

In the News

California Back-Pedals on Pneumatic Nailer Restrictions

In late September, California builders dodged a regulatory bullet when the state's Occupational Safety and Health Standards Board (OSHSB) scrapped a proposed rule change that would have sharply limited the use of pneumatic nailers and staplers on the job site.

The ruling came in response to a series of events that began in 2003, when a California builder ran afoul of state regulators after a worker accidentally fired a nail into his leg soon after returning from a break. The builder was charged with violating several work rules, including one with no apparent bearing on the worker's injury: a provision in Construction Safety Orders Section 1704 that stated, "When not in use, or unattended, all pneumatically driven nailers and staplers shall be disconnected from the air supply at the tool."

Fast-forward to 2006, by which time the builder had appealed the ruling and hired a safety consultant to petition the OSHSB to do away with the "disconnect when unattended" requirement, contending that it was so vague as to be meaningless and did nothing to improve worker safety.

The OSHSB advisory committee approved the petitioner's request and recommended removing the provision, but in April 2007 the full standards board overturned the committee and amended Section 1704 to require that nailers and staplers be disconnected from their air supplies whenever "the operator leaves the working level where the tool is, or the worker is over 25 feet from or is out of sight of the tool."

On June 4, a turbulent public hearing took place in Oakland. "There was a lot of weeping and wailing and gnashing of teeth," recalls one OSHSB staffer. A parade of individual builders and trade groups testified that the rule change would force carpenters to disconnect and reconnect their nailers every time they ventured to a lumber pile a few steps away — and be more likely to cause injuries than prevent them.

In the end, the OSHSB relented and went back to the advisory committee's recommendation to do away with the disconnection requirement altogether.

One small area of uncertainty, however, remains: In adopting the committee's version of Section 1704, the OSHSB added further training requirements, as well as a clause that specifies that nailers and staplers "shall be operated and maintained in accordance with the manufacturer's operating and safety instructions" — raising the possibility that users may have to disconnect unattended nailers after all, if the maker's instructions require it. When pressed for clarification, OSHSB senior engineer Conrad Tolson suggests that the issue now lies outside the board's purview. "We don't have an answer to that yet," he says. "That's something that will be left up to the legal process." — *Jon Vara*

■ A recent State Department effort to modernize and fortify overseas embassies has been plagued by shoddy workmanship and poor design, reports the *Washington Post*. Among other problems, identical air-conditioning units were supplied to embassies in Africa and Europe, leading to at least a dozen failures. And Robert J. Dieter, the ambassador to Belize, complained that a shortage of skilled workers in a project to build new housing for embassy staffers resulted in his "personally having to assist workmen with floor sanding and refinishing."

■ Most economists now see the mortgage-market credit crunch as a more serious short-term threat to the U.S. economy than terrorism, according to a recent survey by the National Association of Business Economics. Of 258 economists polled in August of 2007, 32 percent listed subprime default and debt as a serious short-term risk, with 20 percent mentioning defense and terrorism. In a previous poll, conducted in March, 35 percent of those surveyed listed terrorism as a serious risk.

■ Home Depot has opened its first stores in China. The big-box retailer will initially operate 12 stores in six cities: Tianjin, Beijing, Xi'an, Qingdao, Shengyang, and Zhengzhou.

Coastal Development Magnifies Storm Damage, Study Finds

More than two years after Hurricane Katrina slammed into the Gulf Coast, the nation is still reeling from its effects. Thousands remain homeless, and the process of rebuilding has been slow and fraught with controversy. But from a historical perspective, how did the storm's destructiveness compare with that of other major hurricanes of the past century? A group of hurricane researchers has attempted to answer that question in a new study, "Normalized Hurricane Damages in the United States: 1900–2005," scheduled for publication in the American Society of Civil Engineers quarterly *Natural Hazards Review* early in 2008.

To compare the destructive power of 50 historic storms on an apples-to-apples basis, the study's authors calculated how much damage each would have done if it had come ashore under current conditions of coastal development. (The study did not allow for the disputed possibility that global warming may increase the severity of future storms, and the authors conclude that no such trend is evident in the data so far collected.)

The most damaging storm, they found, would have been the Great Miami Hurricane of 1926, which they estimate would have caused \$139.5 billion in property damages. Katrina was a fairly distant second at \$81 billion, followed by the Great Galveston Storm of 1900 at \$71.9 billion, an unnamed 1915 Galveston hurricane at \$57.1 billion, and Hurricane Andrew in 1992 at \$54.3 billion.

The exceptional destructiveness of modern-day storms like Katrina and Andrew, the study concludes, has less to do with the force of the storms themselves than with a dramatic increase in the amount of vulnerable coastal property. Referencing a study published in *Insurance Journal* in 2006, the authors note that, given the current pace of coastal development and increasing construction costs, losses caused by catastrophic storms are expected to double every 10 years or so. Following that trend line into the future, they predict that "a storm like the Great Miami Hurricane could result in perhaps \$500 billion in damages as soon as the 2020s."

To see an advance copy of the full report in pdf form, go to sciencepolicy.colorado.edu/publications/special/nhd_paper.pdf. —J.V.

■ Researchers at M.I.T. are working on an innovative method of harnessing the energy released by pedestrian footsteps. They aim to convert the motion produced by "crowd farms" — high-traffic urban areas covered with special paving blocks that shift slightly underfoot — into electricity. They've already developed a prototype stool that powers four LEDs when sat upon, and estimate that a single footfall contains enough energy to power two 60-watt light bulbs for one second.

■ In 15 states, more than 12 percent of the homes built last year qualified as Energy Star homes, says the EPA. Those states were Alaska, Arizona, California, Connecticut, Delaware, Hawaii, Iowa, Nevada, New Hampshire, New Jersey, New York, Ohio, Texas, Utah, and Vermont.

■ North Carolina regulators are under increasing pressure to adopt stricter windborne-debris provisions in coastal building codes, reports the Wilmington *Star-News*. North Carolina is the only state along the southern Atlantic coast that does not include the IBC windborne-debris requirements in its building code; the state's insurance commissioner says failure to incorporate the stricter rules will cause insurers to raise rates or scale back coverage for coastal homeowners.

■ A California court has found a carpenter not guilty of indecent exposure for working nude at a home where he'd been hired to build cabinets, reports *The Associated Press*. Alameda County Superior Court Judge Julie Conger found that even though 51-year-old Percy Honniball of Oakland was working naked, he was not acting lewdly or seeking sexual gratification. Honniball has explained that he likes to work unclothed for comfort and to keep his clothes clean.

Insurers Can't Duck Construction-Defect Suits, Texas Court Rules

Texas builders are hailing a ruling by the state Supreme Court that insurance companies must defend commercial general liability (CGL) policyholders against homeowner lawsuits for alleged construction defects.

The ruling came in the case of Lamar Homes vs. Mid-Continent Casualty Co., which originated with a lawsuit filed against the builder by two homeowners who sought to recover damages for foundation and wall cracks. Lamar's insurer refused to defend the builder in court, arguing that its policy did not cover the defects at issue because they resulted from work performed by a subcontractor.

A lower court issued a judgment in favor of the insurance company, but in August the Supreme Court

overturned the verdict, rejecting the insurance company's claim that language in the standard CGL policy, which appeared to extend coverage to the work of subs, did not apply. "Texas law," the court noted, "... requires that insurance policies be written in English, preferably plain English, not code." Under the court's interpretation of the law, insurers that fail to provide a defense when required are subject to an 18 percent annual penalty plus attorney's fees.

On the face of it, the ruling appears to be a significant victory for Texas builders. But Scott Norman, vice president and general counsel for the Austin-based Texas Association of Builders, expects most insurers to reword their policies to exclude defective work by subs. It's also possible, he says, that the premiums builders pay for CGL policies will increase.

Still, Norman says, "We applaud the court for saying that the policy means what it says. We know that insurers have to price their policies based on risk, but we think they should be clear on what those policies really cover." — *J.V.*

Are New Houses Getting Smaller?

Over the three-plus decades that the U.S. Census Bureau has been collecting data on the size of new houses, median square footage has increased fairly steadily, from 1,525 square feet in 1973 to 2,248 square feet in 2006.

But the bureau's most recent numbers show that between the first and second quarters of 2007, the median size of a single-family home unexpectedly declined — by 73 square feet, or the equivalent of a big walk-in closet.

It's not that there haven't been other size dips over the years. From 1979 to 1982, for example, houses shrank by an average of about 30 square feet per year, with smaller declines in 1994 and 1995. And small quarterly declines are not uncommon even in years when the overall trend has been upward. Nevertheless, some housing experts think that, after 11 years of steady growth, square-footage figures are on the verge of leveling off.

NAHB housing economist Gopal Ahluwalia, for one,

doesn't expect new houses to start shrinking, but neither does he think they'll get significantly larger than they are now. "By 2015, size will probably stabilize at 2,500 square feet, plus or minus five percent," he predicts. Affordability is one factor in this potential leveling off, Ahluwalia says, but the longstanding trend toward smaller families is probably more important.

Wellesley College housing economist Karl Case also sees demographic changes as the likely cause. "That [square-footage] number suggests to me that the baby boomers are finally downsizing," he says. He also thinks that the second-quarter size drop may have something to do with high regional home prices: "It might reflect the huge increases in the cost of housing in California and the Northeast," he says. Noting that "people buy less of things when prices go up," Case speculates that cost-driven downsizing on the east and west coasts could have skewed the median size downward on a national level. — *J.V.*