such action is required by a specific medical procedure would be a written justification (supported by reliable evidence) included as part of the exposure control plan."

Are physicians covered by the bloodborne pathogens standard?

Yes, in most cases. The directive includes a detailed discussion of the employer/employee status of physicians and people they work with, which concludes that the standard applies to them as either employers or employees in almost all circumstances except when a physician, or physicians who are partners, have no employees and do not work on the premises of a host employer, such as a hospital.
Are home-health workers covered?

Home-health service employers are exempted from some of the standard's requirements. They are required to comply with all provisions that the employer directly controls, but they are exempted from complying with provisions that are specific to worksites that are not under their control. For example, a home-health service employer is required to provide all the appropriate safer devices and personal protective equipment, but the employer cannot be cited if a home-health worker does not use the equipment or PPE at a location that is not under the employer’s control, such as a private home.

What about employees who are trained to perform first aid?

Employees who perform first aid as a normal part of their duties must be provided pre-exposure hepatitis B vaccinations, but if an employer trains an employee in first aid without making first aid a normal duty of that employee, the employer is not required to provide a pre-exposure vaccination.

Are construction workers covered by the Bloodborne Pathogens Standard?

No. The standard does not apply to workers in the construction, marine terminal or longshore industries (BBP Directive, XIII.A.3). The old compliance directive stated that the standard applied to construction and maritime workers. Under the new directive, a construction or maritime employer who exposes workers to bloodborne pathogens can be cited only under the General Duty Clause of the Occupational Safety and Health Act.

Do I have a right to receive a free Hepatitis B vaccination?

Yes, if your work involves contact with blood, or if your work creates a reasonable potential for contact with blood. Any worker who may come into contact with used needles or other sharps has a reasonable potential for contact with blood. Any worker whose responsibilities include an activity that can be anticipated to result in contact with blood (such as having the responsibility to provide first aid) has a reasonable potential for contact with blood. Employers are required to “make available” to all such employees hepatitis B vaccinations that cost the employee nothing.

What should I do if I am exposed to blood in any way, including a needlestick, a wound from another kind of used sharp, a splash or any other exposure?

If you are exposed to blood that could enter your body through a wound or other route, such as a splash in the eye, it is important to receive treatment to prevent infection as quickly as possible. Most bloodborne pathogens will not infect a person who receives prompt medical care. You should report the exposure to your employer or supervisor immediately. Do not wait until the end of your shift. If you are an employee who is covered by the bloodborne pathogens standard, your employer is required to provide you with confidential medical evaluation and follow-up as soon as possible. Any unnecessary delay in providing you with medical evaluation will increase your risk of infection. If your employer does not immediately provide you with the required care, it is a violation of the bloodborne pathogens standard.

If you are not covered by the bloodborne pathogens standard because your duties do not include exposure to blood or do not create a reasonable potential for exposure to blood (for example, if you are an administrative worker who is exposed to blood when you come to the aid of an injured co-worker), the law does not require your employer to do anything, but OSHA “strongly encourages employers” to offer such workers the same procedures as those required for workers who are covered by the standard.