



UNITED STATES
 CONSUMER PRODUCT SAFETY COMMISSION
 4330 EAST WEST HIGHWAY
 BETHESDA, MD 20814

This document has been electronically approved and signed.

BALLOT VOTE SHEET

Date: February 8, 2012

TO : The Commission
 Todd A. Stevenson, Secretary

THROUGH: Kenneth R. Hinson, Executive Director

FROM : Cheryl A. Falvey, General Counsel
 Philip L. Chao, Assistant General Counsel, RAD
 Patricia M. Pollitzer, Attorney

SUBJECT : All-Terrain Vehicles: Final Rule Amending Consumer Product Safety Standard

BALLOT VOTE DATE: February 14, 2012

Staff is forwarding to the Commission, a briefing package recommending that the Commission issue a final rule amending the mandatory standard for all-terrain vehicles. The Commission established the standard, ANSI/SVIA 1-2007, as a consumer product safety standard on November 14, 2008, as required by the Consumer Product Safety Improvement Act of 2008 (“CPSIA”). The final rule establishes the 2010 version of the ANSI/SVIA standard as the consumer product safety standard for all-terrain vehicles. A draft *Federal Register* notice is provided for your consideration.

Please indicate your vote on the following options:

- I. Approve publication in the *Federal Register* of the draft final rule, without changes.

 Signature

 Date

II. Approve publication in the *Federal Register* of the draft final rule, with changes (please specify changes):

Signature

Date

III. Do not approve publication in the *Federal Register* of the draft final rule.

Signature

Date

IV. Take other action (please specify):

Signature

Date

Attachment: Staff's Briefing Package on All Terrain Vehicles: Amendment of Consumer Product Safety Standard

DRAFT 2-8-12

[Billing Code 6355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR PART 1420

CPSC Docket No. CPSC-2011-0047

Amendment to Standard for All-Terrain Vehicles

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Improvement Act of 2008 (“CPSIA”) required the Consumer Product Safety Commission (“Commission,” “CPSC,” or “we”) to publish, as a mandatory consumer product safety standard, the American National Standard for Four-Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements, developed by the Specialty Vehicle Institute of America (American National Standard ANSI/SVIA 1-2007). We did so on November 14, 2008. 73 FR 67385. ANSI/SVIA later issued a 2010 edition of its standard. In accordance with the CPSIA, we are amending the Commission’s mandatory ATV standard to reference the 2010 edition of the ANSI/SVIA standard.¹

DATES: The rule will become effective on **[insert date 60 days after publication in *Federal Register*]**, and will apply to products manufactured or imported on or after that date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of **[insert date 60 days after publication in *Federal Register*]**.

¹ [PLACEHOLDER FOOTNOTE for results of Commission vote]

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FOR FURTHER INFORMATION CONTACT: Justin Jirgl, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7814; jjirgl@cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Background

The Consumer Product Safety Improvement Act of 2008 (“CPSIA”) directed the Commission to “publish in the Federal Register as a mandatory consumer product safety standard the American National Standard for Four Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements developed by the Specialty Vehicle Institute of America (American National Standard ANSI/SVIA 1-2007).” 15 U.S.C. 2089(a)(1), as added by section 232 of the CPSIA. Accordingly, on November 14, 2008, we published a final rule mandating ANSI/SVIA 1-2007 as a consumer product safety standard. 73 FR 67385. The final rule is codified at 16 CFR part 1420.

B. The Amendment

1. Procedure

Section 42(b) of the Consumer Product Safety Act (“CPSA”) provides that, if ANSI/SVIA 1-2007 is revised after we have published a *Federal Register* notice mandating the standard as a consumer product safety standard, ANSI must notify us of the revision, and we have 120 days after receiving that notification to issue a notice of proposed rulemaking to amend our mandatory ATV standard “to include any such revision that the Commission determines is reasonably related to the safe performance of [ATVs] and notify the Institute of any provision it has determined not to be so related.”

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15 U.S.C. 2089(b)(1) and (2). Thereafter, we have 180 days after publication of the proposed amendment to publish a final amendment to revise the ATV standard. *Id.*

2. Changes from 2007 Edition

On March 16, 2011, ANSI notified us that, in December 2010, ANSI approved a revised version of the ANSI/SVIA standard for four-wheel ATVs, ANSI/SVIA 1-2010. We reviewed the changes from the 2007 version. Many changes are minor revisions to the wording in the standard. We considered the substantive changes to be: (1) elimination from the scope section of a provision calling for expiration of the definition and requirements for the Y-12+ youth ATV age category on July 28, 2011; (2) a change in how to calculate the speed for the braking test of youth ATVs; (3) a change in the force applied to passenger handholds during testing; (4) the addition of a requirement that youth ATVs shall not have a power take-off mechanism; (5) the addition of a requirement that youth ATVs shall not have a foldable, removable, or retractable structure in the ATV foot environment; (6) additional specificity concerning the location and method of operation of the brake control; (7) tightening the parking brake performance requirement, by requiring the transmission to be in “neutral” during testing, rather than in “neutral” or “park”; and (8) the requirement that tire pressure information be on the label, when the previous requirement could be interpreted to allow tire pressure information to be on the label, *or* in the owner’s manual, *or* on the tires.

3. Proposed Rule

In the *Federal Register* of July 25, 2011 (76 FR 44289), we proposed to amend our mandatory ATV standard to reference ANSI/SVIA 1-2010 instead of ANSI/SVIA 1-2007. In the preamble to the proposed rule, we discussed the changes that had been made

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to the ANSI/SVIA standard. *Id.* at 44290 through 44291. We concluded that none of the revisions in the ANSI/SVIA 1-2010 standard would diminish the safety of ATVs. *Id.* at 44291. We concluded that, although some changes could be considered more related than others to the safe performance of ATVs, all, in fact, could be related to the safe performance because the changes improve the standard's clarity and consistency and, in that way, advance the standard. We also stated that, given the relatively minor and editorial nature of most of the changes meant to improve the standard's clarity and consistency, it makes sense to revise the Commission's mandatory standard to incorporate all of the provisions of the ANSI/SVIA 1-2010 version to avoid there being two slightly different versions of the standard, the current mandatory standard and the revised voluntary standard. *Id.*

C. Response to Comments on the Proposed Rule

The preamble to the proposed rule invited comments on the proposal to update the mandatory standard and also on numerous other issues related to ATVs that could be relevant to future ATV rulemaking. We received five comments. We describe and respond to the comments in this section of this document. A summary of each of the commenter's topics is presented, and each topic is followed by staff's response. For ease of reading, each topic will be prefaced with a numbered "Comment"; and each response will be prefaced by a corresponding numbered "Response." Each "Comment" is numbered to help distinguish between different topics. The number assigned to each comment is for organizational purposes only and does not signify the comment's value, or importance, or the order in which it was received. Comments on similar topics are grouped together.

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1. Comments Related to Incorporating ANSI/SVIA 1-2010

a. Clarification of the Standard

(Comment 1) - In the preamble to the proposed rule, we asked whether the proposed revisions to ANSI/SVIA 1-2007 would enhance the clarity of the ANSI standard (76 FR at 44292). One commenter responded to this, delineating the specific sections of the ANSI standard that include clarifying language: these sections are 4.19.1(3)(b) (tire marking) , 4.23.1 (general format for labels), 4.23.4.1(general warning label for Type 1(single-rider) ATVs, 4.23.5.1 (general warning label for Type II (tandem) ATVs, Figures 5 (tire pressure warning label) and 7 (combined tire pressure and overloading warning label), and 4.23.5.3 (passenger warning label for Type II (tandem) ATVs. The commenter noted that these clarifying changes were made in response to requests it received for interpretation of sections of the standard that were new with the ANSI/SVIA 1 -2007 edition of the standard.

(Response 1) - We believe that these changes clarify the sections of the standard that were new with the 2007 edition of the ANSI/SVIA standard.

b. Youth Category Y-12+

(Comment 2) - In the preamble to the proposed rule, we asked about the effect of not eliminating from the scope of the standard the expiration of the definition and requirements for the Y-12+ ATV age category (76 FR at 44292). One comment noted that when ANSI/SVIA 1-2010 was adopted, the lead content limits in section 101 of the CPSIA were in effect, which resulted in limited sales of the Y-6+ and Y-10+ ATV model categories. The Y-12+ category then was maintained due to SVIA's concern that

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children, particularly those between ages 12–15, would have these as the only alternative to riding adult-size ATVs.

With the passage of Public Law 112-28 in August 2011, the lead ban on youth ATVs no longer is in effect. However, the commenter stated that it is important to maintain the Y–12+ category because few Y–10+ models are available (only two for SVIA members’ dealers as of August 2011) and because, as of October 7, 2011, when it submitted its comment, the stay of enforcement on third party testing of youth ATVs was set to expire on November 27, 2011, possibly continuing to restrict the number of available Y–10+ models that could become available on the market. (We note that the stay of enforcement has expired and that there is one laboratory that is both accredited and CPSC-accepted to conduct third party testing for youth ATVs.)

The commenter also stated its opinion that maintaining the Y–12+ age category is not likely to result in children younger than 12 years old riding Y–12+ ATVs, given the labeling requirements of the standard and the dealer monitoring requirements of the Action Plans. Furthermore, the commenter believes that these labeling and dealer monitoring requirements also would prevent the possibility that keeping the Y–12+ category would constitute an implicit approval for riding a Y–12+ ATV when a Y–6+ or Y–10+ size is not available. The commenter stated that it is not aware of any data or research regarding the safety of 6 to 9-year-old riders when operating a Y–12+ ATV, but said it “strongly recommends that parents strictly follow ATV age recommendations” and noted that federal law requires that manufacturers and distributors adhere to age recommendations when offering ATVs for sale. Finally, the commenter noted that Y–

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10+ and Y-12+ category ATVs have the same maximum speed limitations and capabilities and that the Y-12+ ATVs can be larger in size and/or weight.

Another commenter expressed opposition to the introduction of the Y-12+ models, stating that “placing children on a vehicle that is larger, heavier, or faster than what is currently defined as an ‘adult-sized’ ATV would be a step backwards that would only serve to put our children at an even greater risk of death and injury.” Further, the commenter “urge[d] CPSC not to take any action that would permit children to operate any ATV that is larger than 90 cc.”

(*Response 2*) - We believe that elimination of the scope provision (which effectively keeps the Y-12+ category of youth ATV) would not be problematic. The Y-12+ category was not new with the 2007 or the 2010 editions of the ANSI/SVIA standard; it was, in fact, one of the youth ATV categories in the 1990 first edition of the ANSI/SVIA standard. Furthermore, Y-12+ ATVs are not necessarily larger or heavier than what is currently defined as an “adult-sized” ATV. They also are, by definition in the standard, *not* faster than an adult ATV. According to the definition in the 2010 edition of the standard, Y-12+ ATVs are required to have the same maximum speed and speed limitation requirements as the Y-10+ model. The Y-10+ and the Y-12+ ATV models are not faster than what is currently defined as an adult-size ATV because they both must have a maximum speed that is lower than that of an adult-size ATV.

It is important to note that the ANSI/SVIA standard (either 1990, 2001, 2007, or 2010 edition) never categorized youth and adult ATVs by cc engine size; the categories were defined and differentiated in the standard by the maximum allowable speed and the

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presence of a speed limiter (which parents and caregivers could use to reduce the maximum allowable speed further).

Using 90cc engine size as a demarcation between youth and adult ATVs originated with the 1988 consent decrees between the CPSC and ATV distributors. (The consent decrees expired in 1998.) Under the consent decrees, only ATVs between 70 to 90 cc were to be marketed for riders 12 years of age and older, and ATVs less than 70 cc were to be marketed for use by riders under 12 years of age. ATVs 90 cc and above were to be marketed for use by riders 16 years of age and older, according to the consent decrees.

In 2006, we issued a proposed rule on “Standards for All-Terrain Vehicles and Ban of Three-Wheeled All Terrain Vehicles.” The proposed rule, which pre-dated the CPSIA’s enactment and has not been finalized, would, among other things, change the categorization of ATVs based on engine size (as established by the consent decrees) and instead, categorize youth ATVs based on maximum speed. 71 Fed. Reg. 45904, 45908 (August 10, 2006). We explained our rationale for this change in the preamble to the proposed rule. *Id.* It cannot be assumed that a larger engine displacement ATV is necessarily heavier than a smaller engine displacement ATV. We will address this issue further when we complete our 2006 rulemaking. However, we are not aware of any data to show that continuing to have this category included in the standard would reduce the safety of ATVs. Thus, we continue to believe that having the Y-12+ category included in the standard would not be problematic.

c. The Test for Type II ATV Passenger Handholds

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(Comment 3) - The 2010 edition of the ANSI/SVIA standard includes a test for the passenger handholds on Type II (tandem) ATVs. Under the 2007 version of the standard, the test specifications could be interpreted to mean that the test could be applied in either a downward or an upward direction, or both. The 2010 version states that the force applied to the handhold must be *upward*. Before preparing the July 6, 2011 staff briefing package in support of the proposed rule, CPSC staff contacted the SVIA with staff's concern that the revised language limits the test procedure. SVIA indicated that it was not opposed to changing the standard to add a downward testing component and that such a change would be considered in the next revision of ANSI/SVIA 1-2010.

In response to the proposed rule, SVIA opined that the primary direction of force applied to ATV handholds is in the upward direction. SVIA stated it had received no comments during the ANSI balloting process that suggested that the force be applied in a downward direction, and it is unaware of any reports of an ATV handhold failing under downward force. SVIA stated that it "has committed to adding a downward testing component to the passenger handhold testing standard during the next revision of the ANSI/SVIA voluntary standard."

(Response 3) - We are satisfied with SVIA's commitment to adding a downward testing component to the passenger handhold test during the next revision of the ANSI/SVIA voluntary standard.

d. Effective Date

(Comment 4) - We proposed that the amendment mandating ANSI/SVIA 1-2010 would take effect 30 days after publication of a final rule and apply to ATVs manufactured or imported after that date. In a joint comment submitted by the seven

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major distributors of ATVs, they noted that the ANSI/SVIA standard requires that ATVs have a certification label indicating that they comply with the ANSI/SVIA standard. The commenters said they will need to change these certification labels to specify compliance with the 2010 rather than the 2007 ANSI/SVIA standard. They noted that some companies may still be producing 2012 model year (“MY”) ATVs at the time when a final rule would become effective. This would mean that some companies would have to change the certification label in the middle of 2012 MY production. The commenters stated that this could create errors in labeling particular ATVs and could create confusion in the marketplace. They requested that the rule become effective for 2013 MY ATVs. In the alternative, the commenters requested a 60-day effective date to allow ATV manufacturers time to obtain new certification labels.

(Response 4) - Keying an effective date to a model year rather than a date certain would be difficult to enforce and could create greater confusion. We understand that companies will need time to provide the correct certification labels. Because the differences between the 2007 and the 2010 ANSI/SVIA standards are primarily editorial, we are changing the effective date to specify that the rule will take effect 60 days after publication in the *Federal Register*, and that it will apply to ATVs manufactured or imported on or after that date.

2. Comments Responding to the Commission’s Request for Comments and Information and Comments Addressing Issues in our 2006 Proposed Rule.

The preamble to the proposed rule asked several questions that were beyond the scope of the immediate revisions to the mandatory standard, but relevant to future ATV rulemaking (76 FR at 44292). For example, one question asked whether there are any

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state laws prohibiting the use of a Y-12+ ATV by children younger than 12 and the effects of ATV-related injuries or deaths in those states that have new or updated minimum age requirements for ATV operation since the adoption of ANSI/SVIA-1-2007 (id.). Several commenters responded to those questions, addressing issues such as whether there should be restrictions on the sale, rental, or use of ATVs by individuals under a certain age, and other matters.

Other commenters addressed matters that pertained more directly to the proposed rule that we had published in the *Federal Register* on August 10, 2006 (71 FR 45904). For example, we received comments expressing support and opposition for roll over protection systems in ATVs.

We appreciate the commenters' responsiveness to the questions presented in the preamble to the proposed rule, as well as their interest in other ATV issues. Because this rulemaking focuses on the adoption of the modified ANSI/SVIA1-2010 standard pursuant to section 42(b) of the CPSA, we will not address those comments in this preamble. However, we will consider the information and opinions presented by the commenters and may address them in a separate proceeding. For example, for commenters who raised issues that are more appropriate to the proposed rule that we issued in 2006, we will consider those comments when developing methods for addressing ATV safety, and will respond to them when we finalize that rule.

D. Brief Description of the Final Rule

The final rule revises § 1420.3(a), "Requirements for four-wheel ATVs" to incorporate by reference the ANSI/SVIA 1-2010 standard instead of the ANSI/SVIA 1-2007 version.

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E. Effective Date

As we stated in the preamble to the proposed rule (76 FR at 44291), the CPSIA provides a timetable for us to issue a notice of proposed rulemaking (within 120 days of receiving notification of a revised ANSI/SVIA standard) and to issue a final rule (within 180 days of publication of the proposed rule), but it does not set an effective date. We proposed that the amendment updating the ANSI/SVIA standard take effect 30 days after publication of a final rule because the differences between the 2007 version of the standard and the 2010 version are relatively minor and largely editorial and because the 2010 version of the ANSI/SVIA standard is already in effect as a voluntary standard.

As we noted in section C of this preamble, we received a comment from several ATV companies suggesting that the amended standard become effective for 2013 MY ATVs or 60 days after publication of a final rule, rather than the 30 days we proposed. To allow time for ATV companies to update their certification labels, the final rule provides a 60-day effective date, and it applies to ATVs that are manufactured or imported on or after that date.

F. Notice of Requirements

In accordance with section 14(a)(3)(B)(vi) of the CPSA, on August 27, 2010, we published a notice of requirements for accreditation of third party conformity assessment bodies for testing ATVs designed or intended primarily for children 12 years of age or younger. 75 FR 52616. The notice of requirements provided the criteria and process for our acceptance of accreditation of third party conformity assessment bodies for testing ATVs pursuant to 16 CFR part 1420, which, at that time, incorporated by reference ANSI/SVIA 1-2007. With this rule, we are changing that reference in 16 CFR part 1420

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to ANSI/SVIA 1-2010. With regard to youth ATVs, only four revisions in the 2010 edition are related to youth ATVs and only one of those, the brake speed test requirements (section 7 of the standard), is related to testing. Because this change does not constitute a substantial change in the requirement that would affect the associated third-party conformance testing, and, by this final rule, the Commission recognizes the functional equivalence of the specific brake speed test between the two versions of the standard. A Notice of Requirements has been issued by the Commission for the prior version of the rule, the 2007 edition, and the Commission has accepted the accreditation of a third party conformity assessment body for purposes of testing youth ATVs. The *current* Notice of Requirements for third party testing of youth ATVs will remain in effect until the Notice of Requirements final rule for ANSI/SVIA 1-2010 has been completed. The Commission is continuing to accept that accreditation so that the third party conformity assessment body can test to all aspects of the 2010 edition including the new brake speed test requirements in section 7. We are in the process of developing a notice of proposed rulemaking regarding accreditation of third party conformity assessment bodies. In that proposed rule, we will address the impact of accepting the revised ANSI/SVIA standard on the accreditation of third party conformity assessment bodies.

G. Regulatory Flexibility Act

As noted in the preamble to the proposed rule, in accordance with the Regulatory Flexibility Act (“RFA”), we examined the potential impact on small entities that could occur from amending our ATV standard to reference the 2010 version of the ANSI/SVIA standard. 76 FR at 44291-92. We concluded that amending the mandatory ATV

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standard to reference the 2010 edition of the ANSI/SVIA ATV standard would not have a significant impact on a substantial number of small businesses or other small entities because the differences between the 2007 and 2010 editions of the ANSI/SVIA standard are relatively minor modifications or updates that are not expected to have a significant impact on any manufacturers or importers of ATVs. We did not receive any comments on this conclusion, and we are not aware of any other information that would change this conclusion.

H. Paperwork Reduction Act

This amendment would not impose any information collection requirements. Accordingly, this rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

I. Environmental Considerations

Our regulations provide a categorical exemption for our rules from any requirement to prepare an environmental assessment or an environmental impact statement because they “have little or no potential for affecting the human environment.” 16 CFR 1021.5(c)(2). This amendment falls within the categorical exemption.

List of Subjects in 16 CFR Part 1420

Administrative practice and procedure, Business and industry, Consumer protection, Imports, Incorporation by reference, Information, Infants and children, Labeling, Law enforcement, Recreation and recreation areas, Reporting and recordkeeping requirements, Safety.

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For the reasons stated in the preamble, the Commission amends Title 16 of the Code of Federal Regulations as follows:

PART 1420 – REQUIREMENTS FOR ALL TERRAIN VEHICLES

1. The authority citation for part 1420 continues to read as follows:

Authority: The Consumer Product Safety Improvement Act of 2008, Pub. Law 110-314, § 232, 122 Stat. 3016 (August 14, 2008).

2. In the second sentence of § 1420.1, remove the words, “April 13, 2009,” and in their place add “[insert date 60 days after publication in the *Federal Register*].”

3. Revise § 1420.3(a) to read as follows:

§ 1420.3 Requirements for four-wheel ATVs.

(a) Each ATV shall comply with all applicable provisions of the American National Standard for Four-Wheel All-Terrain Vehicles (American National Standards Institute, Inc. ANSI/SVIA 1-2010), approved December 23, 2010. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the Specialty Vehicle Institute of America, 2 Jenner, Suite 150, Irvine, CA 92618-3806; telephone 949-727-3727 ext.3023; www.svia.org. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to:

http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

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Dated: _____

Todd A. Stevenson, Secretary
U.S. Consumer Product Safety Commission



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

This document has been electronically
approved and signed.

Memorandum

February 8, 2012

TO : The Commission
Todd A. Stevenson, Secretary

THROUGH: Cheryl A. Falvey, General Counsel
Kenneth R. Hinson, Executive Director
Robert J. Howell, Deputy Executive Director for Safety Operations

FROM : DeWane Ray, Assistant Executive Director, Office of Hazard Identification and
Reduction
Elizabeth W. Leland, Project Manager – ATVs, Directorate for Economic
Analysis

SUBJECT : All-Terrain Vehicles: Amendment of Consumer Product Safety Standard

1. Introduction

In July 2011, the U.S. Consumer Product Safety Commission (CPSC; Commission) voted to publish in the *Federal Register* (FR) a notice of proposed rulemaking (NPR) regarding a 2010 revision to the voluntary American National Standards Institute/Specialty Vehicle Institute of America (ANSI/SVIA) 1-2007 standard for Four-Wheel All-Terrain Vehicles (ATVs). The proposed rule, published on July 25, 2011, would amend the current mandatory consumer product safety standard to incorporate the revisions of the voluntary standard.

This memorandum provides: (1) a summary of, and CPSC staff's response to, the comments submitted in response to the NPR; (2) a discussion of the amendment's potential impact on small entities; (3) a discussion of possible effective dates; (4) a discussion about the need to update the notice of requirements for third party testing of youth ATVs if the standard is amended; (5) a discussion of the options available to the Commission; and (6) CPSC staff's conclusions and recommendation.

2. Background

In October 2008, the CPSC, as directed by section 232(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), published a proposed rule in the *Federal Register* that would mandate the ANSI/SVIA 1-2007 voluntary standard for four-wheel ATVs as a consumer product safety standard. The mandated standard, 16 CFR part 1420, became effective on April 13, 2009.

The CPSIA directs the CPSC to take certain actions when the voluntary ANSI/SVIA standard is revised through the applicable consensus standards development process. Specifically, when a revision is made to the ANSI/SVIA standard, ANSI is to notify the

Commission of the revision to the standard. Within 120 days of receiving the notice from ANSI, the Commission must issue an NPR to amend the product safety standard and include in the NPR any revision that the Commission determines is reasonably related to the safe performance of ATVs. In addition, the Commission is to notify ANSI of any provision that it determines not to be related to the safe performance of ATVs.

Within 180 days after the date on which the NPR for the amended product safety standard is published in the FR, the Commission must promulgate an amendment to the standard for ATVs. The CPSIA indicates that sections 7 and 9 of the Consumer Product Safety Act (CPSA) do not apply to promulgation of any amendment covered under the ANSI/SVIA revision procedures.

On March 16, 2011, ANSI notified the Commission that ANSI/SVIA 1-2010, the revision to ANSI/SVIA 1-2007, was approved as an American National Standard on December 23, 2010. Subsequently, staff sent a briefing package to the Commission on July 6, 2011, recommending that the Commission publish an NPR for amending the current mandatory safety standard.¹ As noted above, the Commission voted to do so, and the NPR was published in the FR on July 25, 2011, with a closing date for receipt of comments of October 11, 2011.²

3. Summary of Comments Received and Staff's Response to Comments

The Commission's NPR asked for comments not only on the proposed amendment of the mandatory consumer product safety standard, but also on several questions concerning the Commission's 2006 proposed rule on the ANSI/SVIA 1-2001 standard. The NPR noted that some of the issues for which the Commission requested information, comments, and/or data "are beyond the scope of the immediate revisions to the mandatory standard and will be relevant to future ATV rulemaking."³

Five comments were received in response to the NPR. The comments were submitted by: (1) The Engineering Institute; (2) Concerned Families for ATV Safety; (3) the Specialty Vehicle Institute of America (SVIA); (4) Consumer Federation of America and Consumers Union; and (5) the seven major distributors of ATVs (American Honda Motor Company, Inc., American Suzuki Motor Corporation, Arctic Cat, Inc., Bombardier Recreational Products, Inc., Kawasaki Motors Corporation U.S.A., Polaris Industries Inc, and Yamaha Motor Corporation, U.S.A.). The comments are available at: www.regulations.gov.

Tab A summarizes the comments submitted in response to the questions in the FR that deal with the Commission's proposed rule. As was noted in CPSC staff's July 6, 2011 briefing package about the publication of an NPR:

"CPSC staff also notes that the question at issue here is limited: whether to amend the existing mandatory ATV standard to adopt any or all of the revisions in the ANSI/SVIA 1 – 2010 standard, as directed by the procedures specified in the CPSIA. The question does not relate to the Commission's current open rulemaking proceeding on

¹ The briefing package is available at <http://www.cpsc.gov/library/foia/foia11/brief/atv.pdf>.

² 76 FR 44289-44293 (July 25, 2011). A copy of the *Federal Register* notice is available at <http://www.cpsc.gov/businfo/frnotices/fr11/atvamendNPR.pdf>.

³ 76 FR 44292 (July 25, 2011).

ATVs or to the Commission making its own changes to the mandatory standard. At a separate date a few months from now, CPSC staff anticipates presenting to the Commission a briefing package discussing options for the Commission to complete that proceeding and make its own changes to the mandatory standard.”

CPSC staff appreciates these comments. Because they are related to the rulemaking proceeding that was initiated in 2006, CPSC staff will retain them as information related to the rulemaking, will consider them when developing methods for addressing ATV safety, and will respond to each of them in a briefing package that will be sent to the Commission a few months from now.

The comments regarding amending the current mandatory standard to incorporate the revisions of ANSI/SVIA 1-2010 are summarized below. The CPSC staff’s response to the comments is provided.

Comment from the SVIA on Clarification of the Standard

The SVIA provided comments on whether the proposed revisions to ANSI/SVIA 1-2007 by ANSI/SVIA 1-2010 enhance the clarity of the ANSI standard. This information responds to Question i in the July 25, 2011 FR notice. SVIA delineated the specific sections of the ANSI standard that include clarifying language: these sections are 4.19.1(3)(b) (tire marking); 4.23.1 (general format for labels); 4.23.4.1 (general warning label for Type 1 (single-rider) ATVs); 4.23.5.1 (general warning label for Type II (tandem) ATVs); Figure 5 (tire pressure warning label); Figure 7 (combined tire pressure and overloading warning label); and 4.23.5.3 (passenger warning label for Type II (tandem) ATVs). SVIA noted that these clarifying changes were made in response to requests to SVIA for interpretation of sections of the standard that were new with the ANSI/SVIA 1 -2007 edition of the standard.

CPSC Staff’s Response to Comment on Clarification of the Standard

CPSC staff believes that these changes clarify the sections of the standard that were new with the 2007 edition of the standard. Staff noted in its briefing package of July 6, 2011, that it did not think that these changes diminish the safety of ATVs; staff’s viewpoint continues to be the same.

Comment from the SVIA on Youth Category Y-12+ATVs and Comment from Concerned Families for ATV Safety on Youth Category Y-12+ATVs

a) Comment from SVIA

The SVIA provided comments on question iii (and its subparts) of the FR notice, which concerned the effect of not eliminating from the scope of the standard the expiration of the definition and requirements for the Y-12+ ATV age category. SVIA noted that when ANSI/SVIA 1-2010 was adopted, the CPSIA lead content provisions were in effect, which limited sales of the Y-6+ and Y-10+ ATV model categories. The Y-12+ category then was maintained, due to SVIA’s concern that children, particularly those ages 12-15, would have no alternative to riding adult-size ATVs.

With the passage of H.R. 2715 in August 2011, the lead ban on youth ATVs is no longer in effect; however, the SVIA states that it is important to maintain the Y-12+ category because: (1)

few Y-10+ models are available (only two for SVIA members' dealers as of August 2011); and (2) as of October 7, 2011, when SVIA submitted its comment, the stay of enforcement on third party testing of youth ATVs was set to expire on November 27, 2011, possibly continuing to restrict the number of available Y-10+ models that could become available on the market. This restriction would occur because third party testing laboratory capacity at that time was not available to the extent necessary to allow the flow of Y-10+ models onto the market. (CPSC staff notes that the stay of enforcement has expired and that there is one laboratory that is both accredited and CPSC-accepted to conduct third party testing for youth ATVs. A second accredited laboratory has applied for CPSC acceptance).

Further, SVIA, in response to the subparts of Question iii of the FR notice, stated the opinion that maintaining the Y-12+ age category is not likely to result in children younger than 12 years old riding Y-12+ ATVs, given the labeling requirements of the standard and the dealer monitoring requirements of the Action Plans. Furthermore, the SVIA believes that these labeling and dealer monitoring requirements also would prevent the possibility that keeping the Y-12+ category would constitute an implicit approval for riding a Y-12+ ATV when a Y-6+ or Y-10+ size is not available. The SVIA is not aware of any data or research regarding the safety of 6- to 9-year-old riders when operating a Y-12+ ATV, but the SVIA "strongly recommends that parents strictly follow ATV age recommendations"; in addition, SVIA noted that federal law requires that manufacturers and distributors adhere to age recommendations when offering ATVs for sale.

The SVIA also provided information on state legislation in South Carolina and North Carolina. South Carolina's law prohibits a parent or legal guardian from allowing a rider under age 16 to operate an ATV in violation of the Age Restriction Warning Label that is on the ATV. North Carolina's law prohibits a parent or legal guardian from allowing a rider under age 12 to operate an ATV with an engine size of 70cc or larger; SVIA notes that at the time of the passage of the law, Y-12+ ATVs were required to have an engine size of 70 cc to 90 cc.

The SVIA also noted that Y-10+ and Y-12+ category ATVs have the same maximum speed limitations and capabilities, and that the Y-12+ ATVs can be larger in size and/or weight.

b) Comment from the Concerned Families for ATV Safety

The cofounders of Concerned Families for ATV Safety expressed opposition to the introduction of the Y-12+ models, stating that "placing children on a vehicle that is larger, heavier, or faster than what currently is defined as an "adult-sized" ATV would be a step backwards that would only serve to put our children at an even greater risk of death and injury." Further, the CoFounders "urge CPSC not to take any action that would permit children to operate any ATV that is larger than 90 cc."

CPSC Staff Response to Comments on Youth Category Y-12+ ATVs

CPSC staff expressed the opinion in its July 5, 2011, briefing package that elimination of the scope provision (*i.e.*, continuing to keep the Y-12+ category of youth ATV) would not be problematic. CPSC staff continues to hold that opinion.

The Y-12+ category was not new with the 2007 or the 2010 editions of the ANSI/SVIA standard; it was, in fact, one of the youth ATV categories in the 1990 first edition of the ANSI/SVIA 1 standard. Furthermore, as discussed in the preamble of the 2006 NPR, Y-12+ ATVs are not necessarily larger or heavier than what currently is defined as an “adult-sized” ATV. CPSC staff further is unaware of any Y-10+ or Y-12+ ATV models that are faster than what currently is defined as an adult-size ATV or, conversely, of any adult size ATV that has a maximum speed lower than the 30 miles per hour maximum speed of the Y-10+ and Y-12+ youth ATVs.

The comment from the Concerned Families for ATV Safety referred to 90 cc as an adult-size ATV, and the comment expressed concern about larger cc-size ATVs being heavier than the smaller cc-size ATVs. It is important to note that the ANSI/SVIA standard (the 2001, 2007, or 2010 edition) never categorized youth and adult-size ATVs by cc engine size; the categories were defined and differentiated in the standard by the maximum allowable speed and the presence of a speed limiter (which parents and caregivers could use to reduce further the maximum allowable speed).

Using 90 cc engine size as the demarcation between youth and adult-size ATVs originated with the 1988 consent decrees between the CPSC and ATV distributors. (The consent decrees expired in 1998.) Under the consent decrees, only ATVs 70 cc to 90 cc were to be marketed for riders 12 years of age and older; and ATVs less than 70 cc were to be marketed for use by riders under 12 years of age. ATVs 90 cc and above were to be marketed for use by riders 16 years of age and older.

In its 2006 proposed rule, the Commission proposed to change the categorization of ATVs based on engine size that the consent decrees had established and instead categorize youth ATVs based on maximum speed of the ATV.⁴ The Commission explained its rationale for this change in the preamble to the proposed rule.⁵ In response to Commissioners’ questions about whether there is any correlation between engine cc size and ATV size/weight, CPSC staff provided data showing that it cannot be assumed that a larger engine displacement ATV is necessarily heavier than a smaller engine displacement ATV.

CPSC staff notes that this issue will be discussed further in its forthcoming briefing package on the 2006 rulemaking. For meeting CPSIA direction regarding the decision now at hand, CPSC staff is not aware of any data to show that continuing to have this category in the standard would reduce the safety of ATVs. Thus, staff continues to believe that having the Y-12+ category included in the standard would not reduce the safety of ATVs.

Comment from the SVIA on the Test for Type II ATV Passenger Handholds

The 2010 edition of the ANSI/SVIA standard includes a test for the passenger handholds on Type II (tandem) ATVs. Under the 2007 version of the standard, the test specifications could have been interpreted to mean that the test could be applied in either a downward or an upward direction, or both. Under the 2010 edition, the test would be conducted only in an upward direction. Before preparing the July 6, 2011 staff briefing package, CPSC staff contacted SVIA

⁴ 71 FR 45904, 45908 (August 10, 2006).

⁵ *Idem.*

with its concern that the language of the 2010 edition of the standard would limit the test procedure to only one direction and would not require the test to be conducted in both an upward and downward direction. SVIA indicated that it was not opposed to changing the standard to add a downward testing component and that such a change would be considered in the next revision of ANSI/SVIA 1-2010.

In its comments in response to the July 25, 2011, FR notice, SVIA provided its opinion that the primary direction of force applied to ATV handholds is in the upward direction. The SVIA received no comments during the ANSI balloting process to suggest that the force be applied in a downward direction, and it is unaware of any reports of an ATV handhold failing under downward force. SVIA reiterated that it “has committed to adding a downward testing component to the passenger handhold testing standard during the next revision of the ANSI/SVIA voluntary standard.”

CPSC Staff's Response to Comment on the Test for Type II ATV Passenger Handholds

Commission staff is satisfied with SVIA's commitment to adding a downward testing component to the passenger handhold test during the next revision of the ANSI/SVIA voluntary standard. As noted in its July 6, 2011 briefing package to the Commission, CPSC staff continues to believe that this future change to the standard does not require excluding the provision to the standard, as it currently is written, from any amendment to the existing mandatory consumer product safety standard that the Commission might decide to make.

4. Economic Impact on Small Entities of Amending the Current Mandatory Product Safety Standard

The Directorate for Economic Analysis staff notes that none of the public comments received in response to the NPR raised issues regarding the conclusion that the proposed rule would not have a substantial impact on a substantial number of small business or other entities. See Tab B. CPSC staff has not received any other information that would cause it to change its conclusion as stated in the July 6, 2011 briefing package submitted to the Commission.

5. Effective Date

CPSC staff, in its July 6, 2011 briefing package, recommended that the proposed amendment of the mandatory standard take effect 30 days after publication of a final rule. The Commission accepted that recommendation when it voted to issue the NPR.

The seven major distributors of ATVs have requested that the amended mandatory standard be effective for 2013 model year ATVs or, alternatively, 60 days after publication of the final rule. According to the companies, this longer period of time until the amended mandatory standard becomes effective would enable them to meet the certification and labeling requirements that they are required to meet. Each of the seven distributors provides certificates of conformity to each retailer and distributor in their distribution networks, as required by the 16 C.F.R. § 1110.11(b). The certificates of conformity state that the vehicle complies with the mandatory standard (currently the ANSI/SVIA 1-2007 standard.) As required by ANSI/SVIA 1-2007 and by 16 C.F.R. § 1420.3(b), the companies also attach labels to all ATVs, certifying that the vehicle complies with the current mandatory standard. The effective date that the ATV companies have requested would allow the companies time to begin updating both their

certificates of conformity and required certification labels for ATVs that will be manufactured for the 2013 model year.

If the effective date were to be 30 days, as originally proposed by staff, then, according to the ATV companies, manufacturers would be required to switch labels, on an overnight basis, at all manufacturing facilities, as of the date the 2010 edition of the standard became effective. According to the ATV companies, this could lead to errors in placement of the labels on particular ATVs. Furthermore, some companies might still be producing model year 2012 vehicles in that timeframe. Vehicles manufactured in model year 2012 would then have two different labels; some would bear labels indicating that they meet the 2007 edition of the standard, while others would bear labels indicating that they meet the 2010 edition of the standard. If the same model year vehicles were to bear two different labels, then there is the possibility that consumers could become confused about the differences between the vehicles. In the case at hand, the changes would not be substantive, but having two different labels could lead consumers to conclude that there were substantive differences.

CPSC staff believes that extending the effective date would not reduce the safety of ATVs. However, tying the effective date to a particular model year, such as the 2013 model year, as suggested by the ATV companies, could pose challenges for enforcement, as well as possibilities of increased confusion. Vehicle model years do not begin and end on the same date for each company; if the effective date were to be tied to a particular model year, port inspectors and enforcement officials would need to know the particular model year of ATVs being inspected. While the model year is not often visible on the vehicle itself or on bills of lading or other documents, the manufacturing and/or import dates are visible on the vehicle or on documentation accompanying the vehicle. Having a specific effective date on or after which the new standard would apply to manufactured or imported ATVs would be more conducive to maintaining enforcement levels.

Given the above considerations, CPSC staff believes that the effective date should be linked to a specified date. Because the changes between the two editions of the standard are primarily editorial rather than substantive, CPSC staff believes that the effective date could be extended to 60 days without reducing the safety of ATVs.

6. Notice of Requirements for Third Party Testing of Youth All-Terrain Vehicles

On August 27, 2010, a notice of requirements was published for accreditation of third party conformity assessment bodies for testing youth ATVs; those requirements referenced the ANSI/SVIA 1-2007 standard. If the Commission votes to approve the publication of a final rule to amend the mandatory standard, then the notice of requirements would need to be updated to reference ANSI/SVIA 1-2010.

Such an update would have an impact on the accreditation of third party conformity assessment bodies; currently, those bodies are accredited and accepted to test to ANSI/SVIA 1-2007, which is the current mandatory standard. The question arises as to whether the third party conformity assessment bodies would need to become re-accredited to test to an updated standard. Furthermore, if the Commission votes to amend the mandatory standard, the effective date of the amended mandatory standard for ATVs would likely occur before the effective date of any final

rule that is promulgated with respect to the NOR for youth ATVs. This could present the situation where the accredited third party testing body for youth ATVs is accredited and accepted to test to ANSI/SVIA 1-2007, while the mandatory standard will reference ANSI/SVIA 1-2010. (As of February 3, 2012, only one laboratory was on the CPSC's list of accredited laboratories to test ATVs; another laboratory's application was pending.) There could be a period of time when there is no accredited and CPSC-accepted third party conformity assessment body to test youth ATVs to the mandatory standard that references the 2010 edition of the ANSI/SVIA standard.

However, as noted in the memorandum from the Directorate for Engineering Sciences (Tab C), the revised youth ATV provisions in the 2010 edition of the standard do not affect the testing of youth ATVs. Only four revisions in the 2010 edition are related to youth ATVs and only one of those, the brake speed test requirements (section 7 of the standard), is related to testing.

The brake test speed requirements for the Y-10+ and Y-12+ youth ATV categories are identical to those in the 2007 edition of the standard, while the requirements for the Y-6+ category youth ATV are changed. This change rectifies a unique situation where youth ATVs with low maximum speed capabilities technically cannot be tested for performance brake conformance when following the protocols specified in the 2007 edition of the standard. Previously, under the 2007 edition of the standard, the formula used to calculate the brake test speed for youth ATVs manufactured with a maximum speed of 15 miles per hour (mph) would lead to a brake test speed of 5 mph. This is too slow a speed to be technically able to measure the braking capability of the vehicle. The 2010 provision rectifies and clarifies this limitation of the formula by specifying a specific brake speed for Y-6+ youth ATVs with maximum speeds of greater than 10 mph and less than 10 mph. CPSC staff does not believe that this change constitutes a substantial change in the requirement that would affect the associated third-party conformance testing.

Staff believes that, with respect to the requirements for third-party testing of youth ATVs, the 2010 edition of the standard is functionally equivalent to the 2007 standard, i.e., while certain sections have been modified, the changes do not constitute a substantial change in the requirements that would affect the associated conformance testing. If the Commission votes to amend the mandatory standard to reference the ANSI/SVIA 1-2010 standard, staff recommends that the Commission recognize the functional equivalence of the specific brake speed test and establish that the *current* Notice of Requirements for third party testing of youth ATVs remain in effect until the Notice of Requirements final rule for ANSI/SVIA 1-2010 is in effect. We are in the process of developing a notice of proposed rulemaking regarding accreditation of third party conformity assessment bodies. In that proposed rule (the "1112 rule"), we will address the impact of accepting the revised ANSI/SVIA 1-2010 standard on the accreditation of third party conformity assessment bodies. Testing to the ANSI/SVIA 1-2010 standard by laboratories accredited to the 2007 standard will be accepted by the Commission until the 1112 rule has become final and effective.

7. Options Available to the Commission

There are three options available to the Commission to respond to the CPSIA direction regarding the amendment of the current mandatory consumer product safety standard to incorporate the 2010 revision of the ANSI/SVIA 1 standard. These options are: (1) do not amend

the current mandatory safety standard; (2) amend the current mandatory safety standard, in part, by incorporating only those provisions that the Commission believes “are reasonably related to the safe performance of ATVs”; and (3) amend the current mandatory standard, in whole, by replacing the reference in the current mandatory standard to the ANSI/SVIA 1 - 2007 voluntary standard with a reference to the ANSI/SVIA 1 -2010 voluntary standard.

If the Commission determines that no provisions of the 2010 revision are reasonably related to the safe performance of ATVs, it could decide not to amend the current mandatory consumer product safety standard, which, by reference, is the 2007 edition of the ANSI/SVIA -1 standard. Not amending the current mandatory standard would result in different mandatory and voluntary standards for ATVs. Although the current mandatory standard and the proposed amended standard are not substantively different, there could be confusion in the marketplace for consumers who are not familiar with or do not understand why there are two standards, for companies that are not affiliated with SVIA, for manufacturers and importers that are new to the market, and for foreign companies that wish to enter or maintain a place in the U.S. market for ATVs. Manufacturers and importers would need to specify exactly which standard the product meets, and purchasers would need to understand the differences between the two standards to ensure that the vehicle they are purchasing meets the mandatory standard. With two standards, there is a possibility that ATVs could be mislabeled regarding the standard to which they were tested.

The Commission could decide to amend the current mandatory product safety standard, in part, by incorporating only those provisions that it determines are “reasonably related to the safe performance of ATVs.” If only some of the changes were to be adopted, then two different ATV standards would be in effect, namely, the current mandatory standard with some of the 2010 ANSI/SVIA revisions, and the revised 2010 voluntary standard. As noted above, it is possible that this could lead to confusion in the marketplace for consumers, for those companies not affiliated with SVIA, for those companies that are new to the market, and for foreign companies that desire to enter or maintain a place in the market.

The Commission could decide to amend the current mandatory standard, wholly, by replacing it with the ANSI/SVIA 1-2010 standard. This would move the standard forward in terms of some strengthened provisions, consistency, and clarity. It would provide one standard for companies that are already in or are entering the marketplace, and it would eliminate the possibility of confusion for consumers.

8. Conclusion and Recommendation

CPSC staff believes that the ANSI/SVIA 1-2010 standard does not reduce the safety of the ATV vehicle. Further, CPSC staff believes that it is important and useful that ATV manufacturers, importers, and purchasers have one standard for ATVs.

CPSC staff believes that it is a reasonable request to make the effective date 60 days from the date of publication of the Final Rule in the *Federal Register*. This will allow ATV companies time to obtain new certification labels and implement a system to track what certification labels belong on which ATVs.

Thus, CPSC staff recommends that the Commission amend the current mandatory standard, in whole, by replacing it with the ANSI/SVIA 1-2010 standard, with an effective date of 60 days after the date of publication of the final rule in the *Federal Register*.

Tab A

**Summary of Comments Received in Response to the *Federal Register* Notice:
Amendment to Standard for All-Terrain Vehicles; Notice of Proposed Rulemaking,
76 FR 44289-44293 (July 25, 2011)**

1. Comment from The Engineering Institute

The Engineering Institute (Institute) provided comments on the handling characteristics of, and the crushing injuries associated with, ATVs. In addition, the Institute provided information about vehicle dynamics to demonstrate what it considers to be poor vehicle design with respect to handling characteristics. A means of controlling the transition of extreme understeer to extreme oversteer is presented. With respect to crushing injuries, the Institute also states: “the only way to prevent child crush injury is to prevent the accident by modifying the vehicle or not allowing the child to ride such a dangerous vehicle.”

2. Comment from Concerned Families for ATV Safety

The cofounders of Concerned Families for ATV Safety presented four recommendations to address the deaths and injuries associated with ATVs: (1) to the fullest extent of the CPSC’s legal jurisdiction, prohibit the sale or rental of adult-size ATVs to anyone under 16 years old; (2) that the CPSC mandate that any prospective buyer or renter be advised, in advance of purchase, of the death and injury statistics, especially those relating to children under the age of 16 years; (3) that the CPSC undertake a national and regionally-targeted public awareness campaign to promote safe and responsible use of ATVs and to “advise of the prohibition of children under age 16 riding adult-sized ATVs”; and (4) that the CPSC specify requirements for print, broadcast, and Internet-based sales and marketing materials used by manufacturers, dealers, rental agencies, and trade associations regarding responsible use of ATVs.

3. Comment from Consumers Union and Consumer Federation of America

The representatives writing on behalf of Consumers Union and the Consumer Federation of America commented on 13 areas of the current standard that they believe the CPSC should address in completing its current open rulemaking proceeding. These are: (1) the lack of data or evidence for the creation of a new “transitional” class of ATVs and for the selected youth ATV maximum speeds and the importance of providing a maximum weight for each category of ATVs; (2) the need to have sufficient barriers on ATV speed-limiting devices so that they are both inaccessible and cannot be deactivated; (3) changing the length of the seat of single-rider ATVs to make it impossible to carry a passenger; (4) requiring the addition of a roll cage on tandem ATVs and amending the standard to account for increased instability during operation with a passenger; (5) providing death and injury data conspicuously, in as many places, and by as many methods of communication, as possible; (6) modifying the language of the General Warning Label to include a statement about the “inappropriateness and danger of children under 16 riding ATVs that are too large, too fast, and too powerful for them”; (7) amending the standard to add a lateral stability test, such as the test used by the National Highway Traffic Safety Administration (NHTSA) for motor vehicles and improving the pitch stability computation by requiring a higher pitch stability coefficient; (8) equipping ATVs with seat belts, creating a minimum standard for seat belt integrity, equipping ATVs with roll-over protective systems (ROPS), and developing a standard with roll cage dimensions and performance measures for the minimum force and weight that the roll cage can withstand; (9) equipping all ATVs with headlights that turn on automatically when the engine is started; (10) amending the

standard to improve brake performance; (11) requiring free, geographically accessible, hands-on training for all operators and riders of ATVs, to include requirements for training classes that take into account riders ages and abilities; (12) requiring marketing materials and advertisements to be consistent with the warning labels in the standard and in training manuals; and (14) prohibiting ATV retailers from selling inappropriately sized ATVs.

4. *Comment from the seven major distributors of ATVs (American Honda Motor Company, Inc., American Suzuki Motor Corporation, Arctic Cat, Inc., Bombardier Recreational Products, Inc., Kawasaki Motors Corporation U.S.A., Polaris Industries Inc, and Yamaha Motor Corporation, U.S.A.)*

With respect to CPSC's open rulemaking, the seven major distributors of ATVs provided comments on: (1) ATV rollover protective systems; (2) modifications with respect to the maximum speed of adult ATVs; and (3) child-proof ignition safety locks for adult-size ATVs.

The commenter provided information on the history of research into the appropriateness of rollover protective systems on ATVs, comments on currently marketed ROPS, and a comparison of the use of ROPS on ATVs and ROVs. From this information, the commenter concluded that using ROPS on ATVs would not be appropriate.

With respect to changing the maximum speed limits of ATVs, the commenter expressed the belief that "there is no basis for establishing a limit on the maximum speed capability of adult-size ATVs generally, or of sport and utility models, respectively."

With respect to child-proof ignition safety locks for adult-size ATVs, the commenter provides an evaluation of the work recently done for CPSC staff by the Virginia Polytechnic Institute and State University. Also providing data from CPSC's National Electronic Injury Surveillance System (NEISS), as well as anthropometric, developmental, and behavioral information, the commenter expressed the conclusion that the use of child-proof ignition safety locks for adult-size ATVs presents complex technical and behavioral issues that could render the use of such ignition devices ineffective, with unintended consequences for ATV riders.

Tab B



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

Memorandum

10 January 2012

TO : Elizabeth Leland
Project Manager
All-Terrain Vehicles

THROUGH: Gregory B. Rodgers
Associate Executive Director
Directorate for Economic Analysis

Deborah V. Aiken
Senior Staff Coordinator
Directorate for Economic Analysis

FROM : Robert Franklin
Economist
Directorate for Economic Analysis

SUBJECT : Final Rule Amending the Standard for All-Terrain Vehicles to Incorporate the
2010 Revision to the Voluntary Standard: Impact on Small Entities

The Consumer Product Safety Improvement Act of 2008 (CPSIA) mandated that the voluntary standard for all-terrain vehicles (ATVs), ANSI/SVIA 1-2007, be published as a mandatory consumer product safety standard, and when the standard is revised, the Commission has 120 days to issue a notice of proposed rulemaking (NPR) to amend the standard to include any such revision that the Commission determines is reasonably related to the safe performance of ATVs. In 2010, the voluntary ATV standard was revised, and on 25 July 2011, the Commission published an NPR in the *Federal Register*, proposing to amend the Commission's mandatory ATV standard to reference the revised standard.

When preparing the briefing package for the NPR, CPSC staff analyzed the potential impact the proposed rule could have on small entities. The analysis concluded that the proposed rule would not have a substantial impact on a substantial number of small businesses or other entities. The basis for the finding was that many of the differences between the 2007 standard and the 2010 standard are minor changes in language or wording that do not make substantive changes to the requirements. For the changes that do alter the requirements, any adjustments that would be required to comply with the new 2010 standard should be relatively easy to make. For example, some manufacturers might have to make some changes to the design of the warning labels or hang tags. Other changes in the voluntary standard are not expected to affect many ATV models. For example, the 2010 edition of the voluntary standard restricts the use power

take-offs and non-fixed structures on Category Y ATVs. However, few Category Y ATVs are believed to have power take-offs or non-fixed structures. The 2010 edition of the voluntary standard made some minor revisions to the test procedures for parking brakes on ATVs and service brakes on Category Y ATVs. The modifications that would be required to meet the revised standard, if any, should be relatively easy for the manufacturers to make.

None of the public comments that were submitted in response to the NPR raised issues concerning the regulatory flexibility analysis; nor has Commission staff received any other information that would cause it to question the conclusion in the NPR that the draft rule would not have a significant impact on a substantial number of small businesses or other small entities. Therefore, there is no need to change the Commission's certification that the rule will not have a significant impact on a substantial number of small entities.

Tab C



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

Memorandum

February 7, 2012

TO : Elizabeth Leland, Project Manager - ATVs

THROUGH: George A. Borlase, Ph. D., P.E.
Associate Executive Director, Directorate for Engineering Sciences

Mark Kumagai
Director, Division of Mechanical Engineering

FROM : Caroleene Paul, Division of Mechanical Engineering

SUBJECT : Comparison of *American National Standard for Four Wheel All-Terrain Vehicles* ANSI/SVIA 1 - 2007 and 2010 revisions with respect to testing youth all terrain vehicles

I. Introduction

The *American National Standard for Four Wheel All-Terrain Vehicles*, ANSI/SVIA 1, is developed and published by the Specialty Vehicle Institute of America (SVIA). The voluntary standard addresses design, configuration and performance aspects of ATVs and includes specific test requirements for youth ATVs. Work on the original standard was undertaken in 1985 by the SVIA and completed in 1990 with the publication of ANSI/SVIA 1-1990. The standard was revised and published in 2001, 2007, and 2010.

This memorandum compares the requirements for youth ATVs in the 2007 and 2010 editions of the standard and determines whether the changes would affect how a third party assessment body would test youth ATVs. The memo concludes that the 2010 provisions concerning youth ATVs are functionally equivalent to the 2007 version. By "functionally equivalent" we mean that the provisions have been modified, but the changes do not constitute a substantial change in the requirement that would affect the associated conformance testing.

II. Youth ATV requirements

Section 4.7.2 PTO (power take-off)

The 2007 and 2010 editions of the voluntary standard specify throttle control operation on ATVs with PTOs. PTOs are mechanisms that allow the ATV's engine to provide rotational power to accessory equipment (e.g. augers) and are not commonly found on ATVs.

The 2010 edition of the standard adds a provision that states that youth ATVs shall not have PTOs. PTOs are not found on youth ATVs because PTOs require significant horsepower to operate and are more commonly used by adults in farm applications. The change in the 2010 edition of the standard does not affect testing of youth ATVs because the determination is made by observation so no testing is involved to determine whether an ATV has a PTO.

Section 4.16.1.5 Foot Environment with Non-Fixed Structure

The 2007 and 2010 editions of the voluntary standard specify requirements for protection of the operator's foot by physically preventing contact between the foot and the vehicle's tires or the ground. If the physical barrier can be removed or retracted, additional requirements are specified to reduce or prevent operation of the vehicle in an unsafe condition.

The 2010 edition of the standard adds a provision that states that youth ATVs shall not have non-fixed structures (physical barrier that can be removed or retracted) in the foot area of the ATV. The change in the 2010 edition of the standard does not affect testing of youth ATVs because the type of structure (i.e. fixed or non-fixed) in the foot environment can be verified through observation without testing the ATV.

Section 7.2 Service Brake Performance – Brake Test Speed

The 2007 edition of the standard specifies that the brake test speed for all ATVs (including all youth ATV categories) is the speed that is the multiple of 5 mph which is 4 mph to 8 mph less than the maximum speed of the ATV. For example, if the maximum speed of an ATV is 20 mph, the brake test speed is 15 mph because it is the multiple of 5mph that is between 12 mph and 16 mph.

The maximum unrestricted speeds for youth ATVs are:

Youth ATV Category	Age Range	Maximum Unrestricted Speed	Maximum Limited Speed
Y6+	6 years and older	15 mph	10 mph
Y10+	10 years and older	30 mph	15 mph
Y12+	12 years and older	30 mph	15 mph

The 2010 edition of the standard specifies brake test speed requirements for ATVs that are identical to the requirements in the 2007 edition with one exception for Y6+ ATVs (see above table). The brake test speed for Y-6+ ATVs with a maximum speed of 10 mph or greater shall

be 10 mph, and the brake test speed for Y6+ ATVs with a maximum speed less than 10 mph shall be the maximum speed of the vehicle.

This change in brake test speed for Y6+ ATVs is a reflection of the limitations of the formula for calculating brake test speeds when the maximum speed of the vehicle is less than 15 mph because the formula could result in a brake test speed of 5 mph. A brake test speed of 5 mph is too slow to measure the braking capabilities of a vehicle; therefore, the 2010 edition of the standard specifies brake test speeds that allow measurement of the braking capabilities of Y6+ ATVs.

The change in the 2010 edition of the standard does not affect testing of youth ATVs because the change specifically makes it possible to test the brake performance of Y6+ ATVs and does not change the performance brake requirement or the conformance testing of ATVs.

III. Conclusion

With respect to testing youth ATVs, the 2010 edition of ANSI/SVIA 1 *American National Standard for Four Wheel All-Terrain Vehicles* is functionally equivalent to the 2007 edition of the standard because the changes specified in the 2010 edition do not substantially change the requirements and do not affect the associated conformance testing.

The exemption of youth ATVs from having PTOs and non-fixed structures in the foot environment has no bearing on the testing of youth ATVs. In addition, correcting a limitation in the formula for calculating brake test speeds to make it possible to perform brake tests on vehicles that have maximum speeds of 15 mph does not change the performance brake requirement or the conformance testing of these vehicles.