

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMERICAN HONDA MOTOR CO., INC.,
YAMAHA MOTOR CORP., U.S.A.,
U.S. SUZUKI MOTOR CORP.,
KAWASAKI MOTORS CORP., U.S.A.,
et al.,

Defendants.

Civil Action No.

87-3525 GAG

FILED

APR 28 1988

JAMES F. DAVEY, Clerk

FINAL CONSENT DECREE

(As amended)

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<u>et al.</u> ,)	
)	
Defendants.)	

FINAL CONSENT DECREE

A. THE NATURE OF THE CASE

The complaint in this action was filed by the United States, at the behest of the Consumer Product Safety Commission ("CPSC"), requesting relief under § 12 of the Consumer Product Safety Act, 15 U.S.C. § 2061, as amended (1981). That section authorizes the government to seek, and a court to grant, "such temporary or permanent relief as may be necessary to protect the public" from the risk of "an imminently hazardous consumer product." The subjects of the government's suit are all-terrain vehicles, or ATVs, three- and four-wheeled motorized vehicles intended for off-road use by individual riders on various types of non-paved terrain. Defendants market and sell these vehicles for use by the general public.

The gist of the government's complaint is that ATVs appear relatively benign, but they actually are unique and complex, requiring a high degree of skill and constant attentiveness for safe operation. It is alleged that the peculiar behavioral properties of ATVs, when coupled with their deceptively "safe" outward appearance, result in a high risk of injuries to users,

particularly inexperienced and young users. Hundreds of ATV-related deaths and thousands of severe injuries have occurred since 1982, according to the complaint. The ATV industry, the government claims, has failed adequately to warn potential ATV users about the hazards presented by ATVs. The complaint alleges that television and print advertisements picture ATVs as "family fun vehicles" which pose little danger to their operators, that little safety information is imparted through industry marketing practices and that the current labeling practice is inadequate. Finally, the complaint alleges that the industry's training course has not been properly promoted and, therefore, not utilized by a significant number of ATV purchasers.

Relief of several kinds is sought in this lawsuit. Labels, notices and warnings are sought to advise consumers of the risks which the government claims are associated with ATV use, particularly to children and inexperienced riders. An industry funded training program is requested, as are changes in the marketing of ATVs. A media campaign addressed to correcting the alleged image of ATVs as inherently safe vehicles is also part of the prayer for relief. Finally, a voluntary repurchase program for three-wheeled ATVs and for four-wheeled adult-sized ATVs purchased for those under 16 years of age is also sought.

The preceding paragraphs represent the government's allegations. Because this case is being settled, defendants have not had the opportunity to respond to these allegations. These allegations have not been admitted, nor have defendants conceded that the government's legal and factual positions are valid.

Defendants deny and would contest the validity of the government's allegations in any trial on the merits.

Recognizing that a full adjudication of these claims will involve protracted and extremely costly litigation and may not enhance the common objective of promptly reducing additional deaths and injuries associated with ATV usage, the parties, without agreement with the other side's legal or factual positions, without any admission of fault or liability, and before any testimony has been taken and without trial or adjudication of fact or law, have agreed to enter into this final consent decree. This final consent decree shall supersede the Preliminary Consent Decree which was entered by this Court on December 30, 1987, except that the Preliminary Consent Decree provisions which required defendants to take action during the period of negotiations over this final consent decree remain enforceable to the extent that they were to be executed during that period. In addition, this final consent decree contains the relief which the government believes, if faithfully undertaken as set out below, will obviate the need for a trial on the merits. Accordingly, the plaintiff and defendants American Honda Motor Co., Inc., Yamaha Motor Corp., U.S.A., U.S. Suzuki Motor Corp. and Kawasaki Motors Corp., U.S.A., by their undersigned attorneys, hereby agree and undertake as follows:

B. DEFINITIONS

1. All-terrain vehicles (hereinafter referred to as ATVs) that are the subject of this consent decree are three- and four-wheeled motorized vehicles, generally characterized by large, low-pressure tires, a seat designed to be straddled by the

operator, and handlebars for steering, which are intended for off-road use by an individual rider on various types of non-paved terrain. For the purposes of this decree, a vehicle distributed by a defendant as a three-wheeled ATV will be considered to be a "three-wheeled ATV" regardless of subsequent modifications that add an additional wheel.

2. "Defendants" means the companies signing this consent decree. This decree shall bind them, their officers, agents, servants and employees and those persons in active concert or participation with them who receive actual notice of this consent decree by personal service or otherwise. The term "defendants" does not include those persons who have a contractual dealer relationship with the defendants. The defendants undertake and agree, however, that they will use their best efforts, to the extent permitted under Federal and State law and applicable contracts, to ensure that the terms of this decree are carried out by their dealers and any authorized agents or representatives. By entering into this consent decree, defendants further warrant and represent that they have the authority to comply with the terms of this consent decree and that the exclusion of their parents from this consent decree will not affect defendants' ability to effectuate the terms of this consent decree.

3. "Best efforts" shall include, among other things, an obligation to require, to the extent permissible under Federal and State law, compliance by defendants' dealers, agents, or representatives with the terms of the preliminary consent decree and this final consent decree through the inclusion of a

provision as a term in future contracts entered into with dealers and any authorized agents or representatives, and where possible and within a reasonable time, to modify existing contracts with dealers and authorized agents or representatives to impose this duty.

C. SCOPE

The terms of this consent decree shall apply to all activities by defendants within the "United States," as defined in Section 3 of the Consumer Product Safety Act, 15 U.S.C. § 2052.

D. JURISDICTION AND VENUE

The defendants hereby submit themselves to the personal jurisdiction of this Court, waive service of process and agree that venue is proper in this district. Defendants do not waive any other defenses to the complaint including, but not limited to, the Court's jurisdiction over the subject matter. For the purposes of enforcing this consent decree only, defendants agree that this Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 2061 and 28 U.S.C. §§ 1337 and 1345.

E. TERM OF THE DECREE

1. The provisions of the final consent decree ("decree") shall become effective, and "approval of the final consent decree" (as that phrase is used in the preliminary consent decree) shall be deemed to occur upon issuance of an order approving this decree by a United States District Court which has jurisdiction to review the decree; except that if any person is granted permission to intervene as a party the defendants reserve the right to apply to the Court for a ruling that the decree

shall not become effective unless and until any appeal of an order approving this decree (and any petition for certiorari to the Supreme Court) has been finally resolved and the decree finally judicially approved, or until the expiration of the time for the filing of a notice of appeal pursuant to Rule 4(a)(1), F.R.A.P., whichever is later. The date upon which this decree becomes effective pursuant to the foregoing shall be deemed and referred to herein as the "effective date."

2. This decree shall remain in effect for a period of ten years from the date of the Court's approval of the decree.

F. STOP-SALE AND REPURCHASE

1. Defendants shall not market three-wheeled ATVs and shall not distribute or sell three-wheeled ATVs to their retail dealers, agents or representatives who sell ATVs.

2. Defendants shall offer or continue to offer to repurchase for a commercially reasonable cash amount, or to provide credit or other commercially reasonable adjustment for, all three-wheeled ATVs which are new or have not yet been sold to a consumer, in the possession or control of any retail dealer, agent or representative.

G. AGES FOR OPERATING ATVs

1. Defendants shall represent affirmatively, including in print and electronic media if defendants use such print and electronic media for advertising or promoting ATVs, that ATVs with engine sizes of 70 cubic centimeter displacement ("cc") up to and including 90 cc should be used only by those aged 12 and older. This undertaking includes the commitment to use their

best efforts to accomplish this relief through defendants' retail dealers, agents or representatives of defendants who sell ATVs.

2. Defendants shall represent affirmatively, including in print and electronic media if defendants use such print and electronic media for advertising or promoting ATVs, that ATVs with engine sizes of greater than 90 cc should be used only by those aged 16 and older. This undertaking includes the commitment to use their best efforts to accomplish this relief through defendants' retail dealers, agents or representatives of defendants who sell ATVs.

3. Defendants shall use their best efforts to reasonably assure that ATVs of the engine sizes set forth in subparagraphs G.1 and G.2 are not purchased by or for the use of any person under the minimum ages set forth above. This undertaking includes the commitment to use their best efforts to accomplish this relief through defendants' retail dealers, agents or representatives of defendants who sell ATVs.

H. NOTICES AND WARNINGS

1. Labels

a. New labels: Defendants agree to affix the following labels to all ATVs manufactured for the model years after the model year in production 45 days after either the completion of the testing plan provided for at paragraph H.1.c. or the Court's approval of the final consent decree, whichever is later. ATVs manufactured after the date specified in paragraph H.1.b. but before the date specified in this paragraph for use of new labels shall have affixed to them before sale to

consumers either the labels required by this paragraph or the supplemental labels required by paragraph H.1.b.

(1) Mandatory warning labels

(a) General warning label: Subject to the testing plan provided for at paragraph H.1.c., defendants agree to affix to every ATV distributed or sold by them a general warning label, in the form attached as Appendix A. This label, which was designed to conform with generally accepted labeling principles, shall have the identical language, dimensions, format, type size, and type font as shown in Appendix A. In addition, this label shall conform to the following criteria:

(i) Color scheme: The rectangle enclosing the signal word, "WARNING," shall be orange. The signal word, "WARNING," shall be in black lettering. The safety alert symbol (the Society of Automotive Engineers (SAE) symbol) shall be a black triangle border (point up) enclosing a black exclamation mark. The remainder of the label shall be in black lettering on a white background. The entire label shall be surrounded by a narrow, white border.

(ii) Durability: This label shall meet DOT/EPA standards for durability (49 C.F.R. § 567.4(b); 40 C.F.R. § 86.087-35(c)(1)).

(iii) Location: This label shall be affixed to the left front fender so as to be easily read by the operator when seated on the vehicle in the proper operating position. If this location is not appropriate for a particular vehicle, the label shall be affixed to the right front fender so

as to be easily read by the operator when seated on the vehicle in the proper operating position.

(b) Age recommendation warning label:

Defendants agree to affix to every ATV distributed or sold by them a label describing the applicable age recommendation for the ATV. For ATVs with engine sizes 70 cc up to and including 90 cc, the label shall be in the form attached as Appendix B, subject to the testing plan provided for at paragraph H.1.c. For ATVs with engine sizes greater than 90 cc, the label shall be in the form attached as Appendix C, subject to the testing plan provided for at paragraph H.1.c. The age recommendation warning label shall have the identical language, dimensions, format, type size, and type font as shown in the applicable Appendix. In addition, the age recommendation warning label shall conform to the following criteria:

(i) Color scheme: The color scheme for the age recommendation warning label shall be the same as that stated in paragraph H.1.a.(1)(a)(i), with the additional requirement that the circle and diagonal slash be red.

(ii) Durability: This label shall meet DOT/EPA standards for durability (49 C.F.R. § 567.4(b); 40 C.F.R. § 86.087-35(c)(1)).

(iii) Location: This label shall be affixed to the fuel tank so as to be easily read by the operator when seated on the vehicle in the proper operating position. If this location is not appropriate for a particular vehicle, or, if affixed at this location, the label will not meet the durability requirement stated above, the age recommendation warning label

shall be placed on the front fender above the label described at paragraph H.1.a.(1)(a). If this location is not appropriate for a particular vehicle, the label shall be placed on the top portion of the headlight or on the vehicle body immediately forward of the seat so as to be easily read by the operator when seated on the vehicle in the proper operating position.

(c) Passenger warning label: Subject to the testing plan provided for at paragraph H.1.c., defendants agree to affix to every ATV distributed or sold by them a label, in the form attached as Appendix D, warning against riding as a passenger on the ATV. This label shall have the identical language, dimensions, format, type size, and type font as shown in Appendix D. In addition, this label shall conform to the following criteria:

(i) Color scheme: The color scheme for this label shall be the same as that stated in paragraph H.1.a.(1)(a)(i).

(ii) Durability: This label shall meet DOT/EPA standards for durability (49 C.F.R. § 567.4(b); 40 C.F.R. § 86.087-35(c)(1)).

(iii) Location: This label shall be affixed either to the body of the vehicle to the rear of the seat, on a flat surface, and toward the center of the vehicle, or to the seat of the vehicle, at the rear of the seat. If neither of these locations is appropriate for a particular vehicle, the label shall be affixed to the left rear fender or left side of the body so as to be easily read by a potential passenger.

(d) Tire pressure and overloading warning label(s): Defendants agree to affix to every ATV distributed or sold by them a label warning against use of improper air pressure in the ATV's tires. Defendants also agree to affix to every ATV distributed or sold by them a label warning against overloading. Defendants may affix one warning label addressing both of these hazards if they so desire. The label(s) shall conform to the following criteria:

(i) Content: The label(s) shall contain the SAE safety alert symbol and the signal word "WARNING" in capital letters. If a defendant uses separate labels to warn of the above potential hazards, the labels shall contain, at a minimum, the following hazard and consequence statements:

-- "Improper tire pressure can cause loss of control.
Loss of control can result in severe injury or death."

-- "Overloading can cause loss of control.
Loss of control can result in severe injury or death."

If a defendant uses one label for both warnings, that label shall contain, at a minimum, the following hazard and consequence statements:

"Improper tire pressure or overloading can cause loss of control.
Loss of control can result in severe injury or death."

Every label warning about improper tire pressure shall contain a statement indicating the recommended tire pressure(s). Tire pressure information may be stated on the label itself or

provided by reference to either the owner's manual, the tires, or both the owner's manual and the tires. Every label warning against overloading shall contain a statement indicating the maximum weight capacity for the ATV model. Maximum weight capacity shall be stated on the label itself. Any other information appearing on either the tire pressure label or the overloading label shall be safety oriented and shall not detract from or contradict the required statements.

(ii) Letter typeface and size: The typeface used in the label shall be Helvetica Bold or New Gothic Bold type font, sans serif. The size of the typeface of the upper case lettering in the text of the warnings shall be at least .10 inches, and the size of the typeface of the signal word "WARNING" and safety alert symbol shall be at least .15 inches.

(iii) Format: The SAE safety alert symbol shall precede the signal word "WARNING" on a single line, which shall be separated from the text by a horizontal line. The hazard statement shall appear first in the text of the warning, followed by the consequence statement, and concluded by the avoidance statement(s). The hazard statement, the consequence statement, and the avoidance statement(s) shall be separated by a line of space. The label shall be completely framed with a margin of white space inside a black line forming a rectangle.

(iv) Color scheme: The color scheme of this label shall be the same as that stated in paragraph H.1.a.(1)(a)(i).

(v) Durability: This label shall meet

DOT/EPA standards for durability (49 C.F.R. § 567.4(b); 40 C.F.R. § 86.087-35(c)(1)).

(vi) Readability level: To the extent feasible, the label shall be written in plain, simple language so as to be readily comprehended by the average seventh grader, as measured by a standard technique for assessing the readability level of written materials.

(vii) Location: The label (or labels) warning about improper tire pressure and overloading shall be affixed to the left rear fender above the axle, facing outward in such a position that it (they) can be read by the operator when mounting the vehicle.

(2) Discretionary labels: To all ATVs manufactured for the model years after the model year in production 45 days after the completion of the testing plan provided for at paragraph H.1.c. or the Court's approval of the final consent decree, whichever is later, defendants may affix labels in addition to the mandatory labels described above as long as they satisfy the following criteria, to the extent applicable:

(a) Content: Where a label describes a potential hazard which could result in a serious injury or death, it shall contain (i) the SAE safety alert symbol and the signal word "WARNING" in capital letters; (ii) a concise, unambiguous narrative statement of the hazard being warned about; (iii) a concise, unambiguous narrative description of the consequence if a hazard is encountered; and (iv) a concise, unambiguous narrative description of what to do to avoid the hazard.

(b) Letter typeface and size: Where a label describes a potential hazard which could result in a serious injury or death, the letter typeface and size shall be the same as that stated in paragraph H.1.a.(1)(d)(ii).

(c) Format: Where a label describes a potential hazard which could result in a serious injury or death, the format shall be the same as that stated in paragraph H.1.a.(1)(d)(iii), except that the three narrative statements may be combined and do not have to be separated by a line of space.

(d) Color scheme: Where a label describes a potential hazard which could result in a serious injury or death, the color scheme shall be the same as that stated in paragraph H.1.a.(1)(a)(i).

(e) Durability: Where a label describes a potential hazard which could result in a serious injury or death, the label shall meet DOT/EPA standards for durability (49 C.F.R. § 567.4(b); 40 C.F.R. § 86.087-35(c)(1)).

(f) Readability level: Where a label describes a potential hazard which could result in a serious injury or death, the label, to the extent feasible, shall be written in plain, simple language so as to be readily comprehended by the average seventh grader, as measured by a standard technique for assessing the readability level of written materials.

(g) Location: Discretionary labels shall be affixed to ATVs in an appropriate location so long as they do not detract from the mandatory labels described in paragraphs H.1.a.(1)(a) through (d). They shall not be placed so close to

any of the mandatory labels so as to compete for the operator's attention.

(h) If requirements (a) through (g) of paragraph H.1.a.(2) effectively preclude placement of any discretionary label in the location which most clearly draws attention to the vehicle component or function to which the warning relates, these requirements shall not apply to such discretionary label; provided, however, that any discretionary label which describes a potential hazard which could result in a serious injury or death shall, at a minimum, bear the SAE safety alert symbol and the signal word "WARNING" on a single line which shall be separated from the text by a horizontal line, and shall conform to the color scheme set forth at paragraph H.1.a.(1)(a)(i).

b. Supplemental labels

(1) Past purchasers: Subject to the testing plan provided for at paragraph H.1.c., and within 45 days of the completion of such testing or the Court's approval of the final consent decree, whichever is later, defendants agree to send to all past purchasers for whom defendants have addresses the general warning label described at paragraph H.1.a.(1)(a) (Appendix A) and the applicable age recommendation warning label described at paragraph H.1.a.(1)(b) (Appendix B or Appendix C). These labels shall be accompanied by written instructions as to where these labels should be placed. At a minimum, defendants agree to mail an explanatory letter containing the introductory language set forth in Appendix E.

(2) Dealers, agents or representatives: Subject to the testing plan provided for at paragraph H.1.c., and within 45 days of the completion of such testing or the Court's approval of the final consent decree, whichever is later, defendants agree to distribute the general warning label described at paragraph H.1.a.(1)(a) (Appendix A) and the applicable age recommendation warning label described at paragraph H.1.a.(1)(b) (Appendix B or Appendix C) to all retail dealers, agents or representatives who sell ATVs to be appropriately placed on all ATVs not yet sold to consumers, including used ATVs. Defendants agree to use their best efforts to ensure that their dealers, agents or representatives affix these labels as instructed.

(3) Supplemental labels shall satisfy all criteria stated in paragraphs H.1.a.(1)(a) and (b), except that the dimensions and letter size of the general warning label may be altered to accommodate the design of an ATV; in no event, however, shall the general warning label have typeface with the size of the upper case lettering in the text less than .08 inches, and the size of the signal word "WARNING" and safety alert symbol less than .12 inches.

(4) All recipients of supplemental labels for four-wheeled ATVs shall be instructed to place the general warning label either on the left front fender of the ATV or at another specified location on the body of the vehicle where the label will be conspicuous and legible to an operator seated in the proper operating position. All recipients of supplemental labels for three-wheeled ATVs shall be instructed to place the general warning label either on the left rear fender of the ATV

or at another specified location on the body of the vehicle where the label will be conspicuous and legible to an operator seated in the proper operating position. All recipients of supplemental labels shall be instructed to place the age recommendation label either on the fuel tank or at another specified location on the body of the vehicle where the label will be conspicuous and legible to an operator seated in the proper operating position.

c. Testing program

(1) The defendants agree to undertake a testing program jointly with the CPSC to evaluate whether each of the mandatory labels described at paragraphs H.1.a.(1)(a) through (c) is reasonably understood by a test group, which shall be a representative sample of potential ATV users or buyers. Both age recommendation warning labels (Appendices B and C) shall be tested with and without the diagonal slash configuration; if the diagonal slash configuration is reasonably understood by the test group under the agreed upon standard, this configuration shall be used.

(2) Within 5 days of the parties signing the final consent decree, the defendants and the CPSC shall each nominate an expert in the area of warning labels. The experts shall then immediately confer and decide, within 30 days, upon a testing standard and method. The experts shall also decide upon a method for revision and re-testing in the event testing indicates that a label does not meet the standard upon which the experts have agreed. Should the experts not be able to reach agreement within the designated time period, the parties shall

jointly decide, within 15 days, which methodology and/or standard shall be used.

(3) The initial testing shall be started as soon as practicable, but not later than 15 days after the experts have agreed upon the appropriate methodology and standard, or, if this date falls before the Court's approval of the final consent decree, within 15 days of the Court's approval. Testing is to proceed expeditiously. Within 15 days of completion of the initial testing, the experts shall confer and decide whether any label needs to be revised and retested. Should the experts not reach agreement within this period, the parties shall jointly decide, within 15 days, which advice to follow. If necessary, revision and re-testing of any label shall be completed as soon as practicable. Testing of the labels shall continue until the labels are validated as satisfying the agreed upon standard, or until the parties agree otherwise.

(4) The CPSC and the defendants shall pay the fees of their respective experts, and shall share equally the direct costs of the testing program.

d. After distribution of the labels that conform to the requirements of paragraph H.1.a., any defendant may develop new labels for new ATV models, provided that the defendant concludes in good faith that such new labels meet the applicable requirements of this decree and that the new labels provide the required safety information in as effective a manner as the labels agreed upon by the parties pursuant to paragraphs H.1.a.(1)(a) through (d). The defendants agree to submit copies of such labels, and a written rationale for the labels, to the

General Counsel of the CPSC at least 30 days before distributing ATVs with the new labels.

2. Owner's Manuals

a. Manual supplements

(1) Past purchasers: Defendants agree to send copies of the manual supplement described herein free of charge to all known past purchasers for whom defendants have addresses at the same time the defendants send the supplemental labels to all known past purchasers pursuant to paragraph H.1.b. The letter to past purchasers shall include, at a minimum, the introductory language set forth in Appendix E.

(2) Dealers, agents, or representatives: Within 45 days of the Court's approval of the final consent decree, defendants shall provide to each of their retail dealers, agents or representatives who sell ATVs copies of the manual supplement described herein for distribution with every ATV then in the possession of such dealer, agent, or representative. Defendants shall continue to provide the manual supplements for distribution to ATV purchasers until defendants comply with the requirements of paragraph H.2.b. Defendants shall use their best efforts to ensure that their dealers, agents, or representatives distribute the manual supplements to ATV purchasers.

(3) Contents: The manual supplement shall contain the specific text set forth in Appendix F.

(4) Format: The text shall appear in the form shown in Appendix F. The warning statements and accompanying

illustrations shall be framed inside a black line forming a rectangle.

(5) Color scheme

(a) The SAE safety alert symbol and signal word shall be on a black background; the signal word "WARNING" shall be in white lettering; the SAE safety alert symbol shall be in a white triangle (point up) with a black exclamation mark.

(b) The text of the warnings shall be printed in black ink on white paper.

(6) Letter typeface and size

(a) The typeface of the text of the warning statements shall in no event be script, but shall be either Helvetica Bold or New Gothic Bold type font, or a substantially similar font;

(b) The typeface shall be bold face sans serif;

(c) The size of the typeface of the text of the warnings shall be at least .10 inches, and the size of the typeface of the signal word "WARNING" and safety alert symbol shall be at least .15 inches.

(7) Placement: Each warning shall be placed such that it appears entirely on a single page. No warning shall be split between two pages.

(8) Illustrations of hazards

(a) Where a person is depicted operating an ATV, the person shall be shown wearing an approved motorcycle helmet, eye protection, gloves, boots, long trousers and a long-sleeved shirt or jacket.

(b) Any photograph, sketch or pictograph that illustrates an inappropriate practice or potentially hazardous condition shall clearly indicate, with a diagonal slash or otherwise, that the practice or condition is inappropriate or potentially hazardous.

b. Owner's manuals for future ATV models

(1) Defendants agree to provide with every ATV manufactured 90 days or more after completion of the review procedures set forth in paragraph H.2.b.(3) owner's manuals that meet the requirements set forth herein.

(2) Contents

(a) Each owner's manual prepared pursuant to this final consent decree shall be written and designed in a manner reasonably calculated to convey information regarding safe operation and maintenance of the vehicle by persons who read such manual.

(b) To the extent feasible, the manuals shall be written in plain, simple language so as to be readily comprehended by the average seventh grader, as measured by a standard technique for assessing the readability of written materials.

(c) Information in the manuals shall be presented in a meaningful sequence designed to permit readers to understand the information presented and appreciate its significance.

(d) Every owner's manual shall be consistent with other safety messages disseminated by defendants, including those contained in the manual supplement, warning labels,

advertising and promotional materials, and point-of-purchase safety materials.

(e) At a minimum, and subject to the CPSC's review pursuant to paragraph H.2.b.(3), each owner's manual shall contain the following:

(i) A statement on the outside front cover which, at a minimum, alerts the reader that the manual contains important safety information which should be read carefully;

(ii) A statement on the outside front cover stating the age recommendation for the particular ATV model in question;

(iii) Definitions for "Warning" and "Caution" which are consistent with, or in any event not weaker than, the definitions for those terms contained in the current standards proposed by the American National Standards Institute (ANSI), along with an introductory statement alerting the reader to the significance of the SAE safety alert symbol and the signal words. If a defendant uses a definition which is stronger than that contained in the current standards proposed by ANSI, the statements described at (iv) and (v) shall be consistent with the stronger definition.

(iv) The following reminder shall be repeated immediately preceding the table of contents, at the beginning and end of the section describing proper operating procedures, on the last page before the outside back cover (or on the inside back cover), and a total of at least 5 more

times, appropriately spaced, within sections containing warnings:



Indicates a potential hazard that could result in serious injury or death.

The reminder shall be prominently displayed, segregated from other text on the page, in typeface at least .10 inches, with the signal word in typeface at least .15 inches.

(v) An introductory safety message emphasizing the importance of reading and understanding the manual prior to operation, the importance of and availability of the training course described at paragraph K, and the importance of the age recommendation for the particular model. This introductory message shall contain, at a minimum, the following statement:

"Failure to follow the warnings contained in this manual can result in SERIOUS INJURY or DEATH."

(vi) For ATVs with engine sizes 90 cc and less, an introductory notice to parents emphasizing that an ATV is not a "toy," the importance of children completing the training course described at paragraph K, and the importance of children understanding and following the instructions and warnings contained in the manual. This introductory notice shall also contain, at a minimum, the following statement:

"Children differ in skills, physical abilities, and judgment. Some children may not be able to operate an ATV safely. Parents should supervise their child's use of the ATV at all times. Parents should permit continued use only if they determine that the child has the ability to operate the ATV safely."

(vii) An introductory safety section which, at a minimum, contains the safety messages set forth in Appendix G in the form shown.

(viii) An appropriate table of contents identifying the major portions of the manual.

(ix) Descriptions of the location of warning labels on the ATV and an introductory statement emphasizing the importance of understanding and following the labels, and the importance of keeping the labels on the ATV. The introductory statement shall also contain instructions on how to obtain a replacement label in the event any label becomes difficult to read or comes off.

(x) A description of pre-operating inspection procedures and a statement emphasizing the importance of these procedures.

(xi) A description of proper operating procedures and of potential hazards associated with improper operation of the vehicle. In the section of each manual devoted to describing proper operating procedures, defendants shall include material addressing, in narrative text form and in appropriate detail, all of the topics addressed in the warning statements contained in the manual supplements described at paragraph H.2.a. Such narrative text shall identify particular potential hazards associated with the types of operation or behavior in question, the possible consequences of such operation or behavior, and shall describe the manner in which the vehicle should be properly operated to avoid or reduce the risk associated with such hazards. Such narrative text shall include warning statements and corresponding illustrations in conformance with the Guidelines For Warning and Caution Statements in Owner's Manuals attached as Appendix H. The language of the narrative

sections accompanying each warning shall not contradict any information contained in the warning section and shall be written to draw attention to the warning.

(xii) Descriptions of proper maintenance, storage, and transportation procedures.

(xiii) On the outside back cover, the contents of the general warning label described at paragraph H.1.a.(1)(a).

(f) Every owner's manual shall conform to the Guidelines for Warning and Caution Statements in Owner's Manual attached as Appendix H. Where a manual describes a potential hazard that is not addressed in the manual supplement but which nevertheless meets the definition of a potential hazard for which a "warning" or "caution," as these terms are defined by the American National Standards Institute, is appropriate, the discussion of that potential hazard shall be accompanied by a "warning" or "caution" statement which conforms to these Guidelines.

(3) CPSC review of owner's manuals:

(a) Each defendant agrees to submit to the General Counsel of the CPSC as soon as possible, but no later than 90 days after the Court's approval of the final consent decree, a draft (including sketches of illustrations if feasible) of a representative owner's manual for the models it expects to manufacture 90 days or more after completion of the review procedures set forth herein. Each draft shall conform to the provisions of this decree.

(b) Within 30 days after submission of a draft representative owner's manual, the CPSC shall evaluate each draft and provide to each defendant its written evaluation of whether the respective defendant's draft conforms to the requirements of this decree. If the CPSC determines that the draft satisfies the requirements, or the CPSC fails to respond within 30 days, the defendant shall proceed with publication and distribution of the owner's manuals. If the CPSC determines that the draft does not conform to the requirements, it shall include specific language that it proposes be substituted for or included in any particular, identified portion of the submitted draft, with an explanation of the reasons for the proposed substitution or addition. Any defendant receiving proposed substitute or additional language under this subparagraph shall review such language and shall confer informally with the CPSC, if it deems such consultation appropriate or if the CPSC so requests.

(c) Within 30 days of receipt of the CPSC's written evaluation, each defendant shall inform the CPSC in writing of what modifications, if any, the defendant intends to make to its draft manual, and the reasons for its conclusion that the final draft, with whatever modifications it has adopted, conforms with the requirements of this decree. The CPSC shall have 15 days from the date it receives a final draft from a defendant to seek relief from this Court if the CPSC concludes that the manuals which the defendant intends to publish and distribute will not conform to the requirements of this decree. In the event the CPSC seeks relief from the Court, the defendant may distribute the owner's manuals which it believes satisfy the

requirements of this decree so long as the manuals are accompanied by the manual supplements described at paragraph H.2.a.; notwithstanding this provision, if the Court resolves the dispute between the parties in favor of the CPSC, by requiring the defendants to rewrite any portion of the manual(s) at issue, the CPSC may seek a court order requiring the defendants to send replacement manuals to all ATV purchasers who received the manuals and manual supplements distributed by defendants pursuant to this provision and to issue replacement manuals for all ATVs manufactured 90 days or more after submission of the dispute to the Court that are sold thereafter by dealers, agents, or representatives. Defendants reserve the right to oppose any such additional requirement.

(4) After distribution of owner's manuals that conform to the requirements of this decree, each defendant may develop owner's manuals for subsequent new ATV models, provided that the defendant concludes in good faith that such manuals conform to the requirements of this decree. In the event that safety-related information or materials in such manuals are different from the previous manuals that conformed with the requirements of this decree, the defendants agree to submit copies of all such manuals and a written rationale for all changes to the General Counsel for the Consumer Product Safety Commission at least 30 days before distributing the manuals.

3. Point-Of-Purchase Communications

a. Point-of-purchase oral communications

(1) Dealer oversight: Defendants shall use their best efforts to ensure that oral communications of retail

dealers, agents or representatives of defendants who sell ATVs to actual and prospective purchasers contain information not inconsistent with all safety-related requirements of this decree.

(2) Dealer guidance: Defendants agree to emphasize safety information consistent with this decree in written, oral, and video materials that relate to promotion and sale of ATVs by dealers, agents or representatives of defendants who sell ATVs.

b. Point-of-purchase safety materials

(1) For the purposes of this final consent decree, "point-of-purchase safety materials" shall mean materials specifically designed to describe proper and safe ATV operation that are disseminated by defendants, or through defendants' retail dealers, agents and representatives, at ATV sales locations.

(2) All point-of-purchase safety materials which are produced, distributed or funded in whole or in part by any defendant -- including all materials funded in whole or in part by a defendant cooperatively with its dealers, agents or representatives selling ATVs -- shall conform to the Guidelines For Point-Of-Purchase Safety Materials attached as Appendix I. Defendants further agree to use their best efforts to ensure that all point-of-purchase safety materials not distributed by that defendant but distributed by its dealers, agents or representatives selling ATVs conform to the Guidelines For Point-Of-Purchase Safety Materials attached as Appendix I.

(3) Defendants shall use their best efforts to ensure that their retail dealers, agents or representatives who

sell ATVs, or display ATVs for sale, make available to actual and prospective ATV purchasers point-of-purchase safety materials of the type described in paragraph H.3.b.(4) below.

(4) Mandatory point-of-purchase safety materials

(a) Hang tags: Within 45 days of the completion of the testing plan described in paragraph H.1.c. or of the Court's approval of the final consent decree, which ever is later, defendants shall provide to dealers, agents, or representatives who sell ATVs hang tags for display on each vehicle offered for sale that conform to paragraphs II.A and II.B of the Guidelines For Point-Of-Purchase Safety Materials attached as Appendix I.

(b) Safety video: Within 180 days of the Court's approval of the final consent decree, or within 180 days of completion of the procedures specified in paragraph H.3.b.(5) with respect to a final script, whichever is later, defendants shall provide to dealers, agents, or representatives who sell ATVs a safety video that conforms to paragraphs II.A and II.C of the Guidelines For Point-Of-Purchase Safety Materials attached as Appendix I. Defendants agree to use their best efforts to require their retail dealers to make the safety video readily available for viewing by all actual and prospective ATV purchasers. Until the safety video described in this subparagraph is distributed, such dealers, agents or representatives may continue to use the safety video in use on the effective date of this decree, provided that a copy of the ATV Safety Alert described in paragraph H.3.b.(4)(c) is made available to all persons who view such video.

(c) ATV safety alert: Beginning 20 days after the Court's approval of the final consent decree, defendants shall provide to dealers, agents, or representatives who sell ATVs, for dissemination to all purchasers, the ATV Safety Alert in the form attached as Appendix J. The death statistic shall be updated to reflect the CPSC's latest quarterly report data as of the date of the Court's approval of the final consent decree, as provided by the CPSC, and shall thereafter be updated every 12 months to indicate the total number of ATV-associated fatalities for the preceding five years. Defendants shall use their best efforts to ensure that such dealers, agents, or representatives deliver a copy of the ATV Safety Alert to each purchaser. Such dealers, agents, or representatives may continue to disseminate prior versions of the ATV Safety Alert until their supplies are exhausted.

(d) Safety poster: Beginning 90 days after the Court's approval of the final consent decree, defendants shall provide to all retail dealers, or, where ATVs are sold to consumers by agents or representatives of defendants who are not retail dealers, to all such agents or representatives, signs measuring approximately four feet by four feet containing the text which is set forth in Appendix J and meeting with the approval of the CPSC. The death statistic shall be updated prior to publication to reflect the CPSC's most current quarterly report data at that time, as provided by the CPSC. Thereafter, the death statistic will be updated every 12 months to indicate the total number of ATV-associated fatalities for the preceding five years, based on data provided by the CPSC; defendants shall

distribute new, replacement editions of the poster at least every four years. Defendants agree to use high quality, durable printing materials and to use the color scheme, lettering (size and type) and spacing to best ensure that the message is easily read and understood. Defendants further agree to use their best efforts to ensure that their retail dealers, agents, or representatives who sell ATVs to consumers immediately post the safety posters upon receipt in prominent places where ATVs are displayed, sold or offered sale; update the posters as instructed; and keep such posters on display until further notified pursuant to this provision. (From the effective date of this decree until defendants provide the new poster required by this subparagraph, defendants shall use their best efforts to ensure that the posters provided for by subparagraph E.1.b. of the preliminary consent decree are or remain posted.)

(5) CPSC review of safety video script

(a) Within 90 days of the Court's approval of the final consent decree, defendants shall submit to the General Counsel of the CPSC a draft of a safety video script including camera and stage directions.

(b) The CPSC shall evaluate the draft script for conformance with paragraphs II.A and II.C. of the Guidelines for Point-Of-Purchase Safety Materials attached as Appendix I. Within 15 days after its receipt of the draft script, the CPSC shall provide the defendants with a written statement whether the CPSC has determined that the draft script conforms to the Guidelines. If the CPSC determines that the draft script does not conform to the Guidelines, its written

comments shall include, where appropriate, proposed deletions or additions. If the CPSC determines that the draft script does conform to the Guidelines, or if the CPSC does not respond within the time period, the defendants may proceed with filming and production of the safety video.

(c) If the CPSC determines that the draft script does not conform to the Guidelines, the defendants shall respond to the CPSC's comments in writing within 20 days after their receipt of the written comments from the CPSC, and shall indicate what steps, if any, they will take in response to the CPSC's comments.

(d) The CPSC shall have 20 days from the date it receives the defendants' response to seek relief from the Court if the CPSC concludes that the safety video which defendants intend to film and distribute will not conform to the Guidelines. In the event the CPSC seeks relief from the Court, defendants shall halt production of the video pending the Court's resolution of the disagreement among the parties.

(e) Once the defendants proceed with filming and production, if they make other than minor, insubstantial changes in the script, they shall submit the revised script to the CPSC with a written rationale for the changes. The CPSC shall evaluate the revisions for conformance with the Guidelines and respond to defendants within 20 days of receipt of the revised script. If agreement on the revisions cannot be reached within 10 days, the CPSC shall have 20 additional days to seek relief from the Court. In the event the CPSC seeks relief from

the Court, defendants shall halt production of the video pending the Court's resolution of the disagreement among the parties.

(6) Submission of hang tags, safety video and other point-of-purchase safety materials to the CPSC

(a) The defendants agree to submit to the General Counsel of the CPSC copies of the hang tags required by paragraph H.3.b.(4)(a) and a copy of the final safety video at least ten days before they disseminate those materials to their dealers.

(i) After distribution of hang tags that conform to the Guidelines For Point-Of-Purchase Safety Materials, a defendant may develop hang tags for new ATV models, provided that the defendant concludes in good faith that such hang tags conform to the Guidelines. In the event that the information on a hang tag is different in substance from the information specified in the Guidelines, the defendants agree to submit copies of all such hang tags and a written rationale for all changes to the General Counsel of the CPSC at least 30 days before distributing the hang tags.

(ii) After distribution of a safety video that conforms to the Guidelines For Point-Of-Purchase Safety Materials, the defendants may not develop a new safety video without first complying with the procedures set forth at paragraph H.3.b.(5).

(b) At approximately the same time as distribution of any other point-of-purchase safety materials for dissemination by their retail dealers, agents or representatives

who sell ATVs, the defendants shall provide a copy to the General Counsel of the CPSC.

(7) Nothing herein shall preclude any defendant from disseminating materials which address model-specific or use-specific safety concerns, provided that such materials are not inconsistent with paragraph II.A. of the Guidelines For Point-Of-Purchase Safety Materials attached as Appendix I.

4. Toll-Free Safety Hotline

a. Defendants agree to maintain a toll-free ATV "hotline" service to respond to consumer inquiries.

b. Information provided by the hotline service shall be consistent with all other safety-related messages disseminated by defendants, including those contained in warning labels, owner's manuals, advertising and promotional materials, and the ATV Safety Alert.

c. The hotline service shall, at a minimum, provide information, as appropriate, in response to consumer inquiries regarding the following:

- (1) the principal terms of the final consent decree;
- (2) CPSC fatality and injury statistics concerning accidents associated with ATV operation (updated every 12 months to indicate the total number of ATV-associated fatalities for the preceding five years, based upon data provided by the CPSC);
- (3) age recommendations for ATVs;
- (4) the importance of adult supervision of operation of ATVs by children under 16;
- (5) the importance and availability of the hands-on training course, and information about the training course;

(6) potential risks and potential hazards associated with:

- (i) operating without carefully reading the owner's manual;
- (ii) carrying a passenger or riding as a passenger;
- (iii) operating on paved surfaces;
- (iv) operating on public roads because of the risk of collision with other motorized vehicles (ATVs are for off-road use only);
- (v) operating after or while consuming alcohol or drugs;
- (vi) operating without an approved motorcycle helmet, eye protection, and protective clothing;
- (vii) performing wheelies and other stunts;
- (viii) lending an ATV to inexperienced or unskilled operators;
- (ix) operating at excessive speeds;
- (x) operating on unfamiliar, or excessively rough, slippery, or loose terrain;
- (xi) operating on steep hills.

d. Defendants further agree that the hotline service shall offer to send, free of charge, to every person who calls copies of appropriate materials regarding ATV safety developed pursuant to the final consent decree, such as a copy of the ATV Safety Alert. Defendants agree to send free of charge the manual supplement provided for at paragraph H.2.a. when this item is specifically requested.

e. Defendants further agree to include the hotline service number and/or the number of the CPSC in certain ATV

safety-related communications in accordance with the other provisions of this final consent decree.

I. SAFETY-RELATED COMMUNICATIONS TO CONSUMERS

No safety-related communication generally distributed by any defendant to consumers shall be inconsistent with the terms of this decree or with the safety information that this decree mandates.

J. MEDIA AND MARKETING

1. Guidelines For Promotional Advertisements

a. All advertisements used or distributed by any defendant shall conform to the Guidelines for Advertising and Promotional Materials attached as Appendix K. These Guidelines shall apply to:

(1) All advertisements in newspapers whose closing date for materials is 14 days or more after the date of the Court's approval of the final consent decree;

(2) All advertisements in magazines whose closing date for materials falls on or after (a) 45 days after the date of the Court's approval of the final consent decree, or (b) June 15, 1988, whichever is earlier;

(3) All television, radio and cable commercials scheduled in network, in a spot market, or in programming distributed through syndication 14 days or more after the date of the Court's approval of the final consent decree;

(4) All printed point-of-purchase promotional materials first distributed to dealers, agents or other representatives who sell ATVs after the date of the Court's approval of the final consent decree (For materials already

distributed, the defendants shall, within 20 days of the Court's approval of this decree, insert a copy of the Safety Alert (Appendix J) into each copy of the materials, or provide dealers with sufficient copies of the Safety Alert and use their best efforts to ensure that the Safety Alerts are attached to or inserted in such materials.);

(5) All promotional videos distributed to dealers after the date of the Court's approval of the final consent decree (Defendants shall use their best efforts to ensure that promotional videos not (a) in conformance with the Guidelines, or (b) approved by the General Counsel of the CPSC, are not exhibited 45 days or more after the date of the Court's approval of the final consent decree.); and

(6) All other promotional materials (including posters and direct mail) used by defendants or distributed to dealers after the date of the Court's approval of the final consent decree (Defendants shall use their best efforts to ensure that promotional materials not in conformance with the Guidelines are not used or exhibited 30 days or more after the date of the Court's approval of the final consent decree.).

b. All advertisements funded in whole or part by any defendant through any cooperative advertising program with its dealers, agents or other representatives selling ATVs shall conform to the guidelines within 90 days after the date of the Court's approval of the final consent decree.

c. The defendants shall use their best efforts to ensure that any other advertisements or other promotional

materials used or distributed by their dealers conform to these Guidelines.

2. Public Awareness Media Campaign: Defendants shall engage in a substantial public awareness media campaign that consists of print and television advertisements in accordance with the provisions set forth in this section.

a. Copy strategy: All advertisements used in the campaign shall be executed in accordance with the copy strategy attached as Appendix L.

b. Pre-testing requirements:

(1) Defendants shall develop two alternative campaigns for the public awareness media campaign. Each proposed campaign shall consist of one television commercial and one or more print advertisements.

(2) Within 60 days after the date of the Court's approval of the final consent decree, defendants shall submit the commercial and one mutually agreed-upon print ad from each proposed campaign in test execution form to Diagnostic Research, Inc. ("D/R"), for pre-testing in accordance with the Description of Pre-Testing set forth in Appendix M. At the same time, defendants shall also submit copies of the test executions to the CPSC.

(3) As a term of their contract with D/R to provide the testing services contemplated by this decree, the defendants shall specify: (a) that D/R is to play an independent role in undertaking this task, evaluating the advertisements based solely upon whether they effectively communicate the primary and secondary copy points set forth in the Copy Strategy,

Appendix L to this decree, (b) that the CPSC or its expert be free to consult with D/R on the same basis as defendants, and (c) that the CPSC shall have the right to have access to all completed questionnaires used in the testing. Defendants shall provide the CPSC a copy of their contract with D/R.

(4) Before testing begins, the CPSC and the defendants shall be given the opportunity to review the questionnaire. Based upon expert advice, the CPSC and the defendants may provide written comments suggesting deletions and additions to the questionnaire. If any differences between the parties regarding the questionnaire cannot be resolved within seven days through good faith negotiation, the parties agree to proceed in accord with the advice of an independent expert, not previously affiliated with any of the parties, in the field of advertising pre-testing chosen by the parties.

(5) The CPSC and the defendants shall have the opportunity to review the codebook to be used by D/R for coding responses to the questionnaire. Based upon expert advice, the CPSC and the defendants may provide written comments on the coding provisions. If differences between the parties regarding the codebook cannot be resolved within seven days through good faith negotiation, the parties agree to proceed in accord with the advice of an independent expert, not previously affiliated with any of the parties, in the field of advertising pre-testing chosen by the parties. The CPSC and the defendants shall also have the opportunity to monitor the coder reliability by reviewing coded questionnaires on a random, as requested, basis.

(6) Defendants shall obtain a full report of D/R's evaluation of the two campaigns and shall ensure that D/R delivers the full report to the CPSC at the same time it delivers the report to the defendants. The evaluation shall determine whether the campaigns meet or exceed the norms set forth in the Description of Pre-Testing and whether the campaigns contain elements that materially diminish the overall effectiveness of the advertisements tested. The full report shall set forth D/R's conclusions, a summary and analysis of the test results, and detailed tabulation of the research data.

(7) Between seven and 14 days after the CPSC's receipt of the report and proposed advertisements, the parties shall confer jointly with D/R on the results of the pre-testing. If neither campaign meets or exceeds the norms set forth in the Description of Pre-Testing, or if D/R determines that the campaigns contain elements that materially diminish the overall effectiveness of the advertisements tested, then alternative campaign(s) will be developed and tested, if necessary, to meet these requirements.

(8) In the event that the CPSC and the defendants disagree as to which campaign shall be used, then the CPSC shall submit a written statement of its views within seven days of the joint meeting with D/R. The defendants shall consider the statement in good faith and notify the CPSC of its decision as to the campaign chosen within seven days of receiving the statement. If the parties continue to disagree, then the parties shall solicit the views of an independent expert with substantial expertise in the advertising field. Such expert shall be chosen

jointly by the parties and shall not have any prior affiliation with either the CPSC or the defendants. Defendants shall consider the advice of such expert in good faith. If the defendants elect to go forward with a campaign to which the CPSC objects, the defendants shall notify the CPSC within seven days of receiving the advice of the expert and the CPSC may apply to the Court for appropriate relief.

c. Execution of the campaign: The defendants shall fully execute the Public Awareness Media Plan attached as Appendix N, which consists of both print and television advertisements. As described in the media plan, the campaign shall include television and print advertisements during October, November and December 1988 and print advertisements during March, April, and May 1989. As the media plan provides, the television activity shall consist of network, cable and spot television. The print activity shall consist of ATV and motorcycle enthusiast magazines, general outdoor magazines and farm publications as set forth in the plan.

3. Outreach Program: The defendants agree to undertake an outreach program to disseminate safety materials to consumer groups.

a. Within 30 days of the effective date, defendants shall mail a letter offering copies of the safety video required under paragraph H.3.b.(4)(b) of this decree and the safety brochure described below in paragraph J.3.c. to the following organizations:

- (1) The National Coalition for Children's Safety;
- (2) The American All-Terrain Vehicle Association;

(3) The National Headquarters of the Future Farmers of America;

(4) National Safety Council; and

(5) County Cooperative Extension Services.

b. Defendants agree to enclose with such letter:

(1) An appropriate form for ordering the safety materials, with an explanation of the terms under which such materials will be provided; and

(2) A copy of the ATV Safety Alert, attached as Appendix J.

c. The safety brochure provided under the outreach program may be either:

(1) The Specialty Vehicle Institute of America's ("SVIA's") "Tips & Practice Guide for the ATV Rider," with a copy of the Safety Alert inserted therein; or

(2) A new safety brochure created by defendants after the effective date of this decree.

d. Upon request by any of the organizations listed above, defendants shall provide copies of the safety materials under the following terms:

(1) To each of the organizations identified in paragraph J.3.a.(1) through (4), defendants shall offer to provide, free of charge, up to 1,000 copies of the safety brochure and twenty-five (25) copies of the safety video. If the safety video is not yet available, defendants shall so notify the organization and provide the video when it becomes available.

(2) To the organization identified in paragraph J.3.a.(5), defendants shall offer to provide, free of charge, up

to 50 copies of the safety brochure to the first 1,000 individual County Cooperative Extension Services that submit orders for the brochure and offer to loan a copy of the safety video to each County Cooperative Extension Service.

(3) Additional copies of the safety video and safety brochure will be provided to each organization or individual, upon request, for a reasonable fee covering production, printing, shipping and handling costs.

e. Defendants shall provide copies of the safety video and safety brochure to all other persons and organizations, upon request, for a reasonable fee covering production, printing and handling costs.

f. Defendants agree to respond promptly to all requests for safety materials provided under the outreach program.

4. Reporting Requirements

a. Promotional advertisements: For each promotional advertisement distributed to a dealer or used after the date of the Court's approval of the final consent decree, each defendant shall submit the following within 14 days of the defendant's first post-approval use or distribution:

(1) in the case of a printed advertisement, a copy of the advertisement as it will be published;

(2) in the case of a radio advertisement, a tape or script of the commercial;

(3) in the case of a television advertisement or a promotional video, a videotape of the advertisement.

b. Public awareness media campaign: The defendants shall submit to the CPSC the following reports and materials describing and documenting their compliance with the public awareness media plan set forth in Appendix N.

(1) Within ten days following any month of print activity, the defendants shall submit the name of each publication in which a print advertisement appeared together with the date, the page at which the advertisement is located and a copy of the advertisement.

(2) At least seven days prior to the start of a television flight, or as soon thereafter as possible, the defendants shall submit to the CPSC a copy of "brand time sheets" (or data which supplies projected rating, number of impressions and cost, including cost per spot, target audience cost per point, and target audience cost per thousand).

(3) Within 90 days after the end of each flight of television activity, defendants shall submit a report detailing their execution of the media plan for the campaign along with a notarized affidavit (or invoice) of commercial placement for each broadcast of the television commercial by a network or local station. The affidavit (or invoice) shall identify the name of the network or station, the location by city and state of the local television station, the air date of the commercial, the time of airing and, if available, the name of the program during which the commercial appeared.

c. Reporting of distribution of safety awareness materials to consumer groups: For the first 24 months following the effective date of this decree, the defendants shall maintain

a record of the name and address of each consumer group identified in paragraph J.3. that requested the safety awareness materials, the date of the request, and the date the defendants shipped safety awareness materials in response to the request. The defendants shall provide such record to the CPSC every four months.

K. TRAINING

The defendants agree and undertake to offer to all interested persons a nationwide hands-on training program consistent with the provisions set forth within this section.

1. Administrative Structure And Staffing: The defendants agree to provide sufficient staff and facilities to operate the training program on a nationwide basis. It is anticipated that the training program will be administered and staffed in the following manner:

a. A national headquarters will contain four full-time directors (Education Program, Instructor Training, Rider Training, Communications) and five full-time assistant positions (State Programs Specialist, Curriculum Specialist, Instructor Training Manager, Rider Training Manager, Publications Manager), in addition to the usual support personnel. The anticipated duties of these personnel are as follows:

(1) Education Program Director: Coordinates training programs with state government programs, independent programs, and military programs.

(2) Instructor Training Director: Coordinates the training of Chief Instructors and Instructors and integrates

their activities with the Regional and Area Administrators, described below.

(3) Rider Training Director: Coordinates the implementation of the training programs nationwide and supervises the Regional Administrators, described below.

(4) Communications Director: Coordinates the advertising of the training program and all communications to distributors, dealers, instructors, and Regional and Area Administrators.

(5) State Programs Specialist: Assists the Education Program Director by providing technical assistance to state training program officials.

(6) Curriculum Specialist: Assists the Education Program Director by developing, evaluating, and publishing training curricula.

(7) Instructor Training Manager: Assists the Instructor Training Director.

(8) Rider Training Manager: Assists the Rider Training Director.

(9) Publications Manager: Assists the Communications Director in the production and inventory control of printed publications.

b. The country will be divided into six regions, each with a full-time Regional Administrator and support personnel. It is anticipated that the Regional Administrators will set up the regional office, select and supervise the Area Administrators within the region, work with the chief instructors in the region, and work towards increasing the number of training sites and

students taking the course. The Regional Administrators will receive a salary plus a commission for each student trained as an incentive to motivate the personnel in their region.

c. The regions will be divided into areas, each with a part-time Area Administrator. It is anticipated that there will be approximately 350 Area Administrators. It is anticipated that the Area Administrators will contact dealers within their area and the Specialty Vehicle Institute of America (SVIA) referral number to obtain names and addresses of potential students, contact students for classes, assist in the scheduling of classes, and monitor classes through periodic on-site visits. The Area Administrators will receive a contract fee plus a commission for each student trained as an incentive to motivate the dealers and instructors in their area.

d. Each area will have an appropriate number of qualified instructors trained by qualified chief instructors. Chief instructors will be paid a contract fee for conducting instructor preparation courses plus a commission for each rider trained as an incentive for training good instructors and motivating their performance. The instructors will be paid for each rider actually trained as an incentive to train as many students as is reasonable. Classes for riders age 16 years and over will be limited to an enrollment of eight students, with a recommended number of six students per class. Classes with riders under 16 will be limited to an enrollment of six students, with a recommended number of four students per class. The instructors will be urged to use an assistant where possible for

all classes to demonstrate the maneuvers and generally assist the instructor.

e. Within selected states, an Area Administrator or other appropriate personnel within the state will also be designated a State Coordinator. It is anticipated that as a State Coordinator, the individual will assist existing state programs by providing updated ATV safety information, maintaining contact with state personnel to provide input on use of state funds and coordination of state programs, and providing technical assistance. A State Coordinator will be appointed for the following states: California, Illinois, Michigan, New York, Oregon, Pennsylvania, Texas, New Jersey, Connecticut and Ohio. The defendants may add states as the need arises and may delete states in which a State Coordinator has not proved effective. The defendants shall notify the CPSC of any such additions or deletions.

f. The administrative structure and duties set forth above may be modified so long as the defendants conclude in good faith that such modifications are needed to ensure that the training program functions efficiently. Changes in the administrative structure and staffing described above shall be reported to the CPSC with an accompanying explanation at least thirty days before the implementation of such changes.

g. Defendants further agree to provide the names, business addresses, and phone numbers of all directors, assistants or regional administrators referred to in this decree upon the request of the CPSC to the national headquarters and to

provide the CPSC with information about the length of any vacancies in these positions, upon the CPSC's request.

h. The defendants agree to begin implementation of the training program structure within 60 days of the date of the Court's approval of the final consent decree.

2. Training Course Curriculum

a. Course content: The training curriculum will consist of the existing SVIA six-hour hands-on course, with the modifications and additions reflected in the revised course outline attached as Appendix O. At the beginning of each lesson, the instructor will emphasize the safety implications relating to that lesson. Each student will be given a copy of the student handbook to take home.

b. Field-testing of course content: The revised course outline represents a considered judgment as to the likely order, timing, and content of each lesson. The defendants may subject the modifications and additions reflected in the revised outline to field testing and modify the proposed outline according to the results of the field testing. The field testing will consist of (1) development of the revised lesson contents and instructor techniques; (2) review by selected chief instructors; (3) field application tests; and (4) revision as needed based on field evaluations. The defendants shall notify the CPSC of any additions or deletions to the curriculum based upon the field testing and provide a detailed explanation. The CPSC shall provide its comments within 30 days and the parties shall use good faith efforts to arrive at a suitable resolution of any problems identified through the field testing process.

c. Future modifications to course curriculum: The defendants may modify the course curriculum, which is based upon the course outline contained in Appendix O, upon the considered judgment of appropriate personnel so long as the defendants conclude in good faith that the revisions are at least as effective as the curriculum agreed upon in this decree. The defendants shall notify the CPSC of any additions or deletions to the curriculum and provide a detailed explanation. The CPSC shall provide its comments within 30 days and the parties shall use good faith efforts to arrive at a suitable resolution of any problems identified through the field testing process. The CPSC death and injury statistics to be included in the curriculum shall be updated every 12 months to indicate the total number of ATV-associated fatalities for the preceding five years, based upon data provided by the CPSC.

d. Modifications for operators under 16: Classes attended by children under age 16 shall be modified as follows:

- (1) Maximum class size shall be six with a recommended number of four students.
- (2) A parent, guardian, or other responsible adult should attend the training program with the child.
- (3) A parent or guardian must sign a consent form that includes the CPSC injury and accident statistics and the appropriate age recommendations for ATVs consistent with the age recommendations contained in this consent decree.
- (4) The ATV must be the recommended size for the individual in accordance with the age recommendations contained in this consent decree.

(5) All riding exercises should be at an appropriately slower, more controlled speed.

(6) All instructions should be appropriately geared toward the younger students in terms of vocabulary and behavioral modeling, and seeking acknowledgement of understanding.

(7) Lesson one will include the sessions on safe and unsafe riding practices.

(8) The "drag-around" U-turn maneuver will be eliminated.

(9) Throttles should be equipped with a speed limiter.

3. Training Sites: Defendants agree to provide a sufficient number of training sites that are reasonably accessible to ATV purchasers desiring to take the training course. Area Administrators will be responsible for locating and providing a sufficient number of training sites within their areas to accommodate the training courses. Defendant's further agree to provide adequate liability insurance for the training courses (or to self-insure) at no charge to the consumer.

4. Fees for Training Course: Training courses shall be offered at no charge to all persons and members of their immediate families who purchase a new ATV (distributed by one of the defendants) after the date of the Court's approval of this final consent decree and who meet the age recommendations contained in this decree for the vehicle purchased. Training courses shall be offered at no charge to all persons and members of their immediate families who purchased a new ATV (distributed

by one of the defendants) after December 30, 1987 and who meet the age recommendations contained in this decree for the vehicle purchased.

a. Notification procedures: Defendants shall notify future purchasers of the availability of free training and the incentive offer required by paragraph K.5 of the decree at the time of purchase beginning within 90 days of the Court's approval of the final consent decree. All other eligible purchasers for whom defendants have addresses shall be notified of the availability of free training within 90 days of the Court's approval of the final consent decree.

b. Training of others: Defendants agree to provide training to all other interested persons and may charge such other persons who request training a reasonable fee.

5. Incentives

a. The defendants agree to provide a mechanism whereby each person who purchases a new ATV (distributed by one of the defendants) after the date of the Court's approval of this decree, upon the successful completion by the purchaser or a member of the purchaser's immediate family of the training course contained in this decree, will receive a United States Savings Bond valued at one-hundred dollars (\$100.00) upon maturity or fifty dollars (\$50.00) in cash, or (at each defendant's option) a merchandise certificate in an amount no less than fifty dollars (\$50.00) that can be applied towards the purchase of ATV accessories. The choice of a cash rebate, Savings Bond, or merchandise certificate (where offered) will be made by the person taking the training course.

b. Upon completion of the training course, the purchaser must provide the appropriate documentation in order to receive the cash, Savings Bond, or merchandise certificate (where offered).

c. The incentive offer shall be limited to one incentive per purchase of an ATV.

6. Implementation: The training of instructors shall begin upon the Court's approval of the final consent decree or upon the completion of any field testing, as set forth in paragraph K.2.b. Defendants also agree to begin training riders as soon as instructors qualified to teach the new curriculum based on the outline set forth in Appendix O become available. Defendants further agree to make every effort to establish a pool of 1,000 trained instructors within six months of the Court's approval of this final consent decree.

7. Participation By Other Manufacturers Or Distributors: The defendants agree to permit other manufacturers and distributors of ATVs to utilize this training structure, through appropriate arrangements and upon the payment of a reasonable fee, for the training of their purchasers.

8. Coordination With State Laws: The parties agree that defendants' obligations under this section may be modified in light of existing or future state laws pertaining to the training of ATV operators as follows:

a. To the extent that any requirement of this training section is contrary to state law, the defendants may modify the training program within that state so as to be in accordance with state law. The defendants shall immediately

notify the General Counsel of the CPSC if any defendant concludes in good faith that any provision of this training program is contrary to any law of any state.

b. To the extent that state law requires the completion of a training course substantially similar in content to the course described in this consent decree, the defendants may request the approval of the General Counsel of the CPSC to be relieved of any obligation to offer the incentive program described in paragraph K.5 in that state and to modify other aspects of the program as appropriate.

c. To the extent that a state provides or requires any other form of ATV training course, the defendants may request the approval of the General Counsel of the CPSC to modify their current training obligations within that state.

d. The CPSC agrees to consider in good faith all such requests made pursuant to this section and to respond within 30 days to such requests.

9. Dealer-Loan Program: Defendants agree to implement a program in which their dealers may obtain vehicles to loan to training courses authorized under this program for use by students. The defendants agree to offer their dealers the following dealer-loan terms:

a. The models selected by the defendants for participation in this program will be billed to the dealer at 75% of dealer invoice.

b. In order to provide a selection of available machines, each defendant agrees to offer at least two models each year for participation in this dealer-loan program.

c. Billing of the dealer for an ATV used in this program will be delayed for twelve months from the date the vehicle loan is processed.

d. Defendants further agree to notify all dealers by letter of this loan program within 60 days of the Court's approval of this final consent decree and to provide the CPSC with a copy of the letter at the same time as the mailing to dealers. Defendants shall encourage their dealers, authorized agents, or representatives to provide loan vehicles to training programs.

10. Reporting Requirements

a. Defendants agree that, prior to implementation of the training course, they will provide the CPSC with copies of all training materials which will be used in the training course, including instructor guides, visual aids, and student handouts.

b. Defendants further agree to report the information listed below to the Commission on a quarterly basis commencing with the fourth quarter of 1988. The defendants agree to furnish such information on a state-by-state basis. Reports shall be submitted to the CPSC within 30 days following the end of each quarter. The information shall consist of:

- (1) the number of new ATVs sold;
- (2) the number of new ATVs sold to first time purchasers without riding experience and the percentage of those purchasers (or members of their immediate families) who take the training course outlined in this final consent decree;
- (3) the number of instructors trained and

certified to teach the training course outlined in this final consent decree;

(4) the number of such instructors who are actively training ATV riders;

(5) the number of training classes held and the number of persons trained; and

(6) the number and dollar value of incentives provided to ATV purchasers.

c. Defendants further agree to provide the CPSC, upon reasonable notice, access to relevant ATV training records in order for the Commission to verify that training is being conducted in accordance with this consent decree. Upon request by the CPSC, the national headquarters will provide the name, address, and telephone number of the Area Administrator(s) in any location or locations specified by the CPSC for purposes of obtaining information about the time and location of training classes held in that area.

L. STANDARDS

1. The Consumer Product Safety Commission has commenced administrative proceedings under Sections 7 and 9 of the Consumer Product Safety Act and Section 3 of the Federal Hazardous Substances Act for purposes of developing, through regulations or other authorized mechanisms, standards for ATVs.

2. The defendants agree to attempt in good faith to reach agreement on voluntary standards satisfactory to the Commission within four months of the Court's approval of this final consent decree.

3. To the extent that three-wheeled ATVs meet mandatory standards promulgated by the Commission or voluntary standards satisfactory to the Commission developed pursuant to subparagraph L.2, the marketing and sale of such vehicles shall be permitted, notwithstanding paragraph F above.

4. To the extent that either a mandatory standard promulgated by the CPSC or a voluntary standard satisfactory to the CPSC developed pursuant to paragraph L.2. permits the marketing and sale of ATVs with engine sizes greater than 90 cc for use by children 14 years old and over, the marketing and sale of such vehicles shall be permitted notwithstanding paragraph G.

M. FINAL CONSENT DECREE

The Court's approval of this final consent decree shall constitute a full settlement of the government's complaint against the defendants which have signed this decree. Upon the Court's approval of this final consent decree, the government shall dismiss its complaint without prejudice against defendants Honda Motor Co., Ltd., Honda Research & Development Co., Ltd., Yamaha Motor Co., Ltd., Suzuki Motors Co., Ltd., and Kawasaki Heavy Industries, Ltd.

N. DISCLAIMER OF LIABILITY

The parties have entered into this final consent decree for the purpose of resolving the controversy over the safety of ATVs without protracted, complex, and extremely costly litigation, the outcome of which is uncertain. In entering into this decree, defendants do not admit that ATVs are or have been unsafe or defective nor do they admit any liability for any accidents, injuries or deaths involving such vehicles. In addition,

defendants do not admit any fault, wrongdoing, or unlawful conduct with respect to any product or actions taken or any actions alleged in the complaint, including but not limited to the alleged making of false and deceptive representations and failing to provide adequate warnings and instructions.

O. STATE LEGISLATIVE INITIATIVES

There are pending in certain state legislatures proposals for the licensing and certification of ATV operators. In entering into this final consent decree, defendants agree and undertake not to oppose such pending or future state legislation to the extent that it provides for age limits for ATV operators consistent with the age recommendations specified in this decree or for the requirement of hands-on training before a certificate or license is issued.

P. CHILD-SIZED ATVS

In addition to the understandings and agreements contained in this final consent decree, the United States, through the Consumer Product Safety Commission, reserves the right to proceed separately under the Federal Hazardous Substances Act against ATVs which are, or have been, marketed for children under the age of 12, and defendants reserve the right to challenge any such proceeding.

Q. ADDITIONAL RESERVATION OF RIGHTS

The United States, through the Consumer Product Safety Commission, reserves the right to proceed administratively under Section 15 of the Consumer Product Safety Act, Section 15 of the Federal Hazardous Substances Act, or both, with respect to ATVs manufactured or distributed by defendants, if it determines,

after December 31, 1990, that a further and more extensive remedy, including recall or repurchase, is warranted.

The United States, through the Consumer Product Safety Commission, further reserves the right to initiate rulemaking proceedings under the Consumer Product Safety Act and the Federal Hazardous Substances Act with respect to possible hazards alleged to be presented by ATVs in general. It also reserves the right to initiate proceedings under the Consumer Product Safety Act, 15 U.S.C. §§ 2051, et seq., and the Federal Hazardous Substances Act, 15 U.S.C. §§ 1261, et seq., with respect to possible hazards, other than those included in the government's complaint, alleged to be presented by specific defects in individual models of ATVs.

R. MISCELLANEOUS PROVISIONS

1. Submission Of Reports: Any reports or other materials required to be submitted to the CPSC pursuant to this consent decree shall be submitted to the General Counsel. Any reports or other materials required to be submitted to the CPSC pursuant to this consent decree shall, after CPSC review and completion by the parties of any necessary final action on the matters to which the report or other material relates, be publicly available in the CPSC Public Reading Room, with copies in the CPSC regional centers, to the extent permitted by the trade secret and confidentiality provisions of Section 6(a) of the Consumer Product Safety Act, 15 U.S.C. § 2055(a), 18 U.S.C. § 1905, and 5 U.S.C. § 552(b)(4).

2. Extensions Of Time: Any defendant may request the approval of the General Counsel of the CPSC for a reasonable

extension of time to comply with any of the obligations set forth in this consent decree where, despite defendant's exercise of due diligence, unavoidable circumstances clearly warrant such an extension. The General Counsel of the CPSC shall respond promptly to any such request. Upon agreement to an extension, the Court shall be notified and the decree shall be deemed so amended without further action of the Court. After granting any extension of time that, alone or in combination with other extensions, enlarges the period of time for complying with an obligation set forth in this decree by more than six weeks, the General Counsel of the CPSC shall file a written statement of the reasons for the extension in the repository of materials described below in paragraph R.5.

3. Withdrawal From The ATV Market

a. Any defendant who withdraws from the ATV market shall be released from the provisions and requirements of this decree six months after said defendant has withdrawn all unsold ATVs from the market and said defendant's dealers, agents, or representatives have ceased all sales of new ATVs from that defendant. If, following a withdrawal from the market, a defendant commences the sale or distribution of new ATVs during the term of this decree, said defendant shall again become immediately bound by the provisions of this consent decree.

b. In the event that any defendant withdraws from the ATV market, the remaining defendants may apply to the Court for a determination as to what, if any, adjustments are appropriate with regard to the training program required by this decree and their obligations with respect to that program.

4. Confidentiality Of Materials: In connection with negotiation of this decree, the defendants have provided statements, information, and documents that contain competitively sensitive confidential commercial information. In addition, the parties have exchanged settlement materials and proposals. These documents were provided in confidence solely to facilitate said settlement negotiations. To the extent permitted by law, the United States shall invoke the protections of 5 U.S.C. § 552 (b)(4) and 15 U.S.C. § 2055, as they may apply to the aforesaid information, statements, and documents. Materials made, provided, or exchanged in confidence in the course of negotiation of the preliminary and final consent decrees are subject to all applicable rules of evidence limiting their admissibility in evidence in any other litigation, and do not constitute an admission by either party with respect to any of the issues in this case.

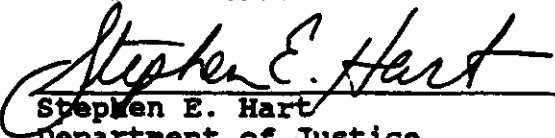
5. Repository Of Materials: Subject to subparagraph 1 of this paragraph, the CPSC shall maintain in the CPSC Public Reading Room, with copies in the CPSC regional centers, a public file of all materials submitted to it pursuant to the consent decree and all materials submitted to it by the public which relate to this final consent decree, to the extent permitted by the trade secret and confidentiality provisions of Section 6(a) of the Consumer Product Safety Act, 15 U.S.C. § 2055(a), 18 U.S.C. § 1905, and 5 U.S.C. § 552(b)(4). Each defendant shall be provided with a copy of any material related to that defendant or its products, or to ATVs in general, and provided an opportunity to comment, at least 20 days before that material is

to be made publicly available. Any comments by defendants shall be included with that material in the public file, provided, however, that any such comments that raise issues of confidentiality or trade secrets shall be treated in accordance with the CPSC's normal procedures. Without waiving any substantive rights otherwise provided by law, the provisions of this subparagraph shall apply in lieu of any otherwise applicable procedures required by Section 6(b)(6) of the Consumer Product Safety Act, 15 U.S.C. § 2055(b)(6).

S. RETENTION OF JURISDICTION

The parties agree that the District Court for the District of Columbia shall retain jurisdiction of this cause for the purpose of enabling any of the parties to this final consent decree to apply at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this final consent decree, for the modification or vacating of any provisions, for the enforcement of compliance, and for the punishment of any violation.

FOR PLAINTIFF:


Stephen E. Hart
Department of Justice
Civil Division, Room 3744
10th & Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 633-3313

4-28-88
Dated

FOR DEFENDANTS:

Howard P. Willens /ms
For American Honda Motor Co., Inc.
Howard P. Willens
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037
(202) 663-6000

4/28/88
Dated

Mark L. Gerchick /man
For Kawasaki Motors Corp., U.S.A.
Mark L. Gerchick
Paul, Hastings, Janofsky & Walker
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 223-9000

4/28/88
Dated

Harry W. Cladouhos /sf
For U.S. Suzuki Motor Corp.
Harry W. Cladouhos
Pettit & Martin
1800 Massachusetts Avenue, N.W.
Suite 600
Washington, D.C. 20036
(202) 785-5153

4/28/88
Dated

Matthew R. Schneider
For Yamaha Motor Corp., U.S.A.
Matthew R. Schneider
Willkie, Farr & Gallagher
1155 21st Street, N.W.
Suite 600
Washington, D.C. 20006
(202) 328-8000

4/28/88
Dated

SO ORDERED:

James A. Green
UNITED STATES DISTRICT JUDGE

DATED:

4/28/88

Appendix A

[General Warning Label]

▲ WARNING

THIS VEHICLE CAN BE HAZARDOUS TO OPERATE.

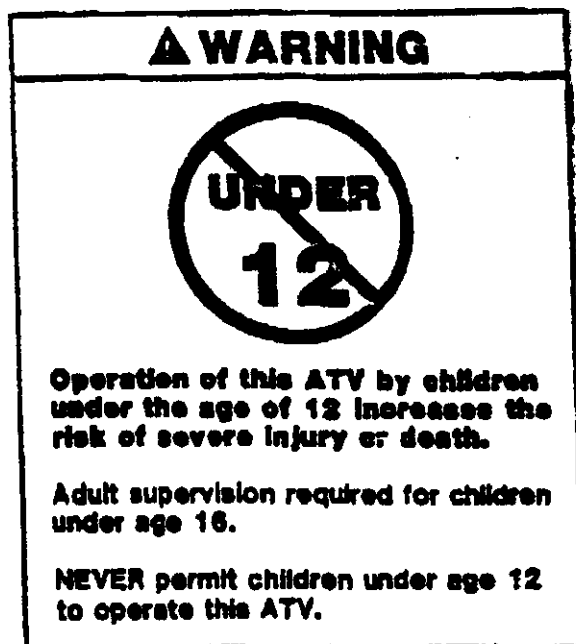
A collision or rollover can occur quickly, even during routine maneuvers such as turning and driving on hills or over obstacles, if you fail to take proper precautions.

SEVERE INJURY OR DEATH can result if you do not follow these instructions:

- **BEFORE YOU OPERATE THIS ATV, READ THE OWNER'S MANUAL AND ALL LABELS.**
- **NEVER OPERATE THIS ATV WITHOUT PROPER INSTRUCTION.** Beginners should complete a certified training course.
- **NEVER CARRY A PASSENGER.** You increase your risk of losing control if you carry a passenger.
- **NEVER OPERATE THIS ATV ON PAVED SURFACES.** You increase your risk of losing control if you operate this ATV on pavement.
- **NEVER OPERATE THIS ATV ON PUBLIC ROADS.** You can collide with another vehicle if you operate this ATV on a public road.
- **ALWAYS WEAR AN APPROVED MOTORCYCLE HELMET,** eye protection, and protective clothing.
- **NEVER CONSUME ALCOHOL OR DRUGS** before or while operating this ATV.
- **NEVER OPERATE THIS ATV AT EXCESSIVE SPEEDS.** You increase your risk of losing control if you operate this ATV at speeds too fast for the terrain, visibility conditions, or your experience.
- **NEVER ATTEMPT WHEELIES, JUMPS, OR OTHER STUNTS.**

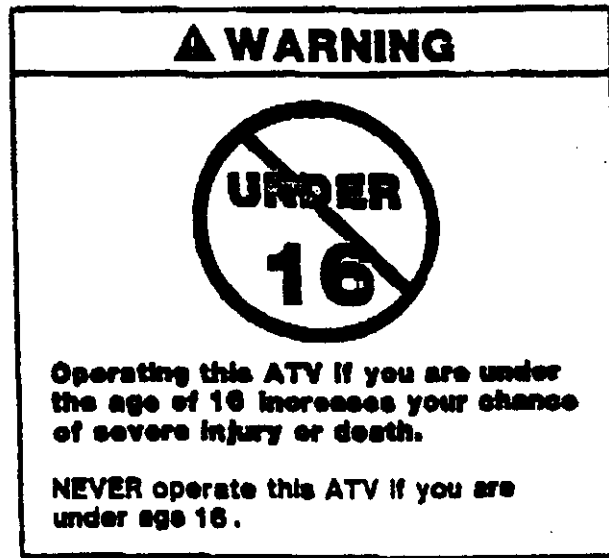
Appendix B

[Age Recommendation Warning Label (#1)]



Appendix C

[Age Recommendation Warning Label (#2)]



Appendix D

[Passenger Warning Label]

⚠ WARNING

**Riding as a passenger can cause
the ATV to go out of control.**

**Loss of control can cause a
collision or rollover, which can
result in severe injury or death.**

NEVER ride as a passenger.

Appendix E

[Envelope shall state: IMPORTANT ATV SAFETY MESSAGE]

[Company Letterhead]

IMPORTANT ATV SAFETY MESSAGE

Dear [insert company name] ATV Owner:

As part of an agreement with the United States Government, [company] has prepared two new warning labels for use on your ATV. These labels, which are enclosed with this letter, contain very important safety information about your ATV. One of the labels warns about some of the possible hazards of operating an ATV, and provides some important safety instructions to follow when operating your vehicle. The other label gives the age recommendation for your model.

[Alternative for ATV purchasers whose warranties were registered after the mailing of the Safety Alert:

As part of an agreement with the United States Government, [company] is sending you an ATV Safety Alert which warns about some of the possible hazards of operating an ATV, and provides some important safety instructions to follow when operating your vehicle.

Also as part of the agreement with the Government, [company] has prepared two new warning labels for use on your ATV. These labels, which are enclosed with this letter, contain very important safety information about your ATV. One of the labels contains operating warnings, and the other label gives the age recommendation for your model.]

Please take a moment to read each label carefully. Always follow the important safety warnings and instructions on these labels [and on the Safety Alert] when operating your ATV.

After reading the new labels, **YOU SHOULD IMMEDIATELY ATTACH THEM TO YOUR ATV** where they will serve as important safety reminders for you and anyone else who ever uses your ATV. The instructions for attaching the labels are enclosed.

[Company] has also enclosed a Manual Supplement as part of the agreement with the Government. This supplement contains important information about operating your ATV. You should review the Manual Supplement along with your existing Owner's Manual, and keep the two manuals with your ATV.

If you have sold your ATV, please mail this letter with the labels and Manual Supplement on to the buyer, if you know his or her address.

For more safety information, call the ATV distributors' Safety Hotline at 1-800-447-4700 or the Consumer Product Safety Commission at 1-800-638-2772.

Appendix F
MANUAL SUPPLEMENT

A. Cover Statement

The following, at a minimum, will appear on the outside front cover of each manual supplement:

"Read this manual supplement carefully. It contains important safety information."

B. Introduction

The following will appear on the first page of each manual supplement:

"YOUR ATV CAN BE HAZARDOUS TO OPERATE. A collision or rollover can occur quickly, even during routine maneuvers such as turning and driving on hills or over obstacles, if you fail to take proper precautions.

For your safety, understand and follow all the warnings contained in this Manual Supplement as well as those contained in the Owner's Manual and the labels on your vehicle. Failure to follow these warnings can result in SEVERE INJURY OR DEATH.

Keep the Manual Supplement and the Owner's Manual with your vehicle at all times."

C. Warning Statements

The warning statements attached shall appear in each manual supplement in the order shown.

Attachment to Appendix F

No. 1

! WARNING

POTENTIAL HAZARD

Operating this ATV without proper instruction.

WHAT CAN HAPPEN

The risk of an accident is greatly increased if the operator does not know how to operate the ATV properly in different situations and on different types of terrain.

HOW TO AVOID THE HAZARD

Beginning and inexperienced operators should complete the certified training course offered by (ATV Company). They should then regularly practice the skills learned in the course and the operating techniques described in the Owner's Manual.

For more information about the training course, contact an authorized ATV dealer or call 1-800-447-4700.

No. 2

! WARNING

POTENTIAL HAZARD

Failure to follow the age recommendations for this ATV.
Failure to supervise children under 16 on ATV models intended for their use.

WHAT CAN HAPPEN

Use by children of ATVs that are not recommended for their age can lead to severe injury or death of the child.

Even though a child may be within the age group for which an ATV is recommended, he or she may not have the skills, abilities, or judgment needed to operate the ATV safely and may be involved in a serious accident.

HOW TO AVOID THE HAZARD

A child under 16 should never operate an ATV with engine size greater than 90 cc.

A child under 12 should never operate an ATV with engine size 70 cc through 90 cc. Never allow a child under age 16 to operate an ATV without adult supervision and never allow continued use of the ATV by a child if he or she does not have the abilities to operate it safely.

No. 3

! WARNING

[illustration]

POTENTIAL HAZARD

Carrying a passenger on this ATV.

WHAT CAN HAPPEN

Greatly reduces your ability to balance and control this ATV.

Could cause an accident, resulting in harm to you and/or your passenger.

HOW TO AVOID THE HAZARD

Never carry a passenger. The long seat is to allow the operator to shift position as needed during operation. It is not for carrying passengers.

No. 4

! WARNING

[illustration]

POTENTIAL HAZARD

Operating this ATV on paved surfaces.

WHAT CAN HAPPEN

The ATV's tires are designed for off-road use only, not for use on pavement. Paved surfaces may seriously affect handling and control of the ATV, and may cause the vehicle to go out of control.

HOW TO AVOID THE HAZARD

Never operate the ATV on any paved surfaces, including sidewalks, driveways, parking lots and streets.

No. 5

! WARNING

[illustration]

POTENTIAL HAZARD

Operating this ATV on public streets, roads or highways.

WHAT CAN HAPPEN

You can collide with another vehicle.

HOW TO AVOID THE HAZARD

Never operate this ATV on any public street, road or highway, even a dirt or gravel one.

In many states it is illegal to operate ATVs on public streets, roads and highways.

No. 6

! WARNING

[illustration]

POTENTIAL HAZARD

Operating this ATV without wearing an approved motorcycle helmet, eye protection and protective clothing.

WHAT CAN HAPPEN

Operating without an approved motorcycle helmet increases your chances of a severe head injury or death in the event of an accident.

Operating without eye protection can result in an accident and increases your chances of a severe injury in the event of an accident.

Operating without protective clothing increases your chances of severe injury in the event of an accident.

HOW TO AVOID THE HAZARD

Always wear an approved motorcycle helmet that fits properly.

You should also wear:

- eye protection (goggles or face shield)
- gloves
- boots
- long-sleeved shirt or jacket
- long pants.

No. 7

! WARNING

POTENTIAL HAZARD

Operating this ATV after consuming alcohol or drugs.

WHAT CAN HAPPEN

Could seriously affect your judgment.

Could cause you to react more slowly.

Could affect your balance and perception.

Could result in an accident.

HOW TO AVOID THE HAZARD

Never consume alcohol or drugs before or while driving this ATV.

No. 8

! WARNING

POTENTIAL HAZARD

Operating this ATV at excessive speeds.

WHAT CAN HAPPEN

Increases your chances of losing control of the ATV, which can result in an accident.

HOW TO AVOID THE HAZARD

Always go at a speed that is proper for the terrain, visibility and operating conditions, and your experience.

No. 9

! WARNING

[illustration]

POTENTIAL HAZARD

Attempting wheelies, jumps, and other stunts.

WHAT CAN HAPPEN

Increases the chance of an accident, including an overturn.

HOW TO AVOID THE HAZARD

Never attempt stunts, such as wheelies or jumps. Don't try to show off.

No. 10

! WARNING

POTENTIAL HAZARD

Failure to inspect the ATV before operating.
Failure to properly maintain the ATV.

WHAT CAN HAPPEN

Increases the possibility of an accident or equipment damage.

HOW TO AVOID THE HAZARD

Always inspect your ATV each time you use it to make sure the ATV is in safe operating condition.

Always follow the inspection and maintenance procedures and schedules described in the Owner's Manual.

No. 11

! WARNING

POTENTIAL HAZARD

Removing hands from handlebars or feet from footpegs during operation.

WHAT CAN HAPPEN

Removing even one hand or foot can reduce your ability to control the ATV or could cause you to lose your balance and fall off of the ATV. If you remove a foot from a footpeg, your foot or leg may come into contact with the rear wheels, which could injure you or cause an accident.

HOW TO AVOID THE HAZARD

Always keep both hands on the handlebars and both feet on the footpegs of your ATV during operation.

No. 12

! WARNING

[illustration]

POTENTIAL HAZARD

Failure to use extra care when operating this ATV on unfamiliar terrain.

WHAT CAN HAPPEN

You can come upon hidden rocks, bumps, or holes, without enough time to react.

Could result in the ATV overturning or going out of control.

HOW TO AVOID THE HAZARD

Go slowly and be extra careful when operating on unfamiliar terrain.

Always be alert to changing terrain conditions when operating the ATV.

No. 13

! WARNING

[illustration]

POTENTIAL HAZARD

Failure to use extra care when operating on excessively rough, slippery or loose terrain.

WHAT CAN HAPPEN

Could cause loss of traction or vehicle control, which could result in an accident, including an overturn.

HOW TO AVOID THE HAZARD

Do not operate on excessively rough, slippery or loose terrain until you have learned and practiced the skills necessary to control the ATV on such terrain.

Always be especially cautious on these kinds of terrain.

No. 14

! WARNING

POTENTIAL HAZARD

Turning improperly.

WHAT CAN HAPPEN

ATV could go out of control, causing a collision or overturn.

HOW TO AVOID THE HAZARD

Always follow proper procedures for turning as described in the Owner's Manual.

Practice turning at low speeds before attempting to turn at faster speeds.

Do not turn at excessive speed.

No. 15

! WARNING

POTENTIAL HAZARD

Operating on excessively steep hills.

WHAT CAN HAPPEN

The vehicle can overturn more easily on extremely steep hills than on level surfaces or small hills.

HOW TO AVOID THE HAZARD

Never operate the ATV on hills too steep for the ATV or for your abilities.

Practice on smaller hills before attempting larger hills.

No. 16

! WARNING

[illustration]

POTENTIAL HAZARD

Climbing hills improperly.

WHAT CAN HAPPEN

Could cause loss of control or cause ATV to overturn.

HOW TO AVOID THE HAZARD

Always follow proper procedures for climbing hills as described in the Owner's Manual.

Always check the terrain carefully before you start up any hill.

Never climb hills with excessively slippery or loose surfaces.

Shift your weight forward.

Never open the throttle suddenly or make sudden gear changes. The ATV could flip over backwards.

Never go over the top of any hill at high speed. An obstacle, a sharp drop, or another vehicle or person could be on the other side of the hill.

No. 17

! WARNING

[illustration]

POTENTIAL HAZARD

Going down a hill improperly.

WHAT CAN HAPPEN

Could cause loss of control or cause ATV to overturn.

HOW TO AVOID THE HAZARD

Always follow proper procedures for going down hills as described in the Owner's Manual. Note: a special technique is required when braking as you go down a hill.

Always check the terrain carefully before you start down any hill.

Shift your weight backward.

Never go down a hill at high speed.

Avoid going down a hill at an angle that would cause the vehicle to lean sharply to one side. Go straight down the hill where possible.

! WARNING

[illustration]

POTENTIAL HAZARD

Improperly crossing hills or turning on hills.

WHAT CAN HAPPEN

Could cause loss of control or cause ATV to overturn.

HOW TO AVOID THE HAZARD

Never attempt to turn the ATV around on any hill until you have mastered the turning technique as described in the Owner's Manual on level ground. Be very careful when turning on any hill.

Avoid crossing the side of a steep hill if possible.

When crossing the side of a hill:

Always follow proper procedures as described in the Owner's Manual.

Avoid hills with excessively slippery or loose surfaces.

Shift your weight to the uphill side of the ATV.

No. 19

! WARNING

[illustration]

POTENTIAL HAZARD

Stalling, rolling backwards or improperly dismounting while climbing a hill.

WHAT CAN HAPPEN

Could result in ATV overturning.

HOW TO AVOID THE HAZARD

Use proper gear and maintain steady speed when climbing a hill.

If you lose all forward speed:

Keep weight uphill.

Apply the brakes.

Lock parking brake, after you are stopped.

If you begin rolling backwards:

Keep weight uphill.

Never apply the rear brake while rolling backwards.

Apply the front brake.*

When fully stopped, apply rear brake as well, and then lock parking brake.

Dismount on uphill side or to a side if pointed straight uphill.

Turn the ATV around and remount, following the procedure described in the Owner's Manual.

*to be further amplified by
companies which have models without
a front brake or with single-lever
brakes.

No. 20

! WARNING

POTENTIAL HAZARD

Improperly operating over obstacles.

WHAT CAN HAPPEN

Could cause loss of control or a collision. Could cause the ATV to overturn.

HOW TO AVOID THE HAZARD

Before operating in a new area, check for obstacles.

Never attempt to ride over large obstacles, such as large rocks or fallen trees.

When you go over obstacles, always follow proper procedures as described in the Owner's Manual.

No. 21

! WARNING

POTENTIAL HAZARD

Skidding or sliding improperly.

WHAT CAN HAPPEN

You may lose control of this ATV.

You may also regain traction unexpectedly, which may cause the ATV to overturn.

HOW TO AVOID THE HAZARD

Learn to safely control skidding or sliding by practicing at low speeds and on level, smooth terrain.

On extremely slippery surfaces, such as ice, go slowly and be very cautious in order to reduce the chance of skidding or sliding out of control.

No. 22

! WARNING

POTENTIAL HAZARD

Operating this ATV through deep or fast flowing water.

WHAT CAN HAPPEN

Tires may float, causing loss of traction and loss of control, which could lead to an accident.

HOW TO AVOID THE HAZARD

Never operate this ATV in fast flowing water or in water deeper than that specified in your Owner's Manual.

Remember that wet brakes may have reduced stopping ability. Test your brakes after leaving water. If necessary, apply them several times to let friction dry out the linings.

No. 23

! WARNING

POTENTIAL HAZARD

Improperly operating in reverse.

WHAT CAN HAPPEN

You could hit an obstacle or person behind you, resulting in serious injury.

HOW TO AVOID THE HAZARD

When you select reverse gear, make sure there are no obstacles or people behind you. When it is safe to proceed, go slowly.

No. 24

! WARNING

POTENTIAL HAZARD

Operating this ATV with improper tires, or with improper or uneven tire pressure.

WHAT CAN HAPPEN

Use of improper tires on this ATV, or operation of this ATV with improper or uneven tire pressure, may cause loss of control, increasing your risk of an accident.

HOW TO AVOID THE HAZARD

Always use the size and type tires specified in the Owner's Manual for this vehicle.

Always maintain proper tire pressure as described in the Owner's Manual.

No. 25

! WARNING

POTENTIAL HAZARD

Operating this ATV with improper modifications.

WHAT CAN HAPPEN

Improper installation of accessories or modification of this vehicle may cause changes in handling which in some situations could lead to an accident.

HOW TO AVOID THE HAZARD

Never modify this ATV through improper installation or use of accessories. All parts and accessories added to this vehicle should be genuine (ATV Company) or equivalent components designed for use on this ATV and should be installed and used according to instructions. If you have questions, consult an authorized ATV dealer.

No. 26

! WARNING

POTENTIAL HAZARD

Overloading this ATV or carrying or towing cargo improperly.

WHAT CAN HAPPEN

Could cause changes in vehicle handling which could lead to an accident.

HOW TO AVOID THE HAZARD

Never exceed the stated load capacity for this ATV.

Cargo should be properly distributed and securely attached.

Reduce speed when carrying cargo or pulling a trailer. Allow greater distance for braking.

Always follow the instructions in your Owner's Manual for carrying cargo or pulling a trailer.

Appendix G

AN ATV IS NOT A TOY AND CAN BE HAZARDOUS TO OPERATE. An ATV handles differently from other vehicles including motorcycles and cars. A collision or rollover can occur quickly, even during routine maneuvers such as turning and driving on hills or over obstacles, if you fail to take proper precautions.

SEVERE INJURY OR DEATH can result if you do not follow these instructions:

- o Read this manual and all labels carefully and follow the operating procedures described.
- o Never operate an ATV without proper instruction. Take a training course. Beginners should receive training from a certified instructor. Contact an authorized ATV dealer or call 1-800-447-4700 to find out about the training courses nearest you.
- o Always follow these age recommendations:
 - A child under 12 years old should never operate an ATV with engine size 70 cc or greater.
 - A child under 16 years old should never operate an ATV with engine size greater than 90 cc.
- o Never allow a child under age 16 to operate an ATV without adult supervision, and never allow continued use of an ATV by a child if he or she does not have the abilities to operate it safely.
- o Never carry a passenger on an ATV.
- o Never operate an ATV on any paved surfaces, including sidewalks, driveways, parking lots and streets.
- o Never operate an ATV on any public street, road or highway, even a dirt or gravel one.
- o Never operate an ATV without wearing an approved motorcycle helmet that fits properly. You should also wear eye protection (goggles or face shield), gloves, boots, long-sleeved shirt or jacket, and long pants.
- o Never consume alcohol or drugs before or while operating this ATV.

- o Never operate at excessive speeds. Always go at a speed that is proper for the terrain, visibility and operating conditions, and your experience.
- o Never attempt wheelies, jumps, or other stunts.
- o Always inspect your ATV each time you use it to make sure it is in safe operating condition. Always follow the inspection and maintenance procedures and schedules described in this manual.
- o Always keep both hands on the handlebars and both feet on the footpegs of the ATV during operation.
- o Always go slowly and be extra careful when operating on unfamiliar terrain. Always be alert to changing terrain conditions when operating the ATV.
- o Never operate on excessively rough, slippery or loose terrain until you have learned and practiced the skills necessary to control the ATV on such terrain. Always be especially cautious on these kinds of terrain.
- o Always follow proper procedures for turning as described in this manual. Practice turning at low speeds before attempting to turn at faster speeds. Do not turn at excessive speed.
- o Never operate the ATV on hills too steep for the ATV or for your abilities. Practice on smaller hills before attempting larger hills.
- o Always follow proper procedures for climbing hills as described in this manual. Check the terrain carefully before you start up any hill. Never climb hills with excessively slippery or loose surfaces. Shift your weight forward. Never open the throttle suddenly or make sudden gear changes. Never go over the top of any hill at high speed.
- o Always follow proper procedures for going down hills and for braking on hills as described in this manual. Check the terrain carefully before you start down any hill. Shift your weight backward. Never go down a hill at high speed. Avoid going down a hill at an angle that would cause the vehicle to lean sharply to one side. Go straight down the hill where possible.

- o Always follow proper procedures for crossing the side of a hill as described in this manual. Avoid hills with excessively slippery or loose surfaces. Shift your weight to the uphill side of the ATV. Never attempt to turn the ATV around on any hill until you have mastered the turning technique described in this manual on level ground. Avoid crossing the side of a steep hill if possible.
- o Always use proper procedures if you stall or roll backwards when climbing a hill. To avoid stalling, use proper gear and maintain a steady speed when climbing a hill. If you stall or roll backwards, follow the special procedure for braking described in this manual. Dismount on the uphill side or to a side if pointed straight uphill. Turn the ATV around and remount, following the procedure described in this manual.
- o Always check for obstacles before operating in a new area. Never attempt to operate over large obstacles, such as large rocks or fallen trees. Always follow proper procedures when operating over obstacles as described in this manual.
- o Always be careful when skidding or sliding. Learn to safely control skidding or sliding by practicing at low speeds and on level, smooth terrain. On extremely slippery surfaces, such as ice, go slowly and be very cautious in order to reduce the chance of skidding or sliding out of control.
- o Never operate an ATV in fast flowing water or in water deeper than that specified in this manual. Remember that wet brakes may have reduced stopping ability. Test your brakes after leaving water. If necessary, apply them several times to let friction dry out the linings.
- o Always be sure there are no obstacles or people behind you when you operate in reverse. When it is safe to proceed in reverse, go slowly.

- o Always use the size and type tires specified in this manual. Always maintain proper tire pressure as described in this manual.
- o Never modify an ATV through improper installation or use of accessories.
- o Never exceed the stated load capacity for an ATV. Cargo should be properly distributed and securely attached. Reduce speed and follow instructions in this manual for carrying cargo or pulling a trailer. Allow greater distance for braking.

FOR MORE INFORMATION ABOUT ATV SAFETY, call the Consumer Product Safety Commission at 1-800-638-2772, or the ATV Distributors' Safety Hotline at 1-800-447-4700.

Appendix H

GUIDELINES FOR WARNING AND CAUTION STATEMENTS IN OWNER'S MANUALS

I. SCOPE

For purposes of these Guidelines, the term "warning" shall refer to a statement about a potential hazard which could result in a serious injury or death, and the term "caution" shall refer to a statement about a potential hazard which may result in minor or moderate personal injury or in damage to the ATV.

II. MANDATORY WARNINGS

The warnings to be contained in each owner's manual pursuant to paragraph H.2.b.(2) of the final consent decree shall conform to the following requirements:

A. Content: The warnings shall have, at a minimum, substantially the same content as the warnings and corresponding illustrations contained in the manual supplement described at paragraph H.2.a of the final consent decree, with the exception that the headings of the warnings ("POTENTIAL HAZARD," "WHAT CAN HAPPEN," "HOW TO AVOID THE HAZARD") may be omitted.

B. Format

1. The SAE safety alert symbol shall precede the signal word on a single line, which shall be separated from the text by a horizontal line;

2. The warning or caution statement -- including all elements except any illustration -- shall be completely framed with a margin of white space inside a black line forming a rectangle, so as to isolate the statement from the narrative text of the manual;

3. The hazard statement shall appear first in the text of the warning or caution, followed by the consequences statement, and concluded by the avoidance statement; and

4. A line of space shall separate the hazard statement from the consequence statement. A line of space shall separate the consequence statement from the avoidance statement.

C. Color Scheme And Letter Typeface: The warnings shall comply with the color scheme and letter typeface requirements for the warnings contained in the manual supplement.

D. Letter Size: The size of the safety alert symbol and signal word shall be 50% greater than the size of the typeface of the text of the warning.

E. Placement

1. Each warning shall be placed such that it clearly relates to the relevant narrative text.

2. Each warning shall be placed such that it appears entirely on a single page. No warning shall be split between two pages; and

3. Corresponding illustrations shall appear adjacent to the warning, on the same page or on the facing page.

III. DISCRETIONARY WARNING AND CAUTION STATEMENTS

A. Content

Any "warning" included in a manual, other than the mandatory warnings, and any "caution," other than a "caution"

that relates principally to damage to the vehicle, included in a manual shall contain the following elements:

1. The Society of Automotive Engineers (SAE) safety alert symbol and the signal word "WARNING" or "CAUTION" in capital letters;
2. A concise, unambiguous narrative statement of the potential hazard being warned about ("the hazard statement");
3. A concise, unambiguous narrative description of the consequences if the potential hazard is encountered ("the consequence statement");
4. A concise, unambiguous narrative description of what to do to avoid the potential hazard ("the avoidance statement");
5. Where a potential hazard has more than one consequence, the warning shall include, for each consequence, a description of the consequence, immediately followed by a description of what to do to avoid the potential hazard.

B. Readability Level: To the extent feasible, each "warning" and "caution" shall be written in plain, simple terms so as to be readily comprehended by the average seventh grader, as measured by a standard technique for assessing the readability of written materials.

C. Format

1. The SAE safety alert symbol shall precede the signal word on a single line, which shall be separated from the text by a horizontal line;
2. The warning or caution statement -- including all elements -- shall be completely framed with a margin of white space inside a black line forming a rectangle, so as to isolate the statement from the narrative text of the manual; and

3. The hazard statement shall appear first in the text of the warning or caution, followed by the consequences statement, and concluded by the avoidance statement.

D. Color Scheme

1. Warning Statements

a. The SAE safety alert symbol and signal word shall be on a black background; the signal word shall be in white lettering; the SAE safety alert symbol shall be a white triangle (point up) with a black exclamation mark;

b. The text of the warnings shall be printed in black ink on white paper.

2. Caution Statements

a. The SAE safety alert symbol and signal word shall be on a white background; the signal word shall be in black lettering; the SAE safety alert symbol shall be a black triangle (point up) with a white exclamation mark;

b. The text of the caution statement shall be printed in black ink on white paper.

E. Letter Typeface And Size

1. The typeface of the text of the warning or caution shall in no event be script, but shall be either Helvetica Bold or New Gothic Bold type font, or a substantially similar font;

2. The typeface shall be bold face sans serif;

3. The size of the safety alert symbol and signal word shall be 50% greater than the size of the typeface of the text of the warning or caution.

F. Placement

1. Each warning or caution shall be placed such that it clearly relates to the relevant narrative text;

2. Each warning or caution shall be placed such that it appears entirely on a single page. No warning or caution shall be split between two pages; and

3. Any photograph, sketch or pictograph that illustrates a warning or caution shall appear adjacent to the warning or caution, on the same page or on the facing page.

G. Illustrations Of Hazards

1. Where a person is depicted operating an ATV, the person shall be shown wearing an approved motorcycle helmet, eye protection, gloves, boots, long trousers and a long-sleeved shirt or jacket.

2. For manuals for adult-sized ATVs, where a person is depicted, the person shall not appear to be younger than 16 years old.

3. For manuals for child-sized ATVs, where a person is depicted, the person shall not appear to be younger than the recommended age for that ATV.

4. Any photograph, sketch or pictograph that illustrates an inappropriate practice or hazardous condition shall clearly indicate, with a diagonal slash or otherwise, that the practice or condition is inappropriate or hazardous.

Appendix I

GUIDELINES FOR POINT-OF-PURCHASE SAFETY MATERIALS

I. SCOPE

These guidelines shall apply to all point-of-purchase safety materials as defined in paragraph H.3.b.(1) of the final consent decree including, but not limited to, all printed materials (such as hang tags, posters, brochures, and retail display items) and all communications via the electronic media (such as videos).

II. GUIDELINES

A. General Provisions

1. Point-of-purchase safety materials shall not be inconsistent with other safety-related messages disseminated by defendants, including those contained in warning labels, owners' manuals, advertising and promotional materials, and the ATV Safety Alert.

2. Point-of Purchase safety materials that describe operating or practice techniques shall not be inconsistent with the curriculum of the training program described at paragraph K.2 of the final consent decree.

3. Point-of-purchase safety materials shall represent affirmatively the age recommendations applicable to any ATV model depicted or specifically referred to, or that is part of a class or group of ATV models referred to, in the materials.

4. Subject to the following exceptions, point-of-purchase safety materials shall be consistent with the Visual and Copy Guidelines for Advertising and Promotional Materials at Section II of Appendix K.

a. Notwithstanding Section II A.2., point-of-purchase safety materials may portray a use or activity that requires substantial experience or advanced skills, so long as, in conjunction with any such description or depiction, such materials state that the use or activity requires substantial experience or advanced skills.

b. Notwithstanding Section II. D. 3. and 4. and Section II.I, point-of-purchase safety materials may describe inappropriate behavior, so long as, in conjunction with any such description or depiction, such materials (i) state that inappropriate behavior is being depicted; and (ii) describe or depict the appropriate behavior.

5. To the extent feasible, point-of-purchase safety materials shall be written or stated in plain, simple language so as to be readily comprehended by the average seventh grader, as measured by a standard technique for assessing the readability of written materials.

6. When discussed in any point-of-purchase safety materials, other than hang tags, the ATV Safety Alert, and the safety poster, certain messages from the general warning label described at paragraph I.1.a.(1)(a) of the final consent decree shall be further explained as set forth below and in the following order:

a. The importance of carefully reading the owner's manual and all labels before operating, and the

importance of heeding all warnings and instructions contained in those materials.

b. Proper instruction and practice are important because ATVs handle differently from other vehicles such as motorcycles and cars.

c. Information about the availability of the training course described in paragraph K of the final consent decree, including information about who is eligible to take the course at no additional charge and information about the incentive offered.

7. Any point-of-purchase safety materials specifically concerning ATVs with engine size 90 cc or less shall communicate the following message:

Even though a child is of the recommended age to operate a particular size ATV, not all children have the strength, skills or judgment needed to operate an ATV safely, and parents should, therefore, supervise their child's operation of the ATV at all times and should permit continued use only if they determine that their child has the ability and judgment to operate the ATV safely.

B. Hang Tags: Hang tags shall conform to the following criteria:

1. Size: Every hang tag shall be at least 4 by 6 inches.

2. Content: At a minimum, every hang tag shall contain the following:

a. The contents of the general warning label described at paragraph H.1.a.(1)(a) of the final consent decree, with the further explanation set forth at paragraph II.A.7. of these Guidelines, if applicable.

b. The following statement --

"This hang tag is not to be removed before sale."

c. The following statement --

"Check with your dealer to find out about state or local laws regarding ATV operation."

d. The hang tag for every adult-sized ATV intended for operators 16 years and older who have advanced skills and substantial experience shall contain a statement to that effect.

e. The hang tag for every adult-sized ATV intended for sport or competition shall contain a statement to that effect.

3. Attachment: Every hang tag shall be attached to the ATV in such a manner as to be conspicuous and removable only with deliberate effort.

C. Safety Video: The safety video shall conform to the following criteria:

1. General Design: The safety video shall be designed to communicate to an audience consisting of prospective ATV purchasers and users, including children between the ages of 12 and 16 and their parents.

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

3. Content: The safety video shall communicate the following:

a. The contents of general hazard warning label described at paragraph H.1.a.(1)(a) of the final consent decree, with the messages further explaining the label as set forth at paragraph II.A.6. of these Guidelines.

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 operating on the terrain is beyond that person's 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 a brief distraction can lead to loss of control resulting in a fatal or severe accident.

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

a. In the case of dramatizations 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 dramatizations 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.

Appendix J

[Company letterhead or logo]

A T V S A F E T Y A L E R T

The Consumer Product Safety Commission has concluded that ALL-TERRAIN VEHICLES (ATVs) may present a risk of DEATH or SEVERE INJURY in certain circumstances. While accidents may occur for many reasons:

- *** Over _____ people, including many children, have died in accidents associated with ATVs since [five years prior to publication].
- *** Many people have become severely paralyzed or suffered severe internal injuries as a result of accidents associated with ATVs.
- *** Every month thousands of people are treated in hospital emergency rooms for injuries received while riding an ATV.

You should be aware that AN ATV IS NOT A TOY AND CAN BE HAZARDOUS TO OPERATE. An ATV handles differently from other vehicles, including motorcycles and cars. A collision or rollover can occur quickly, even during routine maneuvers such as turning and driving on hills and over obstacles, if you fail to take proper precautions.

TO AVOID DEATH OR SEVERE PERSONAL INJURY:

- o ALWAYS READ THE OWNER'S MANUAL CAREFULLY AND FOLLOW THE OPERATING PROCEDURES DESCRIBED. PAY SPECIAL ATTENTION TO THE WARNINGS CONTAINED IN THE MANUAL AND ON ALL LABELS.
- o NEVER OPERATE AN ATV WITHOUT PROPER INSTRUCTION. TAKE A TRAINING COURSE. BEGINNERS SHOULD COMPLETE THE TRAINING COURSE DESCRIBED BELOW.
- o ALWAYS FOLLOW THESE AGE RECOMMENDATIONS:
 - A CHILD UNDER 12 YEARS OLD SHOULD NEVER OPERATE AN ATV WITH ENGINE SIZE 70 CC OR GREATER.
 - A CHILD UNDER 16 YEARS OLD SHOULD NEVER OPERATE AN ATV WITH ENGINE SIZE GREATER THAN 90 CC.

- NEVER ALLOW A CHILD UNDER 16 YEARS OLD TO OPERATE AN ATV WITHOUT ADULT SUPERVISION. CHILDREN NEED TO BE OBSERVED CAREFULLY BECAUSE NOT ALL CHILDREN HAVE THE STRENGTH, SIZE, SKILLS OR JUDGMENT NEEDED TO OPERATE AN ATV SAFELY.
- NEVER CARRY A PASSENGER ON AN ATV. CARRYING A PASSENGER MAY UPSET THE BALANCE OF THE ATV AND MAY CAUSE IT TO GO OUT OF CONTROL.
- NEVER OPERATE AN ATV ON PAVEMENT. THE VEHICLE IS NOT DESIGNED TO BE USED ON PAVED SURFACES AND MAY BE DIFFICULT TO CONTROL.
- NEVER OPERATE AN ATV ON A PUBLIC ROAD, EVEN A DIRT OR GRAVEL ONE, BECAUSE YOU MAY NOT BE ABLE TO AVOID COLLIDING WITH OTHER VEHICLES. ALSO, OPERATING AN ATV ON A PUBLIC ROAD MAY BE AGAINST THE LAW.
- NEVER OPERATE AN ATV WITHOUT AN APPROVED MOTORCYCLE HELMET, EYE PROTECTION, BOOTS, GLOVES, LONG PANTS AND A LONG-SLEEVED SHIRT OR JACKET.
- NEVER CONSUME ALCOHOL OR DRUGS BEFORE OR WHILE OPERATING AN ATV.
- NEVER OPERATE AN ATV AT EXCESSIVE SPEEDS. GO AT A SPEED WHICH IS PROPER FOR THE TERRAIN, VISIBILITY CONDITIONS, AND YOUR EXPERIENCE.
- NEVER ATTEMPT TO DO WHEELIES, JUMPS OR OTHER STUNTS.
- ALWAYS BE CAREFUL WHEN OPERATING AN ATV, ESPECIALLY WHEN APPROACHING HILLS, TURNS, AND OBSTACLES AND WHEN OPERATING ON UNFAMILIAR OR ROUGH TERRAIN.
- NEVER LEND YOUR ATV TO ANYONE WHO HAS NOT TAKEN A TRAINING COURSE OR HAS NOT BEEN DRIVING AN ATV FOR AT LEAST A YEAR.

TRAINING COURSE

Anyone who purchased a new ATV after December 30, 1986, and everyone in the purchaser's immediate family who is within the recommended age group for the ATV purchased, is entitled to take a training course at no additional charge. Others can take the training course for a small fee. Individuals who purchased a new ATV after _____, 1988, will be entitled to a \$ 100 U.S. Savings Bond [or] [,] \$ 50 cash [or a merchandise certificate] upon completing the course. Limit one rebate per ATV purchased. Ask an authorized dealer for the details or call 1-800-447-4700 for training information.

FOR MORE INFORMATION ABOUT ATV SAFETY, CALL THE CONSUMER PRODUCT SAFETY COMMISSION AT 1-800-638-2772, OR THE ATV DISTRIBUTORS' SAFETY HOTLINE AT 1-800-447-4700.

Appendix K

GUIDELINES FOR ADVERTISING AND PROMOTIONAL MATERIALS

I. SCOPE

These guidelines shall apply to all promotional communications to consumers to promote the sale of all-terrain vehicles ("ATVs"), including promotion in electronic media (e.g., television, video and radio) and in print (e.g., magazines, newspaper, posters, brochures, billboards and mail).

II. VISUAL AND COPY GUIDELINES

The visual presentation and written and spoken content of all advertising shall conform to the following guidelines:

A. General provisions

1. Advertisements shall not appear in magazines designated by Standard Rate and Data Service, Inc. as youth, children's or comics and comic techniques magazines or within or adjacent to (i.e., immediately preceding or following) any television program whose audience is projected to be composed of one third or more of children less than 16 years old.
2. Advertisements shall not portray a use or activity that requires substantial experience or advanced skills, except as provided in paragraphs II.H.4 and 5.
3. Advertisements shall not represent, directly or by implication, that a use of an ATV which is not possible is in fact possible.
4. Advertisements shall be consistent with all safety messages, including those in warning labels, hanging tags, owners' manuals, and the "ATV Safety Alert."

- B. Stability: Advertisements shall not state, directly or by implication, that ATVs are stable or steady in all or almost all operational modes or on all or almost all surfaces. This shall not prohibit comparative statements that, based on actual tests or documentation, specific mechanical features make an ATV model demonstrably more stable in operation than other ATV models. This also shall not prohibit accurate statements concerning traction on specific types of terrain.

C. Necessary skills/training

1. Advertisements shall not state, directly or by implication, that ATVs are easy or simple to ride or maneuver or that ATVs can be operated without proper training. This specifically prohibits stating, directly or by implication, that an ATV is a toy. This shall not prohibit statements that specific controls are themselves easy to operate or that specific features are designed for improved operation. For example, statements that "an electric starter makes the vehicle easy to start" are permissible, while statements that the vehicle is easy to ride, or that a novice can simply get on the vehicle and operate it without proper instruction are prohibited.
2. Advertisements shall not depict the operation of ATVs in a manner that is inconsistent with the recommendation for training. For example, if an advertisement depicts an operator being introduced to the controls, the driver shall be depicted on flat terrain free of obstacles and shall not be shown doing turns, except gradual turns.

D. Terrain:

1. Advertisements shall not state, directly or by implication, that ATVs are able to go anywhere or that they have an unlimited or almost unlimited ability to operate on different kinds of terrain. This does not require that any names used to refer to ATVs be changed.
2. Difficult terrain
 - a. Advertisements shall not state, directly or by implication, that an operator may safely negotiate difficult terrain, such as steep hills or hills with bumpy or slippery surfaces, without substantial experience or advanced skills.
 - b. Advertisements shall not depict operators traversing slopes other than gradual slopes, or negotiating steep hills, hills with large bumps or ruts, or with slippery surfaces where the vehicle's traction may be impaired, or other difficult terrain.

3. Off-road use:

- a. Advertisements shall not state, directly or by implication, that it is safe or appropriate to operate an ATV on pavement, roads, streets, or highways.
 - b. Depictions of ATV use shall be limited to trails and other proper riding areas. Advertisements shall not show ATV use on pavement, roads, streets, highways or any area that appears to be paved or to be a public road, street or highway.
4. Advertisements shall not depict an ATV driving through water deeper than the recommended limits for that model and may only depict an ATV crossing water at a slow speed.

E. Age Recommendations:

1. Except for advertisements described in paragraphs III.A.1. and III.A.2.b. and c., advertisements must state the age recommendations applicable to any ATV model that the advertisement depicts or refers to specifically, or that is part of a class or group of ATV models referred to in the advertisement.
 - a. ATVs with engine sizes of 70 cubic centimeter displacement ("cc") up to and including 90 cc may be used only by those aged 12 and older.
 - b. ATVs with engine sizes of greater than 90 cc may be used only by those aged 16 and older.
3. Advertisements shall not state, directly or by implication, that persons who do not meet the applicable age recommendations may or should operate an ATV. For example, this prohibits assertions that ATVs are appropriate for use by everyone, by everyone in the family, or by persons of all ages.

F. Use of children in advertisements:

1. Except as provided in paragraphs II.F.2., all operators and potential operators in all other advertisements must be and appear to be at least 16 years old.

2. Magazine and newspaper advertisements appearing after the end of the public awareness campaign (June 1989) and advertisements used or distributed at the point of purchase may depict operators who are less than 16 years old provided they meet and appear to meet the age recommendations for the ATVs advertised:

- (1) Operators of ATVs with engine sizes of 70 cubic centimeter displacement ("cc") up to and including 90 cc must be and must appear to be at least 12 years old.
- (2) Operators of ATVs with engine sizes greater than 90 cc must be and must appear to be at least 16 years old.

G. Adult Supervision:

1. Any advertisement depicting a child who is or appears to be less than 16 years old, in accordance with paragraph II.F.2., operating an ATV must also depict an adult clearly supervising the child.
2. Except for advertisements described in paragraphs III.A.1. and 2., any advertisement that depicts or refers to (specifically or as part of a class of ATV models) an ATV model which, in accordance with applicable age recommendations, may be operated by a person less than 16 years of age, must state that persons less than 16 years of age always must be supervised by an adult when operating the vehicle.

H. Speed/Racing:

1. Except as provided in paragraph II.H.4. and 5., advertisements shall not state, directly or by implication, that an attribute of an ATV is its speed or that racing an ATV or operating an ATV at a fast speed is safe or appropriate. Statements concerning any ATV's power must be directly related to its use for utility purposes, or consist solely of a description of its mechanical characteristics.

2. Except as provided in paragraph II.H.4. and 5., advertisements shall not depict ATVs being operated at fast speeds or being operated in formal or informal races.
3. These restrictions shall not prohibit defendants from advertising upcoming races as long as the advertisement promotes the race, not the vehicle. This does not prohibit describing the vehicles involved in the race so long as the primary focus and purpose of the advertisement is to attract spectators to the race itself.
4. Advertisements for "sport models" and "competition models", as defined in Guidelines for Point-of-purchase Safety Materials (Appendix I), may state, directly or by implication, that an attribute of the model advertised is its speed or depict ATVs being operated at organized races in: (1) advertisements appearing in race programs distributed at organized races; (2) sales brochures distributed at the dealership, consumer shows, and race events; and (3) rider enthusiast publications.
 - a. Any such advertisements depicting racing must contain the following disclosure in conspicuous and legible type in contrast by typography, layout, or color with other printed material in the advertisement: "Photographed using highly skilled [insert "professional" or "race-sanctioned"] operator under controlled conditions." The disclosure shall appear adjacent to the racing depiction.
 - b. Any photographs must make it clearly evident that the ATVs are actual racing vehicles with professional operators or race-sanctioned amateurs.
5. Any promotional videos depicting scenes from actual organized racing events must conform to the following requirements:
 - a. Any racing scenes that are inconsistent with the provisions of section II. (except paragraphs II.D.2. and 4) will be edited from the tape, except that an ATV's wheels may be shown leaving the

ground during the normal course of racing.

- b. The video must contain the following message: "Racing scenes photographed during an organized race involving highly skilled operators under controlled conditions." The message must be delivered orally and visually at both the beginning and end of the video. In addition, the message must be superimposed during race scenes as follows:

1. In racing scenes of five minutes or less, it must be superimposed at the beginning of the scene, and every sixty seconds thereafter. In racing scenes lasting more than five minutes, it must be superimposed at the beginning of the scene and every two minutes thereafter.
2. Each time, it must be superimposed on the screen for ten seconds in legible print, against a contrasting background, and of sufficient size to be clearly read by a person of normal eyesight at normal viewing distance.

I. Stunt Maneuvers and Operator Behavior: Advertisements shall not state, directly or by implication, that any of the following maneuvers or forms of operator behavior are safe or appropriate and shall not depict any of the following maneuvers or forms of operator behavior:

1. Wheelies, jumps, or any other maneuver in which one or more of an ATV's wheels leaves the ground (ATVs must have wheels on the ground at all times, except that wheel(s) may leave the ground slightly and momentarily as part of normal operation);
2. Aggressive or prolonged sliding or skidding [This does not prohibit depictions of an ATV during turns at moderate speed, but highlights or close-ups of wheels spraying dirt, sand, gravel, snow,

or other material are prohibited (except in racing scenes as provided in paragraphs II.H.4. and 5)];

3. Operator inattention, including operator failure to keep his or her eyes on the path ahead or failure to keep both hands on the handlebars;
4. Wild, reckless, or aggressive behavior or dangerous use of ATVs (except that aggressive behavior may be depicted in racing scenes depicted pursuant to paragraphs II.H.4. and 5.);
5. More than one rider on an ATV;
6. Formations of operators grouped too tightly or following too closely for the speed traveled (except for racing scenes as provided in paragraphs II.H.4 and 5);
7. Headlights (where present) not on when the ATV is running (except in racing scenes as provided in paragraphs II.H.4 and 5);
8. Operating without a whip antenna and flag (approximately 8 feet in height) on sand dunes or other similar areas of limited vision (except in racing scenes as provided in paragraphs II.H.4 and 5.)

J. Protective Equipment:

1. a. All operators must wear a helmet, eye protection, gloves, long pants, long-sleeved shirt or jacket, and boots that cover the ankle. If a racer is depicted pursuant to paragraph II.H.4. or 5, the racer must wear full motocross race protective gear.
b. Such apparel must also be worn or clearly visible for any person appearing to be a potential operator.
2. Advertisements shall not state, directly or by implication, that ATV operation without proper use of the safety apparel and other protective equipment discussed in paragraph II.J.1.a. is safe or appropriate.

K. Cargo and Trailers:

1. a. Advertisements shall not state, directly or by implication, that it is safe or appropriate to carry cargo or tow a trailer which exceeds recommended weight limits for an ATV.
- b. Trailers and cargo shall be within recommended weight limits for towing and carrying. Cargo that is within the recommended weight limits shall not give the appearance of being heavier than it actually is.
2. Cargo on racks or in trailers shall always be properly secured and evenly balanced, left to right, and appropriately balanced front to rear. Headlights must not be obscured.
3. Advertisements shall not state, directly or by implication, that heavy loads may be carried or towed up or across steep slopes.

III. SAFETY MESSAGES

- A. Scope: The provisions of this section shall apply to all advertising and promotional materials covered by these guidelines except:
1. Dealer advertising or promotional material which promotes only:
 - a. local dealer sales events;
 - b. model price information; or
 - c. dealership product and location information.
 2. Advertising and promotional materials which:
 - a. depict only an ATV(s) and the manufacturer's name and/or model designation(s) without accompanying text;
 - b. are designed simply to present multiple product lines of the respective companies, including products other than ATVs, without addressing ATV performance in operation or "image" characteristics of individual products; or

- c. are primarily intended to promote company products other than ATVs (e.g., motorcycles, outboard motors, etc.) but which also refer to or depict ATVs as part of the company's product line without addressing ATV performance in operation or "image" characteristics of ATVs.

B. Magazines, Newspapers, and Sales Brochures

- 1. Contents of safety messages in magazines, newspapers, and sales brochures:
 - a. All such advertisements and promotional materials shall contain:
 - i. The age recommendations for each model depicted or referred to (specifically or as part of a class of ATV models).
 - ii. A message similar to the following:

"[Company name] recommends that all ATV riders take a training course. For safety and training information, see your dealer or call SVIA at 1-800-xxx-xxxx."
 - iii. The following warning: "ATVs Can Be Hazardous To Operate."
 - b. In magazines and newspapers, the warning required by paragraph B.1.a.iii shall be followed by the words "For your safety:" and appropriately worded messages addressing at least two of the following "safety tips" on a rotating basis:
 - i. Always wear a helmet, eye protection, and protective clothing;
 - ii. Never ride on paved surfaces or public roads;
 - iii. Never carry passengers;
 - iv. Never engage in stunt driving;
 - v. Riding and alcohol/drugs don't mix;
 - vi. Avoid excessive speeds; and

vii. Be particularly careful on difficult terrain.

- c. In sales brochures, the warning required by paragraph B.1.a.iii shall be followed by the words "For your safety:" and appropriately worded messages addressing each of the "safety tips" listed in paragraphs B.1.b.i. through vii.

2. Form of safety messages

- a. The safety messages required by paragraphs B.1.a. through c. may appear as part of the advertising copy or may appear as a separate message set apart from the rest of the promotional copy.
- b. The safety messages shall appear in conspicuous and legible type in contrast by typography, layout or color with other printed material in the advertisement.

3. An example of the possible text of a warning statement and safety tips message required for magazines and newspapers pursuant to paragraphs B.1.a.iii and B.1.b appears in Attachment 1.

C. Television and Video Promotional Tapes

1. Contents of Safety Messages: All such advertisements and promotional materials shall contain a safety message that states the age recommendations for each model depicted or referred to (specifically or as part of a class of ATV models) and addresses the importance of training.
2. Form of Safety Messages: The safety messages shall be either:
- a. verbal; or
- b. superimposed on the screen in legible print, against a contrasting background, and of a sufficient size and for a sufficient duration to meet network standards for commercials.

- D. Radio: All such advertisements shall include a verbal safety message that states the age recommendations for each model depicted or referred to (specifically or as

part of a class of ATV models) and addresses the importance of training.

E. Posters:

1. All posters intended for distribution to consumers (i.e., not including materials intended solely for use in dealership showrooms or company offices) shall:
 - a. affirmatively represent the age recommendation(s) for the model(s) depicted; and
 - b. contain the warning statement set forth in paragraph B.1.a.iii.
2. The above messages shall appear in conspicuous and legible type in contrast by typography, layout or color with other printed material in the posters.

Attachment to Appendix K

WARNING: ATVS Can Be Hazardous To Operate.
For your safety: Never ride
on paved surfaces or public roads.
Always wear a helmet, eye protection,
and other protective clothing.

(NOT ACTUAL SIZE)

Appendix L

COPY STRATEGY

The objective of the ATV Public Awareness Campaign is to alert owners, users and prospective purchasers of ATVs to the potential hazards and risks associated with ATVs. This would include the possibility of serious, or possibly even fatal, injury if the vehicles are not operated safely and responsibly.

Factors to be included in the copy in support of safe consumer use of ATVs are:

- * Children under 16 should not operate adult-sized machines.
- * Even on children's models, children under 16 need close adult supervision.
- * A helmet and other protective clothing should always be worn when operating an ATV.
- * Beginning and inexperienced riders should take a certified training course.
- * Hilly and difficult terrain require extra caution. (print only)
- * Excessive speed and "stunt" riding increase the risk of having an accident. (print only)
- * Riding with passengers increases the risk of having an accident. (print only)

Tone: Positive and caring.

Appendix M

DESCRIPTION OF PRE-TESTING

A. PURPOSE

To pre-test the television commercials and print advertisements for the public awareness campaign. The executions will be assessed for comprehension of the intended primary copy message as well as specific safety/risk factors included in each execution. In addition, the advertisements will be evaluated on other communication and effectiveness measures that are part of this supplier's normal testing procedure.

B. SUPPLIER

Diagnostic Research, Inc. ("D/R")

C. RESPONDENT QUALIFICATIONS/SAMPLE SELECTION

N = 150

75 ATV owners, users

75 Men, ages 18-49 (at least one-third, ages 18-25)

Interviewing will be conducted in three geographically-dispersed, high category-developed markets. Owners and users will be screened based on whether they have used an ATV in the past three months.

D. METHODOLOGY

Respondents will be recruited by telephone, where necessary only.

One-to-one interviews will be scheduled at central location facilities.

The full standard D/R print and television testing and evaluation procedures will be used.

Each test television commercial will be exposed in the fourth position within a clutter of six other non-competitive commercials executed in the same manner as the test commercial.

Each print advertisement will be exposed within a clutter of 19 other advertisements placed in a portfolio of advertisements commonly found in magazines aimed at the target audience.

Respondents will be asked to recall the commercials or ads.

Respondents will then be asked to state the main ideas in the commercial or advertisement and to state what else the commercial

or ad is trying to convey. Due to the in-clutter exposure, respondents must search their memories. This forces them to process the message before playing it back in more or less their own words.

The test commercial or advertisement is then re-exposed by itself, followed by the same inquiry.

Specific questions cover perceived confusion or elements hard to believe and particular likes and dislikes.

As part of its normal testing procedures, D/R will use appropriate descriptors from its standard list to assess the commercials and advertisements, including such adjectives as "convincing", "dull", "too exaggerated", "informative", "silly", "insulting", "sincere", and "believable".

D/R will also use Image Scan, which is used to measure the level of agreement with specific attributes and image statements that were to have been communicated. At a minimum, specific questions will be asked for the main idea and supporting factors listed below, up to a total of 15 questions.

E. IDEAS TO BE COMMUNICATED

D/R will conduct its evaluation, including comprehension and image scan, of the test commercials and advertisements in light of the main idea that ATVs present the possibility of serious, or possibly even fatal, injury if they are not operated safely and responsibly and in light of the factors that will be used in support, which include:

Children under 16 should not operate adult-sized machines.

Even on children's models, children under 16 need close supervision.

A helmet and other protective clothing should always be worn when operating an ATV.

Beginning and inexperienced riders should take a certified training course.

Hilly and difficult terrain require extra caution. (print only)

Excessive speed and "stunt" riding increase the risk of having an accident. (print only)

Riding with passengers increases the risk of having an accident. (print only)

F. NORMS TO BE USED

The all-commercial norms developed by D/R will be applied to the comprehension of the primary message.

Television:

*	In-clutter (1st exposure)	60%
*	After 2nd exposure	72%

Print:

*	In-clutter (1st exposure)	33%
*	After 2nd 10 second exposure	65%
*	After full exposure	68%

Appendix N

1988-89 MEDIA PLAN
FOR ATV SAFETY
PUBLIC AWARENESS CAMPAIGN

I. OBJECTIVE

A. Overall Objective

Generate awareness of ATV safety messages among the target.

B. Target

The campaign target is defined demographically as Men 18-49 for media buying purposes. Within this group emphasis will focus on the following ATV sub-cells:

Primary:

ATV owners and users (including farmers).

Secondary:

Prospective ATV purchasers.

C. Geography

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

D. Timing: Seasonality and Duration

Support a comprehensive Fall '88 effort backed up by a

strong Spring '89 campaign recognizing:

- ° That the Summer months do not represent high ATV sales or an adequately high media usage environment for this campaign.
- ° That the Fall is traditionally the strongest ATV sales period.
- ° That the Fall is considered the key period for building the ATV business given the high interest Sports and Prime Time environment (Football, World Series, Prime Time new season).
- ° That Spring represents another strong ATV sales period.

A substantial campaign during the historically important Fall ATV period with a follow-up campaign in the Spring of 1989 should have the greatest potential for affecting public awareness.

E. Communication Goal

Maximize the percentage of target group reached nationally (reaching at least 50% of the target group) three or more times during the Fall ATV sales cycle.

Maximize the percentage of target group reached in highly developed markets (reaching almost 50% of the target group) three or more times on an in-flight basis.

F. Costs

Media costs:	
Television	\$5,536,000 ^{1/}
Print	<u>2,430,000</u>
Total Media	7,966,000
Production	
& Pre-testing:	\$ 520,000 - \$ 680,000
(projected)	=====
Total:	\$8,486,000 - \$8,646,000

II. STRATEGIES

- ° Reach all target groups with a base of national media - Network Television, Cable Television and Magazines. Within Network Television utilize Prime Time and Sports programming (the most effective method of reaching Men 18-49). Cable Television will consist of highly targeted and efficient sports-oriented programming. National Print will consist of selected ATV enthusiast, male audience and farm publications. This effort is designed to achieve the communications goal (50%/3+) on a

^{1/} Network television will be bought at least to dollar and points goals.

campaign basis in every market (i.e. 100% of sales).

- Supplement national support with Spot Television in markets selected on the basis of category sales development. The additional spot weight will increase the exposure to safety messages in the selected markets. This effort is designed to achieve the communication goal (50%/3+) on an in-flight basis in these highly developed markets.

III. RATIONALE

A. Network Television

Network Prime and Sports programming provides the environment to attract large numbers of all target groups on a national basis.

- Television delivers a large percentage of ATV owners:

ATV owners who watch 2 or more hours of Prime Time per day:

% of Owners	80%
Total Audience (000)	2,500.0

- Television delivers a large number of the prospect target, M18-49:

M18-49 who watch 2 or more hours of Prime
Time per day:

% of Owners	79%
Total Audience (000)	44,174.0

Source: 1987 SMRB.

- Vehicles selected will include TV events like the World Series, which is highly selective against the key Men 18-49 target. The World Series also delivers other demographic segments in large numbers which will broaden the delivery of the Safety message. Listed below are audience estimates for the World Series and other prototype programming:

PROTOTYPE NETWORK PROGRAMMING
AUDIENCE ESTIMATES

<u>PROGRAM</u>	<u>KEY TARGET</u>	<u>OTHER SEGMENTS</u>	
	<u>MEN 18-49</u> (000)	<u>WOMEN 18-49</u> (000)	<u>NON-ADULTS</u> (000)
World Series	10,150.0	7,430.0	2,860.0
Crime Story	4,492.5	4,581.4	1,923.8
Hunter	5,212.1	7,193.3	4,526.3
Newhart	5,174.4	7,557.8	3,496.6
CBS Evening News	2,412.4	2,851.4	1,257.1
Monday Night Football	7,078.2	3,778.5	2,380.9

Source: NTI. Programming selection is dependent on availability at time of execution.

- ° Every attempt will be made to obtain as many first commercial positions as possible to insure higher recall.

B. Cable Television

- ° Cable offers programming (e.g., Sports and "MotoWorld") which will reach current and prospective ATV owners.
- ° Cable is effective in reaching a large number of ATV owners:

<u>ATV OWNERS</u>	<u>AUDIENCE</u> (000)	<u># OF</u> <u>TOTAL</u>
Have Cable	1,444.0	46.2%

Source: 1987 SMRB.

- ° Cable, while being available nationally, skews its viewing levels toward B/C counties and non-metro areas. This is very appropriate for reaching the foundation of the ATV audience.
- ° Cable typically is used most effectively for reaching vertical sub-segment targets as in this case.
- ° Broader Cable networks and formats (non sports) are not recommended as they are less targeted and do not offer the reach and impact potential of broader Network Television.

C. Enthusiast Magazines

- ° Based on magazine subscriber studies, the recommended magazines will deliver a high concentration of ATV owners.
- ° The total audiences of the enthusiast magazines are projected as follows:

<u>PUBLICATION</u>	<u>PROJECTED ADULT AUDIENCE^{2/}</u> (000)
ATV Sports	275.3
Dirt Wheels	459.7
3 & 4 Wheel Action	265.7
ATV News	207.2
4 Wheel & Off-Road	3,000.0
Dirt Bike	614.5
Dirt Rider	637.8

D. Men's Magazines

- ° Recommended non-enthusiast 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.
- ° The following are audience projections and indices for ATV owners among the readership of the recommended magazines. Their strengths in ownership correlate heavily with a presence of non-owners who are also prospects:

^{2/} Projected adult audience based on SMRB average reader-per-copy for motorcycle magazines.

<u>PUBLICATION</u>	<u>AUDIENCE OF ATV OWNERS (000)</u>	<u>ATV OWNER INDEX AGAINST NATIONAL AVERAGE</u>	<u>AUDIENCE OF MEN 18-49 (000)</u>
Sports Illustrated	365.0	118	11,440.0
Field & Stream	465.0	249	5,648.0
Outdoor Life	317.0	211	4,600.0
Sports Afield	206.0	275	2,436.0
Hunting	125.7	275	1,486.0

Source: 1987 SMRB. Hunting based on "MSCALE" computer run.

E. Farm Print

In recognition of farmers as an important component of the overall campaign, the following major agriculture trade magazines are also recommended:

<u>MAGAZINE/GROUP</u>	<u>COVERAGE REGION</u>
Farm Journal	National
23 State Farm Pub. Group	Midwest, West, Central
Progressive Farmer	South
National Future Farmer	National

F. Spot Television

Although the communication objective is achieved in all markets through the effective use of national media, Spot

Television is recommended to increase frequency of the safety message in highly developed markets.

A combination of Prime, Sports and News will be used, with news accounting for no more than 20% of the expenditures.

The final market list would be based on the following criteria:

- ° the selection of the highest CDI markets in descending order of CDI;
- ° within the list of highest CDI markets, base selection on markets with reasonable volume and household population.

Extremely small, low volume high CDI markets would not be included in the final spot list for the following reasons:

- ° Additional message exposure (beyond national reach) is not warranted against areas with few owners.
- ° National and Cable Television is effective in reaching small markets due to the typical lack of local commercial stations.
- ° Small markets tend to be less cost efficient than larger markets.

As is the case in developing any market list, professional judgment will be exercised in making the final market selection.

The prototype group, once established, would represent approximately 33% of population and 44% of category sales (132 CDI).

- 12 -

FALL 1988

MEN 18-49
REACH AND FREQUENCY

	<u>AVG. FLIGHT</u>	<u>TOTAL CAMPAIGN</u>
National	75/2.5	87/4.7
Regional	85/3.4	94/6.5

% OF MEN 18-49
REACHED 3+ TIMES

	<u>AVG. FLIGHT</u>	<u>TOTAL CAMPAIGN</u>
National	30%	60%
Regional	47%	76%

SPRING 1989

MEN 18-49
REACH AND FREQUENCY

	<u>TOTAL CAMPAIGN</u>
National	47/2.9

**1988-1989 ATV SAFETY
MEDIA PUBLIC AWARENESS CAMPAIGN
FALL '88 AND SPRING '89 MEDIA SCHEDULE (\$7,966.0M BUDGET)**

1988/89

NATIONAL TELEVISION

Network TV
- Prime/Sports
- :30's M18-49 TRPs

Cable TV
- ESPN, MTBS, TNN
- :30's M18-49 TRPs

NATIONAL PRINT (P4/C BLD)

Consumer (M18-49 TRPs)

Enthusiast

Fern

REGIONAL

Spot TV (33% U.S. H.H.)
- 80% Prime/Sports;
20% News
- :30's M18-49 TRPs

July	August	September	October	November	December	January	February	March	April	May	June	TOTAL COST (000)
27 4 11 18 25	1 8 15 22 29	5 12 19 26	3 10 17 24	7 14 21 28	5 12 19 26	2 9 16 23 30	6 13 20 27	5 12 19 26	3 10 17 24	1 8 15 22 29	5 12 19	
			120	120								\$ 2,600.0
			15	15								\$ 206.0
												\$ 3,806.0
			45	45	45			45	45	45		\$ 1,267.0
												\$ 201.0
												\$ 962.0
												\$ 2,430.0
			100	100								\$ 1,600.0
												\$ 7,966.0

4

CONSUMER - N18-49 TAP2#

- ENTHUSIAST**

- FARN**

- Farm Journal
- 23 State Farm Pubs.
- Progressive Farmer
- National Future Farmer (Bi-Monthly)

* SMPB. Hunting = MFI reduced to SMPB levels.

Appendix O

ATV RIDER'S COURSE OUTLINE

This ATV Rider's Course Outline is based upon the curriculum contained in the existing SVIA Instructor's Guide (8/86 revision). It reflects the modifications agreed upon by the parties with respect to a reordering of exercises, the addition of an evasive swerve maneuver, and the expanded introductory lecture. These and other modifications are noted in the outline.

The lettered exercises refer to cognitive lessons to be held away from the vehicles. The defendants will make available folding stools, clipboards, and pencils to instructors for use by students during these exercises. The numbered exercises are conducted on the vehicles. The instructor will evaluate the performance of each student during the exercise and will provide the evaluation form to the student during the last session. The estimated time for each exercise is provided, as well as the total time for the lesson.

COURSE OUTLINE

Lesson 1: 50 min.

EXERCISE	TIME	CONTENT
A	50 min.	Welcome & Introduction Purpose/Safety Alert Rider Safety Awareness Introduce SIPDE Rider Responsibilities Riding Gear

Additional Modification: Lesson A shall also include, at a minimum, a discussion of the following material:

- CPSC accident and injury data (updated every 12 months to reflect statistics for the preceding five years, as provided by the CPSC),
- Risk awareness and how to reduce the risks,
- Safety awareness on where to ride and the proper size vehicle to ride,
- Riding practices, such as do not carry passengers, do not ride alone, etc.,

- The use of alcohol/drugs and the loss of motor skills,
- The need for protective head gear and clothing to reduce injury severity,
- Local laws and regulations,
- Why this course is offered and what it means to the student.

The defendants may supplement this list of topics with additional safety-related and introductory materials.

Break: 5 min.

Lesson 2: 60 min.

EXERCISE	TIME	CONTENT
1	10 min.	Controls
2	10 min.	T-CLOC
3	5 min.	Warm-up
B	5 min.	Range Signals
4	5 min.	BONE-C
5	10 min.	Getting Moving
		<u>Additional Modification:</u> Additional detail on shifting and braking will be added as appropriate.
6	15 min.	Stopping--Straight & Curve
		<u>Additional Modification:</u> Objective 6 will be moved to follow Objective 3.

Break: 5 min.

Lesson 3: 40 min.

EXERCISE	TIME	CONTENT
7	15 min.	Oval
8	15 min.	Circles
9	10 min.	Figure 8

Break: 5 min.

Lesson 4: 30 min.

EXERCISE	TIME	CONTENT
C	30 min.	SIPDE (Flip Cards) Terrain Strategies Terrain Specific Discussion

Additional Modification: New color flip cards will be developed.

Lesson 5: 35 min.

EXERCISE	TIME	CONTENT
10	20 min.	Sharp Turns
11	15 min.	Quick Turns--Weave

Lunch/Break: 45 min.

Lesson 6: 55 min.

EXERCISE	TIME	CONTENT
D	5 min.	Warm-up/Stretching
12	25 min.	Quick Stops--Straight/Evasive Maneuvers <u>Additional Modification:</u> A lesson outline for the emergency stop/swerve maneuver is attached.
13	15 min.	Quick Stops--Turns

14 10 min. Obstacles

Additional Modification: The feasibility of incorporating a single-track obstacle maneuver for three- and four-wheeled vehicles will be explored during field testing.

Break: 5 min.

Lesson 7: 20 min.

EXERCISE	TIME	CONTENT
----------	------	---------

E	20 min.	Safety Behaviors Environmental Concerns/SIPDE Local Laws/Regulations Locating places to ride
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Lesson 8: 45 min.

EXERCISE	TIME	CONTENT
----------	------	---------

15	15 min.	Climb, turn, descend, stop
----	---------	----------------------------

16	15 min.	Climb, stop, descend (moving X-turn)
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Additional Modification: The instructor will emphasize that the handlebars should be turned uphill and that the rider should dismount on the uphill side of the vehicle.

17	15 min.	Traversing
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Additional Modification: The ATV Rider's Handbook, Ex. 5, drill 9 will be used as reference material. An evaluation point on keeping weight shifted uphill will be added.

Break: 5 min.

Lesson 9: 35 min.

EXERCISE	TIME	CONTENT
18	35 min.	Trail Ride/Practical Application SIPDE Reinforcement Environmental Concerns

Break: 5 min.

Lesson 10: 15 min.

EXERCISE	TIME	CONTENT
F	15 min.	Wrap-up, Review, Course Completion Cards Students to be provided with copy of the Student Handbook