

# Memorandum

**To :** ALL STANDARDS BOARD MEMBERS

**Date :** June 26, 2001

**From :** Division of Occupational Safety And Health  
John Howard, Chief

**Subject :** Section 5193, Bloodborne Pathogens

At the June 21, 2001 Public Hearing, the Occupational Safety and Standards Board considered revisions to California Code of Regulations, Title 8, General Industry Safety Orders, Section 5193, Bloodborne Pathogens. The revisions to this standard are substantially the same as the federal Bloodborne Pathogen standard.

Labor Code Section 142.3(a)(3) exempts the Board from providing a comment period when adopting a standard substantially the same as a federal standard. However, as indicated in the Notice and Informative Digest, the Board still provided a comment period for the purpose of identifying only issues related to the following three areas: 1) any clear and compelling reasons for California to deviate from the federal standards; 2) any issues unique to California related to this proposal which should be addressed in this rulemaking and/or subsequent rulemaking; and, 3) solicit comments on the proposed effective date.

As a result of public comments, there were no changes made to the original proposal.

## **SUMMARY OF WRITTEN AND ORAL COMMENTS**

No written comments were received.

### **June 21, 2001 Oral Comment**

#### **Teresa Pichay, California Dental Association**

**Comment:** Ms. Pichay stated that the federal OSHA requirement for a sharps injury log excluded small employers whereas the Board proposal continued to apply the sharps injury log requirement adopted in 1999 to all employers, regardless of their size. She noted for the record her understanding that the mandate contained in the "Migden" bill (Labor Code Section 144.7) for the bloodborne pathogens standard to include a requirement for a sharps injury log also did not provide for an exception from this requirement for employers based on their size. Therefore, she stated that her comment about the small employer exemption was for the purpose of establishing a record and she realized that the Board could not entertain her comment due to the stricter requirements of state law.

**Response:** The Board appreciates Ms. Pichay's statement about small businesses being exempt from sharps injury logs in the federal standard but not in the Section 5193 and agrees with the commenter's conclusion. The federal OSHA standard excludes employers of less than 10 employees from the requirement to maintain a sharps injury log. It does so by limiting its application to only those employers required to maintain a log of occupational illnesses and injuries under 29 CFR 1904. The Board concurs with the commenter's statements about Labor Code Section 144.7 not providing any employers an exemption to the requirement for a sharps injury log. Therefore, the Board declines to make any change to the proposal in response to this comment and shall retain in Section 5193 the requirement for a sharps injury log that applies to all employers.

### **DETERMINATION OF MANDATE**

This regulation does not impose a mandate on local agencies or school districts as indicated in the Staff Development Memorandum.