

[Products Liability Law Daily Wrap Up, TOP STORY—TOOLS AND HARDWARE—CPSC proposes performance standard for table saws, \(May 12, 2017\)](#)

Products Liability Law Daily Wrap Up

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The Consumer Product Safety Commission (CPSC) has proposed a rule to establish a performance standard for table saws pursuant to Sections 7 and 9 of the Consumer Product Safety Act (CPSA) based on its preliminary determination that there may be an unreasonable risk of blade-contact injuries associated with these devices. The notice of proposed rulemaking (NPR) addresses an estimated 54,800 medically treated blade-contact injuries annually. The agency estimates that the rule would prevent or substantially mitigate 70-90 percent of those injuries and that the aggregate net benefits on an annual basis could exceed \$625 million. Comments are due by July 26, 2017 (*CPSC Notice*, [82 FR 22190](#), May 12, 2017).

Table saws are stationary power tools used for the straight sawing of wood and other materials. The basic design of a table saw consists of a motor-driven saw blade that protrudes through a flat table surface. To make a cut, the operator places the workpiece on the table and, using a rip fence or miter gauge as a guide, pushes the workpiece into the blade. Table saws are "consumer products" that can be regulated by CPSC under the authority of the CPSA. Section 7 of the CPSA authorizes CPSC to promulgate a mandatory consumer product safety standard that sets forth performance requirements for a consumer product or that sets forth requirements that a product be marked or accompanied by clear and adequate warnings or instructions. A performance, warning, or instruction standard must be reasonably necessary to prevent or reduce an unreasonable risk or injury. Section 9 of the CPSA specifies the procedure that the Commission must follow to issue a consumer product safety standard under section 7.

Background. In April 2003, members of SawStop, LLC, and its parent company, SD3, LLC (SawStop), requested that CPSC require performance standards for a system to reduce or prevent injuries from contact with the blade of a table saw. Years later, in October 2011, CPSC published an advance notice of proposed rulemaking (ANPR) to consider whether there may be an unreasonable risk of blade-contact injuries associated with table saws (76 FR 62678), and thus began the rulemaking proceeding under the CPSA. The Commission received approximately 1,600 public comments on the ANPR. Based on CPSC staff's review of the existing data, CPSC does not believe that presently available safety devices, such as the modular blade guard and riving knife, adequately address the unreasonable risk of blade-contact injuries on table saws. Currently, the voluntary standard for table saws (UL 987) does not contain any requirement for "active injury mitigation" (AIM) technology, a type of safety system that detects an imminent or actual human contact with the table saw blade and then performs an action that mitigates the severity of the injury.

Proposed rule. After conducting a range of tests on sample table saws with AIM technology, CPSC staff developed a proposed performance requirement to reduce the severity of operator blade-contact injuries on table saws. The proposed rule, which would apply to all table saws, as defined, including bench saws, contractor saws, and cabinet saws, would require table saws to limit the depth of cut to 3.5 mm or less when a test probe, acting as surrogate for a human finger, contacts the spinning blade at a radial approach rate of 1 meter per second (m/s). The proposed rule does not dictate how table saw manufacturers would meet those requirements; rather, firms would have the flexibility to determine the appropriate technology to meet the specified performance requirement. CPSC staff has explained the test procedure and equipment that staff would use to assess compliance with an AIM system that uses electrical sensing technology. However, manufacturers need not use this particular test procedure, so long as the test method they use effectively assesses compliance with the

standard. The proposed rule also contains a provision that would prohibit a manufacturer from "stockpiling" or substantially increasing the manufacture or importation of noncomplying table saws between the date of the final rule and its effective date.

Because CPSC finds it likely that table saw manufacturers will have to develop new technology or redesign virtually all table saw models, retool production facilities, and enter into licensing arrangements in order to comply with the proposed standard, the agency believes that an effective date of 180 days from the date of publication of the final rule may not be adequate time to allow for such modifications. Accordingly, CPSC is proposing an effective date of three years following publication of a final rule, at which time all table saws would be required to comply with the applicable requirements of the rule.

Statement of CPSC Acting Chairman. In a [statement](#) explaining her disapproval of the proposed standard, CPSC Acting Chairman Ann Marie Buerkle asserted that the NPR's major shortcomings relate to the scope of the standard and the lack of assurance that manufacturers will be able to license the technology needed to meet the standard on reasonable terms. With regard to scope, Chairman Buerkle wondered if it made sense to apply the same performance requirements to the three distinct types of table saws, noting that the costs of the proposed rule could exceed the benefits for one or more saw types even though, in the aggregate, the benefits could exceed costs for the market as a whole. The "one size fits all" approach, the Chairman predicted, will likely cause some saws to more than double in price and will drive some manufacturers out of the market. Instead, the Chairman opined, CPSC should wait for the results of another study that is currently underway before shaping a proposal.

Additionally, Chairman Buerkle worried that the proposed standard would almost certainly require the use of patented AIM technology, and the Commission lacks sufficient assurance that the patent holder will license the technology on fair, reasonable, and non-discriminatory terms. According to the chairman, such a scenario could effectively grant a monopoly in favor of one company that could control the supply of table saws and charge whatever it wants without any effective competition.

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