36

MFR/PRVLBR NOTIFIED 3/18/10
COMMENTS: __YES X NO
__OVERRULED: __ATTACHED
__EXCISIONS FOIA Hxs. __;
X DO NOT RE-NOTIFY __RE-NOTIFY

CFMOTO Powersports, Inc.
3555 Holly Lane N. #30
Plymouth, MN 55447
(763)398-2690

January 29, 2010

Anthony M. Cooke
Attorney
Office of the General Counsel
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Re: ATV Action Plan of CFMOTO Powersports, Inc.

Dear Sir/Madam,

Our Company name is CFMOTO Powersports, Inc. ("CFMOTO Powersports"). As an importer and distributor of All Terrain Vehicles (ATVs) in the United States, we are consistently making the effort to promote safe and responsible usage of all our ATVs. CFMOTO Powersports is fully committed to the goal of reducing ATV-related accidents. We are immediately taking actions in order to establish our company as 100% in compliant with the new regulations that have been recently passed. We are implementing new policies and improving existing materials in accordance with the rules set forth by the Section 232 of the Consumer Product Safety Improvement Act of 2008. The actions outlined below are part of our continuing effort to promote safe and responsible use of our ATVs.

Age Recommendations

CFMOTO Powersports will only recommend, market, and sell ATVs for use under the age category/speed guidelines specified at Section 6 of the ANSI/SVIA 1-2007 Standard for ATVs ("the ATV Standard"). CFMOTO Powersports will not recommend, market, advertise, or sell adult-sized ATVs for the use of persons less than 16 years of age. CFMOTO Powersports will use its best efforts to ensure that our dealers comply with these requirements.

Dealer Monitoring

CFMOTO Powersports requires that its dealers verify the intended ATV rider's age prior to selling that rider or his/her guardian an ATV. CFMOTO Powersports warranty

registration cards require the identification of the intended rider's name and date of birth to ensure that dealers do not sell CFMOTO Powersports ATVs to under-aged riders.

CFMOTO Powersports will use its best efforts to obtain dealer compliance with the age recommendation requirements of the ATV Standard. CFMOTO Powersports will conduct on-site inspections of each of its authorized ATV dealers at least twice a year, with a minimum of 50 on-site inspections per year. These inspections will be conducted by means of independent, undercover investigators (also known as "secret shoppers") to ensure that these dealers follow age requirements and other safety related practices during sales or promotional functions. CFMOTO Powersports will also modify the visitation criteria of its field support staff so that inspecting for dealer compliance becomes a normal function of the dealer visit.

In addition to on-site, undercover inspections of its dealers, CFMOTO Powersports will conduct regular telephone "secret shopper" calls to ensure that its dealers are complying with the age recommendation requirements of the ATV Standard.

When CFMOTO Powersports learns of dealers who do not abide by the age requirements of the ATV Standard, it will arrange follow-up inspections. If CFMOTO Powersports finds evidence of continued violations, CFMOTO Powersports will take remedial action, up to and including possible termination or non-renewal of the dealer's contract with CFMOTO Powersports

Information and Education Program

CFMOTO Powersports will require that all authorized dealers communicate age recommendations, passenger, and other safety-related information to consumers. Materials used will largely consist of all publications produced by the SVIA and ASI and will be focused on deterring children until 16 years of age from using adult sized ATVs. Use of evaluation forms designed to educate parents regarding their child's riding ability will be required of each authorized dealer. All authorized dealers will be required to display SVIA and ASI posters and educational materials in their retail locations.

CFMOTO Powersports Inc will fund its own Informational and Educational Program for ATVs. CFMOTO Powersports Inc will conduct its Information and Education Program for at least 10 years. CFMOTO will allocate $10,000 per year to its Information and Education program. CFMOTO will advertise in various publications approximately twenty four times per year and its dealers will advertise based on their coop dollars. Dealers receive coop advertising funds, which amount to 2% of their purchases from CFMOTO. When a dealer runs a qualified ad, they get reimbursed by credit with us up to 50% of the cost of the ad based on availability of their coop funds.

Media Plan

A. Overall Objective: Generate awareness of ATV safety messages among the target.

B. Target: The campaign target is defined demographically as Men and Woman 18-49 for media buying purposes. With these groups emphasis will confirm on the following ATV sub-groups.

C. Primary ATV owners and users. Secondary prospective ATV purchasers.

Geography: Support the full national scope of the ATV marketplace. Provide additional emphasis in the highest developed ATV markets.

Media Costs:

Print $90,000

State Fairgrounds and Shows $30,000.00

Internet $50,000.00

Strategies:

Reach all target groups with a base of national media – Internet, Magazines, Trade shows and Expos. National Print will consist of selected ATV enthusiast, male audience and farm publications.

Internet: Google advertisements provide the environment to attract large number of all targets groups on a national basis. Internet delivers a large percentage of ATV owners.

Timing for Media campaign:

The summer month do not represent high ATV sales or an adequately high media usage environment for this campaign.

Fall is traditionally the strongest ATV sales period.

Fall is considered the key period for building the ATV business given the high interest hunting and good weather for off-roading.

Spring represents another strong ATV sales period.

Magazines: Based on the magazine subscriber studies, the recommended magazines will deliver a high concentration of ATV owners and potential buyers.

Men's Magazines reach high concentrations and large numbers of ATV owners because

of their outdoor / recreational editorial, these magazines also deliver a large percentage of "near-enthusiasts" who are prospects for ATV purchases.

Publications Education Advertising:

ATV Sports 25%

ATV News 25%

Dirt Rider 25%

ATV Action 25%

State Fairgrounds and Shows:

CFMOTO Powersports will work with local and state Fairgrounds/shows to reach out to parents and young riders to generate awareness of ATV safety. If CFMOTO is presenting its products at fairgrounds, the booth will contain educational posters. We will also make posters available to fairgrounds where CFMOTO will not have presence, although it would be up to the fairgrounds officials to display them.

Owner's Manuals

CFMOTO Powersports' Owner's Manuals will conform to Section 4.21 of the ATV Standard.

Advertising

When preparing and presenting advertising and promotional materials, CFMOTO Powersports will depict the safe and responsible operation of ATVs. The use shown will be appropriate to the ATV, the age of the operator, and the depicted situation. ATV riders depicted in advertising and promotional materials will wear helmets and full protective gear. These marketing materials and presentations will contain the safety messages described in Section J.1. and Appendix K of the 1988 ATV Consent Decree and will contain information about the availability of operator training. CFMOTO Powersports will use its best efforts to promote dealer compliance with the advertising requirements.

Hang Tags

CFMOTO Powersports' Hang Tags will conform to Section 4.24 of the ATV Standard

and will contain information about ATV training availability.

Safety Alerts

CFMOTO Powersports will provide to its distributors, for dissemination to prospective purchasers, information that conveys substantive safety messages including information concerning the estimated number of injuries and fatalities associated with ATV's as described at Section H.3.b. (4)(c) and Appendix J of the 1988 Consent Decrees. Information will include injury and death statistics for ATVs, safety rules, and age recommendations. CFMOTO Powersports will provide information about availability of ATV training.

Rider Training

CFMOTO Powersports will offer free, hands-on, interactive training to all CFMOTO Powersports ATV purchasers. This free training will be extended to the buyers' immediate relatives who are age appropriate for the ATV purchased. This training will be conducted through the existing educational programs of the ATV Safety Institute ("ASI").

CFMOTO Powersports will instruct its dealers to encourage ATV purchasers to enroll in the training course. Through CFMOTO's participation in the ASI Safety Program, CFMOTO dealers will have the capability to register purchasers and age appropriate members of their immediate families for the ASI training course at the time of purchase. There will be follow up through email, telephone or regular mail with each purchaser soon after the purchase to remind them of the availability of the training, the incentives for completing the course, and instructions on how to register.

CFMOTO Powersports agrees to use its best efforts to ensure that SVIA and ASI will provide a sufficient number of training sites that are reasonably accessible to CFMOTO purchasers desiring to take the training course.

Incentives:

1. After completion of the ASI course, the rider will qualify for an incentive worth $100. The $100 incentive for training will include at least $50 in cash, with the balance offered (at the consumer's choice) as a rebate for already purchased safety equipment or a credit towards the purchase of new safety equipment.

Toll Free Safety Hotline

CFMOTO Powersports will maintain a toll-free hotline that will comply with the requirements described at Section H.4 of the 1988 ATV Consent Decree. The hotline will be available 24 hours a day. Information provided by this service shall be consistent with all other safety-related messages disseminated by CFMOTO Powersports including those contained Age recommendations, warning labels, owner's manuals, advertising and promotional materials, and the ATV safety Alert. This hotline will be run by ASI.

Safety Video

CFMOTO Powersports will provide at point of purchase, a Safety Video, to all retail purchasers of CFMOTO ATVs. The video shall comply with all requirements described at Section H.3.b. (4) (b) and paragraphs II.A and II.C of Appendix I of the 1988 Consent Decrees. CFMOTO Powersports agrees to use its best efforts to require its retail dealers to make safety video readily available for viewing by all actual and prospective CFMOTO ATV purchasers.

General Design: The safety video shall be designed to communicate to an audience consisting of prospective ATV purchasers, users and their parents.

Title: The title shall indicate that the video provides safety information concerning ATV operation.

a. The contents of the general hazard warning label described in the Action plan.

b. The concept that a person operating an ATV should know his or her limitations and not attempt to perform any maneuver or traverse any terrain if performing the maneuver or operation on the terrain is beyond that persons capabilities and experience:

c. The importance of practicing and gradually progressing from basic to more complex maneuvers;

d. The importance of keeping alert at all times, and the concept that even brief distraction can lead to loss of control resulting in a fatal or sever accident.

Dramatization: All dramatizations designed to communicate any of the concepts set forth in the preceding subparagraph shall be unambiguous. To avoid ambiguity and ensure clarity, dramatization shall:

a. In the case of dramatization that show an accident occurring, averted or about to occur, the video shall contain no intervening events that detract from communication of the hazard (for example, the presence of an obstacle on a paved surface when communicating the hazard of operating on a paved surface, or a person running in front of an ATV when communicating the hazard of carrying passengers);

b. In the case of dramatization that show either the conduct, terrain or maneuvers that a person should avoid, or the conduct that a person should observe, the video shall also unequivocally state the relevant safety message, either verbally by means of lines spoken by a screen character or narrator, in written form, or both.

ATV Safety Institute

CFMOTO is participating in the ATV Safety Institute ("ASI") Safety Program to assist in the implementation of this action plan. A copy of CFMOTO's fully executed agreement with ASI is attached to this plan.

If CFMOTO stops participating in ASI's Safety Program, CFMOTO will alert the CPSC and cease to import ATVs or distribute ATVs in commerce until such time that it is able to meet all requirements of the action plan on its own and has received approval of a revised action plan from Office of the General Counsel at the Consumer Product Safety Commission.

Advance Notice of Changes

CFMOTO Powersports shall inform CPSC with at least 60 days advance notice of any intention to terminate or materially change any commitment under this action plan. CFMOTO Powersports will provide information about these activities upon reasonable requests from CPSC.

Thank you in advance for your attention to this important matter. We stand by ready to comply with all requirements.

Sincerely,

Lev Mirman
President
Tel: (612)840-6311
Fax: (978)334-5922
Email: lev@cfmoto-us.com
MSN: lev@mirman.net

Agreement # CFM 2010 – 001

ASI SAFETY PROGRAM PARTICIPATION AGREEMENT

This Agreement is entered into between the Specialty Vehicle Institute of America by and through its division, the All-Terrain Vehicle Safety Institute (ASI) and CF MOTO Powersports Inc. (Participating Company). This Agreement becomes effective on the date when executed by ASI and expires on December 31, 2010 unless renewed upon mutual written consent of the parties, specifying the renewal terms.

I. ASI shall:

A. Provide Participating Company with products and services, pursuant to the terms and conditions of this Agreement, to assist Participating Company to comply with the following elements of its ATV Action Plan:

1. Age Recommendations
2. Hands-On Training
3. ATV Safety Video
4. Safety Alert
5. Toll-Free Telephone Hotline
6. Information & Education Program

B. Provide ATV training, upon request, to the retail purchaser of a Participating Company's ATV who provide a valid Vehicle Identification Number (VIN) or Product Identification Number (PIN) that has been previously reported to ASI by the Participating Company in the form of ASI's ATV *RiderCourse* or other ASI training program(s) approved by the U.S. Consumer Product Safety Commission (CPSC).

C. Provide Participating Company and CPSC with quarterly reports of training activity in substantially the form set forth in Exhibit A, Sample Quarterly ATV Rider Training Summary Report.

D. Identify Participating Company in select ASI publications as set forth in Exhibit B, ASI Deliverables and Costs, which is incorporated herein by reference.

II. Participating Company shall:

A. Complete, submit and update as necessary, the ASI Participating Company Training Profile (see Exhibit C), which when completed and submitted is incorporated herein by reference.

B. Deposit with ASI one-half of the projected annual per unit fees or $2,500.00, whichever greater, at the time this Agreement is executed and one-half of the projected annual per unit fees or $2,500.00, whichever greater, on or before July 1 of each year. Projected annual per unit fees shall be determined based on the prior calendar year's retail sales volume.

C. Report to ASI all units imported into, or manufactured in, the United States on or before the date they arrive in, or are completed in, the United States in the manner set forth in Exhibit D, ASI OEM Rider Training Participation Overview, which is incorporated herein by reference.

D. Pay ASI the following per unit fees for each unit imported into the United States:

- $15.00 – if not offering an incentive payable through ASI
- $16.25 – if offering a $50.00 incentive payable through ASI
- $18.00 – if offering a $100.00 incentive payable through ASI

Provided, however, that Participating Company shall pay ASI a minimum of $5,000.00 in fees per year regardless of the number of units imported.

1. In the event the cumulative fees owed by Participating Company (pursuant to Section I.D.) in connection with a report submitted pursuant to Section I.C. have not yet exceeded Participating Company's deposit, ASI will credit fees against the deposit.

2. In the event the cumulative fees owed by Participating Company (pursuant to Section I.D.) in connection with a report submitted pursuant to Section I.C. exceed Participating Company's deposit, ASI shall send Participating Company an invoice for fees owed, which shall be paid within 30 days.

E. Pay ASI, as applicable, for products and services set forth in Exhibit B, ASI Deliverables and Costs, which is incorporated herein by reference.

1. Note, ASI shall provide training to all persons described in Section I.B. above. Participating Company shall pay the per student tuition set forth in Exhibit B, ASI Deliverables & Costs, for any students trained pursuant to a VIN or PIN not previously reported by Participating Company to ASI pursuant to Section II.C.

F. Provide ASI with the total number of annual retail sales of Participating Company's units, through the Motorcycle Industry Council's Retail Sales Reporting System (see Exhibit E, Powersports Retail Sales Reporting System Agreement) or a certified annual accounting, no later than seven days following the end of the year.

III. Use of ASI PROPERTY

ASI shall utilize ASI curriculum materials, including, without limitation, Instructor Guides, Range Cards, Rider Handbooks, and other printed and audio/visual training aids, and all revisions thereto, to educate and train Participating Company's customers and make other materials set forth in Exhibit B available for purchase by Participating Company (collectively, ASI PROPERTY).

A. Participating Company shall not use or promote ASI PROPERTY in a manner which, in ASI's reasonable judgment, affects in a negative and detrimental manner ASI's business or goodwill, or tends to deceive or mislead the public, or which creates a likelihood of confusing the public. Participating Company shall discontinue any use or promotion that ASI reasonably finds to be negative or injurious to ASI.

B. For the term of this Agreement, and thereafter, Participating Company agrees not to use ASI PROPERTY without permission of ASI or names, trademarks, or images identical with, or substantially or confusingly similar to, ASI PROPERTY.

C. Participating Company shall not modify or adapt ASI PROPERTY in any manner without prior written permission of ASI.

D. In the event that ASI supersedes or ceases to recommend any ASI PROPERTY in possession of Participating Company, Participating Company agrees to cease all use of such ASI PROPERTY. Participating Company may return up to a one-year supply of ASI PROPERTY in its possession (based on prior 12-month ordering history) to ASI, and ASI agrees to repurchase such ASI PROPERTY (or any successor publication) at the price paid by Participating Company.

E. Upon termination of this Agreement, or upon non-renewal or non-replacement of this Agreement, Participating Company agrees to cease all use of ASI PROPERTY. Participating Company may return up to a one-year supply of ASI PROPERTY (or any successor publication) in its possession (based on prior 12-month ordering history) to ASI, and ASI agrees to repurchase such ASI PROPERTY (or any successor publication) at the price paid by Participating Company.

F. The terms of this Section III shall survive termination of this Agreement.

IV. TERMINATION

This Agreement shall remain in full force and effect until the expiration date or until such time as the terminating party shall deliver to the other written notice of their intent to terminate this Agreement.

A. Participating Company may terminate this Agreement, without cause, upon ninety (90) days written notice to ASI.

B. ASI may terminate or suspend this Agreement if Participating Company materially breaches this Agreement and such breach is not cured by Participating Company within thirty (30) days after Participating Company is notified in writing or, if the matter cannot reasonably be cured within such thirty (30) day period, Participating Company does not initiate a cure within thirty (30) days and complete the cure within such longer period which is reasonably required to cure.

C. ASI may terminate this Agreement, without cause, upon ninety (90) days written notice to Participating Company.

V. GENERAL

A. Participating Company's status does not imply any endorsement by ASI of Participating Company or any manufacturers, distributors, retailers, equipment, ATVs or other materials.

B. All legal action arising out of, or in any way related to, this Agreement shall be brought in either the Superior Court of the State of California for the County of Orange or the United States District Court for the Central District of California. Each party submits and consents to the jurisdiction of those courts.

C. This Agreement shall be interpreted and governed by the substantive law of the State of California.

D. Participating Company acknowledges that ASI has no adequate remedy under this Agreement or at law in the event Participating Company breaches the terms of this Agreement, and that ASI would, in such circumstances, be entitled to injunctive or other equitable relief, including interlocutory and preliminary injunctive relief. Participating Company also acknowledges that ASI's rights and remedies under this Agreement at law or in equity are intended to be cumulative, and not mutually exclusive.

For Participating Company

Authorized Signature — Date: 01/12/2010

Lev Mirman
Print Name

President
Title

For Specialty Vehicle Institute of America

Authorized Signature — Date: 1/12/10

THOMAS S. YAGER
Print Name

VICE PRESIDENT
Title

ASI Participating Company Training Profile

Thank you for participating in the rider training provided by the ATV Safety Institute (ASI) ASI promotes the safe and responsible use of ATVs by providing a nationwide ATV rider training program, on behalf of manufacturers and distributors.

In order to provide the appropriate training services to ATV buyers, ASI must determine the unique requirements and incentive eligibility of each participating company. Upon completing the Participating Company Training Profile, ASI can accurately communicate the services and benefits available to buyers of your company's ATVs.

1. Participating Company Name CFMOTO Powersports Inc.

2. Participating Company Address & 3555 Holly Lane North #30
Plymouth, MN 55447

Telephone 763-398-2690

3. VIN/PIN Verification Contact

Contact Name: Irene Miller
Contact Email: accounting@cfmoto-us.com
Contact Phone: 763-398-2690

4. Training Eligibility:

Individual Purchasers

ASI will provide training to the purchaser of an ATV from your company and any age appropriate family members living in the same household.

Business/Agency ATV purchasers

ASI will provide training for up to 3 individuals when the purchaser of the ATV is a business or agency.

If VIN/PIN is not provided to ASI, but valid, we will train buyer then charge a per student tuition. See contract.

5. Incentive Eligibility (business/agency purchasers are not eligible for incentives):

Do you offer incentives to ATV purchasers who complete, or whose eligible family members complete, training?

(Yes / No)

$100 cash ☐
$ 50 cash & $50 merchandise certificate ☒
Other _____ ☐

If yes, please indicate which buyers are eligible to receive training incentives (check all that are eligible):

First-time purchasers without prior riding experience ☒
First-time purchasers with prior riding experience ☒
Experienced purchaser ☒

If a consumer who purchases an ATV from your company does not answer the "first-time purchase" question upon enrollment, should ASI assume the answer is "yes"? (Yes / No)

ASI can process incentives of $100 or combination $50 and merchandise certificate (Participating Company fulfills the merchandise certificate) upon completion of training. Do you want ASI to process your company's incentives? (Yes / No)