



Linhai Powersports USA Corp.
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July 21, 2016

Delivery by Electronic Mail

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Compliance Officer
Office of the Secretary
U.S. Consumer Product Safety Commission
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Bethesda, MD 20814-4408

~~RECEIVED~~ 12/1/16
COMMENTS: ☒ YES ☒ NO
☐ OVERRULED; ☐ ATTACHED
☐ EXCISIONS FOIA Hqs. ☐
☒ DO NOT RE-NOTIFY ☐ RE-NOTIFY

Re: ATV Action Plan of Linhai Powersports USA Corp.

Action Plan for CPSC

Linhai Powersports USA Corp. ("Linhai") is fully committed to the goal of reducing ATV-related accidents. We have implemented new policies in accordance with the rules set forth by Section 232 of the Consumer Product Safety Improvement Act of 2008. This action plan covers all ATVs imported, manufactured, distributed, sold, and/or offered for sale by Linhai and its distributors and retailers regardless of the dates of importation and manufacture of the ATV. The actions outlined below are part of our continuing effort to promote safe and responsible use of our ATVs.

Age Recommendations

Linhai will only recommend, market, and sell ATVs for use under the age category/speed guidelines specified in Section 6 of the ANSI/SVIA 1-2010 Standard for ATVs ("the ATV Standard"). Linhai will not recommend, market, advertise, or sell adult-sized ATVs for the use of persons less than 16 years of age. Linhai will use its best efforts to ensure that our dealers comply with these requirements. Linhai will not recommend, market, advertise or sell Y-6+ youth-size ATVs for use of persons under 6 years age, Y-10+ youth-size ATVs for the use of persons under 10 years of age; or Y-12+ youth-size ATVs for the use of persons under 12 years of age.

Information & Education Program

Linhai will develop a new informational and educational effort to communicate age requirements, passenger dangers, and other safety related information to consumers, through its websites, literature and posters in dealer's stores. Linhai makes a commitment to set-aside \$25,000 per year for the next ten (10) years to support its Information and Education Program. Linhai will distribute safety reminders by direct mail within a few weeks of retail purchases. The reminders will include the safety messages and information about the free ATV training and incentives for completing that training. Linhai will sponsor a safety ad campaign, including web advertising and print advertising in major off-road publications. The ads will promote safe riding and age recommendations. The ads will continuously run throughout the whole year. Linhai will distribute safety posters and flyers to authorized dealers. The content of these posters and flyers will include the safety messages for Linhai dealers to display.

Linhai will require authorized dealers to display SVIA and ASI posters and educational materials in their retail locations. Linhai will require that all authorized dealers implement a new information/education effort to communicate age recommendations, passenger, and other safety-related information to consumers. The materials and information will be based on all publications produced by SVIA and ASI. The materials will provide safety information and warn children under the age of sixteen of the risks and dangers of operating adult-sized ATVs.

Safety Reminders

Linhai will use safety reminders as part of its educational and informational effort by doing the following:

1. Within a few days of each consumer purchase, Linhai will utilize the trained staff of the 24-hour hotline to call each new purchaser to ensure that customers were properly notified by the dealer about taking the ASI Safety Training course and about the \$50 incentive for completing the course.
2. A few weeks after each consumer purchase, Linhai will also send a letter or email to all purchasers of Linhai ATVs to remind the purchaser about the importance of taking the ASI Safety Training course.

Development of Safety Devices

We feel the most critical safety issue is that there must be an effort to deter children under the age of sixteen from operating adult-sized ATVs or riding as passengers. We will continue to work with the CPSC in this effort, and Linhai will continue to work on additional safety devices to aid responsible parents in supervision. One of those could be some type of safety key requirement for adults using the vehicle, as is used currently in racing ATVs, whereas a safety wrist harness would be attached to the adult-sized ATV for safety, and if the adult leaves the vehicle, the vehicle would stop running and reduce the dangers of small children being attracted

to a running ATV. Linhai will make technical advances on ATVs to prevent unwanted stop and start functions, and to keep young children off of unattended, idling adult ATVs.

Boys and Girls Clubs of America

Boys and Girls Clubs of America are a safe place to learn and grow – all while having fun Club programs and services promote and enhance the development of boys and girls by instilling a sense of competence, usefulness, belonging and influence. Some 4.5 million boys and girls served with more than 4,300 Club locations and 4.5 Million boys and girls, they will be an excellent start for teaching ATV Safety.

In continuing education efforts, Linhai will pursue creating an educational outreach program with the Boys and Girls Clubs of America to develop an awareness of the dangers, the required ATV training and the safety issues within the local communities. Linhai and its dealers would develop this program by offering a free ATV Safety Institute training class and the loan of an ATV vehicle from the local dealer to interested Club to promote ATV safety.

Internet

In promoting ATV safety and educational efforts, Linhai will also provide its safety video for use for the Boy Scouts of America's website, to distribute its safety message and promote the safe use of ATVs. Linhai will provide through website mediums such as the BSA and other non-profit groups that have a core constituency of young adults, both information and educational materials on the dangers of ATVs. Through internet links, Linhai will continue its educational outreach on a continual basis. Through local, state and national non-profit groups, Linhai will make an annual effort to further ATV safety. By renewing the safety message each year, Linhai will be keeping the message of ATV safety, fresh and alive, just like its ATV customers.

To get the word out on ATV safety and to make sure it gets to a young audience, Linhai will be putting its own video of ATV safety on YouTube. This video will be a short video to tell of the importance of taking a hands-on ATV safety training course and demonstrating dangerous things not to do on an ATV. This will get the attention of younger YouTube internet visitors and still be non-commercial enough to get the point across of safety.

Dealers

Linhai will create and disseminate a safety poster for posting by all of Linhai's dealers. This poster will feature safety and educational information containing ATV safe riding messages and encouraging correct ATV sizing and the need to take the hands-on safety training.

Linhai will encourage dealers to promote the importance of ATV safety by recommending that each purchaser visit the ASI's website to learn more about the safe operation of an ATV. In addition, Linhai will provide dealers information about the dangers of unsafe riding.

Targeted Distribution of Safety Materials

Linhai intends to distribute the aforementioned safety posters to pediatric offices, schools, and public libraries on a national level so that these materials may target children in the hopes of keeping children informed of safety precautions. Additionally, Linhai intends to distribute safety brochures to dealers in order to target individual consumers. Additionally, Linhai will mail safety brochures directly to individual consumers subsequent to their ATV purchase in order to act as a post-purchase reminder of safety measures that a consumer should abide to. Further, these brochures will incorporate valuable safety messages to parents in regards to child safety warnings and precautions.

Print Ad Campaign

Linhai's print advertisements will feature safety messages communicating the importance and availability of safety training. Linhai's print advertisements will be in ATV Rider Magazine quarterly. Linhai's print advertisements will feature safety messages.

ATV Labels

All Linhai ATVs will have the warning labels required by Section 4.23 of the ANSI/ SVIA 1-2010 Standard for ATVs ("the ATV Standard"). This includes general, age recommendation, passenger, tire pressure, and overloading labels.

Owners Manuals

All Linhai ATVs will be sold with an owner's manual that complies with the requirements of Section 4.21 of the ATV Standard.

ATV Hangtags

All Linhai ATVs will have the hang tags required by Section 4.24 of the ATV Standard. The hang tags will include information about age recommendations, vehicle category, training availability, and safety messages. Linhai will use its best efforts to require dealers to display the hang tags on all new ATVs. Linhai field representatives will spot check that tags remain on ATVs on display at ATV dealerships.

Training

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

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

Consumers will be notified about the availability of the free, hands-on training for a Linhai ATV purchaser and the buyers' immediate relatives who are age appropriate for the ATV purchased, before, during and after the purchase of the Linhai ATV.

Before a consumer makes a purchase of a Linhai ATV, the consumer will have an opportunity to view Linhai sponsored posters positioned in the store, displaying a rider with the proper safety helmet and safety gear on and announcing the Linhai-sponsored free, hands-on training and the additional incentive of a \$100 for completing the ASI training program.

During the purchase, the consumer will be asked to read, and sign a document acknowledging all of the safety warnings, hazards and dangers of riding and driving an ATV. The purchaser has to read and sign this document in order to receive the manufacturer's warranty on the ATV.

After the purchase, the purchaser is told by the dealer that he can sign up now for the ASI training program. The dealer will also give the purchaser of the Linhai ATV a coupon to get reimbursed for the full cost of the ASI training program when finished.

And, finally, the Linhai ATV purchaser will receive in the mail or by email shortly after the purchase from Linhai, a letter of congratulations from Linhai of the ATV purchase and another reminder of the offer for the Free, hands-on training program of the ASI and the \$100 incentive on completing the safety training program.

Each Linhai ATV will have a form included in the ATV to fill out for the dealer to receive direct compensation from Linhai for the \$100 for the free training completion incentive, and to have the dealer reimbursed for the ASI training that was completed.

ATV Safety Video

Linhai will provide a Safety Video in DVD-Format to its distributors for dissemination to all retail purchasers of Linhai ATVs. The video shall comply with all requirements described at Section H.3.b. (4) (b) and paragraphs II.A and II.C of Appendix I of the 1988 ATV Consent Decree. The Safety Video may be used by dealers at the point of purchase for demonstration of safety issues and to highlight the need for, and availability of, hands-on safety training.

Advertising

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

Toll-free ATV Hotline

Linhai will provide a toll-free, 24-hour hotline to respond to consumer inquiries as described at Section H.4 of the 1988 ATV Consent Decree. Agents will be trained to provide safety and training information, including age recommendations. Linhai will also provide to callers, free of charge, appropriate copies of safety-related materials. Linhai's toll-free number will be printed in all owners' manuals, ATV web-sites and other promotional materials.

ATV Safety Posters

Linhai will provide ATV Posters to our dealers. All the dealers are required to promote the ATV Safety Posters to all actual and prospective ATV consumers.

Safety Alert

Linhai will supply its dealers "Safety Alert" documentation to be provided at the point of purchase to all retail purchases of Linhai ATVs. The document will contain the same substantive safety information as the Safety Alert described at Section H.3.b. (4) (c) and Appendix J of the 1988 ATV Consent Decree. This information includes: death and injury statistics for ATVs, safety rules, age recommendations and the availability of safety training.

Participation in ASI's Safety Program

If at any time Linhai is no longer a participating member of ASI's Safety Program, and therefore no longer able to access ASI's training and safety materials and services, Linhai will cease to distribute ATVs into US commerce until such time that Linhai is able to provide equal or greater materials and services as described herein.

3-Wheel ATV

Linhai has never manufactured any such vehicle with only three wheels as an ATV, and it will not manufacture, sell or market such ATVs.

Dealer Monitoring Requirements

Linhai requires that its dealers verify the intended ATV rider's age prior to selling that rider or his/her parent or guardian an ATV. Linhai warranty registration cards require the submission of the intended rider's name and date of birth to ensure that dealers do not sell Linhai ATVs to under-aged riders.

Linhai will use its "best efforts" to ensure that its dealer complies with:

- the user age recommendation requirements of the ATV Standard;
- the requirements related to notifying ATV purchasers about the availability and importance of free, hands-on ATV training and the monetary incentive for taking such training; and
- the requirements relating to providing the ATV Hang Tag, the ATV Owner's Manual, the ATV Safety Video, and the ATV Safety Alert to ATV purchasers at the point of purchase.

Linhai will conduct on-site inspections of each of its authorized ATV dealers at least twice a year, with a minimum of 50 on-site inspections per year, by means of independent, undercover investigators (also known as "secret shoppers") to ensure that these dealers comply with the above-listed requirements and other safety-related practices during sales or promotional functions. Linhai will also modify the visitation criteria of its field personnel so that inspecting for dealer compliance with the above-listed requirements becomes a normal function of routine dealer visits.

Within fifteen (15) days of learning of a dealer's non-compliance with the above-listed requirements from the CPSC staff or by one of Linhai's independent investigators, Linhai will:

- notify the dealer of its non-compliance;
- inform the dealer of the operative facts reported by the CPSC staff or the independent investigator (such as the name of the salesperson and the model(s) of the ATV(s) allegedly recommended during the inspection); and
- demand a cure of the reported violation(s).

In addition, within thirty (30) days after notifying the dealer of its non-compliance, Linhai will provide on-site training to all dealership personnel who are involved in the sale of ATVs. The training will include, but not be limited to, information concerning the above-listed requirements, the need for compliance with them, and the potential enforcement actions (including termination and non-renewal of the dealership agreement) that the dealer may incur if non-compliance continues. A record of the training effort will be made by Linhai and provided to CPSC staff during bi-annual reporting.

Within sixty (60) days after completing the above-referenced training for a non-compliant dealer, Linhai will conduct an undercover, on-site, follow-up inspection of the dealer to determine whether the dealer is complying with the above-listed requirements. If this follow-up inspection reveals evidence of continuing violations, Linhai will take remedial action against the dealer, up to and including possible termination or non-renewal of the dealership agreement with Linhai. If Linhai elects not to terminate the dealer's contract, remedial actions will at a minimum include additional undercover on-site inspections of the dealer. If these additional inspections reveal an additional violation, Linhai will terminate or decline to renew the dealer's contracts. In each instance, Linhai will inform the CPSC Office of Compliance and Field Operations in advance of any remedial action or disposition, and it will provide the CPSC staff a reasonable opportunity to comment on such action or disposition before it occurs.

Linhai will report the results of its dealer monitoring program to the CPSC staff on a bi-annual basis, with reports due to the CPSC's Office of Compliance and Field Operations on February 1 and August 1 of each year. These reports will include a list of non-complying dealerships, the date of inspection, and all training or enforcement actions taken by Linhai, along with dates of all follow up activities and remedial actions. Linhai will maintain a list of all dealerships inspected each year in spreadsheet format, and this spreadsheet shall be provided promptly to the CPSC staff upon its request. The CPSC staff will maintain the confidentiality of these reports in accordance with applicable laws. The CPSC staff also reserves the right to request additional information from Linhai regarding the results of Linhai's dealer monitoring program.

Linhai will notify its dealers in writing of its dealer monitoring program within fifteen (15) days of the effective date of this Action Plan. The notice will remind dealers of their ongoing obligations to comply with the above-listed requirements and the consequences of non-compliance, including, but not limited to, the assessment of administrative costs for Linhai's monitoring of the dealer and possible termination or non-renewal of the dealership agreement. Linhai will provide the CPSC's Office of Compliance and Field Operations an advance copy of the notice.

Notice of Changes of Action Plan

Linhai intends to maintain the above specified actions indefinitely. Linhai will provide information about these activities upon receipt of reasonable requests from the CPSC. Linhai will notify the CPSC at least sixty (60) days prior to terminating or materially changing any of these activities.

Voluntary Standards

Linhai will participate in the ongoing efforts to update and revise the ATV voluntary standards. Potential technical issues identified by CPSC staff will be discussed and considered in good faith as part of those efforts.

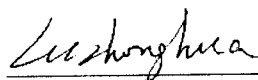
Amendment and Termination Procedures

If Commission staff determines that Linhai's approved ATV Action Plan is no longer effective or adequate, Commission staff may take certain action, including but not limited to notifying Linhai that the ATV Action Plan must be amended to address the effectiveness of adequacy of the plan. With that notification, Commission staff shall provide Linhai with the text of any proposed amendment. Linhai and Commission staff must reach agreement on the proposed amendment within thirty (30) calendar days of the notification, unless Commission staff grants an extension for good cause. If Linhai and Commission staff fail to reach an agreement within the designated timeframe, then Commission staff may recommend termination of the Action Plan. Additionally, (i) if Linhai fails to comply with the obligations of this ATV Action Plan, or (ii) if Commission staff determines that Linhai can no longer comply with the obligations of this ATV Action Plan, or (iii) if Linhai fails to adopt a requested amendment within the timeframe specified by staff, Commission staff, after providing Linhai with notice and an opportunity to respond, may recommend termination of the ATV Action Plan. Linhai may not manufacture, import, or distribute any ATV in the United States under this Action Plan after receiving notice of termination. Failure to cease manufacture, importation, or distribution in the United States commerce of any ATV under this ATV Action Plan after receipt of notice of termination is a prohibited act under section 19(a)(1) of the CPSA, 15 U.S.C. §2068(a)(1).

On behalf of Linhai, thank you in advance for your attention to this important matter. Linhai stands ready to comply with all ATV action plan requirements. Linhai hereby agrees to take all of the actions to promote ATV safety set forth in this Linhai ATV Action Plan, and further agrees to fulfill each undertaking set forth in this Plan. Linhai understands that any failure to

perform the actions, or fulfill the commitments set forth in the Plan may result in termination of the Plan.

Sincerely,

 , Dated: July 21, 2016

Zhonghua Lu, C.E.O/President

Linhai Powersports USA Corporation

1378 Brannon Rd.

McDonough, GA 30253

Cc: Tianbing Sun, Director of Engineering

Motolabs Corp., EPA/ DOT/ ATV Consultants and Onsite Manufacturing Vehicle Testing



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Aug 16, 2016

Lauren Oliner Kleinman
Trial Attorney
Office of the General Counsel
U.S. Consumer Product Safety Commission
4330 East West Highway
Bethesda, Maryland 20814

Re: *ATV Action Plan of Linhai Powersports USA Corp.*

Dear Ms. Kleinman:

This letter supplements the ATV Action Plan submitted to the U.S. Consumer Product Safety Commission by Linhai Powersports USA Corp., ("Linhai"), on July 21, 2016, (the "Plan") and should be considered to be part of the Plan.

Jiangsu Linhai Power Machinery Group Co., Ltd. ("Jiangsu Linhai") hereby agrees to provide financial support to ensure that Linhai takes all of the actions to promote ATV safety set forth in the Plan, and further agrees to ensure that Linhai fulfills each of the undertakings set forth in the Plan.

Jiangsu Linhai understands that any failure by Linhai to perform the actions, or fulfill the commitments, set forth in the Plan could result in termination of the Plan.

Sincerely,

Santai Wang, Vice General Manager

Jiangsu Linhai Power Machinery Group Co., Ltd.

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