# Requirements for ATVs Imported into the United States of America

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# Overview of ATV Requirements

- Ban of 3-wheel ATVs
- Mandatory standard for 4-wheel ATVs
- Lead limits for youth ATVs
- Certification and testing requirements
- Tracking label requirement for youth ATVs
- Reporting rules
- Mandatory ATV Action Plans
- Further proceedings

# Statutory Definition of "ATV"

- Includes any motorized, off-highway vehicle designed to travel on 3 or 4 wheels, with seat designed to be straddled by the operator, and having handlebars for steering
- Does not include a prototype or research vehicle, unless it is offered for sale
- Does not include recreational off-highway vehicles

# Ban of 3-Wheel ATVs

- After September 13, 2008, no new 3-wheel ATVs may be imported into the United States or distributed in U.S. commerce
- Violation of the ban may result in a civil penalty of up to $100,000 per unit
- Any imported 3-wheel ATV may be destroyed at the expense of the importer

# Mandatory ATV Standard

- After April 13, 2009, it is unlawful for any person to manufacture, distribute or import a new assembled or unassembled ATV unless it meets the mandatory standard (and also meets requirements for Action Plans).
- The standard is copyrighted; it can be obtained from the Specialty Vehicle Institute of America

# Mandatory Lead Limits

- ATVs that are designed or intended primarily for children age 12 or younger are subject to the limits on lead content and lead paint
- As of August 14, 2009, the applicable lead limits are as follows:
  - 90 ppm for lead in paint or other surface coating
  - 300 ppm for lead in any other accessible component except electronic parts

# Stay of Enforcement for Certain Components Containing Lead

- The Commission has issued a stay of enforcement of the lead limits for some, but not all, components of youth ATVs:
  - Battery terminals
  - Components made with metal alloys, including steel containing up to 3500 ppm lead, aluminum with up to 4000 ppm lead and copper with up to 40,000 ppm lead
- The stay is effective until May 1, 2011

# Certification Requirements for ATVs

- The ATV standard requires each ATV to be equipped with a label on which the ***manufacturer*** certifies compliance
- The Consumer Product Safety Act (CPSA) section 42(a) also requires a label certifying compliance for all new assembled or unassembled ATVs (effective April 13, 2009)
- CPSA section 14(a) requires the ***importer*** of each ATV to certify that it meets all applicable standards (various effective dates)

# What Testing Is Required As a Basis for Certification?

- Section 14 certifications generally must be based on "a test of each product or upon a reasonable testing program"– the manufacturer can test its own product or have it tested by someone else
- ATVs that are designed or intended primarily for children ***12 years of age and younger*** may be subject to special testing requirements for some standards and bans, depending on the date of manufacture and the date when CPSC issues requirements for accreditation of laboratories

# Reasonable Testing Program

- Provide reasonable assurance that the product meets all requirements of the standard
- Type and frequency of tests are up to the issuer of the certificate
  - Not necessary to use the exact test procedure prescribed by the regulations or used by CPSC staff
  - May be advantageous to use stricter test
  - Should be stringent enough to detect variations that would cause a product to fail

# Special Testing Requirements for Some Youth ATV Models

- For youth ATVs, the certification must be based on testing by an independent, third-party conformity assessment body for any unit that is ***manufactured more than 90 days after*** CPSC publishes notice of the requirements for accreditation of laboratories to a particular standard or ban

# Phase-in for Third-Party Testing

- Requirements for accreditation of laboratories to test for lead paint were published in September 2008; therefore any youth ATV ***manufactured after December 21, 2008*** must be tested by an accredited laboratory (see CPSC web site for list of approved labs)
- Laboratory accreditation requirements will be published soon for the ATV standard (third-party testing will be required for youth ATVs manufactured more than 90 days after publication in the Federal Register)
- Third-party testing will be required for lead content of youth ATVs manufactured after February 10, 2011 (or May 1, 2011 for battery terminals and certain metal components)

# Tracking Labels

- Section 103 of the CPSIA requires all "children's products" (defined the same as for certification) to have distinguishing marks on the product that will enable the ultimate purchaser as well as the manufacturer to determine certain types of information
- The mandatory ATV standard requires an identification number on all ATVs

# Failure to Certify Imported ATVs

- Section 17(a)(2) of the Consumer Product Safety Act (CPSA) states that a product offered for importation ***"shall be refused admission"*** if it is not accompanied by a certificate or tracking label required under section 14 or if it is accompanied by a false certificate (and the manufacturer or importer has reason to know it is false or misleading in any material respect)
- Section 42(a)(2) of the CPSA also makes it unlawful to import an ATV unless it bears a label identifying the approved ATV action plan to which it is subject

# Refusal of Admission

- Under section 17(e) as amended, products refused admission ***must be destroyed*** unless the Secretary of Treasury permits export
- All expenses of destruction (including salaries, travel, per diem, etc) shall be paid by the owner or consignee
- If expenses of destruction are not paid, they become a lien against future imports by the same owner or consignee

# Certification vs. Compliance

- Certification ***does not exempt*** any product from the requirement to comply with an applicable rule, standard, ban or regulation

# ATV Reporting Requirements

- Every manufacturer, importer, distributor and retailer of an ATV must report to the Commission if it learns that the ATV
  - fails to comply with any applicable standard or ban; or
  - contains a defect which could create a substantial product hazard

# Violations of ATV Requirements

- It is unlawful for any person to:
  - sell, offer for sale, ***manufacture for sale***, distribute in commerce or ***import*** an ATV that does not comply with all applicable safety standards and bans;
  - ***fail to report*** a noncompliance or defect that could present a substantial product hazard;
  - ***fail to furnish*** a certificate or tracking label required by section 14;
  - ***issue a false certificate*** if the issuer in exercise of due care has reason to know it is false or misleading in any material respect: or
  - ***fail to comply*** with an approved ATV Action Plan

# Penalties for ATV Violations

- Any person who knowingly violates the ATV requirements is subject to a civil penalty of up to $100,000 for each ATV, up to a maximum of $15 million

# Revisions of the ATV Standard
## ANSI/SVIA 1-2007

- ANSI must notify the Commission if it revises the ATV voluntary standard
- Within 120 days, the Commission must issue public notice of the proposed change to the mandatory ATV standard if the ANSI revision is reasonably related to the safe performance of ATVs
- The Commission must promulgate a revised ATV mandatory standard within 180 days after it publishes notice of the revision

# Revisions of the ATV Standard

- The Commission is also required to revise the ATV standard if it determines that additional provisions are necessary to protect the public health and safety
- The Commission also must issue a final rule in the ATV proceeding it started in 2006

# Thank You

For more information on ATV requirements: http://www.cpsc.gov/about/cpsia/sect232.html