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## The Needlestick Safety and Prevention Act: What Does It Require?

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The Needlestick Safety and Prevention Act (H.R. 5178) authorizes federal OSHA to revise the 1991 Bloodborne Pathogens Standard (29 CFR 1930.1030) to require the use of safety-engineered sharp devices. OSHA has up to six months to publish the revised standard in the *Federal Register*; it will take effect 90 days after publication. According to OSHA, the revised Standard will be in effect by no later than August 6, 2001. Below we review the major provisions of the law and discuss some frequently asked questions about it.

### Provisions of the new law:

- **Requires health care employers to provide safety-engineered sharp devices and needleless systems** to employees to reduce the risk of occupational exposure to HIV, hepatitis C and other bloodborne diseases.
- **Expands the definition of “engineering controls”** to include devices with engineered sharps injury protection. [See box, page 42, for definitions to be added to the Bloodborne Pathogens Standard.]
- **Requires that exposure control plans document consideration and implementation of safer medical devices** designed to eliminate or minimize occupational exposure. Plans must be reviewed and updated at least annually.
- **Requires each health care facility to maintain a sharps injury log** with detailed information on percutaneous injuries (includ-

ing type and brand of device involved in exposure incident, department where exposure occurred and an explanation of how it occurred).

■ **Requires employers to solicit input from non-managerial (e.g., frontline) health care workers** when identifying, evaluating and selecting safety-engineered sharp devices, and to document this process in the exposure control plan.

### Frequently Asked Questions:

■ **What effect does the new law have on OSHA’s November 1999 compliance directive (CPL 202.44D) for the Bloodborne Pathogens Standard?**

In drafting the federal Needlestick Safety and Prevention Act, legislators relied on the language and overall content of the compliance directive regarding requirements for the use of safety devices. H.R. 5178 provides legislative authority for OSHA’s current enforcement emphasis on the use of safety devices as a primary engineering control to prevent occupational exposures to bloodborne pathogens. In addition to mandating the use of safety devices, OSHA’s compliance directive also provides guidance on a number of other issues, such as updated requirements for post-exposure follow-up that include hepatitis C virus. (The revised compliance directive and additional compliance information and training resources are available on OSHA’s web site: [www.osha-slc.gov/SLTC/needlestick/compliance.html](http://www.osha-slc.gov/SLTC/needlestick/compliance.html).)

(continued)

### ■ **Does OSHA require safety devices now?**

Use of sharps with engineered sharps injury protection is required *now*. OSHA has the authority under the Bloodborne Pathogens Standard to require the use of engineering controls, such as safety devices, to reduce risk to workers. OSHA clarified its position in November 1999 with the revised compliance directive, and outlined the requirements and enforcement procedures for implementation of sharps injury prevention devices. Since November 1999, OSHA has cited health care facilities for failure to use safety devices. In determining a facility's compliance with the standard, however, OSHA has considered, among other factors, evidence of adoption of safety devices and whether the exposure control plan includes on-going selection, evaluation, and implementation of such devices, with a timeline for implementation.

The federal Needlestick Safety and Prevention Act does not change the current enforcement activities of OSHA, but rather gives a legislative mandate for OSHA's requirement that health care employers provide their employees with safety-engineered sharp devices.

### ■ **Once the Bloodborne Pathogens Standard has been revised to require facilities to use safer devices, as mandated by H.R. 5178, will OSHA be stepping up its enforcement of the standard?**

OSHA has *already* started conducting more inspections of health care facilities. During inspections, compliance with all occupational safety and health requirements is reviewed, including the Bloodborne Pathogens Standard. The increase in inspections is part of a recent initiative that included a letter sent to 2,600 health care facilities that had the highest average

illness and injury rates, announcing that OSHA would be conducting targeted inspections. The major source for OSHA inspections of health care facilities, however, will still be employee complaints. Thus it will be important to adhere to the requirement in H.R. 5178 that frontline workers' input be included

at least as protective) as those of federal OSHA. Once the revised Bloodborne Pathogens Standard is published in the *Federal Register*, state OSHA plans will have six months to revise and publish their corresponding standards so they match federal OSHA. In the interim, state plans will continue to enforce their current requirements. Some states with state OSHA plans, such as California, have already revised their bloodborne pathogens standard to require the use of safer devices.

### ■ **How does the new federal law apply in states that have passed needle safety laws?**

Seventeen states have passed needle safety legislation. The elements of the new federal law that are also part of many state laws include: (1) required use of sharps injury prevention devices; (2) written exposure control plan that is updated annually to reflect consideration and use of safety devices; (3) sharps injury log with detailed information on the type and brand of device and description of the incident; and (4) involvement of frontline workers in selection, evaluation and implementation of safety devices.

If a state needle safety law has requirements above and beyond what the federal law requires, then the additional state requirements must be

followed. (For instance, some states require health care facilities to report needlestick injury data to a state agency.) If a state needle safety law is less protective than the federal law, the federal law's requirements must be followed.

### ■ **Which health care facilities are covered by the new law?**

### ***New and Revised Definitions in the Bloodborne Pathogens Standard (mandated by H.R. 5178):***

(1) The definition of "engineering controls" is **expanded to include**, as additional examples of controls, "safer medical devices, such as sharps with engineered sharps injury protections and needleless systems."

(2) The term "sharps with engineered sharps injury protections" is added to the definitions (at 29 CFR 1910.1030(b)) and **defined as** "a nonneedle 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."

(3) The term "needleless systems" is added to the definitions and defined as "a device that does not use needles for: (a) the collection of bodily fluids or withdrawal of body fluids after initial venous or arterial access is established; (b) the administration of medication or fluids; or (c) any other procedure involving the potential for occupational exposure to bloodborne pathogens due to percutaneous injuries from contaminated sharps."

in the development and implementation of a sharps injury program, in order to assure that their needs and safety concerns are being met.

### ■ **What are the requirements for facilities in states with their own OSHA plans?**

States with state OSHA plans (there are 23) must have regulations that are "at least as effective" (that is,

The new federal law and (when published) the revised Bloodborne Pathogens Standard apply to *any* facility where employees may be exposed to blood or other potentially infectious material, such as hospitals, long-term care facilities, and clinical laboratories.

■ **What should our facility do now?**

• **Collect exposure data, using a system such as EPINet.** This data is essential to understanding where exposures are occurring in a facility, and what interventions, including safer devices, are necessary to prevent them. If your facility already has a system in place for tracking sharp-object injuries and blood and body fluid exposures, make sure the forms solicit information on the following: type and brand of device causing the injury, department where the exposure occurred, and an explanation of how the incident occurred. The new federal law requires that this information be collected. (The latest Access version of EPINet, to be released shortly, includes all this information on its data collection forms.)

• **Establish a sharps task force.**

Each facility should have a multidisciplinary task force and assigned leader to coordinate the sharps injury prevention program. The task force should include both managerial and non-managerial (frontline) workers to assist with the development or revision of a plan for selection, evaluation and implementation of safety devices. Consider safety devices as one component of an overall sharps injury prevention program that includes management commitment to worker safety, education and training on the use of safety devices, strategies to encourage compliance with the use of safety devices, and ongoing evaluation of the effectiveness of safety devices in reducing the risk of injury from contaminated sharps.

• **Revise exposure control plan.**

The exposure control plan should be revised to include the plan and timetable for evaluating and implementing safety-engineered devices in all device categories with potential for bloodborne pathogen exposure. The involvement of

frontline workers in the device selection process should be documented in the plan.

• **Select and evaluate devices.**

The new law does not recommend specific devices, but requires employers to conduct their own evaluations of available safety devices. At present, there are relatively few studies documenting the efficacy of specific safety devices. Therefore, hospitals must select devices to evaluate based on a consideration of their own needs and requirements. If your facility has group purchasing contracts, start by reviewing the safety devices that are currently under contract. Note, however, that health care facilities must evaluate any safety device they believe is appropriate for their specific needs, regardless of whether it is covered by a group purchasing contract.

• **Implement safety devices.**

When evaluation is complete, devices should be implemented promptly after appropriate education and training on the use of the device. □