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U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

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Record of Commission Action
Commissioners Voting by Ballot
January 25, 1988

In the Matter of: All-Terrain Vehicles Voluntary
Standard - Procedure for Developing
(Restricted OS#7480)

Commissioners Voting: Chairman Terrence Scanlon
Commissioner Carol G. Dawson
Commissioner Anne Graham

Decision: In closed Commission Meeting on January 25, 1988, the staff briefed the Commission on proposed procedures for developing a voluntary standard for all-terrain vehicles (ATVs) pursuant to provisions in the Preliminary Consent Decree in the ATV matter. Voting subsequently by ballot, the Commission approved by a vote of 2-0-1 the following plan and directions to the staff concerning the voluntary standard development. Chairman Scanlon and Commissioner Dawson voted to approve. Commissioner Graham abstained and indicated that she will file a statement concerning this matter. (copy attached)

Plan for Developing a Voluntary Standard for ATVs

Send the engineering standard previously developed by staff (with any necessary editing) as the draft proposed standard referred to in the consent decree, together with a cover letter conforming to this plan.

Publish a Federal Register notice announcing the existence of the development proceeding and the scheduled date of the first meeting. [This notice can also contain other information, such as the availability of copies of the proposed draft standard and that interested persons who cannot attend the meeting(s) can send suggested provisions and rationale to Commission staff. The precise terms of the FR can be determined when the notice is presented for Commission approval.]

All standard development plenary sessions will be open to the public, to implement the policy described in 16 C.F.R. section 1032.5(a), and in accordance with the procedures used by ANSI for such proceedings.

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Standard development meetings are to be held in the Washington, D.C., area.

If a standard is developed that the Commission preliminarily concludes may be adequate, the Commission will seek public comment on the standard, including publication of the standard in the Federal Register, before a final determination of whether the Commission approves the draft standard.

Directions to the Staff

The staff is directed to draft a cover or preamble to the standard recognizing that certain other previously discussed elements (i.e., labeling, training, categories of vehicles, required equipment, etc.) should be included in the final document.

Also, the staff is directed to include language in the Federal Register notice to underscore the Commission's firm belief that the dynamic stability elements of the proposed standard are deemed essential for safety and should not be weakened.

Staff should also propose strongly-worded letters to the manufacturers in transmitting the proposed standard to emphasize the Commission's determination that the Performance Requirements in Part IV are essential to its acceptance of the document. The letters should also note that the sections requiring further studies by the Commission assume that the manufacturers agree to share their own performance data with the Commission staff in furtherance of the goals of public safety.

For the Commission

Sadye E. Dunn

Sadye E. Dunn
Secretary

Attachment

UNITED STATES GOVERNMENT

U.S. CONSUMER PRODUCT
SAFETY COMMISSION
WASHINGTON, D.C. 20207

MEMORANDUM

TO : Todd Stevenson, OS/FOI

Through: Stephen Lemberg, Asst. General Counsel

FROM : Harleigh Ewell, Attorney, OGC HE

SUBJECT: Restriction of Minute of 1/25/88 on OS#7480 and
Commissioner Graham's Statement Dated 1/26/88 on ATV
Voluntary Standard

This office has no objection to removal of the restricted
status of the subject documents.



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WASHINGTON, D.C. 20207

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Statement of Anne Graham, Commissioner

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Transmittal of ATV Voluntary Standard to the Industry

January 26, 1988

My abstention yesterday on the Commission's vote to send the draft proposed voluntary standard for ATVs to the ATV industry is not based on my belief that these performance standards are not required to reduce or eliminate the unreasonable risk of injury associated with ATVs, but because at this time, I have certain reservations which preclude my being able to unequivocally approve this voluntary standard.

One of my main concerns is that the voluntary standard provision in the consent decree does not require any standard to be developed under the decree to comply with the statutory criteria in Section 9 of the Consumer Product Safety Act. Under this section, the Commission can defer to a voluntary standard only if it finds that the standard is likely to reduce or eliminate an unreasonable risk of injury and it is likely that the industry will be in substantial compliance with the standard. The decree on the other hand, appears to accept a standard that is only "satisfactory" to the Commission. This is particularly troublesome since it appears to allow the Commission to circumvent the statutory and

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due process requirements even though it has already commenced a section 9 rulemaking on ATVs.

I, also, am troubled about the fate of those aspects of the voluntary standard which are covered in Phase I of the ATV voluntary standard, but which are not included in the present version of the standard presented to the Commission for this vote. By omitting any reference to the Phase I issues is the Commission sending a signal to the industry that we do not care if the voluntary standard covers these areas? In addition, I am concerned that the Commission does not know how many injuries and deaths will in fact be prevented by the standard.

I support any measures that will protect the consumer from the hazards associated with ATVs. That withstanding, until my concerns relating to the voluntary standard are resolved; I am unable to endorse the transmittal of these standards to the industry.

Anne Graham

Anne Graham, Commissioner