



U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, DC

ATV Petition Public Meeting Agenda
Tuesday, March 22, 2005
10:00 a.m.

Welcoming Remarks

Chairman Hal Stratton
Commissioner Thomas H. Moore

Staff Presentations

Elizabeth Leland, Directorate for Economic Analysis
Patricia Pollitzer, Office of the General Counsel

Questions from the Commission

Oral Presentations (Questions from Commission after each panel)

Panel #1

- Rachel Weintraub, Consumer Federation of America
- Scott Kovarovics, Natural Trails and Waters Coalition
- Mary Aitken, American Academy of Pediatrics
- Alan Korn, National SAFE KIDS Campaign

Panel #2

- Doug Morris, All-Terrain Vehicle Association
- Royce L. Wood, American Motorcyclist Association
- Karen Coria, Specialty Vehicle Institute of America
- Thomas Yager, ATV Safety Institute
- Kathy R. Van Kleek, Specialty Vehicle Institute of America
- Jeremy Brandwein, American Motorcycle Association
- Tim Buche, Specialty Vehicle Institute of America

Panel #3

- Nina Benton, Weekly Reader Corporation
- Christopher Spaulding, Charles County Sheriff's Office
- Edward J. Heiden, Heiden Associates

Panel #4

- E. Neal Gardiner, Gardiner Outdoor Products Corporation
- Mike Twigg, Twigg Cycles Inc.
- Brett Williams, Coleman PowerSports
- Greg Keoho, Criswell Powersports L.L.C.
- John Ross, Shenandoah Honda

Panel #5

- Harold Silbaugh, Pennsylvania Off-Highway Vehicle Association (PaOHV)
- James P. Cowgill, Trail Search and Rescue
- Jack Terrell, National Off-Highway Vehicle Conservation Council

Closing Remarks from Commission

Adjourn

STATEMENTS

Panel #1

Rachel Weintraub, Consumer Federation of America
Scott Kovarovics, Natural Trails and Waters Coalition
Mary Aitken, American Academy of Pediatrics
Alan Korn, National SAFE KIDS Campaign



Consumer Federation of America

Testimony of Rachel Weintraub

Assistant General Counsel, Consumer Federation of America

Before the

U.S. Consumer Product Safety Commission

Public Meeting on All-Terrain Vehicle Safety

March 22, 2005

I. Introduction

Chairman Stratton and Commissioner Moore, thank you for the opportunity to speak today and for holding this meeting. We appreciate your efforts to hear from those of us who are concerned about the current state of all-terrain vehicle (ATV) safety in the United States. My name is Rachel Weintraub; I am assistant General Counsel at Consumer Federation of America ("CFA"). CFA is a non-profit organization association of 300 consumer groups, with a combined membership of more than 50 million people. CFA was founded in 1968 to advance the consumers' interest through advocacy and education. CFA has been working on ATV safety issues for many years. As you know, in August of 2002, Consumer Federation of America and eight other medical, consumer, and conservation groups also filed a petition with CPSC calling on CPSC to ban the sale of adult-size ATVs for use by children under age 16 and to refund consumers for adult-size ATVs bought for use by children under 16. The CPSC agreed to docket the issue of banning the sale of four-wheel adult-size ATVs for use by children under 16.

CPSC staff recommends that the Commission deny our petition. While CFA has a deep respect for CPSC staff, we respectfully disagree with their recommendation and urge you to vote to grant the petition and direct staff to develop an advanced notice of proposed rulemaking. We believe that the staff's position is not supported by the evidence. Rather, we believe that the evidence overwhelmingly supports our petition and that the main arguments against ruling in favor of the petition are unsubstantiated.

In reviewing the staff's briefing package, we have found many important facts and conclusions that support our position as articulated in our petition. In addition we

have identified numerous issues that are unsupported by evidence and which cause us considerable concern.

Our petition is premised on the fact that the current approach to ATV safety-- the industry's self-regulating approach-- is not working. Not only has self-regulation by the ATV industry led to larger and faster ATVs and more children being killed and injured, but each year the number of deaths and injuries climb. These increases have frequently been by statistically significant margins and the Commission has routinely noted in annual reports of ATV deaths and injuries that such increases are not explained solely by rising ATV sales or usage. We believe that the failure of the current approach compels CPSC to be involved, in part, through the enforcement of a mandatory standard. The staff briefing package consistently supports the conclusion that the voluntary approach is not working. Nevertheless, staff claims that the effect of the ban is uncertain, thereby leading to the recommendation to deny the petition. At the same time, staff does not provide any solution or outline a proactive role for CPSC to play in order to help prevent the rising tide of ATV deaths and injuries.

II. Many Conclusions in the CPSC Staff Briefing Package Support CFA's Petition

Significantly, the staff briefing package finds that a national standard barring the sale of adult-size ATVs for use by children under would have **"substantial benefits"** and "[G]etting children to drive youth models rather than more powerful adult models could **reduce the injury risk by half.**"(emphasis added)(ATV Briefing Package, p. 16) Yet, staff, almost incongruously, minimizes this by stating that there is uncertainty about the

potential effectiveness of a ban on the sale of ATVs for use for children, therefore, recommends denial of the petition.

The staff briefing package validates concerns raised over the past two and a half years about the ineffectiveness of the ATV industry's voluntary approach to safety. For the first time citing actual compliance rates, staff highlights how dealer compliance with age recommendations dropped significantly after the legally binding consent decrees between manufacturers and CPSC expired in 1998. The report states:

“During the period covered by the consent decrees, roughly 90 percent of dealers were in compliance with the age recommendations. Compliance with the recommendations appears to have declined in recent years; in 1998, compliance was 85 percent, and in the years 2002 and 2003, 60 percent. However, for 2004, the compliance was 70 percent. **The declining dealer compliance with age recommendations from 1998 to 2004 may be related to reduced stringency of the ATV Voluntary Action Plans, relative to the legally binding consent decrees.**” (emphasis added)(ATV Briefing Package, p. 15)

While we are concerned that the Office of the General Counsel restricted information about CPSC's compliance efforts, we believe that the percentage of compliance indicates that when there was a stricter enforcement mechanism in place, compliance was better. For 2004, we suspect that the reason compliance was apparently higher may be due to the fact that there was an increase in public scrutiny concerning ATV safety rather than growing concern among dealers that noncompliance may be detected by CPSC or manufacturers.

In addition, the staff acknowledge the research and day-to-day experiences of doctors, nurses and other medical professionals -- children under age 16 do not have the range of physical and mental skills necessary to safely operate ATVs. The briefing package concludes: "In summary, research on children's developmental skills suggests that most children under 16 years old are lacking skills that would allow them to safely operate ATVs **in all situations.**"(emphasis added)(ATV Briefing Package, p. 144)

The briefing package (at Tab G) reveals the societal costs imposed when children are killed and injured by ATVs as well as the beneficial savings that a national safety standard could produce. The monetary costs associated with ATV injuries and deaths, which never can capture the emotional cost experienced by parents, families and victims, are staggering. For example: CPSC staff estimate that injuries suffered by children under age 16 cost society \$2.025 billion annually for medical treatment, pain and suffering, and economic losses and estimates that such costs top \$550 million annually for children killed by adult-size ATVs.(ATV Briefing Package, pp. 123-124)

At the same time, the monetary **benefits** associated with a national safety standard could be significant. Based on analysis in the briefing package and the estimate that a national safety standard could cut the risk of injury and death in half, injury costs could be cut by at least \$867 million annually if every child now riding an adult-size ATV began riding a youth model. Unfortunately, the staff did not include total estimates of monetary benefits. Instead, it reported saving on a per child basis leaving the Commission and general public to attempt to follow complex calculations in reverse to understand aggregate savings. This method of reporting obscures total benefits for most observers. Using the same approach, costs associated with fatalities could be cut by a

minimum of \$235 million each year if every child now riding an adult-size ATV began riding a youth model.

III. ATV Briefing Package Includes Elements of Concern and Ignores

Important Facts

The briefing package glosses over most benefits -- it does not even consider that a single life could be saved -- and concentrates almost exclusively on monetary and other costs associated with a national standard. Many of the "costs" cited by staff pale in comparison to the benefits of saving lives and reducing serious injuries and few are quantified. For example: it might cost CPSC \$350,000 annually to more aggressively monitor ATV dealers for compliance with this standard; staff attempt to justify their recommendation in part by arguing that families would face "transaction costs" associated with the sale of youth ATVs, including placing a classified ad and scheduling appointments with prospective purchasers; the recommendation cites "foregone benefits" for some families that elect to purchase a youth ATV, rather than an adult model, for use by a child because adult family members could not ride a youth ATV; staff even argues that one reason not to develop a national standard is that some children could face "peer stigma" when riding youth ATVs.

This cost benefit analysis is missing an essential component—an analysis. The briefing package lists a few of the above mentioned benefits, many costs to the public, a reasonable cost to CPSC, no cost to the industry, but fails to balance the benefit of even one life saved-- \$5 million, or of one injury prevented-- \$33,000 compared to the \$350,000 cost to CPSC of increased enforcement and the intangible costs to consumers.

Staff does conclude, however, that getting children off adult size ATVs could reduce the risk of injury by half. (ATV Briefing Package, pp. 16, 123-124)

The briefing package uses industry information about the existence of training available to purchasers of ATVs. Importantly, however, the staff never once mentioned the small percentage of ATV buyers who actually obtaining training. According to the *All-Terrain Vehicle 2001 Injury and Exposure Studies*, January 2003, by Mark Levenson, at page 24, only a small percentage of ATV drivers (7%) stated that they received training from an organized training program, dealer or salesperson. This significantly undermines the success of the voluntary approach as it pertains to training consumers about riding ATVs.

The briefing package relies too heavily on anecdotes from presenters instead of upon broader scientific surveys of the public. While public comments can be very useful to add numerous perspectives and additional arguments in favor or against the petition, they can not fairly be used as a size for the public at large. For example, in the Human Factors analysis of issues related to ATVs, it states, "A partial ban may raise awareness that adult ATVs are inappropriate for some children, but as evidenced by many comments, some parents may ignore such warnings." (ATV Briefing Package, p. 154) These commenters are not a fair sample size of the public, but rather comprise a subset of avid ATV riders.

III. Staff's Reasons for "Uncertainty" of Effectiveness of Rule are Unsubstantiated

Staff document widespread industry noncompliance with voluntary standards, substantial monetary and other societal benefits associated with reducing the risk of serious and injury and death by half, and that the body of medical research demonstrates that children under age 16 do not have the range of skills necessary to safely operate ATVs. In light of this evidence, staff must demonstrate clearly and convincingly that the costs associated with a national regulation significantly outweigh the benefits. In our opinion, staff has failed to meet this standard.

Staff reiterates that the effect of the rule requested in the petition is “uncertain.” Staff states that in order for the ban to be effective, the ban needs to change riding behavior – change how adult-size ATVs are used after they are purchased and reduce the number of ATVs that are sold for use for children. The staff never includes any clarification of what “effectiveness” or “uncertainty” means and it fails to provide a benchmark for success or failure. It is difficult not to conclude that CPSC is defining effectiveness as 100 percent compliance. This is unrealistic, not required by law, nor is it required in order for the benefits to exceed the costs. The staff’s briefing package seems to make the “perfect” the enemy of the “good.” Significantly, the standard for promulgation a mandatory standard is not that it must be perfect. Rather, the decisive factor is that “a standard be reasonably necessary to prevent or reduce an unreasonable risk of injury associated with such product.” (15 U.S.C. 2058(a)) Thus, a mandatory rule is not required to reduce every death and injury nor is it required to be without limitations.

The CPSC staff advances the following five arguments to justify its recommendation: 1) the ban would address how ATVs are sold, rather than how they are

used; 2) voluntary standards already require that children not ride adult-size ATVs so CPSC requiring it would not make any difference; 3) consumers are already aware of the warnings and knowingly choose to ignore them; 4) no data exists to show that a mandatory rule would be more effective than the voluntary standard; and 5) the rule would have no impact on the sale of used ATVs.

Each of these arguments is insufficient to support denial of CFA's petition:

1. The Ban Would Address how ATVs are Sold, Rather than how they are Used

As CPSC staff reiterate, CPSC's authority is limited in that CPSC does not have the authority to affect the way products are used - rather its authority is limited to how a product is sold. The fact that jurisdiction is limited in this way does not exonerate the Commission from its responsibility to protect the public from potentially hazardous products, nor does it prove that behavior will not ultimately be changed.

Staff fails to acknowledge that a federal regulation barring the sale of certain ATVs for children would significantly change legal and other dynamics facing the ATV industry, and dealers in particular. When the consent decrees were in effect, CPSC reports that compliance was consistently high and it dropped dramatically when replaced with the voluntary approach. When the legal hammer was removed, dealers appear to have concluded that the risks of violating the voluntary standard are outweighed by the benefits associated with selling adult-size ATVs in violation of those standards. The downward trend also demonstrates that on-going monitoring by manufacturers failed to encourage widespread and consistent compliance. With a federal regulation in place and stepped up enforcement by CPSC, we believe the legal dynamics would be very similar to those under the consent decrees. If dealer compliance rises, then sales of adult-size

ATVs for use by children would decline. Reduction in such sales would indirectly affect use because a smaller number of adult-size ATVs would be available to this age group.

2. Voluntary Standards Already Require that Children Not Ride Adult-Size ATVs so CPSC Requiring it would Not Make Any Difference

Staff make this argument in numerous ways: staff maintain that a federal regulation barring the sale of adult ATVs for use by children is unlikely to have more impact on prospective purchasers than industry warning labels; staff articulate that there is already a voluntary standard that exists so making that mandatory would not have an effect; and staff assert that the petition requests a federal warning which is no different than the voluntary warning that exists already.

Importantly, the Consumer Product Safety Act (CPSA) was written with the belief that mandatory standards can offer more benefits than voluntary ones. The staff appears to ignore this point. CPSC, as stated in section 9 of the CPSA, can promulgate a “consumer product safety rule” which relates to a risk of injury only when a voluntary standard has not resulted in the elimination or adequate reduction of the risk of injury; or it is unlikely that there will be substantial compliance with the voluntary standard. It is clear that, though CPSC can move forward with a mandatory rule if one of these factors is met, with regard to ATVs, both have been met.

A. The Voluntary Standard has Failed

CPSC staff conclude that specific components of the ATV Action Plan’s educational efforts are not being followed. Again and again the staff found that: children are riding adult-size ATVs (The briefing package finds that 89% of child drivers who were injured were riding adult size ATVs.); people are riding as passengers; protective

gear is not being worn; and ATVs are being ridden on paved roads. (ATV Briefing Package, p. 14) All of these behaviors are warned against by the ATV industry in the voluntary standards. Yet, they persist under the voluntary standard and all of these factors contribute to the risk of injury or death.

With respect to the Commission's authority under CPSA, staff also provides ample evidence that the risks associated with ATV use have increased since the onset of the voluntary approach. Staff concludes that there "was a large increase in risk between 1997 and 2001."(ATV Briefing Package, p. 78) This covers the period during which the consent decrees were replaced with the voluntary standards. Moreover, staff reports that during this same period: "[I]njuries have increased at a greater rate than any of the five exposure measures. This disparity between the increase in injuries and exposure is reflected in the risk measures, which show that risk increased anywhere from an estimated 39% to 65% depending on the risk measure."(ATV Briefing Package, p.71) This analysis demonstrates that the voluntary approach has not reduced risk, which satisfies one of the requirements under the CPSA for developing a mandatory safety standard. However, while the risk analysis is quite clear and compelling in Tab D, staff's overall recommendation fails to acknowledge or challenge it.

The failure of the voluntary approach to affect these critical factors should reinforce the case for a mandatory solution as set forth in the CPSA and make clear that consumers have not been persuaded about the necessity of the elements of the voluntary standard. However, CPSC staff takes note of this failure and then turn it on its head to support the premise that the rule requested in the petition would have "uncertain" benefits. This is problematic at best and tragically flawed at worst. The fact that the

voluntary approach is failing should indicate that more aggressive action –in the form of a mandatory standard -- is needed to better protect public health and reduce the risk of serious injury and death.

B. Compliance with the Voluntary Standard

While the public has not been provided with the full picture of compliance regarding the ATV voluntary standard due to the General Counsel's restriction on release of the relevant sections of the briefing package, minimal compliance data was provided. This data shows that compliance was highest when there was most scrutiny. Compliance rates were at 90% during the consent decree and fell significantly after the consent decree expired, though percentages of compliance were given for very few years. This increased compliance when the consent decree was in effect, is evidence that compliance was better when there was more of a force of law behind the standard, which would occur if there were a relevant mandatory rule. CPSC staff also concludes (ATV Briefing Package, p. 15) that the declining rate of compliance from 1998 to 2004 could be due to "reduced stringency" of the ATV action plans.

3. Consumers are Aware of the Warnings and Knowingly Choose to Ignore them

CPSC staff state frequently in the briefing package that consumers are aware of the warned against behaviors as advertised on warning labels of ATVs. Unfortunately, CPSC staff failed to analyze important data which proves that the contrary is true. In looking at CPSC and the ATV industry's survey of people injured on ATVs, CFA analyzed the Injury Special Study Raw Data Files for 1997 and 2001, which were provided as Attachment 2 to CPSC's response to FOIA request from CFA, dated February 11, 2003, for 1997 and 2001, and it is clear that only a small percentage of the

public is aware of the recommended size limitation for child operation. Only 13 percent of the injured ATV riders who responded to the CPSC's special survey of a representative sample of those injured in ATV accidents, were aware of a warning label about vehicle size for children under 12 and only 38 percent were aware of a warning label for children under 16. Thus, the conclusion in the briefing package is vastly incorrect when it assumes that the public is aware of the warning messages.

Furthermore, staff appears to equate the presence of a label on a product with consumer understanding and knowledge about the dangers of that product. However, they do not cite a single source which demonstrates that parents fully understand the meaning and ramifications of those labels and then purchase adult-size ATVs for their children anyway. The failure to provide evidence in and of itself undermines staff's position. By extension, it maintains that parents knowingly ignore that fact that their children face significant risk or serious injury and death when riding adult-size ATVs. We reject this supposition. In fact, parents from across the country have told us that they did not understand the risks or how dangerous ATVs can be. In seeking to explain the ineffective nature of warning labels, the staff should have considered, for example, that ATV dealers may not be providing prospective purchasers with the information necessary to effectively evaluate risks and make truly informed decisions.

4. No Data Exists to Show that a Mandatory Rule would be More Effective than the Voluntary Standard

We disagree with this argument. Staff overlooks the fact that compliance was higher when the consent decree was in effect. In our view, this is as close as CPSC has come to a mandatory rule. The evidence from that experience is clear and convincing.

When the consent decrees were in place, industry compliance was consistently higher when compared to the period covered by the voluntary standards. Once the consent decree expired, and with it a semblance of a force of law, compliance rates declined. This demonstrates quite clearly that benefits, in this case higher dealer compliance, accrue when CPSC applies binding requirements on this industry and its interlocking parts.

As CFA has articulated previously, a regulatory ban on sales of adult-size ATVs for use by children will give CPSC a remedy against dealers who fail to comply with the “age recommendations” of the ATV action plans. Unfortunately, staff fails to consider this in the briefing package. A regulatory ban will fill that void, since the penalty provisions of the CPSC’s statutes, which apply directly to dealers, make it unlawful to “manufacture for sale, offer for sale, distribute in commerce, or import into the United States” a consumer product that does not conform to an applicable standard, including a regulatory ban. In reality, a ban will act as an incentive to dealers and manufacturers to comply with age restrictions which will increase compliance.

In addition, CFA continues to believe that a regulatory ban would accomplish what the “age recommendation” of the ATV Action Plans have failed to do: send a powerful message to parents about how dangerous large ATVs are for children.

Staff largely dismisses this benefit by characterizing the federal regulation requested in the petition as a warning nearly indistinguishable from industry labels already placed on ATVs. (see ATV Briefing Package, p. 16) Staff states that there is little research “to indicate that consumers would view a **federal government warning** as being more credible than other warning.”(emphasis added)(ATV Briefing Package, p. 16)

The fundamental flaw in this analysis is that the petition does not request another warning label, but a federal regulation barring the sale of adult-size ATVs for use by children under age 16. Under the approach we request, the message parents should receive from complying dealers is “federal law prohibits me from selling any adult-size ATV for use by a child under 16.” The comparison of a regulation to a warning is inaccurate and misleading.

Further, a regulatory ban would also make clear that the “age recommendations” are not merely warning labels devised by the ATV industry to protect itself against personal injury lawsuits. For the first time since CPSC began to work on this issue, an unequivocal message would be sent to manufacturers, dealers and consumers that no child can operate any adult-size ATV under any circumstances.

Moreover, we strongly disagree with the weight staff appears to afford to a few comments received from parents indicating they would disobey any regulation. As discussed above, this appears to be yet another example of staff’s apparent assumption that a mandatory standard can only be developed if 100 percent compliance can be guaranteed. Although public comment is important and should be considered, CPSC has a legal responsibility to develop policy that meets the larger public interest. Finally, staff’s effort to make the case that a prohibition would be ineffective is far from persuasive. For example, at page 152, an argument is made about parental awareness of ATV dangers by suggesting that if parents grant permission for children to ride adult-size ATVs then they must be aware of the dangers and then elect to ignore them. However, staff report that when examining 184 in-depth investigations of injured children, it was **impossible to determine whether any form of active or implied permission had been**

granted in 61 percent of those cases. Based on this example, staff's recommendation attempts to marshal arguments for which there is little data or support.

5. The Rule Would Have No Impact on the Sale of Used ATVs

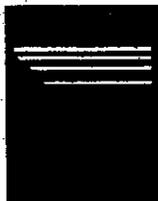
While it is true that if this rule were to be promulgated, the rule would not be applicable to private sales, this does not justify denying the petition. The sale of new ATVs accounts for 63 percent of all ATV sales according to CPSC. In 2003, 886,000 new ATVs were sold in the U.S. It defies explanation that the staff would recommend against a rule that would apply to hundreds of thousands of new purchases annually partially on the grounds that such rule would not apply to every conceivable ATV sale.

V. Conclusion

The death and injury data, and the failure of the voluntary approach have not only been confirmed by CPSC staff, but have also brought consumer groups, physicians, and conservation groups together to take collective steps to reduce the hazards posed to children by adult-size four wheel ATVs.

We recognize that CPSC does not have the authority to take every action necessary to solve the full scope of the problems currently caused by ATVs. While CPSC can ban the sale of adult-size ATVs for use by children under 16, we urge CPSC and industry to support state efforts to set licensing requirements, set training requirements for riders of ATVs, prohibit riders from carrying passengers, and require ATV riders to wear helmets and other protective equipment. We also believe that with the Federal and state governments taking strong action and providing more information to consumers, parental responsibility will increase as well.

We urge CPSC not to let the “perfect” be the enemy of the “good” and we therefore, urge CPSC to reject CPSC staff’s analysis and act soon to protect children from the well documented hazards of riding adult-size ATVs.



NATURAL TRAILS & WATERS COALITION

Statement of Scott Kovarovics

Director, Natural Trails and Waters Coalition

Before the U.S. Consumer Product Safety Commission

ATV Petition Briefing

March 22, 2005

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The Natural Trails and Waters Coalition includes conservation, recreation, hunting, and other groups working to protect and restore all public lands and waters from the severe damage caused by dirt bikes, jet skis and all other off-road vehicles.



Chairman Stratton and Commissioner Moore, I appreciate the opportunity to testify today concerning CPSC staff's recommendation to deny the petition seeking a national safety standard to protect children under age 16 from the dangers posed by adult-size all-terrain vehicles (ATVs). I serve as Director of the Natural Trails and Waters Coalition, which includes conservation, recreation and other groups from across the country, including petitioner Bluewater Network.

I know my colleague Rachel Weintraub has a very detailed statement and assessment of the strengths and weaknesses of staff's briefing package. I defer to her expertise and long-standing experience with this issue and the legal and regulatory framework governing the Commission's work. I also understand that doctors and other medical professionals will highlight their day-to-day experiences and the significant body of peer-reviewed research that documents the serious and persistent nature of this problem. I note for the record that I have tremendous respect for the Commission staff, their professionalism and knowledge. However, from our perspective, the briefing package fails to marshal the evidence to support its recommendation and appears to this observer to lack in-depth analysis of key issues. In fact, the evidence which is presented makes the case for granting the petition and initiating the rulemaking process. My organization strongly encourages you to reject staff's recommendation, grant the petition, and direct staff to develop an advanced notice of proposed rulemaking.

I appreciate the opportunity to address the following key issues.

Partial Sales Bans Are Effective

As you know, the petition requests that CPSC develop and issue a regulation that would prohibit the sale of adult-size ATVs for use by children under age 16. The staff refers to this as a partial sales ban because it would not apply to all ATV sales. Staff's analysis of this critical issue is flawed in several respects.

First, the analysis and conclusions appear to be based on the unspoken premise that the Commission must be assured of 100 percent compliance before developing any regulation. Over and over again, staff questions the effectiveness of a regulation because some prospective purchasers would not comply. The fundamental flaw with this premise is apparent to even the most casual observer. Our entire legal and regulatory framework would cease to exist; frankly, no law would ever have been enacted if such action was predicated on having 100 percent compliance in the future. We do not enact laws or regulate any behavior, industry or action because individuals or entities are already engaged in practices that society as a whole deems most appropriate. We enact laws and regulations in the absence of such compliance and to encourage it from a greater number than would occur in their absence. Our system does not expect complete compliance, but greater compliance and, in many respects, it is designed to reduce risks to certain members of society, particularly children.

In fact, staff's analysis demonstrates that a national safety standard would reduce the risk of serious injury and death caused by ATVs by half. Achieving this result would

represent tremendous progress and provide very significant benefits to society as a whole and ATVs riders and their families.

Second, the briefing package fails to adequately analyze the effectiveness of other partial sales bans, which deprives the Commission and the public of critical information. Staff's analysis is largely confined to a single paragraph in Tab I (p. 152) that highlights partial bans on the sale of tobacco and alcohol to people younger than 18 and 21, respectively. In sum, staff concludes that these restrictions are ineffective because some members of these age groups still smoke or drink. No one would disagree that these restrictions are not iron-clad. However, CPSC staff fails to consider and report the benefits associated with these restrictions or weigh those benefits against any possible costs associated with the regulation. The staff discussion also leaves the reader with the impression that sales of tobacco to minors have risen consistently since 1992, which supposedly raises additional questions about the effectiveness of the sales ban. According to one of the most comprehensive on-going surveys of drug, alcohol and tobacco use among 8th, 10th and 12th grade students, since the peak levels of the mid-1990s, the "30-day prevalence of smoking has declined by 51 percent in 8th grade, 45 percent in 10th, and 33 percent in 12th" through 2003.¹ It is unfortunate that more current and accurate information is not included in the briefing package.

In the context of minimum ages for alcohol and tobacco sales, the benefits are clear. I will highlight only a few examples:

- A report from the National Academy of Sciences concludes: "Limiting youth access to alcohol has been shown to be effective in reducing and preventing underage drinking and drinking-related problems. Since 21 became the nationwide legal drinking age, there have been significant decreases in drinking, fatal traffic crashes, alcohol-related crashes, and arrests for 'driving under the influence' (DUI) among young people."²
- Research found that high school seniors who lived in states with a minimum drinking age of 21 drank less before age 21 and between ages 21 and 25 compared to seniors who lived in states with lower drinking ages.³
- The U.S. Department of Justice compared various types of alcohol use among minors in the United States with patterns among minors in 21 European countries, most of which do not have minimum drinking ages or have ages much lower than in this country. The Department undertook this research because some have challenged minimum drinking age laws in the U.S. based on the premise that European youth drink more responsibly in the absence of such laws. This research concludes:
"Based on this analysis, the comparison of drinking rates and alcohol-related problems among young people in the United States and in European countries does not provide support for elimination of U.S. minimum drinking age laws or for the implementation of programs to teach 'responsible' drinking to young people."⁴

- When compared to youth in the United States, specific findings of the Department's report include:
 - "A greater percentage of young people from nearly all European countries in the survey report drinking in the past 30 days."
 - "For a majority of these European countries, a greater percentage of young people report having five or more drinks in a row."
 - "About half of the European countries in the survey had higher prevalence rates of self-reported intoxication than the United States, about a quarter had lower rates, and about a quarter had rates that were more or less the same as the United States."⁵

Clearly, stepped up enforcement must accompany any regulation. Although staff estimates how much CPSC might need to spend to boost enforcement, yet again, it fails to consider the effectiveness of a regulation in the context of more aggressive enforcement. The evidence from the other partial bans proves that effective enforcement dramatically boosts compliance. For example:

- "[S]tudies show that enforcing existing laws against cigarette sales to kids through regular retailer compliance checks and issuing civil penalties to retailers can significantly reduce youth smoking. In contrast, voluntary retailer compliance programs, such as those promoted by the big cigarette companies, do not."⁶
- "The comprehensive tobacco prevention programs in California and Massachusetts both include strong enforcement of youth access laws that have substantially reduced illegal sales to minors. In California, the proportion of retailers who failed compliance checks for selling tobacco products to minors decreased from 52 percent in 1994 to 21.7 percent in 1997. In Massachusetts, illegal retailer sales dropped from 48 to eight percent."⁷
- In the context of tobacco sales to minors, states have been reporting results of retailer compliance checks to the federal government since the late 1990s. The states actually report rates of noncompliance with sales restrictions. In fiscal year 2004, noncompliance rates averaged less than 10 percent for all 50 states and the District of Columbia. This demonstrates the retailers are complying with this partial sales ban at very high levels.⁸

It is important to put the rate of compliance and the clear enforcement challenges with respect to cigarette sales in context and then consider that in comparison to ATV sales. According to experts on the tobacco issue, there are more than 500,000 "brick and mortar" establishments selling cigarettes in the United States. These stores, gas stations and other locations engage in millions, perhaps tens of millions, of small dollar transactions every day. Yet, state enforcement agencies, which face a myriad of demands and operate with limited budgets and staff, have effectively created an atmosphere that

engenders very favorable compliance across the country. By contrast, CPSC reports that there are approximately 5,000 established ATV dealerships nationwide.(p. 10) These dealerships engage in a relatively small number of large dollar transactions every day.

The CPSC faces no greater enforcement challenge than the states particularly with this dramatically smaller universe of sellers engaging in a fraction of the number of transactions. With this in mind, there is every reason to believe that CPSC could create a similar atmosphere encouraging compliance by boosting enforcement and changing the legal dynamics for dealers by issuing a regulation barring the sale of adult-size ATVs for use by children under age 16. In fact, the Commission observed consistently high compliance when the legally binding consent decrees were in effect. Moreover, staff acknowledges more than once that a regulation would change the dynamics vis-à-vis dealers. For example, staff concludes: "A federal sales ban might also increase dealer compliance with the age recommendations, since ignoring federal regulations might result in more serious sanctions than is likely to be the case under the Action Plan."(emphasis added)(p. 127) The footnote accompanying that sentence reinforces that point stating: "Additionally, the CPSC could deal directly with non-complying dealers, instead of working through the distributors."(p. 127) Rather than be "concerned" about monitoring by manufacturers of the vehicles they sell, with a regulation in place, dealers would be concerned about direct enforcement by CPSC and the civil penalties that could be imposed for noncompliance.

The briefing package fails to rigorously analyze the effectiveness of partial sales bans and is surprisingly flip even in its cursory discussion. When the partial bans on tobacco and alcohol sales have been systematically and thoroughly studied, they have been found to effectively reduce sales to and use by minors particularly when accompanied by aggressive enforcement efforts, public education campaigns, and a range of other strategies and tactics. The briefing package does not counter these conclusions or demonstrate that a ban on the sale of adult-size ATVs for use by children under age 16 would not produce any benefits. Rather, it documents "substantial" benefits and then simply fails to analyze the issue of effectiveness in any meaningful way.

Voluntary Approach is Failing

The briefing package only adds to the body of the evidence that demonstrates that the voluntary approach to safety, embodied in the ATV Action Plans and industry self-regulation, is failing and has been for years. This evidence can not be reconciled with staff's effective recommendation that it be allowed to continue.

Based on my experience, this briefing package represents the first time that CPSC has publicly divulged the extent to which ATV dealers are failing to comply with their industry's voluntary age recommendations. The package states: "During the period covered by the consent decrees, roughly 90 percent of dealers were in compliance with the age recommendations. Compliance with the recommendations appears to have declined in recent years; in 1998, compliance was 85 percent, and in the years 2002 and 2003, 60 percent. However, for 2004, the compliance was 70 percent. The declining

dealer compliance with age recommendations from 1998 to 2004 may be related to reduced stringency of the ATV Voluntary Action Plans, relative to the legally binding consent decrees.”(emphasis added)(p.15)

This evidence simply strengthens the case for a new approach to this problem. Furthermore, in our opinion, any increase in compliance observed in 2004 is probably due to increased public scrutiny and media attention than to actions by manufacturers or CPSC. The decidedly downward trend observed since 1998 demonstrates that dealers were not motivated to comply with age recommendations due to monitoring by manufacturers or CPSC. Under the voluntary approach, industry bears the burden to prove that it can ensure broad-based and consistently high compliance from its members. The ATV industry is failing to meet this fundamental standard, and has been for years. As a result, it no longer deserves the benefit of the doubt that the Commission has continued to extend even in light of significant noncompliance, record-breaking injuries and deaths, and rising risk of serious injury.

Benefits of Rule Dramatically Outweigh Costs

The summary of the 200-plus page briefing package glosses over most benefits – it does not even suggest that a single life could be saved by enacting a national safety standard. However, digging deeper into the document (at Tab G) reveals the societal costs imposed when children are killed and injured by ATVs as well as the beneficial savings that a national safety standard could produce. The monetary costs associated with ATV injuries and deaths, which never can capture the emotional cost experienced by parents, families and victims, are staggering. For example:

- CPSC staff estimates that injuries suffered by children under age 16 cost society \$2.025 billion annually for medical treatment, pain and suffering, and economic losses.
- Staff estimates that such costs top \$550 million annually for children killed by adult-size ATVs.

At the same time, the monetary benefits associated with a national safety standard could be significant:

- Based on analysis in the report and the estimate that a national safety standard could cut the risk of injury and death in half, injury costs could be cut by at least \$867 million annually if every child now riding an adult-size ATV began riding a youth model.
- Using the same approach, costs associated with fatalities could be cut by a minimum of \$235 million each year if every child now riding an adult-size ATV began riding a youth model.

In spite of the analysis documenting significant monetary savings that could be achieved with a national safety standard, the staff recommendation concentrates almost exclusively on monetary and other costs it believes are associated with such standard. Many of the "costs" cited by staff pale in comparison to the benefits of saving lives and reducing serious injuries. For example:

- It might cost CPSC \$350,000 annually to more aggressively monitor ATV dealers for compliance with this standard.
- Staff attempt to justify their recommendation in part by arguing that families would face "transaction costs" associated with the sale of youth ATVs, including placing a classified ad and scheduling appointments with prospective purchasers.
- The recommendation cites "foregone benefits" for some families that elect to purchase a youth ATV, rather than an adult model, for use by a child because adult family members could not ride a youth ATV.
- Staff maintains that a federal regulation barring the sale of adult ATVs for use by children is unlikely to have more impact on prospective purchasers than industry warning labels.
- Staff even argues that one reason not to develop a national standard is that some children could face "peer stigma" when riding youth ATVs.

After reading this section of the briefing package, I have several observations. First, staff does not attempt or is unable to quantify the preponderance of the "costs" associated with a regulation. It seems reasonable to me, for example, for staff to estimate how much it would cost to place a small classified ad in an average size newspaper as well as the cost of someone's time to answer phone calls and meet with prospective purchasers of youth ATVs. Then, multiply that amount by an estimate of the number of owners that reasonably might try to sell a youth model and one could have a rough approximation of the "transaction costs." Based on the briefing package, one must assume that staff did not even attempt this exercise.

That leads to my second and more important observation – the package is devoid of what most would consider cost-benefit analysis. It documents substantial societal and monetary benefits and outlines some potential costs. However, it does not evaluate whether those benefits are outweighed by or outweigh the costs of the regulation. This fundamental shortcoming is also clear in the cursory attention given to other partial sales bans. Staff appears to dismiss them because they have not achieved 100 percent compliance rather than assess their effectiveness based on the benefits associated with stopping some proportion of minors from smoking or drinking alcohol or, in this case, stopping the sale of a portion of new adult-size ATVs for use by children under age 16.

Other Analysis in Briefing Package Weighs Against Staff's Recommendation

After the reading and rereading the briefing package, it is striking the degree to which staff's analysis across issues strengthens the case for the petition rather than for the final recommendation. Although the final recommendation supports inaction, the evidence itself demands just the opposite. I will highlight a few examples.

Risk of Injury Up Since Voluntary Approach Began – Staff document a significant increase in the risk of injury (at Tab D) facing children under 16 between 1997 and 2001. Staff concludes: "Injuries have increased at a greater rate than any of the five exposure measures. This disparity between the increase injuries and exposure is reflected in the risk measure, which show that risk increased anywhere from an estimate 39% to 65% depending on the risk measure."(p.71)

In addition, analysis between 1997 and 2001 shows that risk increased dramatically for children age 12 to 15. This group suffered 85 percent more injuries while the number of drivers in this age group remained unchanged.(p.74) They also experienced the second greatest increase in risk of injury of any age group for which information is provided.(p. 74) Staff's analysis shows children between 12 and 15 are among the most at risk from adult-size ATVs and most in need of the protections the petition seeks to provided. And the Commission should keep in mind that this is the segment of the population being targeted by some elements of the ATV industry when they propose and pursue so-called "size-fit" policies that would put some older children on bigger, faster and more dangerous ATVs made for adults.

ATV-related Injuries More Severe Than Any Others – Staff reaches the same conclusion as most of the medical research on this issue – ATV-related injuries are more severe than other types of injuries. In fact, staff concludes that a "notably greater percentage of ATV injuries resulted in hospitalization (an estimated 9%) than for all products (an estimated 4%)."(emphasis added) (p.70) Moreover, staff reports that the "situation was more extreme for youth injuries, where the hospitalization rate for ATV injuries was 9% compared to 2% for all products."(emphasis added)(p.70) Furthermore, in response to comments suggesting that a regulation is unnecessary because children supposedly suffer more severe injuries playing common sports than driving ATVs, staff finds that the risk of serious injury (in the form of hospitalization) to ATV riders is **61 percent higher** than the next highest risk of hospitalization.(emphasis added)(p.159) This analysis concludes that ATV use has the highest risk of serious injury compared to 32 other sports and activities in which children commonly participate when measured per thousand participants.(p.158)

Commission Must Demonstrate Leadership

I know that you appreciate the gravity of the decision before you today. If you act to deny or even defer this petition, the problem will only get worse. In many respects, the staff's analysis is very strong. It documents the substantial economic and societal costs caused by ATV injuries to children. It concludes that a policy that would move children

from adult-size ATVs to youth models would cut the risk of serious injury and death in half and produce more than \$1 billion in savings as well as incalculable reductions in the emotional pain and suffering that parents and victims endure. Staff provides clear and convincing evidence that the industry's voluntary approach to safety is failing and has been for years. As industry compliance with voluntary standards dropped precipitously following the expiration of the legally binding consent decrees, risk of serious injuries has increased and all injuries have grown at a rate that far outpaces every measure of exposure.

On the other hand, the package is weak in equally important respects. First, it rests on the fundamentally flawed and unsupported assumption that the Commission must be assured of 100 percent compliance with any regulation before it can proceed to develop such regulation. This approach is without merit under CPSC statutes and runs completely counter to the underpinnings of our of legal and regulatory framework. Second, yet very much connected, staff fails to give appropriate consideration to the value of affecting a portion of sales of adult-size ATVs for use by children. In one paragraph, staff dismisses examples it highlights of partial bans on the sales of alcohol and tobacco to those under age 21 and 18, respectively, because some people younger than those ages still smoke and drink. It also focuses too heavily on used ATV sales in arguing against the petition rather than the fact that any regulation would apply to new ATV sales that now approach one million annually. Third, the package suffers from a lack of rigorous analysis generally and cost-benefit analysis specifically. This is evident once again in the cursory evaluation of other partial sales bans – staff does not even attempt to evaluate the costs and benefits of affecting a portion of ATVs sales in general or in the context of more aggressive enforcement by CPSC.

When one considers the strengths and weaknesses of the briefing package taken together, in our opinion, the evidence does not support the recommendation to deny the petition. Instead, it makes the case for granting the petition. We urge you to set aside staff's recommendation and vote to grant the petition and begin developing an advanced notice of proposed rulemaking.

Thank you.

¹ University of Michigan Institute for Social Research. "Monitoring the Future: National Results of Adolescent Drug Use." 2003.

² National Academy of Sciences. "Reducing Underage Drinking: A Collective Responsibility." 2003

³ National Center for health Statistics. National Health and Nutrition Examination Survey. 1971-74 and 1976-80.

⁴ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention. "Comparison of Drinking Rates and Problems: European Countries and the United States." February 2001.

⁵ Ibid.

⁶ Campaign for Tobacco Free Kids. "Enforcing Laws Prohibiting Cigarette Sales to Kids Reduces Youth Smoking." 2002

⁷ Ibid.

⁸ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.



**TESTIMONY OF MARY AITKEN
ON BEHALF OF THE AMERICAN ACADEMY OF PEDIATRICS**

**THE CONSUMER PRODUCT SAFETY COMMISSION
PUBLIC MEETING
CONCERNING
PETITION REQUESTING BAN
ON SALE OF ALL-TERRAIN VEHICLES SOLD FOR USE
OF CHILDREN UNDER 16 YEARS OLD**

MARCH 22, 2005

I appreciate this opportunity to present testimony on behalf of the American Academy of Pediatrics (AAP) before the Consumer Product Safety Commission regarding the petition to ban the sale of adult-sized All-Terrain Vehicles (ATVs) for use by children. The American Academy of Pediatrics is a non-profit professional organization of 60,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults and has a long history of activism in protecting children from the significant hazards posed by ATVs.

A clear consensus exists that adult-sized ATVs are inappropriate for children. Children do not possess the physical strength, coordination, or judgment necessary to pilot an adult-sized ATV safely.¹ This fact is borne out by frightening statistics, which are well known to both AAP and the CPSC:

- In 2003, 111 children perished due to injuries sustained when riding an ATV.² An estimated 38,600 children were treated in emergency departments for ATV-related injuries. These injuries have increased every year since 1995 and now equal the near-record injury rates of 1987, when unstable three-wheeled ATVs were still in major production.³
- Children who use an adult-sized ATV are twice as likely to be injured as those driving a youth model. In 2001, 89% of child injuries related to ATV use involved children who were driving adult-size ATVs.⁴

¹ Consumer Product Safety Commission, Briefing Package on Petition No. CP-02-4/HP-02-1, "Request to Ban All-Terrain Vehicles Sold for Use by Children under 16 Years Old," February 2005, p.17.

² Consumer Product Safety Commission, *2003 Annual Report of ATV Deaths and Injuries*, January 2005, Table 3.

³ Consumer Product Safety Commission, *2003 Annual Report of ATV Deaths and Injuries*, January 2005, Table 5.

⁴ Consumer Product Safety Commission, Briefing Package on Petition No. CP-02-4/HP-02-1, "Request to Ban All-Terrain Vehicles Sold for Use by Children under 16 Years Old," February 2005, p.i.

- Between 1982 and 2003, over 1,800 children were killed in ATV accidents. Of the fatalities where engine size and driver age are known, 86% occurred when a child under the age of 16 was driving an adult-sized ATV.
- Injuries sustained by children riding an adult-sized ATV are often serious. When compared with other recreational activities, there is twice the risk of injury serious enough to require hospitalization than with any other activity studied.⁵

Clearly, ATVs pose a significant hazard to children who ride them. This fact is indisputable. The cost to society is also high, not only in regard to loss of life and health but in actual dollars. Just this month, the journal *Pediatrics* published a study in which my colleagues and I estimated that total hospital charges for children's ATV injuries over a two-year period exceeded \$74 million.⁶

I can also speak to the dangers of ATVs from my personal clinical experience. I practice at the only tertiary care pediatric hospital in a rural state where ATV use is very common. Currently, Arkansas Children's Hospital admits more than 60 children each year due to significant ATV injury, and our emergency department treats many more. Traumatic brain injuries and severe orthopaedic injuries are the most frequent injuries we see, in children ranging from only a few months old riding as ATV passengers to preteen and teenage drivers. We have recently submitted for publication a case series describing 7 patients with severe face and neck lacerations due to driving ATVs through barbed wire fences, including one youth who narrowly survived a near decapitation. I know from my experience as a clinician and an injury prevention researcher that the impact on the children and their families is profound and long-lasting.

⁵ Consumer Product Safety Commission, Briefing Package on Petition No. CP-02-4/HP-02-1, "Request to Ban All-Terrain Vehicles Sold for Use by Children under 16 Years Old," February 2005, p.16.

⁶ Killingsworth, Jeffrey et.al., "National Hospitalization Impact of Pediatric All-Terrain Vehicle Injuries," *Pediatrics*, Vol. 115 No. 3 March 2005, pp. e316-e321.

Because of the rapidly escalating number of ATV-related child deaths and injuries, in 2002 the AAP joined the American College of Emergency Physicians, the Consumer Federation of America, and a range of other organizations in petitioning the CPSC to ban the sale of adult-sized ATVs for the use by children under the age of 16. The AAP and our co-petitioners conducted a thorough review of the data and found that the current efforts by industry and the CPSC have been insufficient to stem the tide of the epidemic increase in death and injury experienced by children using ATVs. It was clear that stronger CPSC action was necessary to produce the intended effect—saving children’s lives. Adult-sized ATVs should be made unavailable to children, and limiting their sale would be necessary to accomplish this goal.

Given the high rates of ATV-related injury and death, the strength of the evidence, and ineffectiveness of existing measures, the Academy is therefore deeply disturbed and disappointed that the CPSC staff briefing packet released in February recommends denying this petition. The Academy agrees substantially with the facts and figures cited within the report, and fully shares the report’s conclusion that, “The risk of injury for children on adult-size ATVs is high, and the benefits of getting children off adult-size ATVs could be substantial.”⁷ The fact that this statement is followed by a recommendation to deny the petition reflects a fundamental illogic that is not supported by the evidence. I would like to respond specifically to two items in the CPSC briefing packet.

A Sales Ban Would Influence Riding Behavior

The briefing package argues that a ban on the sale of adult-sized ATVs for use by children would be unlikely to change riding behavior. It further states that the CPSC has no authority to intervene if parents purchase these vehicles and then allow their children to ride them in spite of having been

⁷ Consumer Product Safety Commission, Briefing Package on Petition No. CP-02-4/HP-02-1, “Request to Ban All-Terrain Vehicles Sold for Use by Children under 16 Years Old,” February 2005, p.i.

warned otherwise. We reject both of these notions. As experts in injury prevention, pediatricians know the importance of the “3 E’s”—education, engineering, and enforcement. Therefore, we support the ban as one aspect of a comprehensive, multifaceted approach to prevention of ATV injuries to children. This move would support efforts of the AAP in advocating for state level legislation on ATVs, educating parents about the dangers of ATVs to children, and encouraging design improvements to ATVs. As child health professionals, pediatricians know that sometimes parents make decisions that place their children’s health and safety in jeopardy; it is up to the rest of society to protect children first by educating the parents and then, when necessary, preventing them from subjecting their children to danger.

The effectiveness of a sales ban in protecting minors from a wide range of dangerous or inappropriate products is broadly acknowledged and is used regularly at all levels of government. Children are not permitted to purchase products like firearms, cigarettes, cigarette lighters, or alcohol because they are inherently dangerous to them – even if used as intended. In addition to sales bans, other safety legislation and regulations have been scientifically proven to change behaviors and save lives – primary enforcement of seat belt laws results in more people wearing seat belts,⁸ and bicycle helmet ordinances result in higher helmet usage.⁹ We even know that ATV legislation can be effective in inducing behavior change such as helmet use.¹⁰

The CPSC staff correctly point out that the usefulness of a ban will be reduced if states do not enact and enforce legislation prohibiting children from riding adult-sized ATVs, and they note that regulations and legislation may not keep some parents from making poor decisions. For these

⁸ Task Force on Community Preventive Services. Motor-Vehicle Occupant Injury: Strategies for Increasing Use of Child Safety Seats, Increasing Use of Safety Belts, and Reducing Alcohol-Impaired Driving. *MMWR Morb Mortal Wkly Rep.* 2001;50(RR-7):1-13.

⁹ American Academy of Pediatrics, Committee on Injury and Poison Prevention. “Bicycle helmets.” *Pediatrics.* 2001;108:1030-1032.

¹⁰ Keenan, Heather T. and Susan L. Bratton. “All-Terrain Vehicle Legislation for Children: A Comparison of a State With and a State Without a Helmet Law.” *Pediatrics,* April 2004.

reasons, AAP chapters are active in advocating for state ATV legislation and pediatricians are encouraged to educate their patients about ATV safety. A ban is not intended to be a cure-all or a measure that operates in isolation, but as an important component of an overall strategy in keeping children off large ATVs and protecting them from injury.

Major Distributors Already Require Their Dealers Not To Sell Adult-Sized ATVs For Children

In Arkansas, we have been successful in engaging ATV manufacturers and dealers in our safety efforts, and I am convinced that collaboration among the industry, the public health community, and other groups is vitally important to solving the problem of ATV injury. My experience indicates that ATV dealers and other industry representatives are sincerely concerned about this problem and want to see ATVs used as recommended. The Voluntary Action Plans established with the major distributors of ATVs after expiration of the consent decrees in 1998 require dealers to obtain a signed acknowledgement from purchasers that they understand the age recommendations for ATV use. However, CPSC's own undercover inspections have revealed variable compliance with this requirement. The staff briefing package acknowledges, moreover, that compliance with this requirement appears to have declined from 1998: "in 1998, compliance was 85 percent, and in the years 2002 and 2003, 60 percent. However, for 2004, the compliance rate was 70 percent."¹¹ This indicates that over the past three years, approximately one-third of dealers were failing to comply with the requirements. These figures represent an unacceptable failure rate and indicate the ineffectiveness of the Voluntary Action Plans in this regard.

It is evident that many parents nationally are not receiving reliable information about age recommendations for ATV use. All parties interested in preventing these injuries, whether within the ATV industry or the healthcare community, need to work together in new and creative ways to

¹¹Consumer Product Safety Commission, Briefing Package on Petition No. CP-02-4/HP-02-1, "Request to Ban All-Terrain Vehicles Sold for Use by Children under 16 Years Old," February 2005, p.9.

send a clear message to any noncompliant dealers and particularly to purchasers about the appropriate use of these vehicles. Banning the sale of adult-sized ATVs for use by children would make a clear statement to purchasers that larger ATVs are unsafe for use by children under 16.

In conclusion, the American Academy of Pediatrics urges you to reject the staff recommendation to deny the petition on banning the sale of adult-sized ATVs for use by children under 16. The present state of affairs is entirely ineffective in keeping children safe. While a sales ban would not solve this problem in its entirety, it is a necessary part of a multi-pronged approach to reduce the injuries and deaths associated with these products. Even if a sales ban on its own only prevents a relatively small proportion of ATV-related child deaths and injuries, I hope you will agree that it is a crucial step in protecting our nation's children.



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March 11, 2005

Todd Stevenson
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-0001

RE: ATV Petition Briefing

Dear Mr. Stevenson:

On behalf of the National SAFE KIDS Campaign, I am writing in regard to the Consumer Product Safety Commission's (CPSC) request for comments on the pending all-terrain vehicle (ATV) petition and staff briefing package, as published in the February 11, 2005 issue of the *Federal Register*. The National SAFE KIDS Campaign is in support of the goals of the Consumer Federation of America's petition, which proposes a ban on the sale of adult-size ATVs for use by children under the age of 16. **As ATVs pose an unreasonable risk of death and injury to children, SAFE KIDS strongly encourages the CPSC to reject the staff's recommendation to deny the petition.**

A. Background on the National SAFE KIDS Campaign

The National SAFE KIDS Campaign is the first and only national nonprofit organization dedicated solely to the prevention of the number one killer of children ages 14 and under – unintentional childhood injury. Each year, more than 5,800 children die, more than 120,000 are permanently disabled, and more than 14 million (one child in four) are hurt seriously enough to require emergency medical care due to unintentional injury. Launched in 1987, the Campaign's current nationwide grassroots network of over 300 SAFE KIDS coalitions have provided hands-on assistance to families to help prevent these needless tragedies from occurring in the first place. The on-going work of SAFE KIDS coalitions has helped lead to the decline of the unintentional injury death rate over the past decade – a 40 percent decline for children ages 14 and under.

With a background in implementing grassroots safety initiatives, the SAFE KIDS coalition network regularly reports back to the national office about what they are seeing in communities across the country. In particular, our coalitions have had experience in ATV safety programming for children and many have witnessed child deaths in their communities from adult-size ATVs. Many SAFE KIDS coalitions previously submitted comments to the Commission which voiced their support for a CPSC-led effort to prevent ATV-related deaths and injuries to children. The Campaign's history, coupled with our coalitions' vast experience, uniquely qualifies us to offer comments on the proposed ATV petition and the CPSC staff's recommendations.

SAFE KIDS understands the practical difficulties of a federal ban on ATVs for children under age 16, but we firmly believe that the Commission needs to act, in some fashion, on this issue. As noted in our comments below, we contend that the ATV death and injury statistics compel some kind of CPSC action and that a federal ban can be implemented in an effective manner.

B. ATV Death and Injury Data Support CPSC Action

The recently released statistics from the CPSC support some form of government intervention. Children are dying and being injured at an alarming rate. The CPSC staff report tells us that children under the age of 16 sustained about 31 percent, or 34,300, of the estimated 110,100 injuries that occurred to riders in 2001. Significantly, eighty-nine percent of child drivers who were injured were driving adult-size ATVs. The CPSC staff has concluded that the risk injury to drivers under the age of 16 on adult-size ATVs was roughly twice the risk for child drivers on youth ATVs.

Children under age 16 also account for a large proportion of ATV-related deaths. Between January 1, 1982 – December 31, 2003, children under age 16 accounted for 1,846 of the 5,791 deaths reported to the CPSC, or 32 percent of the total.

These statistics are troubling and the CPSC staff agrees. In fact, the staff states in the briefing packet that, “the risk of injury for children on adult-size ATVs is high, and the benefits of getting children off adult-size ATVs could be substantial.” Yet in the face of these worrisome statistics and after recognizing the benefits of getting children off the products, staff recommended that Commission deny the petition. SAFE KIDS disagrees with this staff determination and believes that the federal government should respond.

C. A Federal Ban on the Sale of Adult-Size ATVs to Children under the Age of 16 can be Implemented.

SAFE KIDS believes that a federal ban on the sale of adult-size ATVs for use by children under the age of 16 should be implemented by the Commission and that past agency action on other risk areas is illustrative of what can and should be done.

1. A Ban by Labeling

In 1995, the CPSC “banned” small parts in toys marketed to children under age three. Today, and for the past ten years, toys that contain small parts must be labeled as not being suitable for children under the age of three. This “ban” of small parts did not remove small parts from the marketplace. To the contrary, there are more small parts in toys today than in the 1990s. Rather, the small parts ban was effectuated in part by clear, conspicuous labeling, which was mandated by federal regulation.

The CPSC could implement an ATV ban for children by using the same regulatory framework. The Commission could and should require uniform and conspicuous labeling on the vehicle that is consistent with ANSI Z535.4 (see #2 below) on all adult-size ATVs in order to clearly warn against certain sales and child use. The current marketplace has a myriad of safety labels that caution children under the age of 16 from operating adult-size ATVs – some labels are better than others. A federally-crafted and mandated label that communicates both the ban and safety warning in a universal manner would better educate the public about the dangers associated with ATVs as well as their age appropriateness.¹ That label would also carry the imprimatur of a government warning which we believe means more to the consuming public than warnings supplied by the ATV industry.

SAFE KIDS suggests that the warning label not only be conveyed on the product, but reprinted in all accompanying descriptive materials, such as product instructions. This would give the ATV manufacturer and the federal government another opportunity to convey important safety instructions regarding age appropriateness. By comparison, we note that the toy labeling regulations require safety information in all descriptive materials. The requirement should also apply to adult-size ATVs. SAFE KIDS believes that the ASTM standard for certain consumer products, like baby bath seats, provides excellent guidance for an “instructional literature” requirement.

2. A Ban by Labeling Should Comply with ANSI Z535.4

A poorly crafted and formatted label is an ineffective label. Today’s commonly accepted and used label principals comport with ANSI Z535.4. This ANSI labeling principle requires a safety warning label to alert purchasers or users to a specific hazard, the degree or level of hazard seriousness, the probable consequence of involvement with the hazard, and how the hazard can be avoided. Additionally, common practice in safety labeling would use a signal word to communicate the degree or level of hazard seriousness:



DANGER, WARNING, OR CAUTION

An ATV label that meets ANSI Z535.4 standards is important for many reasons – not the least of which is helping to protect the ATV user. A federal label standard using the ANSI requirements would bring a degree of standardization to a safety sign’s format, colors, signal words, placement and symbols. Simply put, the theory behind standardizing safety sign components is that it will lead to better comprehension and better understanding should lead to fewer ATV accidents.

¹ The CPSC in the past has mandated a label to better communicate safety information to the public. A motivating factor behind the federal bike helmet regulation was the need to provide clear and uniform labeling. The CPSC felt that the assorted helmet safety labels in the marketplace confused consumers. As a result, a CPSC-mandated label ensured a consistency of content and format for those purchasing helmets.

To get the ban by label discussion started, SAFE KIDS suggests the following preliminary format and content:



WARNING:

- **The U.S. Consumer Product Safety Commission (Federal Government) has BANNED the sale of this ATV for use by children under the age of 16.**
- **Adult-size ATVs have caused serious injury and death to children.**
- **The U.S. Consumer Product Safety Commission (Federal Government) recommends that children under age 16 not operate adult-size ATVs.**

* Parenthetical language represents possible optional language

D. A Federal Ban on the Sale of Adult-Size ATVs to Children under the Age of 16 can be Effective.

To support its recommendation that the Commission deny the petition, the CPSC staff claims that the likely impact and effectiveness of a federal sales ban is uncertain and that a ban would only effect point of purchase behavior and not how ATVs are used after they are purchased. SAFE KIDS disagrees and believes that other CPSC historical actions prove otherwise.

1. Improving Point of Purchase Behavior is Reason Enough to Act.

In its briefing packet, the CPSC staff states that a federal ban would effect the way that ATVs are sold in the new product market by requiring manufacturers and dealers to explore potential uses of the ATV with the purchaser. In other words, if a dealer knows or suspects that a purchaser is buying an adult-size ATV for a child or will be permitting a child to operate one, a federal ban would not only obligate the dealer to warn the parent, but also require the dealer to refuse the sale. SAFE KIDS agrees with staff, but feels that, unlike staff, this result alone is a worthy outcome justifying a federal ban.

A federal sales ban would reverse a recent downward compliance trend from ATV Voluntary Action Plans at dealerships, which according to the staff briefing package, ranges from 60 – 70 percent. Significantly, ATV sales have increased dramatically in recent years. CPSC staff also states that from 1996 – 2002, annual sales have increased by approximately 145 percent. A portion of these sales are now being done on-line instead of at traditional bricks and mortar stores. The ban by labeling would help ensure that the dangers associated with adult-size ATVs

are communicated consistently in this growing marketplace² and would obligate merchants who are unaware of the past consent decree and Voluntary Action Plan to also comply with the ban and safety precautions.

With the dramatic sales of ATVs in recent years, more and more dealers and sales personnel will be entering the marketplace and hitting the salesroom floor. This influx necessitates constant and vigilant consumer education to parents/purchasers about the potential dangers associated with ATVs. A federal sales ban would result in a uniform system for ATV labeling and ensure that every potential purchaser would receive the same consumer education regardless of retail location.

2. A Federal Ban Could Effect How Consumers use ATVs after they are Purchased.

The primary reason from the CPSC staff for denying the petition is that a federal ban would do little to effect consumer behavior once the ATV is taken home. Again, SAFE KIDS believes that other historical bans or efforts prove otherwise. Over the past ten years, the CPSC has not only changed the point of sale marketplace for toys through a ban of small parts, but also educated parents/caregivers and other toy buyers about how to use these toys in the home environment. Parents are now more likely to separate toys with small parts for older kids, so that they are less likely to be used by a younger child. This is a significant behavioral change resulting primarily from a federal ban. A federal ban on ATVs could have the same result. SAFE KIDS cautions that a ban by labeling would not be a solution in itself. The CPSC would also have to fully implement the ban through a comprehensive public awareness campaign and, as CPSC staff notes in the briefing packet, aggressively enforce the ban at point of purchase.

We hope that the CPSC acts on this issue in order to protect children from the dangers of riding adult-size ATVs. SAFE KIDS strongly believes that the Commission would be ignoring a substantial safety risk to children if it were to deny the petition to prevent children under age 16 from operating adult-size all-terrain vehicles.

Sincerely,



Alan Korn, J.D.
Director of Public Policy and General Counsel

² SAFE KIDS believes that the ATV ban warning label should also clearly accompany all adult-size ATVs sold online, so that purchasers are properly educated about the dangers associated with these vehicles. Also, we recommend that the web purchaser consent to an on-line statement *before the transaction is completed* that attests that he/she understands that the adult-size ATV is to not to be used by children under the age of 16. On-line commerce may increase substantially if a federal ban is comprehensively implemented by dealers across the country. As such, web commerce issues should be addressed by the potential federal ban.

STATEMENTS

Panel #2

Doug Morris, All-Terrain Vehicle Association

Royce L. Wood, American Motorcyclist Association

Karen Coria, Specialty Vehicle Institute of America

Thomas Yager, ATV Safety Institute

Kathy R. Van Kleek, Specialty Vehicle Institute of America

Jeremy Brandwein, American Motorcycle Association

Tim Buche, Specialty Vehicle Institute of America



rights. riding. racing.

AmericanMotorcyclist Association

March 11, 2005

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

RE: ATV Petition Briefing

Dear Secretary Todd A. Stevenson:

The American Motorcyclist Association (AMA) is a not-for-profit organization, founded in 1924 and incorporated in Ohio. In partnership with our sister organization, the All-Terrain Vehicle Association (ATVA), we represent nearly 265,000 all-terrain vehicle (ATV) and motorcycle enthusiasts nationwide. Our members are interested in any action that may affect their enjoyment of motorcycle or ATV recreation.

Thank you for this opportunity to present the enthusiasts' perspective on ATV safety. We would encourage the commission to continue to seek information from user groups as you consider ATV-related matters.

We respectfully request that you follow the recommendation of your staff and deny Petition CP 02-4/HP 02-1; Petition requesting ban of ATVs sold for the use of children under 16 years of age. As your staff notes: "The CPSC lacks the ability to regulate or enforce how consumers use products after purchase. While the Commission can affect to some degree how ATVs are sold, it cannot control the behavior of consumers or prevent adults from allowing children to ride adult-size ATVs."

Instead, we believe that proper training, the use of safety gear, parental supervision, and allowing children to ride right-size vehicles would do much to reduce ATV-related injuries and deaths involving children under 16.

All-Terrain Vehicles Are Not Fundamentally Dangerous

As ATV-riding enthusiasts, we are in a very good position to assess the handling and performance characteristics of ATVs. We have logged our "seat time," and we have not found these vehicles to be inherently dangerous. To the contrary, it has been our experience that, when operated responsibly, ATV riding is a safe and appropriate recreation.

Training and Safety Equipment are Essential for Reducing Injuries and Deaths

A review of ATV-related accidents indicates that vehicle misuse and ill-prepared riders appear to be the fundamental causes of fatalities. We believe that one of the best approaches for a long-term reduction in ATV-related injuries and deaths is through rider safety training. We advocate voluntary training for adult riders but do not oppose mandatory training for youngsters.

Training for ATV riders should educate them about proper riding gear, teach them safe riding techniques, and improve their riding skills through hands-on training. Young riders should be trained in the context of family-training, like the training provided by the Utah State Parks youth training program, which requires parents to actively participate in safety training.

Proper gear includes wearing a helmet while riding. We believe that increased helmet use could significantly reduce the number of fatalities. The AMA and ATVA have long promoted voluntary helmet use for adult riders but we do not oppose mandatory requirements for youthful riders.

ATV passengers represent a significant number of fatalities, especially among persons under the age of 16. One point of many that students learn during ATV rider safety training is that passengers are not to be carried on ATVs. The vast majority of recreational ATVs are not designed to carry passengers. Attempting to carry passengers on those ATVs can significantly reduce their stability and reduce rider control. We advocate only single riders on ATVs.

Parental Supervision Needed to Keep Young Riders Safe

We believe strongly that close parental supervision is key to keeping young riders safe.

Opportunities for Rider Education Need to be Expanded

We recognize the value of the age guidelines developed by the CPSC in cooperation with the manufacturers of ATVs through the consent decree. However, our members report that the consent decree guidelines are not appropriate in every situation. Most of our members' concerns involve teenage riders ages 12-15 who have physically outgrown youth-model ATVs.

ATV recreation and competition enthusiasts are not alone in observing that the consent decree guidelines are not always appropriate. Increasingly, state ATV safety programs are recognizing that it is more important for youngsters to be properly "sized" for a vehicle than it is to follow the guidelines in every case. Some state programs allow children to participate in safety training courses on non-youth model ATVs.

In Utah, for example, state law says that if you are between the ages of 8 and 16 and you are going to be riding on public property then you must take training, and the parents must also attend. Utah does not use engine size as a guideline. Instead, Utah decided that if you fit the ATV then you can take the class. Children are not restricted to riding an ATV under 90cc.

Utah has been doing this for 17 years, and has trained more than 20,000 kids.

Although the consent decree provides reasonable guidance, especially for families new to motorized recreation, the guidelines should remain guidelines - not rules. Unfortunately, many states and some rider-training programs have adopted the consent decree guidelines as rules. Thus, they do not allow youngsters to attend safety training, whether properly sized or not, on full-size ATVs.

The current guidelines inhibit youth from receiving training because many families only own one ATV, which is full size, and parents allow their children to ride the ATV without safety training because their children can't get training under the consent decree guidelines. These guidelines need to be modified for 12-15-year-old riders.

Sincerely,



Royce L. Wood
American Motorcyclist Association



Doug Morris
All-Terrain Vehicle Association

“ATV Petition Briefing”

BY

**Karen Coria, Government Relations Specialist
Specialty Vehicle Institute of America**

March 22, 2005

My name is Karen Coria and I represent the Specialty Vehicle Institute of America as a Government Relations Specialist. My goal is to continue to seek adoption of appropriate ATV safety laws in West Virginia.

My late husband, Leff Moore, who spoke before this commission in 2003 at a public hearing in Morgantown, West Virginia, had been an advocate for responsible regulations for many years representing the WV Recreational Vehicle Association, the WV ATV Safety Coalition and the Specialty Vehicle Institute of America.

His legacy continues today. Credited as the founder of the Hatfield-McCoy Trail system, with over 500 miles of managed trails on corporate land, thousands of riders from 47 states and 7 countries have enjoyed Trail Heaven. This group of riders by nature of the rules of the trail system must exercise the best practices for safety that are recommended by manufacturers. These include helmet use, prohibition of guest passengers with the exception of manufacturers that allow for a passenger and use by riders less than 16 years of age of machines that are in an appropriate size for their age group. In addition, alcohol consumption and drug use are limited and enforcement regulations are in place. Having opened the trails in 2000, the new trail system has accounted for hundreds of thousands of user hours with a safety record that is remarkable with only 1 related ATV death. Contrasting this with the unregulated, unenforced adult use (18 and older) of ATVs in an inappropriate manner in the other use areas of the state provides us with a clear picture of the negative results that exist when manufacturer's recommendations for safety standards are ignored.

A contrasting group of both adults and young operators that have generally used their machines in a manner of fashion over a long period of time prevails. While some of these users do exercise good judgment in the use of ATVs and follow manufacturers warnings, a larger number do not.

In West Virginia most adults discovered ATV riding in the early 80's and later and recognized the benefit that ATVs could play for utility purposes, hunting and general recreation. ATV use simply evolved by observing others use patterns rather than by establishing role models as in hunting, fishing and other similar sports activities. A lack of user ethic was established with no safety training or safe and appropriate use patterns founded.

Education

Many users have ignored opportunities provided by trade associations, ATV manufacturers and safety organizations and continue with inappropriate and unsafe use of ATVs. Much more needs to be done.

With the hope of encouraging younger riders to adhere to manufacturers recommendations and warnings and develop the ethic not evidenced by many adult riders, efforts are underway to develop an ATV Safety and Rider education center. The center would among many things:

1. provide educational ATV safety programs for school groups visiting the Center;
2. provide outreach educational ATV safety programs in area of schools
3. Network with Agricultural Extension Agents to build ATV safety into Farm Safety Day Camps and extension 4-H Agents in the implementation of X-treme safety Weekends or camps focused on ATV safety.
4. provide ASI rider certification for youth and adults
5. and assist in the creation and advocacy of public policy related to ATV safety.

In a recent study conducted by the WVU Extension Service of fifth and seventh graders in West Virginia, 78.4% indicated that they operate an ATV, 39.5% indicate they do not wear helmets. 51.8% report not having some type of eye protection, 43% do not wear protective clothing, 60% say that they have ridden double and 50.3% have ridden an ATV on the pavement. The importance of greater delivery of educational programs is evident in the study.

Unfortunately, it has been demonstrated that some West Virginians are unlikely to voluntarily adopt new ethics and change behavior without some type of enforcement. Although most West Virginians are law-abiding citizens as demonstrated by our status as having the lowest crime rate in the country, without a legal standard being adopted for safe ATV use, change will not likely occur.

Legislation

In 2004, the West Virginia Legislature passed mandatory ATV regulations (WV code Chapter 17F) a brief overview of the new law includes:

Rider Safety

No ATV may be operated in this state:

Unless riders under the age of 18 are wearing size appropriate protective helmets.
On and after January 1, 2005, no person under the age of 18 may operate an ATV without a certificate of completion of a vehicle rider awareness course as offered or approved by the commissioner of motor vehicles.

Passengers

No ATV may be operated in this state:

With a passenger unless more than one passenger is allowed under manufacturers' recommendations
With a passenger under the age of 18, unless the operator has at a minimum a level 2 intermediate driver's license or its equivalent or is 18 years of age or older.

Roads and Highways

No ATV may be operated in this state:

On any road or highway with a centerline or more than two lanes except for the purpose of crossing the road, street or highway, if
(with exceptions) see attachment

The Good News

The West Virginia Legislature passed legislation that requires under age riders (18) to wear helmets. Considering that legislators heard from many existing users that they didn't and don't want any new enforcement practices adopted by their government and that they wish to continue to use ATVs where, when and how they are doing it now, it is significant that this legislation was adopted.

The new legislation forbids underage riders from carrying guest passengers. This requirement coordinates with manufacturer's construction standards that indicate that an ATV is likely to be uncontrollable and unsafe with guest passengers aboard. Extending this requirement to children was adopted.

The new legislation establishes a training course for child ATV users. Any information provided the child and the parent regarding the safe use of an ATV is better than no training at all. The legislation also places some responsibility on adults for child safety on ATVs. The law provides law enforcement with the ability to hold adults responsible, under certain circumstances, for their negligence in empowering underage children to operate an ATV.

The new legislation has given the courts guidance and appropriate fines and penalties for those that violate the child ATV safety violation.

Concerns and considerations

West Virginia DMV is charged with providing a "safety course" to young ATV riders under the age of 18 and requires that such riders take the training. DMV, or other safety course providers are faced with informing young riders that they can ignore the age requirement relative to the size of the machine (law establishes none) and there is nothing to stop them from riding a machine that is too large for their body weight and age. Safety trainers are also faced with informing young ATV riders that there is nothing to restrict their using the machine on many highway venues or from them being a guest passenger on those same highways.

This legislation legalizes ATVs to travel unimpeded on well over 20,000 miles of paved roads with no center lines even though the manufacturers, the Consumer Product Safety Commission, the EPA and the Federal Motor Vehicle Safety-US DOT, recognize that the vehicles are inappropriate and unsafe for highway use-particularly on paved surfaces.

This legislation enables riding adults to carry other passenger adults on an ATV on public paved roads. The West Virginia legislature has established that an ATV is "roadworthy" although the federal agencies, including the Consumer Products Safety Commission, EPA and DOT indicated otherwise.

While the WV legislature requires helmets on roadworthy motorcycles, the new law allows ATVs that are not roadworthy to operate on WV highways, provided you are 18 years or older, without a helmet.

An adult can host a guest passenger child on an ATV thus placing them in extraordinary, unnecessary, life-threatening danger.

The West Virginia legislature has clearly taken a step towards ATV safety, but they have also stepped backwards on ATV safety.

Only when the legislature and the public fully understand the issues will West Virginia enact laws that will deter improper use of ATVS and thus save lives.

I wish to thank the Consumer Product Safety Commission for the opportunity to present this information and I am available for questions from the Commission or its staff.



A Division of the Specialty Vehicle Institute of America

U.S. CONSUMER PRODUCT SAFETY COMMISSION

**PUBLIC MEETING CONCERNING PETITION
REQUESTING BAN OF ALL-TERRAIN VEHICLES SOLD FOR USE OF CHILDREN
UNDER 16 YEARS OLD**

**BETHESDA, MARYLAND
MARCH 22, 2005**

**STATEMENT OF THOMAS YAGER
VICE PRESIDENT, SAFETY PROGRAMS
ATV SAFETY INSTITUTE**

Thank you Mr. Chairman and Commissioner Moore for the opportunity to provide testimony today. I am Tom Yager with the ATV Safety Institute, or ASI. I am here today in support of the CPSC's staff recommendation to deny the petition calling for a federal ban on the sale of adult-sized ATVs sold for the use by children. While we agree with the intent, to keep children off of adult sized ATVs, we feel there are more effective ways to address this important topic.

We believe that comprehensive state legislation, parental supervision, and education and training are the important components needed to further reduce ATV-related deaths and injuries.

ASI's primary goal is to foster and promote the safe and responsible use of all-terrain vehicles in the United States, thereby reducing crashes and injuries that may result from improper use. Our programs are designed to inspire rider awareness that promotes a commitment to safety and respect for the environment.

The primary means to accomplish this mission is the ATV RiderCourse, a half-day, hands-on, training program conducted by ASI Licensed Instructors. I am happy to report that 2004 has been a record year for ATV safety training. ATV riders completing training exceeded

51,000, a 4% increase over the previous year while sales increased at a slightly slower pace of 2%. Over 44,000 first time ATV purchasers without prior experience and their eligible family members, those who benefit most from training, completed training in 2004, an amount that represents 35% of first time purchasers. 1,611 Licensed ASI Instructors, who conducted nearly 11,000 classes, delivered this training through a network of 905 active training sites.

The newest feature to the ASI ATV RiderCourse training program is the availability of on-line enrollment. Now in addition to the outbound telephone contact to new purchasers, and the toll-free telephone enrollment available 6 days a week, ATV riders can enroll on-line at www.atvsafety.org 24 hours a day, 7 days a week.

To further spread safety messages ASI distributes 1,500 of the “Ride Safe, Ride Smart” videos to schools across the U.S. through Video Placement Worldwide. This program reached a projected audience of over one million viewers mostly from middle and high schools.

In addition to the hands-on ATV RiderCourse and “Ride Safe, Ride Smart” outreach, the ASI staff and Licensed Instructors

participated in over 60 events in 28 states. These activities range from local school presentations, Farm Safety Days, and Community events, to statewide ATV Safety Forums, to regional and national events such as the ATV Worlds Fair, and National Safe Kids Leadership conference. Just this Month ASI staff and local Instructors made a presentation to the Georgia Safe Kids leaders. This interaction and awareness from other organizations and the non-riding public helps support or lay the groundwork for state legislative efforts.

Whether delivered through the ATV RiderCourse or a safety day presentation, ASI materials promote “The Golden Rules.” These rules are reinforced beginning at the dealer, throughout the training experience, and extended through educational materials. In summary The Golden Rules are:

- Always wear a helmet and other protective gear.
- Never ride on public roads – another vehicle could hit you.
- Never ride under the influence of alcohol or other drugs.
- Never carry a passenger on a single-rider vehicle.
- Ride an ATV that’s right for your age. The guidelines are:

- Age 6 and older Under 70cc
- Age 12 and older 70cc – 90cc
- Age 16 and older Over 90cc
- Supervise riders younger than 16; ATVs are not toys.
- Ride only on designated trails and at a safe speed.
- Take an ATV RiderCourse; to enroll call toll free (800)

887-2887 or log on to www.atvsafety.org.

ASI is committed to furthering the safe and responsible use of ATVs. We all agree that children under sixteen should not operate adult-sized ATVs. However, like the CPSC staff, we believe that the proposed federal sales ban would be ineffective. Helping parents and children make the right choices when they actually use the vehicles is the most effective way to promote this important goal. ASI thus agrees with CPSC staff that continued safety awareness and training programs, as well as good state ATV safety laws, are the best ways to further reduce ATV-related accidents involving children. Thank you for the opportunity to share these comments with you today.



U.S. Consumer Product Safety Commission
Public Meeting Concerning Petition
Requesting Ban of All-Terrain Vehicles Sold for Use of Children
Under 16 Years Old

March 22, 2005

Statement by
Kathy R. Van Kleeck
Vice President, Government Relations
Specialty Vehicle Institute of America

Good morning Chairman Stratton and Commissioner Moore. My name is Kathy Van Kleeck and I'm representing the Specialty Vehicle Institute of America, or SVIA. As you know, SVIA is an industry trade association of ATV manufacturers and distributors. I'll also refer to the ATV Safety Institute, or ASI, a division of SVIA that focuses on ATV rider training, education, and safety awareness. The SVIA and ASI member companies are Alpha Sports, Arctic Cat, Bombardier, Bush Hog, Honda, John Deere, Kawasaki, Suzuki, and Yamaha.

The safety of our customers is of paramount importance to the ATV industry. We believe that even one injury is one too many and are committed to promoting the safe and responsible use of our products. We support the CPSC staff recommendation that the Commission deny the petition to ban the sale of adult-sized all-terrain vehicles for use by children under 16 years of age. We believe that approving this petition would be ineffective in advancing ATV safety. A federal sales ban would do nothing to regulate ATV use. In voluntary cooperation with CPSC, the major ATV manufacturers already work to prevent the sale of adult-sized ATVs for use by children. The prohibition on such dealer sales is enforced by strict dealer licensing agreements.

Instead, we believe that state legislation, parental supervision and education and training are the key elements in further reducing ATV-related deaths and injuries. Our Industry remains committed to fostering these approaches.

I would like to speak most directly to the importance of the state legislation component and SVIA's most recent efforts to advocate enactment of state ATV safety laws.

ATV-related injuries and deaths are not the result of the sales transaction, but rather of the use of the product. The ban requested by petitioners would have little, if any, practical effect on the behavior of ATV riders. The most effective way to achieve further meaningful reductions in children's injuries is clearly through the enforcement of current state ATV safety laws and the enactment of ATV safety laws in those states that do not currently have them.

The vast majority of ATV-related accidents and fatalities involve behaviors that the Industry warns against in its rider education programs, in all its literature, and on vehicle labels. An analysis of a random sample of CPSC in-depth investigations (IDIs) of ATV fatalities in the U.S. during the last five years showed that 92% of the fatalities were associated with one or more warned against behaviors. All of these warned-against behaviors are addressed in SVIA's Model State ATV Legislation.

SVIA's Model State ATV Legislation is the cornerstone of our legislative advocacy effort. Our Model:

1. Requires all ATV riders to wear eye protection and an approved safety helmet.
2. Prohibits passengers.
3. Codifies operator age restrictions: No one under age 16 may operate an adult-sized ATV (engine capacity greater than 90 cc). Youth-size ATVs (engine capacity 70 cc up to and including 90 cc) may only be operated on public land by those aged 12 and older.
4. Requires adult supervision for riders under age 16.
5. Requires States to implement a comprehensive ATV safety education and training program, which provides for the hands-on training of ATV operators.
6. Requires all persons operating an ATV on public land to have a safety certificate.
7. Prohibits ATV operation on public roads.

Focused attention to the issue of ATV safety on the part of CPSC has assisted our efforts to renew interest in enactment of ATV legislation on the part of the states. It is especially interesting to note that the most progress toward this goal has been made in two of the states in which CPSC conducted its field hearings on ATV safety in 2003.

In the legislative session following the CPSC field hearing in Morgantown, the West Virginia legislature passed the state's first ATV safety law, after nearly 10 years of attempts and advocacy by the Industry. The new law requires helmet use and completion of an ATV rider awareness course for ATV riders under age 18 as well as prohibiting ATV use on certain roadways and prohibiting the carrying of passengers under 18 unless certain requirements are met. We believe that these provisions will go a long way to improving safety for youthful ATV operators. However, we had been advocating enactment of an even stronger law that would

have required all riders to wear helmets, would have prohibited use on all paved roads and would have prohibited passengers under all conditions. We have returned to the West Virginia legislature this year to advocate these further safety measures.

In New Mexico, following CPSC's November 2003 hearing in Albuquerque, the legislature in 2004 for the first time made great strides toward enactment of ATV safety legislation with passage by the Senate and this year, safety legislation has again passed the Senate and we are very optimistic that it will shortly pass the House as well.

The New Mexico ATV safety legislation is very comprehensive in nature and contains many of the provisions included in SVIA's Model ATV Safety Legislation. It requires ATV riders under age 18 to wear helmets and eye protection and to have an OHV safety permit and prohibits them from carrying passengers. It also requires riders under age 18 to be supervised except under specified circumstances and requires ATV operators under age 10 to only operate age-appropriate size-fit ATV. Finally, the new law prohibits ATV operation on paved streets or while under the influence of intoxicating liquors or drugs.

To date in 2005, in addition to New Mexico and West Virginia, we have worked in Florida, Mississippi, North Carolina, South Carolina, and Washington to introduce legislation either identical or similar to our Model. These states are among the minority of states that have few or no ATV safety laws. We have also been in discussions with Georgia Senate staff regarding our Model legislation and are working to encourage introduction in that state. We are hopeful that these efforts will result in the enactment of new ATV safety laws in 2005 and we will continue to actively advocate such passage in these and other states.

The ATV industry urges rider organizations, consumer groups, and others to join SVIA in this effort to advocate reasonable state legislation that supports and promotes safe and responsible ATV use.

In conclusion, SVIA urges the Commission to adopt the staff recommendation to deny this petition. Attention should be focused on those initiatives that will actually have the most impact on improving ATV safety. We will continue to strongly advocate state ATV

safety legislation along with education and parental supervision, as the most effective means for reducing ATV-related injuries and deaths and ensuring the safe and responsible use of all-terrain vehicles.

Thank you very much for this opportunity to provide comments.

ATV Petition Briefing

My name is Jeremy Brandwein, and I am currently the American Motorcycle Association (AMA) District 7 (Maryland, Delaware, & Washington, DC) ATV Chairman and ATV Congressman. My responsibilities include representing ATV clubs, riders, and racers in the AMA district to ensure that their riding and racing needs and wants are properly attended to locally and nationally. I agree with the CPSC's position to deny the current ban of sale request. I feel and have seen that the current manufacturer ban on selling adult sized ATV's to people under age 16 does not keep parents from purchasing these ATV's and then letting their children ride them. This ban actually prevents riders under age 16 from being able to take part in manufacturer rider safety programs often included with the purchase of said ATV. These rider safety programs help to educate ATV users to properly ride their ATVs using correct riding techniques and proper safety equipment.

The numbers produced by the proposed I believe to be accurate however are somewhat misleading. Concrete numbers are used for 1983-present but not for the last ten years. In the last ten years we have seen a growth in the ATV community based on ATV sales. This has lead to the obsolescence of the 3-wheeler (ATC) which accounted for a large portion of these incident numbers in the 1980's. With the growth of the ATV community, this leads to more riders and of course more incidents. A better measuring gauge would be to use percentage of ATVs owned and operated versus injuries and fatalities. Based on these statistics we would see that injury and fatality numbers have steadily decreased per ATVs currently in use. As every year more ATVs are sold, but we have currently not seen the same growth in injuries and fatalities. This is in large part due to better safety training, as well as safer ATVs being manufactured. I believe that with a more in depth look into the statistics we will see that ATV injuries and fatalities have decreased proportionately.

The current sizing for adult and youth ATVs does not properly take into account individual height and weight for riders between the ages of 11 and 19, and as we all know children do not all grow proportionately the same and at the same age during this time period of their lives. A rider at age 13 may have fully developed while a rider at age 16 has just started his "growth spurt." The All Terrain Vehicle Association (ATVA), a division of the AMA specifically dedicated to looking out for the needs of ATV riders, has done much for racer classification on a national level to ensure that this is properly taken into consideration. The current AMA rule for ATV youth classes reads "With a rider in normal riding position with hands on handlebars, there must be a bend in the elbows, fingers must reach all control levers." The current manufacturer definition of ATV sizing considers any ATV over 90cc to be considered an adult ATV. The ATVA/AMA as well as the majority of ATV riders, racers, and parents in my district disagree with this classification. There are two major problems with this classification. One is that the engine size limit was originally made based on two-stroke engine sizes, but isn't properly defined as such with another limit for four-stroke engines. This doesn't take into account that many of the newer ATV models are produced with four-stroke engines. A four-stroke engine needs a lot more displacement to create the same amount of power than a two-stroke engine. The second is that most adult ATVs manufactured are based on current adult racing classes for 250cc two-strokes and 450cc four-strokes on up

to unlimited displacements. This leaves a large void in engine displacements from 90cc to 250cc for two-stroke ATVs and from 90cc-450cc for four-stroke ATVs. From ages 11 to 15 and from 90cc-250cc (two-stroke engine based) a better classification system by the manufacturers or CPSC needs to be created. The ATVA has taken it upon itself to do as such. Certain manufacturers are currently manufacturing ATV's (200cc two-stroke and 300cc four stroke) properly sized for this age bracket. Yet, they technically are not allowed to sell these ATVs to these aged persons. I have had many inquiries from youth ATV riders' parents about this problem with no answer to give them except that I don't agree with the current situation either.

By passing this measure it will only hurt the current situation and add to the problems incurred by the ATV community rather than help. The ATV community isn't going to go away as shown by recent and recurring jumps in ATV sales. It seems that we should be looking to find a way to better serve the ATV community by creating better guidelines that properly reflect the youth ATV riders to better ensure proper ATV safety training rather than issue a mandate that is already really in place and obviously not working as it is not effective. If we think that a parent wont buy an adult sized ATV and let their under 16 child operate it we are sadly mistaken as the numbers indicate as it is obviously currently happening. But if we can properly educate our youth riders as to proper safety in ATV operation we can ensure the decrease in the numbers of child ATV injuries and fatalities.

Jeremy Brandwein
2622 South Joyce Street
Arlington, VA 22202
AMA District 7 ATV Chair & Congressman

U.S. CONSUMER PRODUCT SAFETY COMMISSION

**PUBLIC MEETING CONCERNING PETITION
REQUESTING BAN OF ALL-TERRAIN VEHICLES SOLD
FOR USE OF CHILDREN UNDER 16 YEARS OLD**

BETHESDA, MARYLAND

MARCH 22, 2005

**STATEMENT OF TIM BUCHE
PRESIDENT, SPECIALTY VEHICLE INSTITUTE OF AMERICA
IRVINE, CALIFORNIA**

**OUTLINE OF STATEMENT OF TIM BUCHE
PRESIDENT, SPECIALTY VEHICLE INSTITUTE OF AMERICA**

1) Market Condition

- a) Has been relatively flat for major manufacturers of ATVs in the U.S.
 - i) 1.7 percent increase in new unit sales in 2004
 - ii) 5 percent increase YTD 2005
- b) There have been many new entrants to the market in recent years
- c) ATVs are being sold through previously ignored distribution channels and some channels may still be unknown
 - i) Pep Boys and other auto parts stores
 - ii) Swap meets
 - iii) Other miscellaneous retailers
- d) Used ATV Sales accounted for 38% of total units sold in 2003

2) The ATV Industry Association is Inclusive and Services are Open to all Eligible Members

- a) Rider training is available for buyers, general public, and non-buyers
- b) SVIA membership open to manufacturers of ANSI compliant product
- c) On-product warning stickers are available for use for a nominal fee
- d) SVIA speaks to any and all issues, including an increasing number of user issues created by new entrants to the market

3) ATV Industry's Call to Action

- a) New Entrants to Market Should Meet Benchmarks Set by SVIA Members by:
 - i) Providing voluntary letters of undertaking with CPSC
 - ii) Providing and supporting ATV rider training for all purchasers
 - iii) Selling only ANSI compliant products
 - iv) Ensuring a sound sales and delivery process at the retail level
 - v) Promoting appropriate state legislation as the only way to address user issues
 - vi) Working with the CPSC and other federal agencies to protect the interests of U.S. consumers

STATEMENTS

Panel #3

Nina Benton, Weekly Reader Corporation

Christopher Spaulding, Charles County Sheriff's Office

Edward J. Heiden, Heiden Associates

Weekly Reader
“A Public Education Classroom Program
On ATV Usage”

Testimony to Consumer Product Safety Commission

Presented by:
Nina Benton
Director, Client Services
Weekly Reader Corporation

Good morning Mr. Chairman and Commissioner Moore. My name is Nina Benton and I am the Director of Client Services for Weekly Reader Corporation. I appreciate the opportunity to participate in this hearing and to comment on Weekly Reader's nationwide ATV education program **Protect Yourself. Protect the Planet.**

Weekly Reader Corporation is the nation's leader in creating sponsored classroom educational materials for the school, library, and home markets. Weekly Reader has been publishing award-winning classroom magazines for over a century and has the largest circulation in the industry, with 16 different publications from Pre-K through high school, reaching 8 million students in more than 300,000 classrooms.

In October 2004, Weekly Reader announced an exciting new education program in partnership with ATV manufacturers. The program, entitled **Protect Yourself. Protect the Planet**, is designed to educate school-aged ATV operators, their families and community leaders about ATV safety and environmentally-responsible riding practices.

The growth in the popularity of ATVs has created new challenges in making sure that parents and children understand the risks associated with ATV use, as well as in promoting riding practices that respect the environment and others. The Weekly Reader education program will help millions of kids — and

their parents, teachers and community leaders — understand the importance of riding ATVs safely and respectfully. Young people appreciate the mobility and freedom ATVs provide them, and need to know that this freedom must be earned each and every time they drive their ATV by vigilantly following laws and safety rules, and being aware of the impact ATVs can have on their environment and community.

At Weekly Reader, we know a lot about the schools we serve and can help our clients deliver high quality educational materials directly to the teachers, children, and parents who need them most. For the **Protect Yourself. Protect the Planet** program, over 20,000 sets of classroom materials have been distributed to middle schools and high schools in targeted geographic areas with high ATV use across the country. The program has a potential reach of 12 million children and adults who are the most likely users of ATVs.

Weekly Reader produced compelling and colorful educational pieces for the **Protect Yourself. Protect the Planet** program that enhance awareness among young people in grades 5 – 12 about the important safety and environmental considerations of ATV use. The classroom materials include a teacher's guide, a student activity booklet, a parent take-home brochure, and a classroom poster.

Protect Yourself. Protect the Planet stresses key safety messages such as: operate only appropriate-size youth model ATVs; always wear helmets and other protective gear; do not take passengers on single-operator ATVs; and always operate under the supervision of a parent or adult guardian. Tips for being an environmentally-responsible rider are also incorporated, such as: stick to the trails that have been developed in an eco-friendly manner; make sure that your ATV meets local noise ordinances; don't litter; don't trespass, and report inappropriate behavior, damage to natural resources and any hazards you may encounter to local officials or park rangers.

For parents, **Protect Yourself. Protect the Planet** provides information that alerts them to the serious potential dangers from misuse of ATVs. Additionally, the materials include guidelines on parental responsibilities for supervising their children's ATV usage and modeling and enforcing family rules for their ATV.

The **Protect Yourself. Protect the Planet** program is a flexible curriculum that can be implemented by teachers as well as distributed through police stations, firehouses, Parent Teachers Associations (PTAs), and other community organizations that have a need for such materials. The materials will also be posted on company and trade association websites, and will be distributed at community events and youth organizations.

The sponsoring ATV manufacturers include American Honda Motor Co., Inc., American Suzuki Motor Corporation, Arctic Cat Inc., Bombardier Recreational Products Inc., Deere & Company, Kawasaki Motors Corp., U.S.A., Polaris Industries Inc. and Yamaha Motor Corporation, U.S.A. **Protect Yourself. Protect the Planet** builds upon an earlier Weekly Reader education program, also conducted in partnership with the leading ATV manufacturers, called **Ride Right** that distributed thousands of materials on ATV safety that reached approximately four million students and nearly one million parents.

When used properly, ATVs can expand a rider's access to the outdoors, enhance their relationship and appreciation of nature, and empower them with responsibility and independence. The **Protect Yourself. Protect the Planet** will help educate the public about safe and responsible use of ATVs, and most important, help parents and teachers prepare children who choose to ride ATVs in becoming responsible adults that ride safely and protect the environment they ride on.

Thank you again for the opportunity to participate at this important hearing.

U.S. CONSUMER PRODUCT SAFETY COMMISSION
PUBLIC MEETING CONCERNING PETITION
REQUESTING BAN OF ALL-TERRAIN VEHICLES SOLD FOR USE OF
CHILDREN
UNDER 16 YEARS OLD

BETHESDA, MARYLAND
MARCH 22, 2005

STATEMENT OF CHRISTOPHER SPAULDING
LAW ENFORCEMENT OFFICER
CHARLES COUNTY SHERIFF'S OFFICE
LAPLATA, MARYLAND

BACKGROUND/EXPERIENCE:

First I would like to thank the Commission for giving me the opportunity to provide testimony in regards to this important issue. I neither represent nor speak on behalf of the Charles County Sheriff's Office. I appear before the commission on my own behalf and speak as an individual. I am a 34-year-old father of 2 boys ages 11 and 8, both of whom are ATV and motocross riders. I also have been riding ATV's most of my life.

I have been a Maryland law enforcement officer since 1996 and I am currently assigned to our agency's ATV unit as the organizer. Our ATV unit's primary functions are in three areas: enforcement, public education, and search and rescue. I also am an Instructor for the "ATV Safety Institute" and I am responsible for training numerous Maryland Law Enforcement officers in the safe and proper use of ATV's.

STATEMENT:

I feel in order to reduce the amount of injuries and deaths there are three key areas which should be focused on. First is rider education through rider courses and through the media. I have found that taking a proactive approach in rider education is important.

The local media is also very receptive and has always been willing to help by doing interviews, participating in rider education classes, and also participating in actual patrols with law enforcement agencies relating to ATV use and then relaying this information to the general public.

The second issue is something which is always brought up during the education phase and that is "**Proper Adult Supervision.**" I stress "Proper" because based on my experience many adults believe their presence while a child is riding is enough. It is not. The adult must understand what is necessary to ride an ATV in the proper manner to include: techniques, equipment, and the mechanical condition of the ATV. Also, if the adult is also a rider, they must "Lead By Example." If a child sees an adult ride in a improper manner, the child more times than not will do the same.

A third method would be state legislation which is reasonable and enforceable to include making a basic operators course mandatory prior to operating an ATV. The state of Maryland requires a license/permit to operate motor vehicles to include motorcycles and mopeds.

The state also requires a person who was born after July 1, 1974 to take an approved "Safe Boaters Course" to operate a watercraft in Maryland. I believe a requirement to take a basic ATV operators course would not be unreasonable and would greatly reduce the risk of injuries and deaths. I also believe legislation requiring the proper use of helmets while riding ATV's would also be a good enforcement tool.

SUMMARY:

Again, I would like to thank the Commission for the opportunity to testify. Continuing public education, proper adult/parental supervision, and state legislation to allow law enforcement to enforce regulations are the best ways to effectively promote ATV safety to reduce injury and death due to improper ATV use.

A sales ban will not address any of these issues; it will only create a very small obstacle which can be easily overcome by the public. I believe if all of the interest groups work together and focus their attention on the three methods I have addressed we can provide a much safer environment for the ATV riding community and we can better protect our children.

Statistical Perspectives on ATV Risk

Testimony of
Edward J. Heiden, Ph. D.

March 15, 2005

I am the President of Heiden Associates, a product safety and economic consulting firm based in Washington, D.C. Heiden Associates specializes in the application of microeconomic and statistical analysis to business and public policy issues. One of our core areas of expertise is product safety.

During the past few years, Heiden Associates has conducted statistical research on a number of issues relating to the risks associated with the use of ATVs, particularly by children under 16. In 2001, Heiden Associates conducted an exposure survey to determine both the number of ATVs in use and the amount of time that consumers operate them. The exposure survey was sponsored by the major ATV manufacturers and conducted in close consultation with CPSC staff. The data from this survey and the companion CPSC staff study of ATV-related injuries provide the foundation for much of the discussion of ATV injury risk issues in the Commission briefing package.

Heiden Associates also prepared analyses and presented testimony on other ATV-related issues at the 2003 CPSC regional hearings in West Virginia. A major theme of that presentation was that product-related risk should be evaluated in the context of trends over time employing data that are comparable. In addition, it should be compared with the risks associated with other types of products and activities.

Heiden Associates and the ATV manufacturers commend the CPSC staff on presenting an expansive statistical risk analysis and accompanying comparative risk assessment in the current briefing package. In my testimony today, I would like to provide some updates and additional perspectives on these issues that are important to consider as the Commission

determines how best to proceed in the months ahead. These updated results confirm the trend that I have noted previously—namely, that when risk comparisons are performed for the years in which the estimates were produced from the same data sources and statistical methodologies, they show ATV injury and fatality risk has remained remarkably stable on a per-vehicle-in-use basis. In particular, the data are clear that no significant change in injury risk has taken place since the ATV Consent Decrees expired in 1998. In addition, new analysis of recent trends in risk suggest that some progress is being made in reducing the rate of children's injuries and fatalities, relative to the number of ATVs in use.

In addition to this analysis of risk trends, we also discuss other risk-related topics that we have addressed in prior research work and updated here. These consist of:

- An update on the comparative injury and fatality risk of ATVs and other motor vehicles and recreational activities that uses more recent injury and exposure data than previously available.
- A brief discussion of the continuing importance of warned against behavior as an accident and risk factor.
- Presentation of additional evidence on the role of state ATV legislation in reducing the number of fatalities to children under 16 relative to all fatalities.

Overall ATV Injury Risk has been Stable since the Expiration of the Consent Decrees.

The 2001 CPSC staff ATV risk study appears to indicate that ATV injury risk rose on an exposure-adjusted basis between 1997 and 2001—the two years in which the most recent ATV

exposure and injury surveys were conducted. However, the NEISS system upon which the ATV injury estimates are based underwent a significant revision in 1997, and the full complement of hospitals in the new sample of reporting emergency rooms was not online until the fall of that year. During the interim period, the statistical weighting procedures used to develop national injury estimates were adjusted to account for delayed reporting from some participants, but the hospitals that came online late were not randomly distributed across geographic regions and hospital size classes. Consequently, there appears to be a consistent pattern of larger increases in estimated injuries from 1997 to 1998 than in any year since. For example, the NEISS injury estimates presented in the three most recent CPSC hazard screening reports on power tools, outdoor activities, and toys all exhibit larger increases from 1997 to 1998 than at any time since then. A large majority of other NEISS product categories also exhibit a similar pattern.

Accordingly, I believe that injury risk trends—both for ATVs and for other products—are best evaluated using estimates beginning in 1998, the first year that a full complement of NEISS hospitals in the new sample was available (and, coincidentally, the year the ATV Consent Decrees expired). With the 2003 injury estimates now available, it is clear that the injury risk associated with the use of ATVs has been essentially stable for the past six years. Measured on a per-vehicle basis (the best metric given the data available), ATV risk has fluctuated in the range between 185 and 200 injuries per 10,000 four-wheel vehicles in use during this time period and has actually decreased slightly during each of the past two years. In fact, the 2003 rate of 188 injuries per 10,000 four-wheel ATVs in use is lower than for any year since 1998. *See Exhibit 1.*

ATV-Related Injury Risk for Children Under 16 has Declined Steadily since the Expiration of the Consent Decrees.

The recent trend in injury risk numbers has improved for children under 16 relative to the general ATV-riding population as a whole. In 2003, there were an estimated 57 ATV-related injuries to children under 16 per 10,000 vehicles in use. This represents a 14 percent decrease from the level of injury risk for children under 16 in 1998, when the Consent Decrees expired. The estimates presented in Exhibit 1 show that injury risk for children under 16 has declined in all but one of the past five years.

It is often suggested that injury risk is ideally measured on a usage-adjusted basis such as that measured by full-scale exposure surveys, rather than on a per-vehicle basis, and I would agree with that proposition in many contexts. However, there are several reasons why evaluating risk on a per-vehicle basis is appropriate for the purposes of this proceeding. First, as I noted previously, there have been no new exposure data since 2001. Injury estimates for 2002 and 2003 should not be discarded simply because exposure studies have not been conducted annually.

Second, CPSC set the precedent of evaluating injury and fatality risk for four-wheel ATVs on a per-vehicle basis in the published annual report on ATV injury and fatality estimates that it has prepared since expiration of the Consent Decrees.

Third, and in my view, most important, is that the success or failure of current efforts to restrict riding of adult-sized ATVs by children under 16 can be best evaluated by examining on a

per-vehicle basis the contribution that each ATV in use makes to the current level of ATV-related injuries sustained by children under 16. Specifically, if more ATV dealers, parents, and under-16 riders are complying with the ATV age and size recommendations, that increased compliance will only show up accurately (as a reduction) in an injury rate that is measured on a per-vehicle basis. It will not show up in a reduced injury rate if it is measured by hours of use or number of riders for the remaining participants who ignore the ATV age guidelines and whose risk cannot be expected to fall as a result of increased compliance by others.

ATV-Related Fatality Risk has Declined or Remained Stable since 1999.

The CPSC staff analyses of fatalities highlight that there was a significant change in methodology for estimating ATV-related fatalities beginning in 1999. For the same reasons I previously outlined for assessing injury risk trends, it is only appropriate to examine fatality rates using estimates developed using the current statistical methodology. We have less information available on this trend, however, because the change in methodology took place one year later and because there is a substantially longer time lag before the database of incident reports becomes complete enough to develop a reliable annual estimate of ATV fatalities.

However, it appears that there are now sufficient data available for development of adequately reliable fatality estimates for the four-year period from 1999 through 2002. As Exhibit 1 shows, overall ATV fatality risk appears to have been declining on balance since 1999. If the current CPSC annual estimates for fatalities do not change significantly in future reports, there were about 1.4 ATV-related fatalities per 10,000 four-wheel vehicles in use during 1999,

declining to 1.1 fatalities per 10,000 vehicles in use during the two most recent years for which adequate data are available.

Fatality Risk for Children Under 16 has also Declined or Remained Stable since 1999.

In addition, we have examined trends in per-vehicle fatality risk for children under 16 since the Consent Decree expired. As Exhibit 1 shows, the estimated fatality rate declined by about 10 percent on a per-vehicle basis from 1999 to 2002 for children under 16.

It should be noted that assessing the per-vehicle trend in fatality risk for children under 16 has one additional complication—because of confidentiality restrictions on the publicly available database, it is not possible to determine the percentage of *estimated* fatalities sustained by children under 16, only the share of those fatalities that are actually reported to CPSC. However, the ratio of estimated fatalities to reported fatalities has declined significantly since the new methodology was implemented in 1999, and it is reasonable, in my view, to assume that ATV-related fatalities involving children are at least as likely to be reported or known to the CPSC as those involving adults. In fact, given the extensive coverage and regulatory interest in these incidents, it is very possible that using the share of *reported* ATV-related fatalities sustained by children under 16 overstates the percentage of estimated fatalities accounted for by younger riders.

Comparative Risk Assessment Shows Another Perspective on ATV Safety.

A second way to evaluate ATV risk is in the context of the risk associated with comparable products and activities. By doing so, we are able to determine if the risk associated with a single product or activity such as ATV riding exceeds or falls within the range of the baseline levels of risk that characterize these benchmark products and activities—in this case represented by other recreational activities and other types of motorized vehicles.

In my testimony today, I present an updated version of some risk comparisons that will supplement materials contained in the CPSC briefing package. I previously presented materials on this topic at the West Virginia ATV hearings, and these data have been updated with new injury and fatality data, as well as new data on participation in recreational activities and motor vehicle population. The comparative risk assessment presented in the CPSC briefing package includes several measures under which the risks associated with ATV riding are lower than, or at least comparable to, other recreational activities and motor vehicles, as well as some in which the risks of ATV riding appear to be above the baseline level associated with comparable products/activities. As a general matter, whether ATV risk is higher or lower than the risks of other activities and products depends on the type of risk measured (e.g., total injuries, fatalities, other serious injuries), the measure used (e.g., number of products, total hours of use, number of users or participants), and the type of product/activity involved.

ATV Risks Are Comparable To Risks Associated With Other Recreational Activities.

Using newer (2003) recreational activity participation data than the 2001 data previously presented, it remains true that many other recreational products and activities involve a greater

risk of injury than riding an ATV. For example, on the basis of the number of injuries per 100,000 participants, ATV riding is safer than football, basketball, wrestling, bicycling, soccer, baseball, snow skiing, snowboarding, skateboarding, softball, ice hockey, boxing, roller skating, and several other recreational activities. *See Exhibit 2.*

The Comparison of Injury Risks for ATVs and Motor Vehicles Depends on the Measure of Exposure Used. The data presented in my previous West Virginia hearing testimony and the CPSC briefing package memo show that the comparison of injury rates for ATVs and motor vehicles is sensitive to the metric used to make the comparison. Although CPSC's briefing package notes that on a per-vehicle basis the level of injury risk associated with ATVs is higher than that for passenger cars and other types of motor vehicles, ATV injury risk compares favorably on a per-participant basis—an accepted measure that is frequently used for risk comparisons. On a per-participant basis, the most recent (2003) data show that the overall level of injury risk for ATVs is about half that of the general category of motor vehicles (993 per 100,000 riders for motor vehicles versus 488 for ATVs). *See Exhibit 3.*

The Fatality Rate for ATVs is Lower than that for Motor Vehicles Generally and Comparable to that for Passenger Cars. In contrast to the injury picture, the fatality risk comparison between ATVs and motor vehicles is not nearly as sensitive to the metric of exposure used. Measured on a per-vehicle basis, the overall fatality rate for ATVs is well below that for passenger cars and light trucks. On a per-participant basis, the fatality rates for motor vehicles generally and for passenger cars specifically are both several multiples of the risk level for ATVs. *See Exhibit 4.*

The Great Majority of Accidents Continue to Involve Warned Against Behavior.

Based on a review of hundreds of CPSC IDI reports of 1997-2002 ATV fatalities, we found that nearly 92 percent of all ATV-related fatalities to riders regardless of age involved at least one type of warned against behavior, defined as: failure to wear a helmet, riding on a public road, drinking alcohol, passenger carrying, excessive speed, or using drugs. Two or more warned against behaviors were reported in more than half of the fatalities reviewed. The most common of these behaviors was failure to wear a helmet (75 percent) followed by driving on public roads (40 percent).

The CPSC briefing package conducted an additional analysis limited to fatalities involving children under 16. For example, CPSC found that 93 percent of fatalities involving children under 16 occurred on ATVs with adult-sized engines, 72 percent involved children not wearing helmets (close to the percentage that we found for all riders), 45 percent involved multiple riders (compared with 28 percent in our analysis), and 25 percent occurred on paved roads.

These results help to provide a risk-factor roadmap as to where future risk reduction efforts through training, state legislation, and information/communication programs on ATV safety and risk reduction might best be focused.

State Legislation Can Help to Reduce ATV-Related Injuries Involving Children.

In my testimony at the West Virginia hearings I presented an analysis of fatality data that indicated that the percentage of fatalities to children decreased after ATV legislation was enacted in Kentucky and New Jersey. For this testimony I examined reported ATV fatality data for California, the state with the highest amount of ATV fatalities. I analyzed the change that occurred in the proportion of ATV-associated fatalities for riders under 16 in the five years after enactment in 1990 of ATV legislation with minimum age and parental supervision requirements, relative to the five years before the law. The proportion of fatalities to children under 16 in California declined from 27 percent before the law to 15 percent after the legislation. *See Exhibit 5.*

Although the precise extent to which the state law (as opposed to other factors, such as the CPSC Consent Decree) accounted for this decrease cannot be quantified in the absence of additional analysis, this preliminary analysis suggests that state laws can have a meaningful effect in reducing ATV-related fatalities and injuries involving children.

**Exhibit 1
4-Wheel ATV Injury & Fatality Risk per Vehicle**

Year	Injuries per 10,000 ATVs		Fatalities per 10,000 ATVs	
	Total	< 16	Total	< 16
2003	188.4	57.0	NA	NA
2002	190.0	60.7	1.1	0.27
2001	200.9	62.6	1.1	0.30
2000	197.2	68.0	1.2	0.34
1999	193.0	61.9	1.4	0.31
1998	184.7	66.6	*	*

*Comparable estimates not available. Fatalities in 1998 were coded under a different classification.

Source: "2003 Annual Report of ATV Deaths and Injuries", CPSC, January 2005.

Exhibit 2
2003 Injury Risk Estimates Per 100,000 Participants

<u>Activity</u>	<u>Emergency Room Injuries per 100,000 Participants*</u>
Football	2,292
Basketball	2,051
Wrestling	1,960
Boxing	1,777
Soccer	1,439
Baseball	995
Skateboarding	982
Bicycle Riding	979
Softball	897
Ice Hockey	879
Snowboarding	815
Roller Skating	596
Skiing	520
Snowmobiling	509
Martial Arts	496
Volleyball	476
ATVs	472
Racquetball	338
Scooter Riding	326
In-Line Roller Skating	280
Ice/Figure Skating	271
Roller Hockey	255
Weightlifting	253
Swimming (Heiden)	235
Tennis	221
Paintball	190
Fishing	144
Water Skiing	132
Swimming (CPSC)	128
Golf	123
Archery	83
Fencing	67
Exercising w/ Equipment	62
Scuba Diving	58
Bowling	39
Horseshoe Pitching	32
Badminton	30
Table Tennis	17
Billiards/Pool	12
Camping	6

*For participants 7 years of age and older.

Sources: "2003 Annual Report of ATV Deaths and Injuries",
 CPSC, January 2005.

"Sports Participation in 2003", National Sporting
 Goods Association.

Exhibit 3
2003 Injury Risk Estimates Per 100,000 Participants

<u>Activity</u>	<u>Injuries per 100,000 Participants</u>
Motor Vehicles	993
Passenger Cars	604
ATVs	488

Sources: "2003 Annual Report of ATV Deaths and Injuries",
CPSC, January 2005.

"Traffic Safety Facts 2003", National Highway
Traffic Safety Administration.

Exhibit 4
2002 Fatality Risk Estimates Per 100,000 Participants

<u>Activity</u>	<u>Fatalities per 100,000 Participants</u>
Motor Vehicles	14.9
Passenger Cars	7.1
ATVs	2.7

Sources: "2003 Annual Report of ATV Deaths and Injuries",
CPSC, January 2005.

"Traffic Safety Facts 2002", National Highway
Traffic Safety Administration.

Exhibit 5
Analysis of Impact of California Law on < 16 Fatalities

	Fatalities		
	Total	< 16	% < 16
Pre-Law	96	26	27%
Post-Law	72	11	15%
Total	168	37	22%

Source: 2003 ATV Deaths Database, CPSC.

STATEMENTS

Panel #4

E. Neal Gardiner, Gardiner Outdoor Products Corporation

Mike Twigg, Twigg Cycles Inc.

Brett Williams, Coleman PowerSports

Greg Keoho, Criswell Powersports LLC

John Ross, Shenandoah Honda



TESTIMONY OF E. NEAL GARDINER, VICE PRESIDENT, MARKETING

GARDINER OUTDOOR PRODUCTS CORPORATION

Good morning Mr. Chairman and Commissioner Moore. My name is Neal Gardiner. I am the Vice President, Marketing and Sales Manager of Gardiner Outdoor Products Corporation. Gardiner Outdoor Products sells and services a wide range of motorized products, including all-terrain vehicles ("ATVs") and commercial and residential tractors and lawn care equipment. Our dealership originally opened in 1946 and has served thousands of customers in Maryland and the greater Washington metropolitan area.

I very much appreciate the opportunity to be here this morning and comment on your staff's recommendation on the petition for a rule banning adult-size ATVs sold for the use of children under 16 years old.

ATVs are a major part of our business at Gardiner Outdoor Products. ATVs are wonderful products that can be used for both utility and recreation. Some models are used for all sorts of practical purposes, such as light hauling, transportation around family farms or work places, or getting out to favorite trails or hunting areas. Other models are primarily for recreational use.

We sell a lot of ATVs to customers in Maryland and the greater Washington metropolitan area. Many of our customers are repeat buyers. Many of our customers buy ATVs for utility and commercial uses. Other customers buy ATVs for recreation because ATVs are a lot of fun. Many customers' families use ATVs and go on ATV



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outings together. Local ATV riding clubs also sponsor different riding events. ATVs provide a great way for people to get out and enjoy the outdoors.

We care about our customers and we want their ATV experiences to be safe and enjoyable. Like all responsible dealers, we are very serious about safety. As the Sales Manager, I oversee our dealership's sales practices. The manufacturer of the ATVs we sell prohibits us from knowingly selling adult-sized ATVs -- those with engines bigger than 90cc -- for use by children under 16. All of our sales personnel are trained about the minimum age recommendations for different ATV models. At Gardiner Outdoor Products we expect all of our sales personnel to follow these requirements.

The ATV manufacturers and the CPSC regularly send investigators, posing as shoppers, to inspect whether our dealership is following the minimum age recommendations. These shoppers pretend to be prospective purchasers looking to buy adult-size ATVs for their kid, grandkid, or some other youth under the age of 16. To the best of my knowledge, our dealership has always passed these undercover inspections, because every prospective customer, including these undercover investigators, who comes to our dealership looking for ATVs for use by children is directed to appropriate youth models. As Sales Manager, I want to keep it that way. Our ATV manufacturer requires us to stop a sale of an adult-size ATV to an adult if that adult tells us that he or she wants to buy an ATV for a child under the age of 16. And we do. The sale stops there.

Gardiner Outdoor Products also provides free, on-site, hands-on training as required by our ATV manufacturer. Customers who have not previously taken this training, must complete this training before leaving our dealership with their ATVs or



their manufacturer's warranty is void. This training program includes viewing a safety video, an explanation of various warnings posted on the ATV, training on how to operate the vehicle, and supervised operation of the ATV. We sell helmets, protective gear, and other riding accessories, and encourage new purchasers to make sure they are properly outfitted before they start using their ATVs.

We believe that all of these efforts make a difference. Most of our customers enjoy their ATVs year after year without any accident or problem. Unfortunately, when we read about ATV-related accidents in the newspaper or hear about them from a customer, they almost always involve use of the vehicles in ways that are expressly warned-against in the safety materials and on-product labels. This includes letting children under 16 operate adult-size ATVs, carrying passengers, and riding without helmets or other protective gear. These activities go to the use of the vehicles. We can do our part in educating consumers, but once they take an ATV out of our showroom, they are responsible for how it is used. Parents and adults should always supervise children operating ATVs. Of course, adults also need to exercise good judgment and follow the warnings and instructions on the vehicles when they ride. By demonstrating safe and responsible riding practices, parents are the most effective models for teaching their kids to ride safely as well.

We appreciate the CPSC's concerns about ATV-related accidents and injuries, but we do not support the proposed ban on dealer sales of adult-size ATVs for use by children under 16. As I previously mentioned, the ATV manufacturers already prohibit us from making such sales. Although a federal sales ban may sound good, it will not provide any benefit. The fact is that once an ATV is purchased by an adult and leaves



our showroom, we cannot control who is later allowed to use the vehicle. The problem is not in the showroom. It is outside where the products are being used. Children can get access to ATVs in many places, including their own garage or at a relative's or neighbor's, or friend's house. That is why parents and adult guardians have to be involved and supervise their children when they operate any size ATV.

Most ATV users want to do the right thing, especially parents. There's a lot of good safety information available to ATV riders, we need to continue to encourage them to pay attention to it. We also agree with the CPSC staff that state ATV safety laws are another potentially effective way to promote safe and responsible use of the vehicles.

Finally, I want to thank the Commission for conducting this hearing, and for taking the time to travel across the country to hear from actual ATV users before ruling on this petition. I'm sure you found the vast majority of the ATV enthusiasts you met to be responsible, caring citizens. Our customers are too. We encourage the CPSC to continue to promote safe ATV use through continued public awareness and educational programs. But more federal regulation on dealer sales is unnecessary and would not be effective. Thank you again for the opportunity to participate in this important hearing.

ATV PETITION BRIEFING

TESTIMONY OF TWIGG CYCLES

Good morning Mr. Chairman and Commissioner Moore. My name is Michael Twigg. I am the owner of Twigg Cycles in Hagerstown, Maryland. I appreciate the opportunity to participate in this hearing and to comment on your staff's recommendation on the Section 8 Petition.

Twigg Cycles was opened in 1932 and has served thousands of customers in a three-state area (Maryland, West Virginia, and Pennsylvania). Twigg Cycles handles a wide range of motorized products, including all-terrain vehicles ("ATVs"), off-road motorcycles, and street motorcycles. Our employees have over 149 years of experience in the industry.

ATVs are an important part of our business. Like other dealers, we have experienced a significant growth in our ATV sales over the past several years. More and more customers have discovered the many practical uses and applications for ATVs, whether as a light utility vehicle on their property or as means for transporting themselves and their gear to camping sites and favorite hunting spots. On top of that, ATVs are a lot of fun. Many of our customers have turned ATV'ing into a family activity. It's a great way for families to spend quality time together, and for parents to teach their children important lessons about how to handle a motorized vehicle responsibly, to exercise good judgment, to respect others and our beautiful outdoors.

At Twigg Cycles, we take ATV safety seriously. The manufacturers of the ATVs we carry prohibit us from knowingly selling adult-size ATVs for use by children under 16. Adult-size ATVs are any model over 90cc's. We work hard to make sure that all of our dealership personnel comply with this directive. From time to time, both CPSC and the manufacturers check on compliance with the age recommendations by sending "secret shoppers" to visit

dealerships. These investigators pose as prospective purchasers looking to buy adult-size ATVs for their "sons," "nephews," or "grandkids." Our dealership has consistently passed these undercover inspections because all prospective customers, including "secret shoppers," who enter our dealership and ask about ATVs for use by children are directed to appropriate youth models. The manufacturers require us to stop a sale of an adult-size ATV to an adult if that adult tells us that he is buying the ATV for a child under the age of 16. The sale stops there -- period.

Our dealership also promotes the hands-on training course offered by the ATV manufacturers. We provide all of our customers with a safety video, brochure and other materials at the time of sale. In addition, I am sure you are familiar with the numerous warning labels affixed to the ATVs. And of course we strongly recommend the use of helmets and other protective gear by all ATV riders.

Another effective way that we help to promote safe and responsible ATV use is through organized rider clubs and OHV trails. Our dealership is heavily involved in both activities. We have also been very active in supporting OHV trails in Maryland. In fact, I testified in Annapolis just two weeks ago in support of state trail legislation. Organized trails provide a way to establish and enforce good safety and management rules for operating ATVs and other off-highway vehicles. These experiences, in turn, can foster safe and responsible operating practices by riders, even when they operate their vehicles in other places. Organized trails also help protect the environment by keeping vehicles on appropriate areas, and trails can provide significant economic benefits to local areas.

Our dealership is aware of the efforts the CPSC has made, together with the ATV industry, to promote safe and responsible use of these vehicles. Your efforts have raised ATV safety awareness, both in the written materials that we provide to customers, like the ATV safety

alert, and through your continuing monitoring of dealerships like ours for compliance with the age recommendations. We also applaud you for getting out of Washington and visiting other parts of the country to hear firsthand from ATV users and their families, dealers, and other interested parties about the "real world" issues surrounding this product.

We agree with CPSC staff that a federal ban on dealer sales of adult-size ATVs for use by children under 16 would be ineffective. Our dealer agreements with the manufacturers already prohibit us from making sales of adult-size ATVs for use by children at the risk of termination of our dealership. Although a federal sales ban may sound good on paper, the fact is that once an ATV is purchased by an adult and leaves our showroom, we cannot control who is later allowed to use the vehicle. Children gain access to ATVs in a variety of settings. When they get on adult-size ATVs -- in spite of clear age label warnings on the vehicles -- they're not in the dealer showroom. They're out in their backyards, at a relative's or neighbor's, or with friends. That is why parents and adult guardians have to be involved when their children operate any size ATV. These vehicles are not toys, and they're not babysitters.

A lot of recreational activities involve risks. ATVs are no different and, when ridden properly, they can provide years of recreational enjoyment and utility. We know this from first-hand experience: The vast majority of our customers use their ATVs safely and responsibly; many of them have returned to our dealership to buy additional vehicles.

We care about our customers and want all of them to have positive experiences with their vehicles. Like the CPSC staff, we believe that rider education and training, along with parental supervision, following the age recommendations, and always wearing helmets are the most effective ways to reduce ATV-related accidents and injuries. These are the "real world" approaches to improving ATV safety.

Finally, we would encourage CPSC to discuss with the ATV manufacturers whether the current 90cc limit on youth-model ATVs should be reexamined. We think a lot of teenagers may be getting on larger ATVs because the 90cc models are too small for them. Our dealership has an array of off-road motorcycles that we can offer to youth riders, starting at 50cc and transitioning to the full-size models. For ATVs, in contrast, there are only a handful of 90cc models that can be offered. If we had a better and wider selection of ATV models that are appropriately sized and powered for youth operators, we believe our customers would be interested in buying them. This may present another "real world" way to keep children under 16 off of the much larger, more powerful adult units.

Thank you again for the opportunity to participate at this important hearing.

ATV PETITION BRIEFING

TESTIMONY OF BRETT WILLIAMS, COLEMAN POWERSPORTS

My name is Brett Williams. I am the General Manager of Coleman PowerSports. Our dealership originally opened in 1963. Today, our two Coleman PowerSports stores, Falls Church and Woodbridge, in Virginia are part of PowerRide MotorSports, Inc., a network of seven dealerships across the United States. Coleman PowerSports handles a wide range of motorized products, including all-terrain vehicles ("ATVs").

I very much appreciate the opportunity to be here this morning. ATVs are a major part of our business at Coleman PowerSports. ATVs are terrific products that can be used for a wide range of things. Some models are primarily for recreational use; other models can be used for all sorts of practical purposes, such as light hauling, transportation around family farms or work places, or getting out to favorite trails or hunting places.

We sell a lot of ATVs to customers in the greater Washington metropolitan area and beyond. Some customers enjoy ATV outings with their entire families. Many of our customers are repeat buyers. There are local ATV riding clubs that also sponsor different riding events. It's a great way for people to get out and enjoy the outdoors.

We care about our customers and we want their ATV experiences to be safe and enjoyable. All responsible dealers do. As General Manager, I oversee our dealership's sales practices. All of our sales personnel are trained about the minimum age recommendations for the different ATV models. We expect all of our sales personnel to follow these requirements, and we do not allow adult-size ATVs, which are models with engine displacements of 90cc or greater, to be sold for use by children under 16. Our dealership agreements with the major ATV manufacturers prohibit such sales, and we

make every effort at Coleman PowerSports to make sure that these requirements are followed.

We also know that the manufacturers and the CPSC send investigators, posing as shoppers, to test whether our dealership is following the minimum age recommendations. To the best of my knowledge, we have always been found to be in compliance with these directives. As General Manager, I want to keep it that way.

Our dealership also promotes the free hands-on training programs offered by the ATV manufacturers. The training program is a great way for new customers to gain experience and knowledge of safe riding practices. In addition, we provide all new ATV purchasers with a safety alert, a safety video, and other instructional materials when they buy an ATV. We sell helmets, protective gear, and other riding accessories, and encourage new purchasers to make sure they are properly outfitted before they start using their ATVs.

We believe that all of these efforts make a difference. Most of our customers enjoy their ATVs year after year without any accident or problem. Unfortunately, when we read about ATV-related accidents in the newspaper or hear about them from a customer, they almost always involve use of the vehicles in ways that are expressly warned-against in the safety materials and on-product labels. This includes letting children under 16 operate adult-size ATVs, carrying passengers, and riding without helmets or other protective gear. These activities go to the use of the vehicles. We can do our part in educating consumers, but once they take an ATV out of the dealer showroom, they assume responsibility for how it is used. Parents and adults should always supervise children operating ATVs. Of course, adults also need to exercise

good judgment and follow the warnings and instructions on the vehicles when they ride. By demonstrating safe and responsible riding practices, parents are the most effective models for teaching their kids to ride safe too.

We appreciate the CPSC's concerns about ATV-related accidents and injuries, but we do not support the proposed ban on dealer sales of adult-size ATVs for use by children under 16. As I previously mentioned, the ATV manufacturers already prohibit us from making such sales. The problem is not in the showroom. It is out where the products are being used.

Most ATV users want to do the right thing, especially parents. There's a lot of good safety information available to ATV riders, we need to continue to encourage them to pay attention to it. We also agree with the CPSC staff that state ATV safety laws are another potentially effective way to promote safe and responsible use of the vehicles.

In closing, I want to thank the Commission for conducting this hearing, and for taking the time to visit different parts of the country to hear from actual ATV users before ruling on this petition. I'm sure you found the vast majority of the ATV enthusiasts you met to be responsible, caring citizens. Our customers are too. We encourage the CPSC to continue to promote safe ATV use through continued public awareness and educational programs. More federal regulation on dealer sales, however, is unnecessary and would not be effective. Thank you.

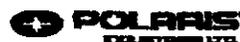


Testimony of Greg Keoho, Criswell Powersports L.L.C.

Good morning Mr. Chairman and Commissioner Moore. My name is Greg Keoho and I am the General Manager of Criswell Powersports in Germantown, Md. I appreciate the opportunity to participate in this hearing and to comment on your staff's recommendation on the Section 8 Petition.

Criswell Powersports opened in 1998 as part of the Criswell Automotive Group and has served thousands of customers in the greater metropolitan Washington area. We sell and service a variety of motorized products including on and off road motorcycles, personal watercraft, and of course, all terrain vehicles. Even though my dealership is relatively young in the Mid-Atlantic region, I have assembled a very good staff with many years of industry experience.

ATVs are a very important part of our industry. Over the past several years they have gained in popularity, and we as dealers have experienced a significant increase in ATV sales. They have become a standard household appliance in many suburban neighborhoods, and many people consider them as necessary as any motorized lawn tool in their sheds. Along with the everyday practical applications of an ATV, more and more people are discovering the many recreational uses for them. For some, ATVs are the focal point of family outings and an opportunity for parents to teach their children valuable lessons about exercising good judgment and respecting the outdoors. For others, ATVs are the means to haul gear into and out of their favorite campsite or hunting spot. I believe that ATVs have become invaluable assets for all their owners.



The manufacturers of the ATVs that we sell prohibit us from knowingly selling an adult-sized ATV – that is, an ATV in excess of 90cc – for use by anyone under the age of 16. They require us to immediately stop the sale of an adult-sized ATV once the adult tells us that he or she is buying it for someone under 16. Every ATV that we sell has age labels and hang tags warning of the dangers of operating an ATV in a manner inconsistent with its intended use. We at Criswell Powersports, like all responsible dealers, take safety very seriously. Once we discover an adult trying to purchase an adult ATV for a child, we not only stop the sale, but we also try to educate the parents on the importance of paying attention to these warning labels.

The ATV manufacturers and the CPSC regularly send investigators, posing as shoppers, into dealerships to inspect whether we are following the minimum age recommendations. To the best of my knowledge, we have always been found to be in complete compliance with these directives. As the General Manager it is my responsibility to ensure that these age requirements are adhered to, and I do. Every customer that comes into Criswell Powersports to purchase an ATV is directed to one that is appropriate for the intended user's age.

Our dealership also promotes the free hands-on training programs offered by the manufacturers and provides free on-site training as required by one of the manufacturers. Customers who purchase that one manufacturer's ATVs but have not previously taken this training must complete it before leaving our dealership with their ATVs. Both of these training programs include viewing a safety video, explanation of the various warning labels posted on the ATV, training on how to operate the vehicle, and supervised operation of the ATV.

Our dealership is aware of the efforts the CPSC has made, together with the ATV industry, to promote safe and responsible

use of these vehicles. Your efforts have raised ATV safety awareness, both in the written materials that we provide to customers and through your continued monitoring of dealerships like ours for compliance with the age recommendations. We also applaud you for holding hearings throughout the country to hear firsthand from ATV users and their families, dealers, and other interested parties about the “real world” issues surrounding this product.

We agree with CPSC staff that a federal ban on dealer sales of adult ATVs for use by children under 16 would not be effective. Our dealer agreements with the manufacturers already prohibit us from making these sales at the risk of losing our franchise agreements. Although a federal sales ban may sound good in principle, the fact is that once an ATV is purchased by an adult and leaves our showroom, we cannot control who is later allowed to use the vehicle. Children gain access to ATVs in a variety of settings. When they get on adult-sized ATVs – in spite of clear age label warnings on the vehicle – they’re not in the dealer showroom. They’re out in their backyards, at a relative’s or neighbor’s, or with friends. That is why parents and adult guardians have to be involved when their children operate any size ATV. These vehicles are not toys.

A lot of recreational activities involve risks. ATVs are no different. But when ridden properly, they can provide years of recreational enjoyment. In fact, many of our customers have returned to our dealership to buy additional vehicles.

Like the CPSC staff, we believe that rider education and training, along with parental supervision, following the age recommendations, and always wearing helmets are the most effective ways to reduce ATV-related accidents and injuries. These are the “real world” approaches to improving ATV safety.

Finally, we would encourage CPSC to discuss with the ATV manufacturers whether the current 90cc limit on youth-model ATVs should be reexamined. We think a lot of teenagers may be getting on larger ATVs because the 90cc models are too small for them. Our dealership has an array of off-road motorcycles that we can offer to youth riders, starting at 50ccs and transitioning to the full-size models. But for ATVs, there are only a handful of models that are available, and none is larger than 90cc. We believe that our customers would be interested in buying a wider selection of ATV models that are appropriately sized and powered for youth operators. This may present another "real world" way to keep children under 16 off of the much larger and more powerful adult-sized units.

Thank you.

ATV PETITION BRIEFING

JOHN ROSS - SHENANDOAH HONDA

My name is John Ross. I am the owner of Shenandoah Honda in Winchester, Virginia. My dealership is the largest Honda dealership in the Baltimore - Washington metropolitan area, and we serve customers in Virginia, Maryland, and Washington, D.C. We sell ATVs and other motorized products, as well as related accessories.

I appreciate the opportunity to be here today to speak about ATVs. ATVs are an important part of our business at Shenandoah Honda. Winchester is located in the Shenandoah Valley, a rural farming area in Virginia. Many of my customers purchase ATVs for use on their farms. ATVs are considered a staple on my customers' farms. My customers use ATVs to move from field to field where trucks and other farm equipment could do more damage. They also use their ATVs for light hauling, to plow snow, and other applications. When the work is done, ATVs also provide hours of plain fun. They can be used for trail riding or to get back to a favorite fishing hole or camping site.

For some of my customers, ATVs have literally changed their lives. I have one customer, a paraplegic, who has been able to resume some of the outdoor recreational activities that previously brought him great enjoyment. He is now able to hunt and fish because of the mobility that his ATV provides to him. Other physically-challenged customers have similarly told me that their ATVs have given them new opportunities to resume some of the outdoor activities that they love.

ATV riding is also a great way for families to stay connected. Many of my customers enjoy trail riding together as a family. Besides enjoying the outdoors, these outings provide quality time when parents can talk to their children and teach them

some important life lessons -- like responsible riding practices, good decision-making, pride of ownership, and respect for their environment. Families spend too little time together in today's busy world. As some of customers have observed, that "the family that rides together, stays together." I firmly believe that and am proud that our dealership has been able to promote these family activities through the quality products that we sell.

At Shenandoah Honda, we want to make sure that our customers stay safe while enjoying their ATVs. Our customers' safety is our number one concern. My sales staff and I work diligently to make sure that no adult-sized ATV is knowingly sold for the use of a child under the age of 16. The major ATV manufacturers prohibit such sales, and we know that our dealership is monitored from time to time to make sure that we are following this directive. We have always passed these investigations and have been commended for our sales practice.

We understand CPSC's concern about ATV accidents and injuries, particularly ones involving children. But we do not believe that a federal ban on sales of adult-sized ATVs for children under the age of 16 is the solution. Responsible dealers already follow the existing manufacturer directives prohibiting such sales. And dealers who do not follow these requirements can have their franchises -- the lifeblood of their business -- terminated by the manufacturer for noncompliance.

It is also unrealistic to think that a federal ban that applies to dealers is going to make a difference in the real world where ATVs are purchased and used. Children under 16 do not buy adult-size ATVs. Adults do. Sometimes those adults are parents,

or uncles, or neighbors, or family friends. When children under 16 get on adult-size ATVs, they are not in a dealership showroom but out in their yards, or visiting a friend or relative, or with a neighbor. The key to reducing injuries to children is to supervise and control how adult-size ATVs are used, not how they are sold.

Most of our adult customers are very responsible in controlling use of their ATVs by others. Parents and adult guardians need to make sure that children under 16 are not allowed to operate adult-size ATVs. The warnings are right there on the vehicles, but parents and guardians need to make sure these warnings are followed. It is also important that parents supervise their kids when they operate proper youth-size ATVs. This includes showing children safe and responsible riding practices through the parent's own operation of ATVs. We appreciate the work that the CPSC has done, and is continuing to do, to help make parents and other adults understand the important role they must play when it comes to ATVs and children.

Another important step the CPSC can and should take is making sure that all entities that manufacture and distribute ATVs promote safety and training for their customers. There is a fast-growing number of other entities selling ATVs from manufacturers in China, Taiwan, and Korea. Not all of these entities adhere to the same age recommendation policies, safety practices, or training programs as the major ATV manufacturers. The quality of some of these products is also very poor.

We've seen firsthand ATVs that are being advertised and sold without providing proper age recommendations to the customers. The proliferation of these ATVs has become a problem. While my dealership employees are trained and required to provide

the proper age recommendations, I know that ATVs from manufacturers in China, Taiwan, and Korea are being sold in ways that are inconsistent with the standards and practices that I am required to adhere to by my dealership agreement. This is not good for safety, it's not fair to consumers, and it's not fair to those of us who are making the significant investments of time and money to promote ATV safety. Making sure that these other entities adopt and support the same training and safety programs will do a whole lot more to protect consumers than the proposed ban on sales.

Thank you again for allowing me to participate in this hearing.

STATEMENTS

Panel #5

Harold Silbaugh, Pennsylvania Off-Highway Vehicle Association

James P. Cowgill, Trail Search And Rescue

Jack Terrell, National Off-Highway Vehicle Conservation Council

Consumer Product Safety Commission Testimony

ATV Petition Hearing, Bethesda, MD

March 22, 2005

Author: Harold Silbaugh, PaOHV

Hello. My name is Harold Silbaugh, and I am the current Executive Director of the Pennsylvania Off-Highway Vehicle Association, known as PaOHV. PaOHV is run by volunteer enthusiasts and I am one of those. We thank the Commission for the opportunity to offer testimony on this important issue.

PaOHV was established as an organization of OHV clubs, businesses and concerned individuals interested in sustaining off-highway motorized recreation in our state. We primarily focus on ATV and trail bike issues, with a special emphasis on public education, promoting safe and responsible riding, and expanding riding opportunities. A good illustration of our focus on safe and responsible riding is the fact that we have worked with the Pennsylvania Department of Conservation and Natural Resources to establish a state ATV rider training course. On our own we developed the Sensible Courteous Off-Road Enthusiast, (or SCORE), program to educate both the riding public and the non-riding public on safe and responsible motorized recreation. In 2004 that program was awarded National Education and Communication award by the Coalition for Recreational Trails. I say all that to confirm the perspective we have on the petition currently before you.

It is my understanding that as a result of ATV accident statistics that show a large proportion of ATV related injuries and deaths are being incurred by children age 16 and under, the CPSC was petitioned to make a rule banning the sale of adult-sized ATV's to persons under 16. I must admit I was confused when I first read of this petition since the original consent decree that eliminated the manufacture and sale of 3-wheeled ATV's also placed limits on what size of machine could be ridden by certain age groups. To wit: children aged 6 to 11 are limited to machines with engines under 70cc, and children aged 12 to 15 are limited to machines with engines 90cc or less. My personal adult-sized ATV is adorned with various permanently-attached labels from the manufacturer, one of which boldly and plainly states, "NEVER operate this ATV if you are under age 16!" I'm not here to argue that the injury and death statistics aren't significant. As a father and OHV advocate, every injury or death is one too many. No, I am here to testify that, speaking as a 30 year veteran of off-highway recreation and

representative of ATVer's across the state of Pennsylvania, a federal rule that is redundant to manufacturer requirements already on the books will be ineffectual at best. What we need is better training and more sensible operator guidelines.

It has always been the stance of PaOHV that the lack of rider training is the single greatest contributing factor to ATV accidents. Let me offer a few statistics that illustrate this contention. A study in Maine¹ that examined ATV crash and injury data from the years of 1997 through 2002 showed that of 1248 total reported accidents, the operators in 146 of those incidents reported having some degree of formal training, and 1102 operators reported having no training. Go figure. In the last year of that study, of 319 reported crashes, 22 operators had training, 285 did not, and 21 were unknown. Do you think there's a connection between rider training and safe operation? We do.

We've all seen stories in the media about tragic accidents involving ATV's, and those where kids are injured or even worse, killed, are especially dramatic and poignant. When a story like that appears in Pennsylvania news, it is nearly invariably followed by some description of unsafe riding practices that may have contributed to both cause and result of the crash. Often it's things like unsupervised kids riding double on a machine. Sometimes it involves riding on the road, often at night. Sometimes substance abuse is a factor. And nearly all the time there's a mention that the operator and/or passenger were not wearing helmets. Incidentally, my personal ATV also bears permanently attached placards warning against all these factors. The need for training, in both the physical aspects of operating an ATV and responsible riding practices is evident. In households where kids are operating these machines, the parents need to understand their roles in supervising their children's recreation.

Outright prohibitions on certain combinations of rider age and engine size are not the answer. As much of a tragedy as injuries can be, we must keep this in perspective. PaOHV and the Pennsylvania DCNR have conducted independent studies^{2,3} on ATV use patterns. Both studies show that family recreation is a leading use of these machines. I don't think we would ever consider banning family softball games based on youth baseball injury statistics. Kids are doing active things everyday, such as stick and ball sports, bicycling, climbing trees and the list goes on and on. Would we think banning these things is a sensible management approach? PaOHV recognizes that ATV riding carries certain inherent risks. Despite what many uninformed people

may believe, these things are not couches with wheels. They demand respect and when that is done they reward the operator with a unique and exhilarating experience. We believe training is a better answer to managing the problem.

So how do people get training? Nationally, most manufacturers offer some sort of incentive to take a rider training course when you buy a new machine. Notice I say most. This usually comes in the form of a rebate that the buyer gets only after training is successfully completed. This type of program has two glaring shortcomings.

First, it only helps those who buy new machines. Buyers of used machines are on their own to pay for training. It could be argued that it is this group that needs training the most, as it is often the person who is new to the sport who buys a used machine so they don't risk as much of their hard-earned money until they're sure they're going to enjoy it. By that argument, it would follow that a higher percentage of people buying new machines are already experienced.

Second, most training programs are limited by the machine sizing guidelines I cited above, so that if a person buys a machine for their 6 ft. tall, 180 lb. 15-year that is actually appropriate for his physical size, he will not be able to get training. No parent is going to buy a 90cc machine for a kid that size. They'll either find an irresponsible dealer that will wink and sell them a larger machine, or they'll lie about the intended use of the machine. The downside is that because of recommended machine size limits, that 15 year old will not be able to get the training he needs to safely operate it. Now I realize that increasing the availability of operator training is beyond the scope of what this hearing is about, and may even be beyond the authority of what the CPSC can do. However, adjusting the guidelines that associate the age of an operator with a maximum allowable engine size are well within the scope of the Commission's authority and are long overdue.

Let me offer a personal example. In Pennsylvania, it's estimated that a quarter of a million households own one or more ATVs. That's one in 30 residents. That percentage is even higher in rural areas. I've conducted ATV and trail bike safety and responsible use programs for rural middle school groups as a public education outreach, especially in districts where illegal use has been problematic, or where injuries have made the news. Middle school students, grades 6 through 8, are generally aged 11 through 14, an age group that covers both of the lower engine

size stipulations. I'll ask the assembly to tell me, by a show of hands, how many of them either regularly operate an ATV or would like to do so. Nearly every hand in the group invariably goes up. Then I wheel out a 90cc machine and inform them that this is the size of machine that they're supposed to be riding. That's usually my best laugh line of the whole presentation. There's something wrong with that picture.

On the other side of that coin, if a rider who is physically large is riding a machine in compliance with the recommended guidelines, I contend that they are actually more likely to be at risk as they will have limited mobility and therefore limited control. A higher center of gravity caused by their larger physical size may actually increase the chance of the most common form of single-vehicle crash, a tip- or roll-over.

In Pennsylvania, the state sponsored ATV training program developed with help from PaOHV mirrors most of what is offered through most recognized national programs, with two notable exceptions. First, to make the training more accessible, especially for those who have purchased used machines, the fee structure is left open to the individual instructor, with a \$50 cap. More importantly, it allows the instructor some discretion on what size of ATV is appropriate for the individual operator. So long as the operator can properly reach the controls, can demonstrate their ability to manipulate the machine, and can understand and apply appropriate judgement, they can receive training. Parents must sign a release for their kids, and are given a briefing on their roles in supervising their youngsters. Parents of minors taking the training are encouraged to either take the training as well, or at least observe the training so they can reinforce what is learned after they leave.

In conclusion, let me reiterate that as an ATV enthusiast, veteran of the sport, and father of four kids, all of whom I hope come to love riding as much as I do, I believe the current petition to prohibit sales of adult-sized ATV's to children under 16 is redundant and counterproductive. It is my belief and the position of the PaOHV that reduction in the number of injuries is better accomplished through sensible, accessible training for all operators. To that end, I encourage the Commission to deny the petition and revisit the current rules on rider age and recommended maximum machine size. If the true intent is to reduce ATV related injuries, a set of recommendations that tie rider size and ability to more appropriately sized machinery, not arbitrary age and engine size associations are needed now.

Thank you for your time and consideration.

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PRESENTATION

CPSC ATV PETITION MEETING

Re: Petition # CP-02-4/HP-02-1

Bethesda, MD

March 22, 2005

by:

James P. Cowgill
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Good afternoon. I'm Jim Cowgill, an associate member of Trail Search and Rescue. **Trail Search And Rescue (TSAR)** is a fully-motorized (ATVs and dirt bikes) Search And Rescue (SAR) team accredited by the Virginia Department of Emergency Management. This all-volunteer organization maintains readiness, subject to call-out and deployment state-wide.

Regular TSAR members are active or retired law enforcement or emergency services personnel, such as firefighters and emergency medical technicians.

TSAR also has junior members, young men and young women under the age of 16, who are authorized training and mission tasks, under the supervision of adult members.

Full TSAR membership requires completion of the Virginia Department of Emergency Management Search And Rescue Field Team Member Course (40 hours); as well as the state-accredited 40-hour ATV and Dirt Bike Search And Rescue Course, taught at the Rappahannock Regional Law Enforcement Training Academy, Fredericksburg, VA.

Having trained with junior TSAR members, and having observed countless children on ATVs on major rides at principal ATV riding areas around the country, I'd like to comment on the CPSC staff's recommendations concerning the petition at hand.

First, I would endorse the concept advanced by the CPSC staff—parental responsibility is key to the USE of ATVs. Responsible riding is the result of responsible parenting; regardless of the circumstance of acquisition or procurement of an ATV, in my opinion.

I developed my opinion from experience personally riding with children whose parents maintained awareness and supervision of their children's ATV activities; and, unfortunately, in observing some young riders who did not have that advantage.

Clearly, safe practices and healthy skill development accrues to children with parents involved in their ATVing safety; the absence of this parental responsibility presents an opportunity for recklessness, too often resulting in accident and injury.

Finally, I'd like to comment on "riding readiness." Educational concepts like "reading readiness" exist in our schools; I'm convinced riding readiness" abounds also, in each child's encounter with ATVing.

The operative arbitrary definition of "adult," vs. "children," ATVs, unfortunately, does not take into account a child's "riding readiness."

An arbitrary designation, engine displacement vs. age, has little meaning or significance, compared to such factors as a child's size (relative to the ATV he or she must ride), strength, coordination, and attitude, etc.

The factors involving “riding readiness” vary with each child; an enlightened, responsible parent likely becomes the best judge of the ATV most appropriate for his or her child. Certainly, the parents’ judgment, incorporating each child’s size and capability factors, deserves some role in determining which ATV a child might ride.

Surely, everyone shares goals and objectives of child safety. Child ATV safety can best be promoted by awareness, training, and education, in contrast to fixed criteria taking no individual differences into account, such as the prevailing engine displacement vs. age criteria.

Encouraging and nurturing parental responsibility will, in my opinion, promote responsible riding in youngsters. A fair criteria for young riders, taking into account meaningful factors involving the “riding readiness” of children, can be respected and supported by all. More importantly, I believe such considerations, as an element of ATV policy, can improve child ATV safety.

Parental responsibility, injected from the outset, during the formative stage of a young ATVer’s riding career, gives the lifetime gift of responsible riding. Again, this consideration remains independent of the purchase or acquisition of any given ATV, circumstances without material influence on the USE of ATVs.

Thank you for the opportunity to comment on the petition and the CPSC staff recommendations.

James P. Cowgill

TESTIMONY – Jack Terrell, NOHVCC – for CPSC ATV Petition Hearing

Mr. Chairman, members of the committee, thank you for the opportunity to comment at this hearing today. My name is Jack Terrell and I'm the Project Coordinator of the National Off-Highway Vehicle Conservation Council, a non-profit organization advocating responsible off-highway vehicle recreation.

Our organization is comprised primarily of volunteer representatives from forty-three states who work with hundreds of off-highway vehicle clubs and state associations that cooperate with federal, state and local government entities, and public and private land managers to maintain and expand quality off-highway vehicle recreation opportunities. These OHV organizations are made up of folks just like me. We are passionate about the positive effects that our form of recreation has on the quality of life of our families.

My family has enjoyed motorized recreation in the form of trail motorcycles and ATVs for the past forty years. My wife and I, plus our two daughters and their husbands, and now our three grandchildren, enjoy the access that ATVs can provide to backcountry and remote areas where we enjoy the wildlife, scenery, and history we encounter along the way. Our lives have been enriched immeasurably by the time we've spent together, the environment we ride in, and the fun of riding off-highway vehicles. I can testify to the fact that the family that plays together stays together.

My family and I, like thousands of other families, have been involved in our local and state ATV clubs, which promote safety training for all riders, safe riding practices, responsibility and environmental ethics. OHV enthusiast clubs and associations are an important resource that the OHV community and industry can use to increase awareness of safety training programs and safe riding techniques in the future.

I'd also like to point out how ATVs have been particularly beneficial in allowing many individuals to enjoy the outdoors after they can no longer walk because of age or disabilities. The president of our organization was injured in a diving accident while swimming thirteen years ago. Thanks to his ATV, he has been able to continue his outdoor pursuits in spite of the fact that he is bound to a wheelchair.

In addition to the recreational benefits of ATVs, there are a multitude of ways that ATVs can be used for utility purposes. ATVs allow utility companies to access their facilities quickly while using less energy than full-sized vehicles. The ATV has also become an indispensable tool for search and rescue efforts across the nation, providing mobility and quick access as well as quick extraction of injured people from remote accident scenes.

The ATV has become an integral part of American agriculture, making today's farms more efficient and economical. The ATV has the ability to safely and quickly transport a worker to a remote location on a farm where taking a full-sized vehicle may be impossible or walking or riding a horse may be impractical.

The ATV has also become a great tool in the fight against invasive plant species across the nation. ATVs can carry a chemical tank, pump and sprayer to remote, difficult to reach locations and are used by municipalities, utility companies, highway departments, and agriculture for this purpose.

The economic benefits of OHV recreation are also very significant. A recent Economic Impact Study done in Pennsylvania found that the economic impact of ATV use in that state is approximately a billion dollars per year. In the neighboring state of West Virginia, the Hatfield-McCoy ATV Trail System, which in the next five years is expected to expand from 500 to over 1000 miles of trails, has produced a significant positive economic impact on a five-county area of the state.

The Paiute ATV trail in central Utah is another very popular destination for ATV riders and offers about 1250 miles of trails designed for ATV recreation. The trail adds an estimated fifteen million dollars to the local economies of seventeen small towns. These towns were struggling to survive prior to the development of the Paiute ATV trail system. The Paiute ATV trail is a well-managed system designed for ATV recreation. I'd like to talk about the role that additional well planned, designed, and managed OHV opportunities can have in the future in regards to not only safety but the protection of the environment.

Our organization works closely with the Bureau of Land Management, the United States Forest Service, a variety of state agencies, and OHV organizations across the nation to teach land managers the latest and best management techniques for managing OHV recreation.

Well-managed recreational facilities include trail systems designed to minimize erosion and other environmental effects as well as offering a fun riding experience that actually takes advantage of terrain to keep speeds low and the fun and safety factors high. Managed facilities are also great places to conduct ATV safety classes and for riders to be exposed to others who practice responsible, safe riding techniques.

We are making progress, with more managed areas available than ever before. I believe that emphasis in the future should be placed on providing more well-managed, safe opportunities along with safety training rather than restrictions on ATVs. The overall benefit of responsible ATV recreation, the utility applications of ATVs, and the economic benefits of ATV recreation are far too important to overlook.

We believe that all of these factors contribute to the safe and responsible use of all-terrain vehicles. The National Off-Highway Vehicle Conservation Council agrees that children should not operate adult-sized ATVs and we support rider training and state legislation to promote the proper and safe use of ATVs.

In conclusion, we agree with CPSC staff's recommendation to deny the petition calling for a federal sales ban.

Thank you for the opportunity to present this information at this hearing.

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