



## U.S. CONSUMER PRODUCT SAFETY COMMISSION

4330 EAST WEST HIGHWAY  
BETHESDA, MARYLAND 20814-4408

### Record of Commission Action Commissioners Voting by Ballot\*

Commissioners Voting:      Chairman Inez M. Tenenbaum  
   Commissioner Thomas H. Moore  
   Commissioner Nancy A. Nord  
   Commissioner Anne M. Northup  
   Commissioner Robert S. Adler

### ITEM:

All-Terrain Vehicles: Proposed Amendment of Consumer Product Safety Standard  
(Briefing package dated July 6, 2011, OS No. 3026)

### DECISION:

The Commission voted (4-0-1) to approve publication in the *Federal Register* ("FR") of the draft notice of proposed rulemaking, with changes, to amend the mandatory consumer product safety standard for all-terrain vehicles. The amendments to the Commission's standard will incorporate changes made to the mandatory standard by a 2010 revision of the ANSI/SVIA standard (ANSI/SVIA 1-2010) the *American National Standard for Four-Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements*, developed by the Specialty Vehicle Institute of America. The Commission published a final rule on November 14, 2008 (73 FR 67385) mandating (American National Standard ANSI/SVIA 1-2007) as a consumer product safety standard under the Consumer Product Safety Improvement Act of 2008. The mandated standard, 16 CFR part 1420, became effective on April 13, 2009. Chairman Tenenbaum and Commissioners Moore, Nord and Adler voted for the same changes. Commissioner Northup abstained from voting. Commissioner Adler issued the attached regarding this matter.

For the Commission:

A handwritten signature in black ink that reads "Todd A. Stevenson".

Todd A. Stevenson  
Secretary

\* Ballot vote due July 15, 2011



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BETHESDA, MD 20814

**STATEMENT OF COMMISSIONER ROBERT S. ADLER  
REGARDING THE ADOPTION OF THE ANSI/SVIA 2010-1 REVISION  
TO THE MANDATORY ALL-TERRAIN VEHICLE STANDARD**

August 4, 2011

On July 15, 2011, I joined my fellow Commissioners in unanimously affirming the CPSC staff's recommendation to approve a Notice of Proposed Rulemaking (NPR) that will likely lead to the approval of the ANSI/SVIA 1-2010 revision to the mandatory All-Terrain Vehicles ("ATVs") standard.<sup>1</sup> The NPR was published on July 25, 2011.<sup>2</sup> Although I am pleased to see to see an update to the standard, most of these revisions were only for the sake of providing clarity to the ATV manufacturing community. Because I believe it is important that the CPSC and the ATV industry work together, and because our staff believes that the revisions do not diminish safety, I was comfortable voting for the NPR. In future revisions, however, I expect to see changes that do more than simply provide clarity for manufacturers but, rather, address safety issues head on.

ATVs are currently the most dangerous discretionary use product for children within CPSC's jurisdiction. In the past three decades, at least 2,674 children under the age of sixteen have died<sup>3</sup> in ATV-related accidents, and at least 778,700 were treated in emergency rooms for injuries<sup>4</sup> resulting from ATVs. Sadly, these numbers continue to grow and we have already received far too many death and injury reports in 2011 involving children as young as six years old. In February, six year old Jay Thomas Patton of Collinsville, Alabama died from injuries he suffered after his youth ATV flipped over on him, despite his wearing a helmet. In July, ten year old Brandon Mangels of Blue Grass, Iowa died from being pinned under an adult ATV. About a week later, eleven year old James Jackson of Jacksonville, Florida died after being thrown from an ATV operated by a fourteen year old and carrying a third passenger. Such tragedies are preventable, but not until we recognize that ATVs are inherently dangerous products.

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<sup>1</sup> The vote was 4-0-1, with Commissioner Northup abstaining.

<sup>2</sup> 76 Fed. Reg. 44289 (July 25, 2011).

<sup>3</sup> 2009 Annual Report of ATV-Related Deaths and Injuries, Consumer Product Safety Commission, Dec. 2010, available at <http://www.cpsc.gov/library/foia/foia11/os/atv2009.pdf>. Data collection from 2007 to present is ongoing. As a result, the number of deaths and injuries reported from this time period is expected to increase. *Id.*

<sup>4</sup> 2008 Annual Report of ATV-Related Deaths and Injuries, Consumer Product Safety Commission, Jan. 2010, available at <http://www.cpsc.gov/library/foia/foia10/os/atv2008.pdf>.

Going forward, I hope that the CPSC and the ATV industry can work together to significantly reduce these tragic deaths and injuries.

The NPR published by the Commission on July 25, 2011 asks for comments on a variety of issues related both to the proposed update to the standard as well as information that may be relevant to future rulemakings.<sup>5</sup> These comments are due to the Commission by October 11, 2011. In particular, I want to call attention to the following topics related to the proposed revisions, and urge all stakeholders to submit their comments for the record so we may take them into consideration as we look at ATV rules and safety, today and in the future:

- **Need for Continued Production of the Y-12+ Model:** As a policy and safety matter, I neither endorse nor condone children operating any ATVs. All ATVs pose an unnecessary and avoidable risk of injury or death to children. In particular, adult ATVs are fast, heavy and powerful, and children do not have the strength or dexterity to operate an adult ATV safely.

Nevertheless, children do ride ATVs, and these products should be as safe and age appropriate as possible. Accordingly, I note that the 2010 revision would eliminate from the scope section a provision that requires the *expiration* of the definition and requirements for the Y-12+ youth ATV age category. I voted for this revision because if children must operate ATVs, it is vital that they operate an ATV intended only for their age group. Too many ATV deaths have resulted when children drive ATVs that are faster, larger, and more powerful than a child is equipped to handle. Some have argued that by allowing the Y-12+ category to remain in the standard, this will ensure the availability of youth ATVs for children 12 years of age and older, which will give them alternatives to riding larger, more dangerous ATVs. In accord with this thinking, the Specialty Vehicle Institute of America (SVIA) has suggested that it is necessary to continue to allow the classification of Y-12+ ATVs due to the possible impact of CPSIA lead content limits on the production and sale of Y-6+ and Y-10+ ATVs. It would be useful to hear from stakeholders regarding the continuing necessity of this category in light of the recent passage of H.R. 2715<sup>6</sup> which exempts ATVs from the lead content limits.

- **Brake System Test Revision:** The 2010 revision would impose a brake system test that requires Category Y-6+ ATVs with a maximum speed of less than 10 mph to perform the braking test at the maximum speed of the vehicle.<sup>7</sup> Other youth ATVs

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<sup>5</sup> The request for comments and information can be found at 76 Fed. Reg. 44292, or on the Commission's website at: <http://www.cpsc.gov/businfo/frnotices/fr11/atvamendNPR.pdf>.

<sup>6</sup> H.R. 2715 is still awaiting the President's signature, as of the writing of this statement. Text of bill as passed by Congress is available here: <http://www.gpo.gov/fdsys/pkg/BILLS-112hr2715enr/pdf/BILLS-112hr2715enr.pdf>.

<sup>7</sup> Previously, the 2007 standard method required the brake performance test to be performed at 5 mph for ATVs with a maximum speed between 9 and 13 mph and at 10 mph for vehicles with a maximum speed between 14 and 15 mph.

are tested at a speed that is 4-8 mph less than their maximum speed. I am unaware of any reason why all youth ATVs should not have their brakes tested at the maximum speed. I urge the ATV industry to strengthen these testing provisions in future revisions. In addition, I would like to see the brake testing standards improved for all adult ATVs.

- **Revised Testing Standard for Passenger Handholds:** The 2010 revision limits the testing standard for passenger handholds on tandem ATVs by specifying that the force applied must be upward. Previously, the standard could be interpreted to mean that the test could be performed in either a downward or an upward position, or both. The ATV industry has assured the Commission that it will consider improved testing for passenger handholds in future revisions. Passenger safety on tandem ATVs must meet the highest standards possible. Any additional stakeholder input on making passengers safer on ATVs is welcome.

Beyond the current NPR's questions, speaking as only one Commissioner, I would find it valuable to hear from all stakeholders with their thoughts on improving safety in the following areas:

- **Lateral stability:** A lack of lateral stability appears to contribute to many ATVs rolling over and injuring operators. What new technology exists to address this concern? For example, currently, there are a number of anti-rollover devices being developed in the marketplace, including overseas. Are these devices effective? Should they be optional for riders at the point of purchase? Should they be mandated as a safety measure? Regardless of comments received, I encourage the ATV industry to investigate these technologies to determine whether they can improve ATV safety.
- **Speed:** Some adult ATVs can reach speeds of more than 70 miles per hour. When that kind of speed and power are employed on uneven and unpredictable surfaces, sometimes by first time, or inebriated, operators, it is no surprise that the results are often tragic. What are the impediments to placing adjustable speed governors on adult sized ATVs? Should there be an upper limit on the speed of an adult ATV? If so, how should such a limit be determined?
- **Children on Adult ATVs:** Many ATV deaths result when children operate adult ATVs. We do not let children drive cars. Common sense dictates that we also should not allow children to operate non-car vehicles that can reach speeds over 70 mph. Somehow as a society we have allowed ATV use to go largely unregulated and it is time that policies are implemented to improve the safety of ATVs, particularly for children who are ill-equipped to manipulate the speed, weight, and instability of adult ATVs. Some states have passed important legislation that protects children from the inherent risks associated with ATV operation. Last July, for example, Massachusetts

became the first state to prohibit operation of ATVs by children under 14 years old when it passed “Sean’s Law.”<sup>8</sup> This law also requires mandatory safety training for all operators 18 years old and younger, and implemented fines and penalties to discourage ATV misuse. In California, children under 14 years old can operate an ATV only under the direct supervision of a parent or guardian, or an adult authorized by a parent or guardian. In addition, all ATV operators under 18 years old must complete a safety training course and obtain a safety certificate issued by the state.<sup>9</sup>

These laws represent the type of steps that need to be taken by states to make ATV use less dangerous for children. I encourage other states to consider similar legislation. Specifically, I hope that states will consider legislation that mandates safety equipment such as helmets and brake lighting, as well as laws requiring safety education and certification programs and forbidding passengers on single-rider ATVs. Most importantly, states should implement legislation to make adult ATVs off-limits to children.

But beyond state action, what technology is out there that can address these problems? Is there child resistant recognition technology that could prevent children from operating adult sized ATVs, much like the child-resistant pill bottles under the Poison Prevention Packaging Act that the Commission enforces?

Because there are so many open questions regarding this product, I am pleased that we are in the midst of an open comment period, and that the Commission is accepting comments both with respect to the revisions to the mandatory standard and issues that may be relevant to future rulemaking as well.<sup>10</sup> In addition to whatever steps the Commission may take through mandatory rulemaking, I urge the ATV industry to continue to find ways to improve ATV safety and to incorporate such measures through future revisions to their voluntary standards. I know the Commission stands ready to work collaboratively on these needed safety improvements for riders of all ages. It is in the interests of all stakeholders, including parents, grandparents, states, attorneys general, safety groups, the ATV industry and the Commission to continue work together to improve ATV safety.

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<sup>8</sup> MASS. GEN. LAWS ch. 90B, § 26, *as amended by* Stat. 2010, ch. 202, § 13 (2010).

<sup>9</sup> CAL. VEH. CODE §§ 38503-4.2 (2011).

<sup>10</sup> Members of the public can submit electronic comments in the following way: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. To ensure timely processing of comments, the Commission is no longer accepting comments submitted by electronic mail (e-mail), except through <http://www.regulations.gov>.