



## **SUPER POWERSPORTS DISTRIBUTORS LLC.**

**9010 Hilaro Springs Rd, Suite C. Little Rock AR 72209**

Dated: 6/18/2019

Office of the Secretary  
U.S. Consumer Product Safety Commission  
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Bethesda, MD 20814-4408  
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### **Subject: ATV Action Plan of Super Powersports Distributors, LLC**

Super Powersports Distributors, LLC ("SPS") is fully committed to the goal of reducing ATV-related accidents and provide safe riding experience to our end users. As a new importer/distributor, we have implemented policies in accordance with the requirements set forth by Section 42 of the Consumer Product Safety Act ("CPSA"), 15 U.S.C. § 2089, and 16 C.F.R. part 1420. This SPS Action Plan was developed through the guidance of the "CPSC Presentation about ATV Action Plans" and section 42(e)(2) of the CPSA (as amended by the CPSIA). SPS is committed to meet and exceed the CPSC safety requirements and to fully execute its CPSC approved Action Plan ("Plan"). The actions outlined below are part of our continuing effort to promote safe and responsible use of our ATVs. SPS hereby agrees to take all of the actions to promote ATV safety set forth in the Plan, and further agrees to fulfill each of the undertakings set forth in the Plan. SPS understands that any failure to perform the actions, or fulfill the commitments, set forth in the Plan could result in termination of the Plan.

### **Age Recommendations:**

SPS will only recommend, market, advertise, and sell ATVs for use pursuant to the age category/speed guidelines specified in section 6 of the ANSI/SVIA 1-2017 standard for ATVs and any successor standards adopted by the CPSC for ATVs ("the ATV Standard"). In addition, SPS will not recommend, market, advertise or sell adult-sized ATVs for the use of individuals less than 16 years of age. SPS will not recommend, market, advertise, or sell Y-6+ youth-size ATVs for use of persons under 6 years of age; Y-10+ youth-size ATVs for use of persons under 10 years of age; or Y-12+ youth-size ATVs for the use of persons under 12 years of age. SPS will use its best efforts, including dealer monitoring, training and the reporting program as outlined in the next sections to ensure that SPS's dealers do not recommend or sell ATVs for use by individuals under the respective minimum ages. SPS is well aware of the concern regarding injuries and fatalities among persons under the age of 16, therefore SPS will use its "best efforts"<sup>1</sup> to ensure that its dealers comply with these requirements.

### **Dealer Monitoring and Safety Compliance:**

SPS will use best efforts to monitor its dealers for compliance with age recommendations, including through its Dealer Monitoring program and incentives. We believe that a reward method works much better than threats. The dealers who comply with proper safety procedures will get a Tier 1 pricelist for our products, which is 10% cheaper than our regular prices. This method will provide them the benefit of more profitability and better position to compete in the market. SPS requires that its dealers verify the intended rider's age prior to selling that rider, or his/her parent or guardian, an ATV. SPS's vehicle warranty registration certificate will also require the submission of the intended rider's name and date of birth to ensure that dealers do not sell SPS ATVs to under-aged riders. SPS will use its best efforts to ensure that its authorized dealers comply 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 safety 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.

SPS will conduct undercover monitoring of SPS dealers at least 2 times a year, with a minimum of 50 dealer visits per year, by the 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. The dealers who will be subject to undercover monitoring will be randomly selected annually. SPS will also modify the visitation criteria of its field personnel so that inspecting for dealer compliance with the above-

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<sup>1</sup> "Best Efforts" shall include, among other things, an obligation to require, to the extent permissible under federal and state law, compliance by the SPS's dealers, agents, or representatives with the terms of this ATV Action Plan in future contracts entered into with dealers, agents, or representatives, and, where possible and within a reasonable time, modification of existing contracts with dealers, agents or representatives to impose this duty.

listed requirements becomes a normal function of routine dealer visits. SPS is also committed to reporting of all secret shopper activities on a bi-annual basis as stated below under "Reporting."

### **Dealer Training and notice:**

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

- Notify the dealer of its non-compliance;
- Arrange an undercover, on-site inspection of the dealer to determine whether the dealer is complying with the above-listed requirements;
- Inform the dealer of the operative facts reported by the CPSC staff, the independent investigator, or the other party (such as the name of the salesperson and the model(s) of the ATV(s) allegedly recommended during the inspection);
- Demand a cure of the reported violation(s); and
- Inform the dealer that their product price is increased to the Tier 2 price list, which is 10% higher than the preferred Tier 1 list. (This action will motivate dealers to properly follow up with their sales staff about consumer safety).

In addition, within thirty (30) days after notifying the dealer of its non-compliance, SPS 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 disciplinary measures (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 SPS and provided to CPSC staff during bi-annual reporting (as described in the "Reporting" section below).

### **Follow-up Dealer Monitoring and Enforcement for Repeated Non-Compliance:**

Within sixty (60) days after completing the above-referenced training for a non-compliant dealer, SPS 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, SPS will take remedial action against the dealer, up to and including possible termination or non-renewal of the dealership agreement with SPS. If SPS 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, SPS will terminate or decline to renew the dealer's contract. In each instance, the SPS 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.

### **Reporting:**

SPS 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 noncomplying dealerships, the date of inspection, and all training or enforcement actions taken by SPS, along with dates of all follow-up activities and remedial actions. SPS shall maintain a list of all dealerships inspected each year in spreadsheet format, and this spreadsheet will be provided promptly to the CPSC staff upon its request. The CPSC staff shall maintain the confidentiality of these reports in accordance with applicable laws. The CPSC staff also reserves the right to request additional information from SPS regarding the results of SPS's dealer monitoring program.

### **Notices to Dealers:**

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

### **Hands-On Consumer Training Course:**

**Free Training:** SPS will offer free, hands-on ATV training to all first time purchasers and age appropriate members of their immediate family. The customer will be encouraged by the SPS sales person and by brochures provided during the sale of the ATV to sign up for the course. SPS will pay the ATV Safety Institute (ASI), a not-for-profit division of the Specialty Vehicle Institute of America (SVIA), for the course directly, so the rider can attend the ASI training facility of the customer's choice.

**Training Incentive:** SPS will offer first time purchasers a \$50 cash rebate together with a \$50 credit for use towards the purchase of ATV safety equipment after a rider's successful completion of the ASI safety training for a total value of \$100 to purchasers who have purchased a new SPS ATV. This \$100 incentive to take the ATV Safety training course is designed to encourage the purchaser to take the ATV Safety Institute (ASI) hands-on ATV training soon after the time of purchase of the SPS ATV.

**Tracking:** SPS will also use its Safety Information and Purchase paperwork to track the safety training participation of new SPS ATV purchasers. SPS will offer rider training certificates to standardize the training course enrollment process with the SPS dealers. All SPS point-of-purchase safety materials, safety education and information will be presented to consumer purchasers at the time of purchase.

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## **Safety Materials:**

**Safety Video:** SPS will supply its dealers with a “Safety Video” to be provided at the point of purchase to all retail purchasers of an SPS ATV. 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.

**Safety Alerts:** SPS Safety Alerts will be packaged with each ATV during production and given to each consumer at the time of purchase. SPS will provide additional copies of the Safety Alert to its dealers for dissemination to prospective purchasers or others. Each “Safety Alert” 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 Decrees, including:

- Death and injury statistics for ATVs;
- Safety rules;
- Age recommendations; and
- Availability of safety training.

**Labels and Hangtags:** SPS will provide a label for the purpose of tire pressure/overloading and an EPA required warning label. All ATVs will have the appropriate tamper-proof warning labels and hangtags, as required by sections 4.23 and 4.24 of the ATV Standard. SPS will inspect all ATVs before shipping to SPS's dealers to ensure that the vehicles are in complete compliance to all CPSC label and hangtag requirements.

**Owner's Manuals:** SPS's owner's manuals will comply with section 4.21 of the ATV Standard. A toll-free information helpline and link to SPS's website will be included in the owner's manual.

**Safety Poster:** SPS will create and disseminate a poster with safety messages for SPS's dealers to display in their stores. SPS will use its best efforts to ensure its dealers will display these safety posters to be viewed by SPS customers.

**Training Certificates:** SPS will use rider training certificates to inform and to standardize the training course enrollment process at SPS's dealers and to ensure that relevant ATV safety messages are presented to the purchaser and/or rider. All SPS safety messages will be consistent with all other point-of-purchase safety materials, safety information, and SPS safety educational outreach efforts.

**Toll Free Hotline:** SPS will provide a toll-free, 24-hour hotline to respond to consumer inquiries as described at Section H.4 of the 1988 ATV Consent Decrees. Agents will be trained to provide safety and training information including age recommendations. SPS further agrees the hotline service will offer to send, free of charge, to every person who calls and requests, copies of the ATV Safety Guide produced for in-store distribution. SPS's toll-free number will be printed in all owner manuals, SPS ATV web-sites, and other promotional materials.

### **Advertising:**

SPS's ATV advertising and promotional materials will include the substance of the safety messages that are described in J.1 and Appendix K of the 1988 ATV Consent Decree and will depict ATVs in a manner consistent with safe and responsible use of the product. In addition, all riders shown in such advertisements shall wear helmets and full protective gear. SPS will use best efforts to promote dealer compliance with the advertising requirements.

### **Information/ Education Program:**

SPS will require that its dealers implement an information/education effort to communicate appropriate age recommendations, the importance of wearing safety gear, and other safety-related information to consumers. The materials and information will be based on all publications produced by the Specialty Vehicle Institute of America ("SVIA") and the ATV Safety Institute ("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.

**Website:** SPS's company website will provide on-line access and the ability for consumers to communicate with SPS and others as well as the option to download safety and education information. The website will provide appropriate warnings against the improper use of ATVs and explain the risks associated with ATV use. Users will be able to print the valuable safety and education information for personal use or to share with others.

**Print Ad Campaign:** The delivery of safety messages will also be promoted through the inclusion of the website address on all Owner's manuals and printed safety messages. The website address and safety message will be included in Retail Print Circulars published by SPS ATV retailers.

**Safety Reminders:** SPS will launch a direct mail effort for new ATV purchasers directed at parents. A Safety Reminder, incorporating the safety messages, will be sent via direct mail to new owners within a few weeks of vehicle purchase. SPS will also use its dealers' customer data to reach new purchasers by telephone and email, if provided, to distribute the safety reminders.

**Program Budget Estimate:** SPS will set aside a fund of \$20,000 per year for the next ten years to support its Information and Education Program.

**Safety Poster:** SPS will create and disseminate a poster with safety messages for SPS's dealers to display in their stores. SPS will use its best efforts to ensure its dealers will display these safety posters to be viewed by SPS customers.

### **3-Wheel ATVs:**

SPS will not manufacture, market, or sell 3-wheel ATVs.

**Participation in ASI's Safety Program:**

SPS shall be a participating member of the ASI ATV safety program. If at any time SPS 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, SPS will cease to distribute ATVs into U.S. commerce until such time that SPS is able to provide equal or greater materials and services as described herein.

**Participation in Voluntary Standards Activities:**

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

**Notice of Change:**

SPS will inform CPSC with at least 60 days advance written notice if it has any intention to terminate or materially change any commitment under this action plan. SPS will provide information about these activities upon request from CPSC.

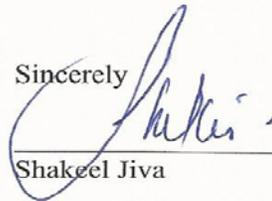
**AMENDMENT AND TERMINATION PROCEDURES:**

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

SPS is proud of our insistence on selling only quality and safe ATVs, and looks forward to working with and maintaining a good standing relationship with the CPSC in the future.

Super Powersports Distributors LLC agrees to take all the actions to promote ATV safety set forth in this SPS ATV Action Plan and religiously believes in the safety of our consumer. We believe safety not only comes from the manufacturing point, but that the entire distribution chain must implement and abide by these standards. Our preferred pricelist is only guaranteed to dealers who take these consumer safety standards seriously. If dealers do not comply with safety requirements, in addition to the above outlined actions, they will pay a higher purchase price within 48 hours of a failed safety inspection (as outlined in our dealer's agreement). Child safety is our number one and utmost priority. SPS 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



Shakeel Jiva

06/20/19

President  
Super Powersports Distributors LLC.