

Regulators Consider New Table-Saw Safety Standard

The Consumer Product Safety Commission has voted unanimously to issue an Advance Notice of Proposed Rulemaking for — in the words of a CPSC press release — “performance requirements to address table-saw blade contact injuries.” The October 5 decision represents a significant step toward regulations that could eventually phase out table saws in their current form and replace them with a new generation of tools equipped with safety devices that instantly stop the blade if it comes in contact with — or even closely approaches — any part of the operator’s body.

Coincidentally, also on October 5, a Massachusetts appeals court ruled on a much-discussed table-saw injury case that pitted an insurance carrier representing an injured worker against tool manufacturer Ryobi. In the original trial — which took place in early 2010 — a district court found that the table saw used by the injured plaintiff was “unreasonably dangerous” and awarded damages of \$1.5 million (see “Table Saw Lawsuit Rattles Power-Tool Industry,” 9/10). The appeals court rejected an appeal brought by Ryobi and reaffirmed the original damage award.

A long time coming. In its decision, the appeals court noted that it relied substantially on the testimony of Oregon inventor and patent attorney Stephen Gass. “At the trial,” the court’s decision reads, “[injured plaintiff Carlos] Osorio argued that the BTS B15 was unacceptably dangerous due to a defective design. Osorio relied largely on the testimony of witness Dr. Stephen Gass, inventor of ‘SawStop,’ a mechanism that allows a table saw to sense when the blade comes into contact with human flesh, immediately stops the blade from spinning, and causes it to retract into the body of the saw.”

Gass’s device — which works by responding to tiny changes in electric current — has provoked contention since its first demonstration at a woodworking trade show in 2000. Soon thereafter, Gass began negotiating with several power-tool manufacturers in an effort to license the patented technology, and reportedly came close to licensing his invention to Ryobi in 2002.

According to Gass himself, the deal (which ultimately broke down for reasons that remain unclear) called for his company to receive a 3 percent royalty on the wholesale price of all saws containing the blade-stopping device, which would increase to 8 percent if the technology was widely adopted by the rest of the industry. After the Ryobi deal fell through and he made no headway with other manufacturers, Gass took the now-controversial step of petitioning the CPSC to issue mandatory performance standards designed to prevent injuries resulting from user contact with table-saw blades.

As summarized by the CPSC, “The petitioners state that current table saws pose an unacceptable risk of severe injury because they are

■ In the wake of recent studies by the National Institute of Standards and Technology, the federal government has issued updated repair guidelines for homes built with tainted drywall. Like earlier guidelines, the new version — released jointly by HUD and the CPSC — recommends that homeowners replace all problem drywall; smoke and carbon-monoxide alarms; electrical receptacles, switches, and circuit breakers; and fusible-type fire sprinkler heads. Replacement of gas service piping and glass-bulb sprinkler heads, however, is no longer recommended.

■ Recently released census data suggests that one side effect of the long-running housing bust has been a sharp increase in the number of multigenerational households, defined as those with three or more generations living under a single roof. There were almost 5.1 million such households in the U.S. in 2010, compared with fewer than 4 million in 2000. Hard-pressed production builders are taking notice: KB Home has begun offering homes with what it calls “double master suites” — two large bedrooms with attached bathrooms — to accommodate parents living with their adult children.

■ A Sayreville, N.J., framing contractor has agreed to pay a \$107,400 fine for failing repeatedly to provide workers with fall protection. OSHA cited Sousa Construction for allowing unprotected workers to install roof trusses, leaving them exposed to possible falls of approximately 35 feet. The contractor has also been ordered to hire an independent safety consultant for the duration of the project where the violations occurred; to provide workers and supervisors with additional training; and to notify OSHA whenever it begins a new construction project scheduled to take more than a week to complete.

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inherently dangerous and lack an adequate safety system to protect users from accidental contact with the blade. ... The petitioners maintain that accidents continue to occur in large numbers and thus demonstrate the need for more effective standards for table saws.”

Speaking out. In 2006, the CPSC staff recommended that the commission approve the request and draft proposed rules calling for the inclusion of SawStop-type protective devices on all table saws. But the full commission failed to act on that recommendation, so the proposed rule was never written. The current CPSC staff, however — headed by Obama administration appointee Inez Tenenbaum, and enlarged to five voting members from the previous three — has elected to make the issue a priority.

Although the time line going forward is not set in stone, its outline is clear. The commission’s announcement of the proposed initiative kicks off a 60-day comment period (ending in mid-December 2012), during which manufacturers, tool users, and any other interested parties can make their views known to the com-

mission by filling out an online contact form at regulations.gov.

“I can’t emphasize enough how vital it is for all stakeholders to weigh in on this,” CPSC director of communications Scott Wolfson told *JLC*. “We want to know about policy implications and the legal implications” of an eventual table-saw rule.

At the close of the public comment period, the commission will consider and respond to the comments, then decide either to move forward and draft a proposed rule or to take no further action. If it chooses the first course — as many industry observers think likely — it may take a year or more to develop and issue a draft rule, which will then be followed by a second round of public comment. The final rule, if written, would come next, and would take into account those additional public comments. Implementation would include a phase-in period giving toolmakers time to comply.

Counting costs. However, there’s a third way in which events could play out: Table-saw manufacturers could bypass the rule-making process altogether. As Wolfson explains, the commission must discontinue rule-making if a voluntary standards committee can demonstrate that it is on the path to a consensus standard

that would achieve the same goal as the proposed rule. In the case of table saws, such a consensus standard would likely be put forward by the Cleveland-based Power Tool Institute, whose members include most major power-tool manufacturers.

PTI executive director Susan Young declines to say whether the organization is contemplating such a voluntary standard, but the organization has been involved in similar efforts in the past. In 2003, a joint venture of tool manufacturers under the PTI umbrella began development of a new table-saw blade guard. This new guard, introduced in 2007, was widely seen as the industry’s effort to provide a lower-cost alternative to active devices like SawStop. (While the PTI guard is generally seen as an improvement over its predecessors, the CPSC notes that the effectiveness of all blade guards is limited by the tendency of users to remove and never reinstall them.)

The decision in the Osorio appeal has no direct bearing on the CPSC rule-making process. Still, it could provide tool manufacturers with added motivation to come up with their own solution.

The sheer numbers reflect the dilemma the manufacturers confront: With table-saw injuries accounting for more than 34,000 emergency room visits annually (that’s the CPSC’s figure; the PTI contends that the real figure is much lower), each day that an effective injury-reducing solution is not in place represents dozens of potentially costly lawsuits.

At least 40 personal-injury lawsuits similar to Osorio are now pending, including three Massachusetts cases scheduled to go to trial early next year. Even if only a few of them are successful, the damage awards could quickly outstrip the cost of tooling up for a SawStop-type solution, which the PTI has estimated to be \$2 million to \$10 million per company.

— Jon Vara

■ According to a recent article in the *American Journal of Industrial Medicine*, the federal government’s statistics on work-related injuries in the construction industry may substantially underestimate the actual number of such injuries, mostly because of underreporting by small companies. Over the course of the 15-year study, about 42,000 injuries per year that resulted in days away from work went unreported by companies with 10 employees or fewer. Among Hispanic workers, 75 percent of nonfatal injuries were found to go unreported; among white non-Hispanic workers, 40 percent of nonfatal injuries went unreported.

■ A University of Maryland team has won the U.S. Department of Energy’s 2011 Solar Decathlon, a biennial competition that showcases energy-efficient and cost-effective home designs. The Maryland team’s WaterShed home included an innovative graywater recycling system, vertical gardens for vine crops, and two indoor waterfalls that used a concentrated saline solution to draw moisture from the air and reduce the load on the structure’s mini-split hvac system.