



November 27, 2012

Mr. Sean R. Ward, Attorney  
Division of Compliance  
Office of the General Counsel  
U.S. Consumer Product Safety Commission  
4330 East West Highway, Room 703-F  
Bethesda, MD 20814-4423

Dear Mr. Ward:

In response to your proposed edits, please accept Gibbs Sports Amphibians Inc.'s (hereinafter called 'GIBBS') revised **Comprehensive Safety Action Plan** to promote safe operation of the GIBBS' Quadski on both land and water.

**1. Age Recommendations**

GIBBS is fully committed to the goal of reducing ATV-related accidents and will not recommend market or sell Quadskis to or for use by individuals under the age of 16, consistent with the age category/speed guidelines specified at Section 6 of the ANSI/SVIA I-2010 of the standard for ATVs ("the ATV Standard").

GIBBS will use its best efforts to ensure that its dealers comply with these requirements.

**2. Dealer Monitoring**

GIBBS will require its dealers to comply with this age restriction requirement and take appropriate disciplinary measures against non-complying dealers, including possible termination, to the extent permitted by applicable state and local laws. GIBBS' Dealer Monitoring Program is set forth in Attachment 1.

GIBBS will require that dealers verify the intended ATV rider's age(s) prior to selling GIBBS' Quadski. GIBBS' warranty registration card will require the identification of the new owner's name, address and date of birth to ensure that GIBBS' dealers do not sell GIBBS' Quadski to underage riders.

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GIBBS will use its best efforts to obtain dealer compliance with the age recommendation requirements of the above referenced ATV Age Standard. GIBBS or a company hired by GIBBS will conduct on-site inspections of each of its authorized dealers at least twice a year. These inspections will be conducted by means of independent, undercover investigators also known as "secret shoppers" to ensure that dealers follow the age requirements and other safety related practices during sales and promotional functions. GIBBS will also ensure that its direct employees are inspecting dealerships during each of their routine dealership visits and that this task becomes a normal function during their time at a GIBBS authorized dealership.

When GIBBS learns of dealerships who are not abiding by the age requirements of the ATV standard, it will arrange follow up inspections. If GIBBS finds evidence of continued violations, GIBBS will take remedial action, up to and including possible termination or non renewal of the dealer contract with GIBBS.

### **3. Quadski Labels**

GIBBS safety labels will conform to Section 4.23 of the ATV Standard and are described in Attachment 2.

### **4. Owner's Manuals and Quick-Reference Guide**

GIBBS will provide Owner's Manuals. These Owner's Manuals will conform to Section 4.21 of the ATV Standard. A designated storage area within the Quadski will be provided for the Owner's Manual.

GIBBS will also provide a waterproof Quick-Reference Guide (intended to stay with the Quadski at all times), a copy of which is included as Attachment 3.

GIBBS may update and modify the format, language, corresponding illustrations, and other related components and warnings in the Owners' Manuals and Quick Reference Guide, consistent with ANSI/SVIA 1-2010, and generally accepted communication techniques and standards. GIBBS will provide copies of any such updated and modified Manuals and Guides to the CPSC.

### **5. Advertising**

GIBBS' Quadski advertising and promotional materials will (a) include the substance of the safety message that is described at Section J.1 and Appendix K of the 1988 ATV Consent Decree, (b) depict the Quadski in a manner consistent with safe and responsible use and (c) conform to the safety guidelines described in Attachment 4. GIBBS' print and web advertising will include information about the ASI training course availability and safety alerts. All riders shown in the advertisements will wear helmets and full protective gear.

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when riding the Quadski on land. GIBBS will use its best efforts to promote dealer compliance with advertising guidelines for depicting the safe Quadski use.

### **6. Hang Tags**

GIBBS will provide a hang tag with every Quadski. The hang tags will (a) comply with the requirements of Section 4.24 of the ATV Standard, (b) include information about free, hands-on Quadski training availability and (c) comply with the Hang Tag requirements described in Attachment 2. GIBBS will use its best efforts to require dealers to display the hangtags on new Quadskis.

### **7. Quadski Safety DVD**

GIBBS will provide a safety video to all purchasers of the Quadski at the point of purchase. This video will conform to all requirements in Section H.3.b. (4) (b) and paragraphs II.A and II.C of Appendix I of 1988 ATV Consent Decree and the requirements set forth in Attachment 5.

### **8. Training**

GIBBS will offer free, hands-on, Interactive training to all Quadski purchasers and members of their immediate family who are age appropriate. This training will be conducted through the existing educational programs of the ATV Safety Institute (ASI).

In addition, after completion of the ASI course, the purchaser 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 purchaser's choice) as a rebate for already purchased safety equipment or a credit towards the purchase of new safety equipment.

Purchaser will be notified about the availability of the free, hands-on training for Quadski purchasers and members of their immediate family who are age appropriate; before, during and after the purchase of the Quadski.

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

At the time of the purchase, the consumer will be asked to read, and sign a document acknowledging receipt of all of the safety warnings, hazards and dangers of driving the Quadski. The purchaser is required to read and sign such document in order to receive the manufacturer's warranty for the Quadski.

After the purchase, the purchaser will be told by the dealer how to sign up for the ASI training program. The dealer will also give the purchaser of the Quadski a coupon describing the \$100 incentive for the full cost of the ASI training program when finished.

GIBBS will require its dealers to provide each customer with operation and safety instructions; and review specific safety information with the customer in connection with each Quadski sale according to the checklist described in Attachment 6.

A toll free number to contact ASI for the registration will also be provided in the Owner's Manual and on the point of sale materials.

## **9. Information and Education Program**

GIBBS will develop an informational and educational program to communicate age requirements and other safety related information to consumers. GIBBS hopes to build an increased awareness of appropriate usage and educate our consumers on safety procedures/precautions. The educational program will offer select tailored communications through its website, social media, in person dealer training, literature and posters in the dealer's stores:

- GIBBS will distribute safety reminders via social media and e-mail to all new consumers of the Quadski. This form of communication will allow periodic safety refreshers and tips that allow consumers to most appropriately use the products. The safety message will reinforce the free ATV training available (Section 8).
- GIBBS will provide posters to all Quadski dealers to display and make available to potential Quadski purchasers. These posters will reinforce and demonstrate GIBBS' dedication to safety and will also serve as a reminder of appropriate usage and the importance of safety gear.
- GIBBS will utilize the company website to promote safety through a dedicated webpage which communicates safety to consumers via video(s), articles and links. This form of online content will highlight the importance of safety. Online content also allows users easy and instant access to safety demonstrations, tips and techniques.
- GIBBS will communicate and promote safety through a social media campaign that includes safety messages from events, safety videos and promotions for safety gear. GIBBS' social media campaign will provide a safe use community by encouraging owners to share their

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own safety content. This additional form of communication allows customers a platform to build a community focusing on safety.

- GIBBS will assign a minimum of \$20,000 in the budget per year to education programs.

GIBBS will offer a safety kit with all Quadskis sold. This kit will be presented by dealers at the point of sale. These safety kits will reinforce GIBBS' dedication to safety and offer visual demonstrations for using the products. This allows the consumers to view safety techniques and then be able to implement by example. The Quadski safety kit not only promotes safe riding concepts but also encourages appropriate use by allowing consumers to review content after the point of sale and at their leisure. The safety kit will include the safety video (Section 7), and a postcard that allows the customer the link to various online safety content. These include social media links, safety gear, promotions and safety events. The Quadski safety kit will also include a list of GIBBS safety accessories, a GIBBS safety poster and possible safety promotion items.

### **Safety Reminders**

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

- a. Within a few days after each consumer purchase, GIBBS will utilize the trained staff of its 24-hour hotline to call each new purchaser to ensure they were properly notified by the dealer about taking the ASI Safety Training course and about the \$100 incentive for completing the course.
- b. A few weeks after each consumer purchase, GIBBS will also send a letter or email to all purchasers of the Quadski to remind them about the importance of taking the ASI Safety Training course.

### **Development of Safety Devices**

GIBBS understands the importance of deterring children under the age of sixteen from operating the Quadski. GIBBS will work with the CPSC in this effort, and will continue to work on additional safety measures to aid parents in this regard.

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### **Internet**

In promoting Quadski safety and educational efforts, GIBBS will also provide its safety video for use by nonprofit websites; such websites could distribute this safety message and promote the safe use of Quadskis. GIBBS will provide, through website mediums and other non-profit groups that have a core constituency of young adults, both information and educational materials on the potential dangers of misuse of the Quadski. Through internet links, GIBBS will continue its educational outreach. Through local, state and/or national non-profit groups, GIBBS will make an annual effort to further Quadski safety. By renewing the safety message each year, GIBBS will be keeping the message of Quadski safety fresh and alive.

To spread the word on Quadski safety and to make sure this message reaches young audiences, GIBBS will publish its own video of Quadski safety on "You Tube". This will be a short video to emphasize the importance of taking a hands-on ATV and PWC safety training course, and communicate safe and appropriate use of the Quadski.

### **Dealers**

GIBBS will create and disseminate a safety poster for posting by all of GIBBS' dealers. This poster will feature safety and educational information containing Quadski safe riding messages and encourage participation in the hands-on safety training.

GIBBS will encourage dealers to promote the importance of Quadski safety by (1) recommending that each purchaser visit the ASI's website to learn more about the safe operation of an ATV, and (2) providing dealers with information about the potential dangers of misuse of the Quadski.

### **Targeted Distribution of Safety Materials**

GIBBS intends to distribute safety brochures to dealers in an effort to target individual consumers. Additionally, GIBBS will mail or email additional safety material directly to individual consumers subsequent to their Quadski purchase as a post-purchase reminder of safety measures. Further, this material will incorporate valuable safety messages to parents with regard to child safety warnings and precautions.

## **10. Toll-Free SAFETY Hotline**

GIBBS 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

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recommendations. GIBBS will also provide to callers, free of charge, appropriate copies of safety-related materials. GIBBS' toll-free number will be printed in all Owner's Manuals, the Quadski web-site and other promotional materials.

### **11. Safety Alert**

GIBBS will supply its dealers with "Safety Alert" documentation to be provided at the point of sale to all retail purchasers of Quadskis. This document will contain the same substantive safety information as the Safety Alert described in 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.

### **12. Participation in ASI's Safety Program**

If at any time GIBBS 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, GIBBS will cease to distribute into U.S. commerce ATVs until such time that GIBBS is able to provide equal or greater materials and services as described herein.

### **13. Notice to the CPSC of Termination of/or Material Changes to Action Plan**

GIBBS will provide information for this Safety Action Plan to the CPSC upon request. GIBBS will notify the CPSC at least sixty (60) days prior to terminating or materially changing this Comprehensive Safety Action Plan.

### **14. Amendment and Termination Procedures**

If Commission staff determines that GIBBS' approved ATV Action Plan is no longer effective or adequate, Commission staff may take certain action, including but not limited to notifying GIBBS that the ATV Action Plan must be amended to address the effectiveness or adequacy of the plan. With that notification, Commission staff shall provide GIBBS with the text of any proposed amendment. GIBBS 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 GIBBS and Commission staff fail to reach an agreement within the designated timeframe, then Commission staff may recommend termination of the Action Plan.

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Additionally, (i) if GIBBS fails to comply with the obligations of this ATV Action Plan, or (ii) if Commission staff determines that GIBBS can no longer comply with the obligations of this ATV Action Plan, or (iii) if GIBBS fails to adopt a requested amendment within the timeframe specified by staff, Commission staff, after providing GIBBS with notice and an opportunity to respond, may recommend termination of the ATV Action Plan, GIBBS may not manufacture, import, or distribute in United States any ATV under this Action Plan after receiving notice of 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).

Sincerely,

Gibbs Sports Amphibians Inc.

  
By: Neil G. Jenkins  
Its. President

**Attachments:**

1. Dealer Monitoring Program
2. Safety Labels
3. Quick-Reference Guide (under development)
4. Advertising Guidelines for Depicting Safe Quadski Use
5. Quadski Safety DVD (under development)
6. Operation and Safety Instructions/Delivery Checklist (under development)



## ATTACHMENT 1

### Dealer Monitoring Program

#### 1. Scope and Components of Monitoring Program

Gibbs Sports Amphibians Inc. (hereinafter called 'GIBBS') requires that its dealers verify the intended Quadski rider's age prior to selling that rider or his/her parent or guardian a Quadski. GIBBS' warranty registration cards require the submission of the intended rider's name and date of birth to ensure that dealers do not sell Quadskis to underage riders.

GIBBS will use its "best efforts"<sup>1</sup> to ensure that its dealers comply with:

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

GIBBS will conduct on-site inspections of each of its authorized Quadski dealers at least twice a year, with a minimum of 50 total 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.

GIBBS 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.

#### 2. Notice and Training Program

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 GIBBS' independent

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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 GIBBS' dealers, agents, or representatives with the terms of this Quadski 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.

investigators or GIBBS field personnel<sup>2</sup> GIBBS will:

- notify the dealer of such non-compliance;
- inform the dealer of the operative facts reported by the CPSC staff or the independent investigator or GIBBS field personnel (such as the name of the salesperson and the model(s) of the Quadski(s) allegedly recommended during the inspection; and
- demand corrective actions of the reported violation(s).

In addition, within thirty (30) days after notifying the dealer of its non-compliance, GIBBS will provide on-site training to all dealership personnel who are involved in the sale of Quadskis, if appropriate. The training may 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 any training effort will be made by GIBBS and provided to CPSC staff during bi-annual reporting (as described in the "Reporting" section below).

### 3. Follow-up Monitoring and Enforcement for Repeated Non-Compliance

Within sixty (60) days after notice to the dealer of non-compliance or completion of the above referenced training, if any, for a non-compliant dealer, GIBBS 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, GIBBS will take remedial action against the dealer, up to and including possible termination or non-renewal of the dealership agreement with GIBBS.<sup>3</sup> If GIBBS 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, GIBBS will terminate or decline to renew the dealer's contract. In each instance, GIBBS will inform the CPSC Office of Compliance and Field Operations in advance of any remedial action or disposition, and will provide the CPSC staff a reasonable opportunity to comment on such action or disposition before it occurs.

### 4. Reporting

GIBBS 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

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<sup>2</sup> Within fifteen (15) days of learning of a dealer's non-compliance with the above-listed requirements from a third party (such as another dealer or distributor), GIBBS will notify the dealer of the reported non-compliance and arrange an undercover, on-site inspection of the dealer to determine whether the dealer is complying with the above listed requirements. If a violation is discovered during this inspection, GIBBS will initiate the notice and training procedures outlined in this section.

Operations on February 1 and August 1 of each year. These reports should include a list of non-complying dealerships, the date of inspection, and all training or enforcement actions taken by GIBBS, along with dates of all follow up activities and remedial actions. GIBBS 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 the applicable laws. The CPSC staff also reserves the right to request additional information from GIBBS regarding the results of GIBBS' dealer monitoring program.

#### 5. Notice to Dealers

GIBBS 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 GIBBS' monitoring of the dealer and possible termination or non-renewal of the dealership agreement. GIBBS will provide the CPSC's Office of Compliance and Field Operations an advance copy of the notice.

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<sup>3</sup> The nature of the enforcement action will be determined on a case-by-case basis, and GIBBS will consider factors such as the applicable state and local laws, the circumstances of the reported violations, the length of time between reported violations, any intervening inspections in which the dealer was reported to be in compliance with the above listed requirements and the strength of the evidence supporting termination.