

**COMPLIANCE WITH  
ALL-TERRAIN VEHICLE (ATV) STANDARDS**

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**HEARING**

BEFORE THE

SUBCOMMITTEE ON CONSUMER AFFAIRS, PRODUCT  
SAFETY, AND INSURANCE

OF THE

COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION

UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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JUNE 6, 2006  
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## **COMPLIANCE WITH ALL-TERRAIN VEHICLE (ATV) STANDARDS**

**TUESDAY, JUNE 6, 2006**

U.S. SENATE,  
SUBCOMMITTEE ON CONSUMER AFFAIRS, PRODUCT  
SAFETY, AND INSURANCE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:04 a.m. in room SD-562, Dirksen Senate Office Building, Hon. George Allen, Chairman of the Subcommittee, presiding.

### **OPENING STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR FROM VIRGINIA**

Senator ALLEN. Good morning. I call to order this hearing of the Senate Subcommittee on Consumer Affairs, Product Safety, and Insurance.

Today, we're going to examine the issue of compliance with all-terrain vehicle standards, evaluating current ATV standards, safety practices, and the historical development of initiatives meant to improve the safety for all of those enjoying and utilizing these types of vehicles, which are increasingly popular for adults, as well as for kids.

I want to thank you, our Ranking Member of this Committee, Senator Pryor, for helping promote greater awareness of the pertinent issues relating to this area of product safety. I also thank our Chairman, Senator Stevens, who has an interest in this matter and may also be attending this hearing.

For our witnesses and those viewing as spectators, so to speak, we're likely to have a vote around 10:20 in the morning. Senator Pryor and I usually try to work a tag-team approach, that one goes and votes while the other chairs the hearing, so that'll make it easier for the witnesses to continue and not have it interrupted with 15 minutes of recess, so to speak.

I thank all the witnesses who are here, for your assistance to the staff on this subcommittee.

The witnesses are going to have a diversity of views. And that's typical of when you have a hearing and an issue that deals with public safety. The topic, though, is one that we care about, because many children are riding these vehicles. Everyone wants to be responsible, and that's going to be the key watchword for me, is individual or personal responsibility, as well as parental responsibility. We want to make sure that people have responsible, knowledgeable riding habits and prevent some of these products, especially those

that are potentially unsafe products, from entering the stream of commerce in the first place. The participation of the witnesses here today will help shed some light on the ATV safety issue, in general, as well as assisting us and your government generally in the review of market compliance with certain safety obligations. And I appreciate all the witnesses for your time in preparing for this hearing.

As Virginia and Arkansas and other states all have constituents that use ATVs for enjoyment, some use it for work and their jobs, some use it for some general transportation, even some use it for competitive racing. Anything with a motor on it can be raced. We understand that, don't we? We understand that. That's just part of human nature, particularly in Virginia and Arkansas.

[Laughter.]

Senator ALLEN. However, we're also interested in promoting awareness of the most prudent practices for safety and responsibly distributing and using these vehicles.

We also hope to examine industry compliance with consensus standards that have been developed over the years, actions plans—we want to look at action plans for implementing these standards by the industry and whether all companies distributing ATVs in this country are complying with the relevant safety limitations on business activity.

We will also observe whether any one area of compliance may be falling short in ensuring the safety of these vehicles. In particular, there are new entrant vehicles being imported into the United States which are not bound by the legacy agreements followed by North American distributors. While it's important to allow the free market to operate, consumers should be aware of any companies whose products, wherever they're produced, fail to conform to minimum consensus standards followed by the industry. History shows that every year, in addition to the hours of operation without incident, which are most of the time that somebody's on an ATV—they're enjoying it, they're having the exhilarating experience, they're having fun, they may be working, they may be hunting, they may be racing—however, there are injuries, there are tragedies—many tragedies involving ATVs. Now, whether these accidents stem from misuse, lack of supervision, or mechanical defects, it's important for us to examine if Federal involvement could assist in preventing such accidents. The speed of the vehicle, as we'll hear from our witnesses from CPSC today, can also play a significant factor in deaths and injuries suffered by children as—the faster the vehicle may move, the greater the opportunity to lose control, especially if you're on uneven terrain, you're out in the woods or out in the country somewhere. And it's especially so if a child is either inexperienced—especially inexperienced operating an ATV. This is just simply the law of physics at stake here. The faster you're going on uneven terrain, the more likely you're going to lose control.

Now, much of the industry has attempted to educate potential riders of the safety risks associated with ATVs. While riding an ATV may be a lot of fun, at a certain level, risk is inherent in any product that runs by a motor and has the ability to travel over rough and bumpy terrain. That's just common sense. Now, we—as parents and as adults, we need to be responsible and attentive in

ensuring that our children have adequate knowledge, training, protective gear, and are properly fitted to an appropriate youth-sized vehicle. That means sometimes saying, “No, you can’t drive this. You’re too small. You’re not going to be able to control this particular motor vehicle that goes too fast and is too big for you to handle.” Instead, we need to make sure that if our kids are on one of these ATVs, they can safely control it, and also that the ATV is in compliance with applicable standards.

We should follow our own example, as well. Misuse is not just by kids and children. Everyone should understand and assume the potential risk involved with any activity, and plan accordingly, so as to avoid any unintended injury.

Now, on this point, we hope to gain knowledge of the proper balance between enjoyment, utility, and safety when it comes to the use, design, and construction and maintenance—in fact, even the distribution—of ATVs here in the United States. For this reason, the review of ATV safety is timely and will hopefully lead to a reduction of injuries and deaths simply by promoting greater awareness of responsible and safe riding habits. We hope that our witnesses will offer reasonable suggestions and possible solutions toward improving ATV safety. I’m not going to be one who, though, wants to outlaw fun. People ought to be able to have fun in their life, and some things are more risky, but they ought to be aware and responsible.

And we look forward to hearing from each of our witnesses on the prudence of Federal involvement in addressing ATV safety, as well as ways, beyond this hearing, for improving consumer awareness of ATV safety measures. All of you are to be commended for your participation and consideration of all suggestions on how to make operating ATVs a safer activity.

With that, Senator Pryor, would you like to make any comments before I introduce our witness?

**STATEMENT OF HON. MARK PRYOR,  
U.S. SENATOR FROM ARKANSAS**

Senator PRYOR. Yes, thank you, Mr. Chairman. And, again, I want to thank you for holding this hearing. It’s obviously a very important issue. It touches on safety and touches on safety for our children.

And I want to thank the panelists, like the Chairman just did, for being here and rearranging your schedules. You have a lot of expertise and a lot of things that you can offer, so I want to thank you all for being here. Like in Virginia, in Arkansas we have a lot of people around our state that use ATVs, some use them for recreation, some use them for work, some use them for farming, et cetera. These can be work vehicles and they can be hunting vehicles. They can have an impact on economic livelihood. And sometimes, like the Chairman said, it’s just to get out in the woods and have fun. And all of that is OK. But because they are so widely used, we have to understand that there are some safety concerns that we should have with using these vehicles. And since 1985, there have been over 3,200 people in this country who have died of ATV-related activities, and 35 percent of those are under the age of 16. There again, you see a disproportionate number of young

people, and that's something that I hope that we can explore today. The safety of our children should never be ignored. That's why I'm glad to see that the Chairman and this Committee are looking into this.

And I do notice that the Consumer Product Safety Commission has recently issued a rulemaking. I'd like to hear from you on that, Ms. Leland, and, understand where that's headed and what you think might happen with the rule. And, lastly, I want to thank Mary Aitken, who came up here from Little Rock, with the University of Arkansas for Medical Sciences. She has a lot of expertise in working with people, especially children, who have suffered these type of injuries. And I know she had to rearrange her schedule to be here.

So, I look forward to hearing from all the witnesses today, and all the testimony. And, again, Mr. Chairman, I just want to thank you for your leadership on this issue.

Senator ALLEN. Thank you, Senator Pryor. And it's, as usual, a pleasure to work with you on issues of shared concern.

Before we listen to the testimony of our witnesses, I want to introduce our first panelist that we have with us, and that's Ms. Elizabeth Leland, the Project Manager for the ATV Safety Review Team at the Consumer Product Safety Commission. She has a great deal of technical knowledge of the issues concerning ATV safety, and has been integral in the Commission's recent recommendations regarding future agency action.

Thank you for agreeing to testify and bringing your knowledge and wisdom, as well as timetables, to our Subcommittee meeting here this morning.

**STATEMENT OF ELIZABETH W. LELAND, PROJECT MANAGER,  
ATV SAFETY REVIEW TEAM, U.S. CONSUMER PRODUCT  
SAFETY COMMISSION**

Ms. LELAND. Good morning, and thank you for this opportunity to speak today on the work of the U.S. Consumer Product Safety Commission in addressing safety issues related to all-terrain vehicles, or ATVs. My name is Elizabeth Leland, and I am the Project Manager for the ATV Safety Review Team.

The Consumer Product Safety Commission, or CPSC, is a small bipartisan agency charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products. ATV safety has been a subject of ongoing concern and activity at CPSC. Most recently, CPSC staff presented to the Commissioners a briefing paper outlining a number of recommendations to address the risk of injury and death associated with this product. I ask the Chairman's permission to submit the staff's recommendations to the Committee for the record.

Senator ALLEN. Without objection, so ordered.

[The information referred to follows:]

BRIEFING PACKAGE—ATV SAFETY REVIEW (MAY 2006)

**Executive Summary**

On June 8, 2005, Chairman Hal Stratton delivered a memorandum to the staff asking the staff to review all ATV safety actions and make recommendations on a number of issues. The memo directed the staff to consider whether: (1) The current

ATV voluntary standards are adequate in light of trends in ATV-related deaths and injuries; (2) the current ATV voluntary standards or other standards pertaining to ATVs should be adopted as mandatory standards by the Commission; and (3) other actions, including rulemaking, should be taken to enhance ATV safety.

In October 2005, the Commission issued an advance notice of proposed rulemaking (ANPR) to initiate a regulatory proceeding for ATVs under the authority of the Consumer Product Safety Act (CPSA), and the Federal Hazardous Substances Act (FHSA). The ANPR was issued as part of the comprehensive review of regulatory and non-regulatory options for addressing the risk of injury and death associated with ATVs, and it invited written comments from the public regarding the risk of injury associated with ATVs and ways in which these risks might be addressed.

Based on its evaluation of the regulatory alternatives and the comments that were submitted in response to the ANPR, the CPSC staff recommends issuing a notice of proposed rulemaking (NPR) requiring:

- adult (single-person and tandem) ATVs to meet specific mechanical performance requirements;
- youth ATVs to meet specific mechanical performance and design requirements and to be categorized by speed limitation alone rather than by speed limitation *and* engine size;
- specific safety warnings to be provided to the purchaser through hang tags, labels, a safety video, and the owner's instruction manual;
- a means for reporting safety-related complaints to the manufacturer be provided to the purchaser;
- a disclosure statement warning against the use of adult ATVs by children and describing the possible consequences of children riding adult ATVs be provided to and signed by purchasers of all adult ATVs;
- an acknowledgement-of-age statement be provided to and signed by purchasers of children's ATVs;
- a certificate offering free training to each member of the purchaser's immediate family for which the ATV is age-appropriate be provided to all purchasers of ATVs; and
- three-wheeled ATVs to be banned.

In addition to these regulatory actions, the staff also recommends that the Commission implement a series of non-regulatory activities to enhance ATV safety. These would include continuing to work with industry in voluntary standards activities, launching an ATV safety website including an ATV data resource "bank" with information on state legislative and regulatory activity, and implementing an additional two-phase information and education effort.

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U.S. CONSUMER PRODUCT SAFETY COMMISSION—MEMORANDUM

**1. Introduction**

In a memorandum dated June 8, 2005, Hal Stratton, the Chairman of the U.S. Consumer Product Safety Commission (CPSC) directed the CPSC staff to review current all-terrain vehicle (ATV)-related voluntary safety standards and to provide recommendations to the Commission as to whether rulemaking should be used to make those standards mandatory. In addition, the staff was directed to review various ATV safety-related proposals and to provide recommendations about any other actions the Commission should take to "appropriately enhance the safety of ATV operation and performance in the United States."

This was followed in October 2005 with the Commission's issuance of an advance notice of proposed rulemaking (ANPR) that called for critical information and practical solutions to improving ATV safety.<sup>1</sup> All interested stakeholders were encouraged to provide the Commission with "meaningful data, comments, and suggestions" concerning ways to reduce the deaths and injuries associated with the use of ATVs. By the closing date of the comment period, December 13, 2005, 165 comments were received, with one of those comments being signed by about 1,500 interested individuals.

This briefing package presents proposals for Commission consideration; these proposals are based on the staff's review of the voluntary standards, the ATV safety-

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<sup>1</sup>Consumer Product Safety Commission, "All Terrain Vehicles: Advance Notice of Proposed Rulemaking: Request for Comments and Information," 70 *Federal Register* 60031-60036 (October 14, 2005).

related proposals mentioned above, and the comments that were received in response to the ANPR.

## 2. Background

### A. CPSC's Involvement With ATVs: History and Current Activities

CPSC has had a long and extensive history with ATVs, punctuated by legal, regulatory, and voluntary actions. In 1985, the Commission issued an ANPR to consider several regulatory options to address ATV-related deaths and injuries. In 1987, the Commission filed a lawsuit under Section 12 of the Consumer Product Safety Act (CPSA) to declare ATVs an imminently hazardous consumer product [15 U.S.C. § 2061(b)(1)]. The lawsuit was settled in 1988 by consent decrees between the Commission and the ATV distributors who were active in the domestic market (American Honda Motor Company, Inc.; American Suzuki Motor Corporation; Polaris Industries, L.P.; Yamaha Motor Corporation, USA; and Kawasaki Motors Corporation); the consent decrees were to be effective for 10 years.

Under the consent decrees, the distributors agreed to take several actions ranging from stopping the distribution of three-wheeled ATVs and developing a performance standard for four-wheeled ATVs to providing safety information to consumers through various media, including labeling on the product itself. With respect to the use of ATVs by children, the distributors agreed to represent that ATVs with engine sizes between 70 and 90 cubic centimeters (cc) should be used by those age 12 and older and that ATVs with engine sizes larger than 90cc should be used only by those age 16 years and older. In addition, the companies agreed to use their best efforts to assure that ATVs would not be purchased by or for the use of anyone who did not meet the age restrictions.

While the consent decrees were in effect, the distributors entered into agreements with the Commission and the U.S. Department of Justice to monitor their dealers' compliance with the age recommendations; they further agreed to terminate the franchises of dealers who repeatedly failed to provide information about the age recommendations to prospective purchasers. The Commission compliance staff also began conducting a dealer monitoring program.

In 1990, the voluntary standard for *Four Wheel All-Terrain Vehicles—Equipment, Configuration, and Performance Requirements*, ANSI/SVIA-1-1990, was published. The Commission withdrew its ATV ANPR in 1991, thus ending the rulemaking proceeding begun in 1985. The Commission stated that a product standard that would adequately reduce injuries and deaths from ATVs was not feasible at the time and that a ban of all ATVs was not appropriate due to the extensive use of ATVs for non-recreational purposes, their significant recreational value, and the lack of any close substitutes.

The Consumer Federation of America (CFA) and the U.S. Public Interest Research Group (USPIRG), believing that the Commission should have pursued a ban on the sale of adult ATVs for use by children under 16, challenged the Commission's termination of its rulemaking proceeding in a 1993 lawsuit. In the lawsuit, CFA and USPIRG argued that the Commission acted arbitrarily and capriciously when it withdrew the ANPR. The United States Court of Appeals for the District of Columbia Circuit upheld the Commission's action.

In 1998, the consent decrees expired, and the Commission entered into Voluntary Action Plans (also known as Letters of Undertaking or LOUs) with individual ATV distributors who had been subject to the consent decrees and with three other ATV distributors (Cannondale Corporation, Arctic Cat, Inc., and Bombardier Recreational Products, Inc.) who had entered the market after the consent decrees had been established. (Cannondale no longer makes ATVs.) The LOUs are agreements that encompass many of the provisions of the consent decrees, including the age recommendations. These action plans continue in effect today. Additionally, the Commission staff and industry continue to monitor separately the actions of dealers in providing information about the age recommendations.

In 2001, the voluntary standard was revised to add several provisions to enhance and clarify the standard. In 2002, the CFA and eight other groups asked the Commission to take four actions to address hazards presented by ATVs. The CPSC Office of the General Counsel (OGC) docketed only the portion of their request that asked for a rule banning the sale of adult-size four-wheeled ATVs sold for the use of children under 16 years of age. The Commission solicited comments on the petition through issuance of a *Federal Register* notice in October 2002. In 2003, the Commission held a public field hearing in West Virginia and the Chairman held two public meetings, one in Alaska and one in New Mexico, to hear the comments of interested parties; these included ATV riders, state and local government officials, consumer organizations, medical professionals, and manufacturers, distributors, and retail dealers of ATVs.

In early 2005, the CPSC staff submitted a briefing package to the Commission recommending that the CFA petition be denied.<sup>2</sup> The recommendation to deny was based primarily on four factors: the sales ban requested by the petitioners would primarily address how ATVs are sold, rather than how they would be used after they are purchased by consumers; 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; and no data are available to show that a ban of the sale of adult-size ATVs for use by children under the age of 16 years would be more effective in preventing such use than the age recommendations already in place under the LOUs. On October 6, 2005, the Commission voted unanimously to defer action on the petition.

#### *B. ATV-Related Injury and Death Data*

In September 2005, the CPSC Directorate for Epidemiology completed the *2004 Annual Report of ATV Deaths and Injuries*. This report, showed that:

- In 2003, there were an estimated 740 deaths associated with ATVs.<sup>3</sup> In 2001, the most recent year for which death data collection is complete, 26 percent of the reported deaths were of children under 16 years old.
- The estimated risk of death was 1.1 deaths per 10,000 4-wheeled ATVs in use in 2003.<sup>4</sup>
- The estimated number of ATV-related emergency-room-treated injuries for all ages in 2004 was 136,100, an increase of 10,600 from 2003. This increase was statistically significant.
- Children under 16 years of age accounted for 44,700, or 33 percent, of the total estimated number of injuries in 2004.
- There were about 188 emergency-room-treated injuries per 10,000 four-wheel ATVs in use in 2004.

#### *C. Characteristics of the Current Market for ATVs*

A detailed description of the ATV market was provided in the staff's February 2005 briefing package.<sup>5</sup> The characteristics of the current ATV market that are particularly relevant to the focus of this briefing package are:

- ATV sales reached an estimated 921,000 units in 2005 and preliminary data indicate that sales will continue to increase in 2006. While the annual rates of increase have leveled off to less than 5 percent since 2002 (after much larger rates of increase in the late 1990s and early 2000s) annual sales volumes remain at record levels by historical standards.
- Imports, primarily from China and Taiwan, account for an estimated 10 percent share of the U.S. market. It is anticipated that the lower-cost imports from China and Taiwan will continue to gain influence in the market.
- The number of firms supplying ATVs to the U.S. market continues to grow. In 2006, staff identified 80 importers of ATVs sold in the U.S. Most of these importers also import and sell scooters, motorcycles, and other wheeled recreational products.
- Imported ATVs can be purchased on the Internet and from mass merchandisers such as Pep Boys, Wal-Mart, and others. This is a change from the traditional method of selling ATVs through established dealers and franchises.

### **3. Issues That Need To Be Addressed by a Mandatory Standard**

The October 2005 ANPR initiated a regulatory proceeding and was the first formal step in the review of regulatory and/or non-regulatory options to address the hazards associated with the use of ATVs. Based on the staff's evaluation of regulatory alternatives and the comments that were submitted in response to the ANPR, the CPSC staff believes that the following issues need to be addressed by a mandatory standard to ensure a minimum level of safety associated with the use of ATVs:

<sup>2</sup>U.S. Consumer Product Safety Commission staff, "Briefing Package: 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.

<sup>3</sup>Death data collection for 2002 onward is incomplete.

<sup>4</sup>See footnote 3.

<sup>5</sup>U.S. Consumer Product Safety Commission staff, op. cit., Tab C, p. 55.

- ATVs sold in the domestic market, including those sold over the Internet and through importers, should conform to accepted uniform mechanical requirements.
- ATV users should have information sufficient to enable them to use the vehicle safely. This information should be provided in hang tags, owner's manuals, warning labels, and an ATV safety video.
- Potential ATV purchasers, as well as ATV users, should be warned about the serious possible consequences of allowing children to use adult ATVs.
- Each ATV purchaser and members of their immediate family for whom the ATV is appropriate should be given an opportunity to participate in free hands-on ATV training.
- The guidelines for youth ATVs should be redefined, so that children under the age of 16 can ride and be trained on ATVs which are more likely to fit them physically and which conform to their developmental capabilities.
- Three-wheeled ATVs should be formally banned.

#### 4. Regulatory Activity: Notice of Proposed Rulemaking (NPR)

To address the issues listed above, the CPSC staff asks that the Commission consider issuing a notice of proposed rulemaking (NPR) that would mandate safety requirements for ATVs. The staff's draft proposed rule would require that:

- adult (single-person and tandem) ATVs meet specific mechanical performance requirements;
- youth ATVs meet specific mechanical performance and design requirements and be categorized by speed limitation alone rather than by speed limitation *and* engine size;
- specific safety warnings be provided to the purchaser through hang tags, labels, a safety video, and the owner's manual;
- a means for reporting safety-related complaints to the manufacturer be provided to the purchaser;
- a disclosure statement warning against the use of adult ATVs by children and describing the possible consequences of children riding adult ATVs be provided to and signed by purchasers of all adult ATVs;
- a statement of appropriate ages for youth ATVs be provided to and signed by purchasers of children's ATVs;
- a certificate offering free training be provided to all purchasers of ATVs and each member of the purchaser's immediate family for which the ATV is age-appropriate; and
- three-wheeled ATVs be banned.

These requirements are set forth in the staff's draft proposed rule. The rule consists of *Requirements for Adult All-Terrain Vehicles* (this includes requirements for both single-person and tandem ATVs); *Requirements for Youth All-Terrain Vehicles*; and *Ban of Three-Wheeled All-Terrain Vehicles*.

#### 5. Requirements for Adult, Tandem, and Youth ATVs

The staff's draft proposed rule incorporates many of the mechanical requirements from the current voluntary standard for single-person ATVs<sup>6</sup> and draft provisions for two-person tandem ATVs.<sup>7</sup> The specific requirements and rationales are described below and discussed further in a memorandum from the Directorate for Engineering Sciences.

##### A. Four-Wheeled Single-Person Adult ATVs

The staff's draft proposed rule for four-wheeled adult single-person ATVs includes performance requirements for service brakes, parking brake; mechanical suspension; engine stop switch; controls, indicators, and gearing; electric start interlock; means for conspicuity; handlebars; operator foot environment; lighting equipment; spark arrester; tire marking; security; vehicle identification number; and pitch stability. As shown in Table 1, each of these requirements is intended to reduce the risk of injury and death associated with the use of four-wheeled adult single-person ATVs.

<sup>6</sup>American National Standards Institute, Inc., American National Standard for Four Wheel All-Terrain Vehicles—Equipment, Configuration, and Performance Requirements, ANSI/SVIA-1-2001, c. 2001.

<sup>7</sup>The draft provisions of two-person tandem ATVs were provided to Chairman Stratton in a letter dated May 19, 2006, from Thomas S. Yager, Vice President, Safety Programs, Specialty Vehicle Institute of America.

Table 1—Mechanical Requirements for Four-Wheeled Adult Single-Person ATVs

ATV Equipment	Safety Intent of Requirement
Service Brake	Ensure ability to stop vehicle
Parking Brake	Prevent rolling of an unattended ATV
Mechanical Suspension	Improve pitch response and handling of vehicle
Engine Stop Switch	Ensure ability to shut off engine in emergency
Controls, Indicators, Gearing	Ensure ability to drive and control the vehicle
Electric Start Interlock	Prevent unintended movement when engine is started by electric cranking
Means for Conspicuity	Provide conspicuity during daylight hours
Handlebars	Minimize risk of injury from contact
Operator Foot Environment	Reduce possibility of inadvertent contact between operator boot and ground in front of rear tire or between boot and tire itself
Lighting Equipment	Provide nighttime visibility and conspicuity
Spark Arrester	Reduce fire potential
Tire Marking	Ensure proper tire inflation for use on non-paved surfaces
Security	Prevent unauthorized access and use
Vehicle Identification Number	Provide a means for identification and notification of the owner and manufacturer
Pitch Stability	Reduce propensity to tip rearward or forward

#### B. Four-Wheeled Two-Person Tandem ATVs

Tandem ATVs are designed to carry one driver and one passenger; the driver and passenger are seated in tandem, *i.e.*, one behind the other. Tandem ATV manufacturers recommend that the passenger be at least 12 years old.

Under the staff's draft proposed rule, tandem ATVs would be required to meet the mechanical performance requirements shown in Table 1, with some additions and variations to account for the presence of a passenger. The additions and variations would include: pitch stability requirement test conditions, mechanical suspension requirements (minimum travel distance is greater), lighting equipment (depending on the width of the ATV, two headlamps and two tail lamps might be required), passenger environment (backrest, location of the seat, restraint, and handholds), and operator and passenger foot environment requirements.

#### C. Four-Wheeled Youth ATVs

The staff's draft proposed rule for four-wheeled youth ATVs includes equipment and performance requirements for service brakes; parking brake; mechanical suspension; engine stop switch; controls and indicators; electric start interlock; handlebars; operator foot environment; lighting equipment; spark arrester; tire marking; security; vehicle identification number; and pitch stability. The intended safety effect of those requirements is the same as that for adult single-person ATVs, shown above in Table 1.

In addition, the staff's draft proposed rule for youth ATVs includes *design* requirements for service brakes; engine stop switch; throttle control, and handlebars and *special requirements* for other equipment. These special requirements include: required automatic transmission (no manual transmission); no projecting headlamp; required stop lamp; required speed limiting device for pre-teen and teen models; and required flag pole bracket. These special requirements and their safety intent are displayed in Table 2.

Table 2—Special Mechanical Requirements for Youth ATVs

ATV Equipment	Safety Intent of Requirement
Automatic Transmission	Reduce complexity of driving, match requirements with skills
Lighting: No projecting headlamp and no forward-facing light Stop lamp required	Discourage nighttime driving
Speed Limiting Device on teen and pre-teen models	Improve conspicuity during braking to help reduce rear-end collisions Allow children to develop skills over time while limiting maximum speed to that which they are capable of handling

Table 2—Special Mechanical Requirements for Youth ATVs—Continued

ATV Equipment	Safety Intent of Requirement
Flag Pole Bracket Brakes, Engine Stop Switch, Throttle Control	Provide means to have flag for conspicuity Design requirements will standardize location and method of operation

The current voluntary standard allows youth ATVs with a manual transmission, while the staff's draft proposed rule would disallow this. Due to the many cognitive skills required for safe ATV driving, CPSC staff believes that it is best to allow children to master driving skills before learning to coordinate gear shifting with the many other skills involved when operating an ATV.

As described in a memorandum from the Division of Human Factors, the staff believes that riding ATVs at night is a significant risk factor for children and should be discouraged. Because headlamps on youth ATVs may encourage nighttime and unsupervised riding in challenging conditions, the staff believes that the prohibition of headlamps in the voluntary standard should be carried over into the staff's draft proposed rule. In order to lessen the likelihood of rear-end collisions, however, the draft proposed rule is requiring a stop lamp on youth ATVs.

The staff's draft proposed rule includes a new categorization of the age guidelines for four-wheeled youth ATVs. Based on an analysis by CPSC's Division of Human Factors, speed, *not* engine size, is a more appropriate criterion for determining which ATVs should be recommended for children under the age of 16. Thus, the staff's draft proposed rule would base youth ATV age categories on speed limitation, rather than speed limitation *and* engine size. Under the staff's draft proposed rule, all references to engine size as a category marker would be eliminated. Provided a manufacturer commits to the speed limitations of the staff's draft proposed rule, the staff would not oppose and would recommend a modification of the LOUs to delete the engine size limitations.

CPSC staff believes that limiting maximum speed is the most critical safety factor for youth ATV models. By eliminating the engine size restriction, manufacturers will be able to produce a variety of ATV models that meet speed restrictions but are more appropriately sized to account for the wide variation in physical dimensions of young people. By having the option of riding better-fitting ATVs that are not performance limited by undersized engines, staff believes that more youth will ride age-appropriate and speed restricted ATVs rather than gravitating toward adult ATV models. Staff also believes that having more engine power available to the youth rider could provide a safety cushion under certain circumstances such as climbing hills. Staff has no information to indicate that other performance characteristics associated with larger engine sizes, such as increased torque, acceleration, or weight, would have a potential negative safety effect on youth riders.

The staff's draft proposed rule would limit the maximum speeds of ATVs intended for children under the age of 16 years. As shown in Table 3 below, *Teen* ATVs, intended for children ages 12 and above, would have a maximum unrestricted speed of 30 miles per hour (mph) and a device that could limit the maximum speed to 15 mph. *Pre-teen* ATVs, intended for children ages 9 and above, would have a maximum unrestricted speed of 15 mph and a device that could limit the maximum speed to 10 mph. The *Junior* ATV, intended for children ages 6 and above, would have an unrestricted speed of 10 mph or less, with no required speed limiting device.

Table 3—Age and Speed Categories: Four-Wheeled Youth ATVs

Category	Age (years)	Max Speed Capability	Speed Limitation (with Speed Limiter)
Junior	6+	10 mph or less	None
Pre-teen	9+	15 mph	10 mph
Teen	12+	30 mph	15 mph

#### D. Discussion: Mechanical Requirements

As noted above and in a memorandum from the Directorate for Economic Analysis, ATVs imported by new entrants into the U.S. market have increased in recent years, and this trend is likely to continue. The ATVs sold by these companies are available to consumers through the Internet, mass marketers, and importers. They are being marketed by companies that have not been a part of the consent decrees or Voluntary Action Plan agreements with the Commission. As indicated in a memo-

random from the Directorate for Engineering Sciences, available evidence suggests that ATVs made by these companies do not meet some of the mechanical requirements of the current ANSI/SVIA-1-2001 voluntary standard. Mandating the mechanical requirements of the staff's draft proposed rule would therefore help ensure that these ATVs meet basic safety standards.

In addition, as noted in the preliminary regulatory analysis from the Directorate for Economic Analysis, the existence of a mandatory standard will enhance CPSC's ability to enforce mechanical safety requirements at a time when many new manufacturers are entering the market. At the present time, conformance to the mechanical safety requirements of ANSI/SVIA-1-2001 is voluntary. As new firms enter the market, the presence of a mandatory standard that can be more easily enforced will make it more likely that new entrants will comply with mechanical safety requirements.

Since the ATV manufacturers that have negotiated LOUs with CPSC are believed to be substantially in conformance with the requirements of the voluntary mechanical standard, mandating these mechanical requirements will have, at most, a modest impact on injury and death risk. These firms account for about 90 percent of the ATVs now being sold in the U.S. market. However, because these manufacturers with the largest share of the market are in substantial compliance with the voluntary standard, the additional cost that would be incurred by manufacturers to meet the mechanical requirements of the proposed rule likely will be low. In fact, the costs for many manufacturers may be limited to the cost of adding stop lamps to youth ATVs. The cost of adding a stop lamp would amount to a few dollars or more, especially in the case of youth ATVs which are not currently equipped with any wiring for lighting. Most adult ATVs are thought to be already equipped with a stop lamp.

With respect to youth ATVs, restricting ATV use by engine size likely discourages consumers from purchasing appropriate ATVs for some young riders. The frame size of youth ATVs as defined currently might not comfortably fit larger children. Some children of ages 12 through 15 are larger than some adults; these adolescents and their parents may prefer that they ride a larger ATV that better fits them physically. Additionally, if the engine of the youth ATV lacks sufficient power for acceleration or hill climbing, some children may resist using the youth model and their parents may prefer that their children ride an adult ATV.

Eliminating engine size as a criterion for categorizing youth ATVs may, for several reasons, enhance safety by providing children with an appropriate alternative to riding an adult ATV. It would allow ATV manufacturers to introduce a wider variety of youth models, including models with larger, more-physically-appropriate frames. Parents of young riders would have an easier time finding a suitably-sized ATV for their children and likely would be more willing to accept ATVs with the recommended speed restrictions; in addition, parents might be more willing to purchase youth models because they could be used for a longer period of time without the need for replacement because their children outgrew them. Moreover, acceptance and use of ATVs with the age-recommended speed restrictions could reduce the number of ATV-related injuries and deaths.

Increasing the availability of age-appropriate ATVs could also increase safety by increasing the proportion of child ATV drivers who receive formal ATV safety training. Currently, there are training programs that will not allow a child ATV driver to be trained unless he or she is on a youth ATV with a 90cc or less-sized engine. If modifying the age recommendations for ATVs leads manufacturers to introduce more ATVs with the recommended speed restrictions for young riders, and, as a result, more children begin riding youth ATVs, it will be possible for more young riders to receive formal safety training.

The speed limitations for ATVs intended for children should not impose substantial additional costs on manufacturers because they are similar to those already in the ANSI/SVIA voluntary standard. Moreover, the speed limitations in the staff's draft proposed rule are less restrictive than the requirements for youth ATVs specified in the LOUs, since they do not include the engine size limitations. Consequently, the staff believes that this provision of the staff's draft proposed rule increases the potential for safety in the form of reduced injuries and deaths, without imposing additional costs and burdens on manufacturers.

## **6. Information Requirements**

### *A. Labels, Hang Tags, Owner's Manuals, and Safety Video*

The staff's draft proposed rule includes several requirements for safety warnings and safety information to be provided to consumers. These would be provided on warning labels and hang tags and in owner's manuals and safety videos. As discussed in the memorandum from the Division of Human Factors, hazard commu-

nications, such as warning labels, hang tags, safety videos, and owner's manuals, rely on persuading consumers to alter their behavior to actively avoid a hazard and, if understood and capable of being followed, can enable consumers to make better and more informed decisions about how to use the product safely.

The warning information on hang tags and labels will advise consumers of the age recommendations for ATVs and warn that it is unsafe to allow children to operate ATVs intended for adults or older children and to carry passengers on a single-person ATV. Additional safety messages about ATV operation would be required in owners' manuals and in the safety video.

As noted in the report from the Directorate for Economic Analysis, the ATV manufacturers with the greatest share of the market are thought to be already substantially conforming to this requirement through the LOUs. The warning requirements of the staff's draft proposed rule should not impose any new costs on these manufacturers. For the manufacturers that are not now in conformance, the cost of coming into conformance will be minimal on a per unit basis. Even for manufacturers with a very low sales volume, the cost of designing, printing, and attaching a label or a hang tag or adding pages in an owner's manual will be probably no more than a few dollars per vehicle.

The major manufacturers already are providing the safety video, and the draft proposed standard will have no impact on their costs. For those manufacturers who currently are not providing a safety video to their consumers, the costs could be higher. The cost of duplicating a video or DVD is no more than a few dollars. However, the cost of producing a safety video could be several thousand dollars. For a manufacturer or distributor with a low sales volume, this could be a more significant cost. The cost or impact could be lower if a third party video could be licensed or shared by many small manufacturers or distributors.

The benefit of this provision is that it will ensure that all consumers receive consistent basic safety and hazard information regarding ATV use and operation. Although the benefit cannot be quantified, it is possible, as discussed in the report from the Directorate for Economic Analysis, that even a small reduction in the number of ATV-related injuries to children as a result of fewer children riding adult ATVs would result in benefits being larger than costs.

As noted above, the staff's draft proposed rule requires that each manufacturer provide consumers with a means of relaying safety-related complaints and concerns to the manufacturer or importer. Manufacturers must make available for this purpose a domestic telephone number and mailing address, website or e-mail address. This contact information must be contained in the owner's manual. Owner's manuals will also be required to provide consumers with the instructions for reporting safety-related information to CPSC.

This requirement could provide manufacturers with an early alert if there is a potential hazard or defect with an ATV. This could allow manufacturers to take preemptive actions to minimize the risk of injury that might result. The cost of providing a means to report safety-related problems would be small. Virtually all manufacturers or distributors that sell ATVs in the U.S. already have domestic telephone numbers, addresses and Internet sites. Moreover, many manufacturers and distributors already include this information in the owner's manual.

#### *B. Risk Disclosure Form*

The staff's draft proposed rule would require that ATV dealers provide purchasers of adult ATVs with a written statement that: (1) clearly states that adult ATVs are not intended for the use of children under the age of 16; and (2) gives the consumer specific information about the possible injury consequences of allowing children to ride adult ATVs. A proposed disclosure statement was developed by the Division of Human Factors.

This requirement is a direct response to the high risk of injury of children riding adult ATVs and to the comments of many parents, including some whose child died while driving an adult ATV, that they had never been warned about the risk.

The disclosure statement would be provided to purchasers prior to completion of the sale. Consumers would be required to sign the statement to acknowledge that they had been warned about the risks of allowing children to drive adult ATVs. Dealers would be required to keep the signed disclosure statement on file for at least 5 years after the purchase so that compliance with the disclosure statement requirement could be monitored and demonstrated. Similar disclosure forms would be provided to purchasers of youth ATVs; these disclosure forms would indicate the age of the child for which the youth model was designed.

According to the Directorate for Economic Analysis, the benefits of requiring a disclosure statement would be twofold: first, it would help consumers make a more informed choice when they purchase an ATV; and, second, as discussed in the memo-

random from the Division of Human Factors, signing the adult ATV disclosure form may prevent some adult purchasers from allowing children to ride adult ATVs. Similar benefits may result from the disclosure forms for youth ATVs.

Generally, when ATVs are sold, there is already some amount of paperwork generated, including purchase contracts and financing agreements. Therefore, the marginal costs of an additional form would be minimal. Moreover, under the LOUs, manufacturers already require that their dealers inform consumers about the age recommendations for ATVs and monitor dealer compliance with that requirement. It is possible, therefore, that the direct enforcement mechanism provided by this disclosure statement would be no more costly than the current methods of monitoring compliance with the LOUs. Consequently, if this requirement would lead to even a small reduction in the number of children who ride and are injured on adult ATVs, it is likely that the benefits of the provision would exceed its costs.

### 7. Offer-of-Training Requirement

The staff's draft proposed rule would require manufacturers and distributors of ATVs to provide to every purchaser of an ATV a training certificate that would entitle the purchaser and members of the purchaser's immediate family for whom the ATV is age-appropriate to attend a free hands-on training course; the training course would have to be designed to satisfy the requirements of the staff's draft proposed rule. Manufacturers and distributors would be required to maintain a written record that the certificate was provided.

The staff's draft proposed rule would require that certain topics be included in the course content. The course would teach the student how to handle a variety of circumstances encountered when driving and would familiarize the rider with safety behavior and messages. Classroom, field, and trail activities would be included.

According to the Division of Human Factors, ATV training is important because operating an ATV seems deceptively easy; steering controls are similar to a bicycle, and the throttle is generally simply lever-operated with the thumb. ATVs, however, are high-speed motorized vehicles that require repeated practice to drive proficiently. Operating an ATV is somewhat comparable to operating other complex high-speed motorized vehicles and requires repeated practice to decrease the risk of injury. Formal training may act as a surrogate for experience because it exposes new ATV drivers to situations they will encounter while riding off-road and teaches them the proper driving behavior to navigate those situations.

ATV manufacturers that account for about 90 percent of the U.S. market already offer free training to purchasers of their ATVs and members of their immediate families; purchasers of ATVs made by other manufacturers or importers can take the course, but are required to pay a fee.<sup>8</sup> So, the primary impact of this requirement will be to extend the *free* training offer to people who purchase ATVs from manufacturers or importers that do not now offer free training. These manufacturers account for about 10 percent of total domestic ATV sales.

As described in the report from the Directorate for Economic Analysis, the requirement that manufacturers offer free training is in effect a requirement that they *subsidize* ATV safety training. The purpose of a subsidy is to lower the cost of a product, *e.g.*, ATV training, so that individuals will be encouraged to purchase the product or, in this case, to take training. A subsidy can be an appropriate policy when it is believed that consumers will not purchase the socially optimal quantity of a good without some intervention. A consumer might not purchase the optimum quantity of a good for a variety of reasons; for example, a consumer might underestimate the value of the good to herself or himself.

In the case of ATV safety training, it is likely that many consumers underestimate the benefits of training. According to the Division of Human Factors, ATVs can appear "deceptively easy" to operate but in fact require "repeated practice to drive safely." Even at low speeds, ATV drivers need to have "situational awareness necessary to negotiate hazards on unpaved terrain" and make "quick judgments" with regards to steering, speed, braking, weight shifting, and terrain suitability. Consumers who underestimate the difficulty of riding ATVs may conclude that the cost of the training, including the cost in terms of time and travel, will exceed the benefits.

The cost to the manufacturer of offering free training depends upon a number of factors, such as the length of the course, the number of trainers, and the number of enrollees. If the training were similar to that provided currently by the ATV Safe-

<sup>8</sup>As noted in the report from the Directorate for Economic Analysis, some manufacturers also offer additional incentives to encourage first-time buyers to take ATV safety training. Some manufacturers give first-time purchasers an additional \$100 if they complete the training; while others offer free training to other members of the purchaser's family.

ty Institute to children and adults, the value of a training certificate entitling the holder to a four-to-five hour training course might be \$75 to \$125. Thus, the value of the training subsidy might be \$75 to \$125 per trainee.

The cost to the ATV purchaser who has a training certificate would be the time and cost involved in finding an available time and training site and then arranging for transportation to the training. In addition, there would be a cost associated with the possible transportation of an ATV to the training site, and, for parents, the transportation of a child to the site. In addition, for all who take the training, there is the cost involved in spending several hours in training rather than in an alternate activity.

The benefits of training to new ATV drivers could be substantial. The Directorate for Epidemiology estimates, based on the results of the 2001 ATV injury and exposure surveys, that formal training may reduce the risk of injury by about half. Based on this information, the Division of Human Factors' finding that formal training can act as a surrogate for experience, and the results of a recent ATV risk analysis that found a strong inverse relationship between driving experience and the risk of hospital emergency department-treated injury,<sup>9</sup> the Directorate for Economic Analysis estimates that the benefits of training to new riders could be about \$770 per rider. The estimated cost, in terms of time spent getting to and from and taking the course, would be about \$295. Consequently, the net benefits of training per consumer could be about \$475.

Based on a 2004 Rider Training Summary from SVIA, about 35 percent of *first-time* ATV purchasers who were offered this training by member firms actually took advantage of it. Only 7 percent of *all* purchasers took any type of organized formal training, including dealer, SVIA, local, and 4-H training courses. The Directorate for Economic Analysis estimates that this requirement would likely increase the number of riders trained annually by about 6,000 to 7,000; these riders would primarily be those who would purchase ATVs from companies who do not currently offer training. If the benefits of the training are \$770 per trainee and the cost of the training is \$295, this could result in a net benefit of about \$3.3 million annually.

#### 8. Ban: Three-Wheeled ATVs

Under the consent decrees, the major ATV manufacturers agreed to stop the sale of new three-wheeled ATVs, which had been shown to be less stable and more risky than four-wheeled ATVs. Until recently, no new three-wheeled ATVs are known to have been marketed in the United States since the late 1980s. However, the CPSC Office of Compliance has found evidence that there are three-wheeled vehicles that meet the definition of an ATV and that are being advertised and marketed as all-terrain vehicles for sale in the United States. The ban on the sale of three-wheeled ATVs contained in the staff's draft proposed rule would formalize the implicit ban that has been in place for almost 20 years. Formalizing the ban will likely not reduce ATV-related injuries from their present levels, but it will help ensure that three-wheeled ATVs will not be reintroduced into the U.S. market.

As described in the regulatory analysis in the report, the justification for a ban on the sale of three-wheeled ATVs is based on the substantially higher expected injury costs associated with the use of three-wheeled ATVs, relative to four-wheeled ATVs, and the likelihood that these higher costs outweigh any additional utility three-wheeled ATVs would arguably provide to their owners.

The real costs of ATVs include the expected injury costs associated with their use as well as their purchase price. According to a recent multivariate analysis of the risks associated with ATVs, the risk of injury on a three-wheeled ATV was about three times the risk on a similar four-wheeled model.<sup>10</sup> Using this estimate of relative risk, the present value of the higher expected injury costs associated with the use of a three-wheeled ATV would (at a 3 percent discount rate) amount to about \$23,700 over its expected useful life.

The injury cost differential between the three-wheeled ATV and the four-wheeled ATV would be offset somewhat by the lower estimated price of a three-wheeled ATV. Assuming that three-wheeled ATVs cost about \$300 less than their four-wheeled counterparts, the total cost of a three-wheeled ATV (including both the injury cost and the costs of purchasing the ATV) might amount to about \$23,400 more than the costs of a similar four-wheeled ATV (over its useful life.)

A ban of three-wheeled ATVs would be beneficial (on average) if the average extra valuation (utility or use value) that individuals put on a three-wheeled ATV is less than about \$23,400 over the useful life of the product. Consequently, if the utility

<sup>9</sup>Gregory B. Rodgers and Prowpit Adler, "Risk Factors for All-Terrain Vehicle Injuries: A National Case-Control Study," *American Journal of Epidemiology*, Vol. 153, No. 11 (2001).

<sup>10</sup>*Ibid.*

from a four-wheeled ATV is not substantially different from the utility from a three-wheeled ATV, the ban would be justified. Although the utility that individuals receive from using ATVs cannot be quantified, available evidence described in the report suggests that for most individuals, the utility differential between three-wheeled and four-wheeled vehicles is minimal. Therefore, a ban of new three-wheeled ATVs appears to be justified.

## **9. Non-Regulatory Activities**

The CPSC staff believes that the staff should continue to work with industry to improve aspects of the voluntary standard for ATVs, provide data resources for state and local legislators, and conduct an ATV safety information and education effort.

### *A. Voluntary Standards Activities*

Many of the elements of the voluntary standard are incorporated into the staff's draft proposed rule. CPSC staff does not intend, by that action, to suggest that there is no need for voluntary standard activities to continue.

CPSC staff believes that the voluntary standards process can play an important role in dealing with any unanticipated mechanical issues or new safety technology that may arise in the future. CPSC staff believes that there are some technical issues that would benefit from further testing and study. This work, however, will require time and the coordinated application of both CPSC and private-sector resources. CPSC staff believes that the most effective way to carry this out is through close, ongoing interaction with standards committees that are addressing ATVs in that regard.

### *B. Development of a Data Resource for Those Interested in State Legislation*

CPSC staff believes that the states have a critical role to play in reducing ATV deaths and injuries. To be of assistance in efforts by the states or local government to pursue legislation or other safety actions, CPSC staff suggests that the Commission develop an online state data resource "bank." This "bank" would include information on ATV-related activities in each of the states, death data by state, and other pertinent state-related information.

### *C. Safety Information and Education, Including the Launch of a Dedicated Website*

CPSC staff believes that information and education are critical to any effort to reduce the deaths and injuries associated with the use of ATVs. With that in mind, the staff is recommending that the Commission consider a coordinated media and information effort. The proposed activities are described in a memorandum from the Office of Information and Public Affairs; part I would commence if the Commission votes to approve the NPR and would educate the public about recent developments in ATV safety. The following elements would be included in this plan:

- a national press conference.
- satellite media tours (a speaker at one location conducts interviews nationwide via satellite).
- partnership and outreach through the CPSC Neighborhood Safety Network.

Part II would consist of the establishment of an ATV Safety Information and Education Working Group, whose purpose would be to coordinate and enhance voluntary, ongoing safety education efforts for ATV riders and purchasers. The Working Group would include representatives from the public- and private-sectors, who would consider the most effective and up-to-date strategies to influence safety behavior regarding ATV use and, where appropriate, encourage a coordinated effort to promote those strategies. CPSC staff believes that a coordinated approach to ATV safety information and education is the most efficient way to use resources, eliminate duplicative efforts, and to help ensure that a consistent message is being presented to the ATV user.

In addition, the staff has developed a proposed ATV safety website for the Commission's consideration. Information to access that (restricted access) website has been provided to the Commissioners so that they can review the format and content. The site includes the state data resource bank outlined above. The staff recommends that the Commission approve launch of the site as a public-access ATV safety resource.

## **10. Additional Staff Comments**

### *A. Encouraging the Use of Protective Gear*

CPSC staff continues to strongly encourage the use of helmets and other protective gear by ATV riders. In addition, CPSC staff encourages ATV retailers to co-merchandise ATV safety gear, particularly helmets, alongside ATVs. Staff knows of

one ATV manufacturer that offers vouchers to ATV purchasers toward the purchase of a helmet and another that displays protective gear nearby ATVs; CPSC staff applauds this type of action and encourages similar co-merchandising on the part of all manufacturers.

#### *B. Insurance Discounts for Training*

In early 2006, CPSC Office of Compliance staff attempted to contact nine major insurance companies who reportedly provide insurance to ATV owners. Information provided by seven of the nine companies which responded to the staff's inquiry show that at least 345,000 ATV owners have some type of ATV insurance, including bodily injury, personal damage, collision, and coverage for a guest passenger (including a guest passenger on a single-person ATV). Premiums are about \$200 annually, and three of the responding insurance companies offer some type of premium discount, ranging from five to 10 percent, for participation in ATV training.

### **11. Summary**

The CPSC staff believes that a comprehensive effort by the Commission to address the deaths and injuries associated with ATV use is warranted. This effort needs to include regulatory and non-regulatory activities. The CPSC staff is proposing that the Commission consider issuing a *notice of proposed rulemaking* (NPR) which would mandate mechanical, labeling, safety information, and training requirements for four-wheeled single-person adult ATVs, four-wheeled two-person tandem ATVs, and four-wheeled youth ATVs; the NPR also would mandate a ban on three-wheeled ATVs intended for adults and children. The CPSC staff is proposing that the Commission also consider implementing non-regulatory activities including continued voluntary standards activities, an "ATV Safety" website including ongoing development of a data resource for state legislators and local government officials, and a safety information and education effort.

### **12. Options Available to the Commission**

#### *A. Approve All of the Staff's Recommendations*

If the Commission determines that available information indicates that regulatory and nonregulatory approaches should be used to address the deaths and injuries associated with the use of ATVs, it could approve all of the staff's recommendations and approve the draft notice of proposed rulemaking (NPR) for publication in the *Federal Register* under authority of the Consumer Product Safety Act (CPSA) and the Federal Hazardous Substances Act (FHSA), approve launch of the website, and direct the staff to pursue the other activities mentioned in this briefing package.

#### *B. Approve Some, But Not All, of the Staff's Recommendations*

If the Commission determines that available information does not warrant the use of all of the activities described in this briefing package, it could direct the staff to implement those activities which the Commission believes should be used to address the deaths and injuries associated with the use of ATVs.

#### *C. Defer Making a Decision on the Staff's Recommendations*

If the Commission believes that there is insufficient information to make a decision about the staff recommendation, it could defer its decision and direct the staff to gather the additional information.

#### *D. Do Not Implement Any of the Staff's Recommendations*

If the Commission concludes that the available information does not support proceeding with rulemaking or with implementing the non-regulatory activities, it could direct the staff to terminate rulemaking and to not proceed with implementing any of the non-regulatory activities.

### **13. Staff Recommendation**

The CPSC staff recommends that the Commission approve all of the staff's recommendations put forth in this briefing package.

Ms. LELAND. As early as 1985, the Commission stated its safety concerns regarding ATVs in an advance notice of proposed rulemaking, and in 1987, CPSC filed a lawsuit against the major ATV distributors. That lawsuit was settled by consent decrees in which the distributors agreed to take a number of actions to increase ATV safety. When those consent decrees expired, in 1998, the Commission entered into Voluntary Action Plans with the companies.

Since that time, much has changed with regard to ATVs. Sales have increased dramatically. U.S. retail sales of ATVs by major distributors have increased from an estimated 293,000 sold in 1995 to an estimated 921,000 sold in 2005. We estimate that since 1997 the number of ATV drivers has increased by 36 percent, from 12 million to over 16 million operators.

Looking at this explosive growth, it is not surprising that we are also seeing increases in deaths and injuries reported from ATV use. Based on studies conducted in 1997 and 2001, the estimated number of ATV-related injuries treated in emergency rooms rose from 53,000 to 110,000. Additionally, the number of imports from new entrants to the ATV market has increased markedly in recent years. A recent trade report estimated that over 100 Chinese manufacturers export ATVs worldwide.

These new imports are generally, and significantly, less expensive, and, unlike the major distributors that have traditionally marketed ATVs through established dealers, many of these new entrants market their products through U.S. importer wholesalers or offer ATVs for sale directly to consumers. Hundreds of websites offer these ATVs for sale.

In 2003, the Commission and CPSC Chairman Hal Stratton held a series of regional field hearings that included: one in New Mexico covering six western states, one in West Virginia, with representation from seven states, and one in Alaska, to hear directly from those who have personal and professional knowledge of ATVs. Subsequently, Chairman Stratton directed the staff to initiate a comprehensive review of all ATV safety actions.

Based on its evaluation of regulatory alternatives and public comments, the CPSC staff briefing paper presented to the Commissioners last week recommends issuing a notice of proposed rule-making that would establish mandatory requirements including that adult, youth, and tandem ATVs meet specific mechanical performance requirements; that specific safety warnings be provided to the purchaser of any ATV; that a disclosure statement warning against the use of adult ATVs by children, and describing the possible consequences of children riding adult ATVs, be provided to, and signed by, purchasers of all adult ATVs at the time of purchase; that a certificate offering free training be provided to all purchasers; and that 3-wheeled ATVs be banned.

In 2003, there were an estimated 740 deaths associated with ATVs. CPSC staff is recommending to the Commission that they approve the staff's draft proposed mandatory standard as a significant step forward in improving the safety of ATVs for the children and adults who ride them.

Thank you, again, for calling attention to this important safety issue. I look forward to answering your questions.

[The prepared statement of Ms. Leland follows:]

PREPARED STATEMENT OF ELIZABETH W. LELAND, PROJECT MANAGER, ATV SAFETY REVIEW TEAM, U.S. CONSUMER PRODUCT SAFETY COMMISSION

Good morning, and thank you for this opportunity to speak to the Subcommittee today on the work of the U.S. Consumer Product Safety Commission in addressing safety issues related to all-terrain vehicles, or ATVs. My name is Elizabeth Leland, and I am the Project Manager for the ATV Safety Review Team.

The Consumer Product Safety Commission, or CPSC, is a small, bipartisan and independent agency charged with protecting the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the agency's jurisdiction. Since its inception, CPSC has delivered critical safety benefits to America's families and contributed significantly to the reduction in the national rate of deaths and injuries related to hazardous consumer products. At CPSC we are proud of our safety mission and we are proud of our record of achievement in reducing consumer product hazards to American families over the years.

ATV safety is a subject of ongoing concern and activity at CPSC. Most recently, CPSC staff presented to the Commissioners a briefing paper outlining a number of recommendations including a recommendation to issue a formal notice of proposed rulemaking, or NPR, to address the risk of injury and death associated with this product. I will discuss these recommendations later in my statement, and I ask the Chairman's permission to submit the staff briefing paper and draft NPR to the Committee for the record.

Since this product has been one of activity and concern to CPSC for over twenty years, I would like to start by giving the Senators a brief background of the agency's previous work on ATV safety. As early as 1985, the Commission stated its safety concerns regarding ATVs in an advance notice of proposed rulemaking which outlined options that the Commission was considering to address ATV-related hazards. In 1987, CPSC filed a lawsuit against five companies that were the major ATV distributors at that time.

In 1988 that lawsuit was settled with the companies by Consent Decrees that stayed in effect for 10 years. In those Consent Decrees, the distributors agreed to halt the distribution of three-wheel ATVs; to provide warning labels, point-of-purchase safety materials, and improved owners' manuals; to offer rider training; to conduct a nationwide public awareness campaign; and to attempt to devise a voluntary performance standard. When the Consent Decrees expired in 1998, the Commission entered into voluntary "Action Plans", or Letters of Undertaking, with the five companies that had been parties to the Consent Decree and three others that had since entered the market. In those Letters of Undertaking, or LOUs, the companies agreed to continue many of the actions that the Consent Decrees had required.

Since that time almost 10 years ago when those LOUs were signed with the companies, much has changed with regard to ATVs. Sales have increased dramatically. U.S. retail sales of ATVs by major distributors have increased from an estimated 293,000 ATVs sold in 1995 to an estimated 921,000 ATVs sold in 2005.

CPSC staff estimates that since 1997, the number of ATV drivers has increased by 36 percent, from 12 million to over 16 million operators. During that same time period, the number of ATVs has increased by 40 percent, from 4 million to 5.6 million, and the number of driving hours has risen by 50 percent.

Looking at this extraordinary growth, it is not surprising that we are also seeing increases in deaths and injuries reported from ATV use. Based on injury and exposure studies conducted in 1997 and again in 2001, the estimated number of ATV-related injuries treated in hospital emergency rooms rose during that 4 year period alone from 53,000 to 110,000.

Additionally, the number of ATV imports from new entrants to the market has increased markedly in recent years. CPSC staff has identified over 80 importers of ATVs. A recent trade report estimated that 100 to 150 Chinese manufacturers and an estimated 22 Taiwanese firms exported ATVs worldwide in 2005. We estimate that almost 100,000 ATVs were imported to the U.S. in 2004.

These new imports are generally less expensive. CPSC's 2004 market study noted that the median suggested retail price for ATVs sold by major distributors was \$5,150. As a subgroup, the median price for their youth ATVs was about \$2,300. In contrast, a recent staff Internet search of new ATVs with brand names other than those of traditional distributors found that the average retail price of their larger ATVs was only \$1,340 while their youth ATVs had an average price of only about \$630.

The major distributors have traditionally marketed ATVs through established dealers and franchises, but many of these new entrants market their products through U.S. importer/wholesalers who in turn may market to retail stores. Others offer ATVs for sale directly to consumers through import brokers who transship imported units to retailers, often without ever taking physical control of the products. A recent CPSC surveillance effort reported that there were literally hundreds of websites offering these ATVs for sale.

Clearly, the ATV market has grown significantly and changed substantially over the past 10 years. In 2003, the Commission and CPSC Chairman Hal Stratton held a series of regional field hearings that included one in New Mexico covering six western states, one in West Virginia with representation from seven states, and one

in Alaska, to hear directly from distributors, law enforcement and medical personnel, consumers, state and local government officials and others who had personal and professional knowledge of ATVs and related safety issues.

Subsequently, Chairman Stratton directed the staff to initiate a comprehensive review of all ATV safety actions and make recommendations to the Commission on a number of issues. The directive specifically requested a review of the adequacy or inadequacy of current voluntary standards and LOUs, and also an exhaustive study of other ATV safety-related proposals including pre-sale training and certification requirements, enhanced warning labels, formal notification of safety rules by dealers to buyers, the addition of a youth ATV model, and written notification of child injury data at the point-of-sale.

In October of 2005, the Commission issued an advance notice of proposed rule-making, or ANPR, to initiate a regulatory proceeding under its authority granted by the Consumer Product Safety Act and the Federal Hazardous Substances Act. The ANPR was issued as part of staff's comprehensive review of regulatory and non-regulatory options for addressing the risks associated with ATVs.

Based on its evaluation of regulatory alternatives and the public comments that were submitted in response to the ANPR, the CPSC staff briefing paper presented to the Commission last week recommends issuing a notice of proposed rulemaking that would establish the following mandatory requirements:

- that adult, youth and tandem ATVs meet specific mechanical performance requirements;
- that specific safety warnings be provided to the purchaser of any ATV through hang tags, labels, a safety video, and the owner's instruction manual;
- that a means for reporting safety-related complaints to the manufacturer be provided to the purchaser;
- that a disclosure statement warning against the use of adult ATVs by children and describing the possible consequences of children riding adult ATVs be provided to and signed by purchasers of all adult ATVs at the time of purchase;
- that an acknowledgement-of-age statement be provided to and signed by purchasers of children's ATVs;
- that a certificate offering free training to each member of a purchaser's immediate family for which the ATV is age-appropriate be provided to all purchasers; and
- that three-wheeled ATVs be banned.

In addition to these mandatory requirements, the staff also recommends that the Commission implement a series of non-regulatory activities to enhance ATV safety including an ATV data bank with information on legislative and regulatory activity by the states and a two-phase information and education drive that would also launch a website dedicated solely to ATV safety.

In 2003 there were an estimated 740 deaths associated with ATVs. In 2001, the most recent year for which death data collection is complete, 26 percent of reported deaths were of children under 16 years old. Based on these numbers, the non-fatal injury numbers I mentioned earlier, and an evaluation of regulatory alternatives, CPSC staff is recommending to the Commission that they approve the staff's draft proposed mandatory standards as a significant step forward in improving the safety of ATVs for the children and adults who ride them.

Thank you again for calling attention to this important safety issue. I look forward to answering your questions.

Senator ALLEN. Ms. Leland, thank you for your testimony and the work that you have done.

I understand that this is a proposed draft rule. You cannot issue a final rule until you determine—the CPSC determines that the existing voluntary standard will not adequately reduce the risk of injury from ATVs, or that there will probably not be substantial compliance with a voluntary standard. Are the established ATV manufacturers that are members of what is called the Specialty Vehicle Institute of America, the SVIA—are they complying with the current voluntary standard?

Ms. LELAND. Yes. Our information is that they are complying with the voluntary standard.

Senator ALLEN. Now, that's for the SVIA members.

Ms. LELAND. Yes, that's correct.

Senator ALLEN. Right. Now, are there any ATV manufacturers that are not complying with this voluntary standard?

Ms. LELAND. Evidence available to us indicates that there are new entrants coming into the United States from overseas, primarily China and Taiwan. And our evidence shows that many of those are not meeting the requirements of the voluntary standard.

Senator ALLEN. How do you see getting them—or getting all—regardless of whether they're manufactured in the U.S., Canada, Japan, Taiwan, China, wherever they may be manufactured—how do you see getting them into compliance?

Ms. LELAND. The staff believes that it is necessary to have a mandatory standard that would have requirements for those companies to meet, not only mechanical requirements, but also other issues, such as labeling and training, and items and specific information at the point-of-purchase.

Senator ALLEN. Have—these ATVs coming in from China that are not in compliance, have they provided any action plans on safety, training, or other mechanical safety design standard compliance? In other words, are they doing anything? Are they offering, in any way, to come into compliance with what all the rest—the SVIA manufacturers are complying with?

Ms. LELAND. I am not aware that that is happening on a large scale. Our Compliance Office does try to keep track of what is coming into the country through Internet surveillance, through any means that we have, and we have tried to contact some of those. Currently, there are upwards of 80 foreign importers and distributors of ATVs in the United States, plus additional companies offering to sell ATVs via the Internet and other retail outlets. These companies have not provided and have not offered to provide to the Commission any action plans on safety, training, or compliance with mechanical requirements. Compliance staff approaches firms on a case-by-case basis requesting corrective actions, if appropriate, even where the firm does not have an agreement with the Commission. CPSC staff has encountered firms that would not change their actions because they had not agreed to any provisions with the Commission.

Senator ALLEN. Right. But you have tried to—

Ms. LELAND. My understanding is that we do contact companies that are bringing these ATVs into the country.

Senator ALLEN. Well, then what can you do, as a practical matter? Even if you contact them, let's say they do not comply, for whatever reason—what can anybody actually do to have them comply with the standards that the rest of the industry agrees to—and complies with?

Ms. LELAND. That's precisely why staff is recommending that the mandatory standard, the notice of proposed rulemaking, be issued by the Commission, because staff feels that is the way that we will be able to enforce having uniform mechanical requirements for the vehicles, having uniform labeling practices, safety practices, training practices.

Senator ALLEN. So, in other words, if—the way things stand right now, if a company refuses, neglects, in any way doesn't—sim-

ply does not comply, you have no enforcement—there’s no enforcement mechanism, whether it’s through your agency or otherwise, for those companies to actually comply with our standards.

Ms. LELAND. Our Office of Compliance would be better prepared to address that. My understanding is that it is difficult, with a voluntary standard, to really go after a company—

Senator ALLEN. Enforce it.

Ms. LELAND.—and so with the mandatory standard, it would strengthen our enforcement mechanisms.

Senator ALLEN. And let me ask you one final question. Since most motor vehicle laws are primarily determined by the states, on everything from speed limits to helmet laws, seatbelt laws, and the like, as well as age, how does the CPSC work with the states in promoting and enforcing ATV safety? Does state enforcement of ATV safety traditionally differ from Federal enforcement?

Ms. LELAND. We believe the states have a critical role to play, and one of the recommendations staff is making is to develop—to launch a dedicated Website devoted to ATV safety, and that website will have resources—a resource bank, if you will—for state legislators to use in developing and enacting legislation.

Senator ALLEN. Do various states have different laws on ATV use?

Ms. LELAND. Yes. There is a wide variety across the country. Some states do not have laws. Some do. Some address helmets, some address age issues, some have different ages. So, there is not a great deal of uniformity—

Senator ALLEN. Well—

Ms. LELAND.—among the states.

Senator ALLEN.—we do have 50 different States and they all have legislatures, and they all can act.

Ms. LELAND. That’s right.

Senator ALLEN. Thank you.

What has happened to Senator Pryor? He went to vote? OK. Well, I don’t have any further questions. Senator Pryor has gone to vote. He may have some questions for you, Ms. Leland.

What we might do is go to the second panel of witnesses. Ms. Leland, if—just to keep things somehow moving here, in the way that the Senate operates, if you could stand by, and then we can—I can introduce the witnesses, and maybe that by the time I’m finished introducing the witnesses, Senator Pryor will be back, but if you just could stand in the batter’s box—

Ms. LELAND. Sure.

Senator ALLEN.—and be ready for some further questions from Senator Pryor—thank you, Ms. Leland.

Senator ALLEN. Can we have the men and women of the second panel please come forward, I’d like to introduce you all. If you want to sit in the order in which you’ll be presented, it’ll first be Mr. Buche, then Ms. Weintraub, Mr. Williams, Dr. Aitken, and then Ms. Halbert.

We’ll now hear from our second panel.

First, Mr. Tim Buche is the President of the Specialty Vehicle Institute of America. Mr. Buche has flown in from California—so, it’s still early for you—to testify in regard to the ATV industry’s compliance with recognized standards, as well as to provide an over-

view of the current market for ATVs in the United States. We're pleased you've agreed to discuss safety matters directly affecting your industry, and we thank you for testifying.

Next, we'll hear from Ms. Rachel Weintraub, who is the Director of Product Safety and Senior Counsel at the Consumer Federation of America. Ms. Weintraub has testified on this issue previously and has devoted a great deal of time toward examining the ATV safety issue. I know that you've become an outspoken, well-recognized advocate for children's safety, particularly concerning the operation of ATVs. We appreciate your insight into this issue—that all parents can benefit, really, from your education, but, more importantly, further education, and we thank you for your commitment and for testifying this morning.

Following Ms. Weintraub, we'll hear from Brett Williams, the General Manager for Coleman PowerSports. That's the largest ATV dealer in the Commonwealth of Virginia. Mr. Williams will be able to discuss what's really important here, and that is the point-of-purchase requirements for dealers, and precautionary steps taken by dealerships and industry, toward educating and protecting consumers who purchase ATVs. And we thank you for agreeing to testify this morning, Mr. Williams.

Next will be Dr. Mary Aitken, Associate Professor in the Department of Pediatrics of the University of Arkansas for Medical Sciences. Dr. Aitken is representing the views of the American Academy of Pediatrics this morning. We hope to make use of your expertise and real-life experiences in caring for children to understand whether prudent steps exist toward improving ATV safety. And we appreciate your time. And I know Senator Pryor is the one, in particular, who asked you to be here, and we look forward to your desires and ideas on how we can better inform the people of this country on this issue. And finally, we will hear from Susan Halbert, Senior Vice President of the National 4-H Council. Ms. Halbert has worked on the issue of ATV safety for many years, and therefore, is a great source of institutional experience and knowledge regarding the progression of ATV safety initiatives. The 4-H has developed a strong ATV safety program, and Ms. Halbert will be able to speak on the success of similar programs in helping to educate children on proper riding habits. Thank you for coming today, Ms. Halbert, and offering your perspective on this important—very important issue.

So, we're going to start with you, Mr. Buche. You can begin, and we thank you.

**STATEMENT OF TIM BUCHE, PRESIDENT,  
SPECIALTY VEHICLE INSTITUTE OF AMERICA (SVIA)**

Mr. BUCHE. Good morning, Mr. Chairman, Senator Pryor, and honorable members of the Subcommittee. I am Tim Buche, President of the Specialty Vehicle Institute of America, or SVIA.

The SVIA is a not-for-profit trade association formed in 1983, sponsored by Arctic Cat, BRP, Bush Hog, Honda, John Deere, Kawasaki, Patriot, Polaris, Suzuki, Tomberlin, and Yamaha. SVIA promotes the safe and responsible use of all-terrain vehicles and serves as a resource for ATV research, statistics, and vehicle stand-

ards. I welcome the opportunity to speak before the Subcommittee on behalf of SVIA.

We are very concerned about the influx of these new entrants to the ATV market whose products do not meet industry safety standards. In 1985, the SVIA was accredited by the American National Standards Institute, or ANSI, to develop a voluntary standard for the equipment, configuration, and performance requirements of 4-wheel ATVs. The ANSI administrative processes and procedures for standards development are rigorous, extensive, transparent, and subject to audit. This year, SVIA, on another matter, engaged Marchica & Deppa, an engineering consulting company specializing in consumer product safety, to conduct testing on four representative new entrant ATVs for compliance with the ANSI standard, and delivery of safety information, the offer of training, and product support programs to consumers. The two principals of the company, Nick Marchica and Roy Deppa, have more than 55 years combined experience at CPSC. A copy of the report is offered, and I ask that it be accepted to the record for the hearing.

Senator ALLEN. Any of your testimony or—if you did want to summarize, your full testimony will be put in part of the record. And, yes, of course, that document will be included as part of the record of this hearing.

Mr. BUCHE. Very good, thank you.

The four ATVs tested were manufactured in China and are being marketed and sold in the U.S. for use by children under 16. Among the report findings, all four new entrant ATVs failed to comply with critical provisions of the ANSI standard. All four failed to offer safety program elements that are part of the action plans that the sponsoring SVIA member companies have long agreed to with the CPSC. Three of the four new entrant ATVs had flaws that may constitute substantial product hazards requiring immediate recalls under the Consumer Product Safety Act. The two smallest ATVs, which are being marketed and sold for use by young children, were deemed too potentially dangerous for a youth test-rider to operate. Marchica & Deppa found numerous new entrant ATVs being marketed over the Internet, all to children. Three of the four new entrant ATVs tested were found on websites, purchased over the phone, and delivered directly to the home of the one of the experts. These vehicles were delivered with potentially dangerous errors in set-up and adjustment. In addition, during testing, nuts and bolts fell off one of the ATVs. The one ATV that was purchased from a major auto retailer—auto parts retailer—was delivered with no safety information at all. These safety problems are serious and representative of the hazards created by noncompliant new entrant ATV products. We estimate that the new entrant ATVs accounted for about 20 percent of the unit sales in the U.S., or around 165,000 units, in 2004, and that number is growing, and growing dramatically. The problem of noncompliant ATVs needs to be addressed immediately for the safety of the American consumer.

The recently released CPSC draft proposal would address this problem through a rulemaking to establish safety rules based on the ANSI standard, but this could take years to finalize. I urge the Subcommittee to consider taking immediate legislative action to re-

quire all companies selling ATVs in the United States to comply with these important standards and safety practices.

Trade research indicates that there may be 200 or more companies distributing ATVs in the U.S. market. SVIA has been able to contact 62 known new entrants and invite them to participate in its safety programs. We've provided copies of the ANSI standard and a welcome to participate in our programs. Five have accepted. Others have not.

ATV rider safety is a top priority of SVIA. In addition to producing safety standards, we promote enforceable state legislation, rider training and education, and of course, parental supervision and responsibility. SVIA supports state legislation that prohibits the use of adult-sized ATVs by children under 16 and other key warned-against behaviors. CPSC data show that 92 percent of ATV-related fatalities involve at least one of these warned-against behaviors, and many involve two or more. To provide rider training and education, SVIA currently has over 900 active training sites in the United States.

Finally, parents literally hold the key to a child's safety. Adult supervision is essential for all riders under age 16. If you control the key, you control the use. We urge the Committee to give top priority to fixing the new entrant ATV problem through Federal legislation. The SVIA will continue to do its part by promoting rider training and education, and advocating state legislation regulating use and active parental supervision. These steps are keys to improving ATV safety for children and adults.

Thank you for the opportunity to appear today, and I welcome your questions.

[The prepared statement of Mr. Buche follows:]

PREPARED STATEMENT OF TIM BUCHE, PRESIDENT,  
SPECIALTY VEHICLE INSTITUTE OF AMERICA (SVIA)

Good morning, Mr. Chairman and members of the Subcommittee. I am Tim Buche, President of the Specialty Vehicle Institute of America, or SVIA.

The SVIA is a not-for-profit trade association formed in 1983 and sponsored by Arctic Cat, Bombardier, Bush Hog, Honda, Deere, Kawasaki, Patriot, Polaris, Suzuki, Tomberlin and Yamaha. SVIA promotes the safe and responsible use of all-terrain vehicles and serves as a resource for ATV research, statistics, and vehicle standards.

I welcome the opportunity to speak before the Subcommittee on behalf of the SVIA companies. A major concern of the SVIA is the influx of new entrants to the U.S. ATV market whose products do not meet industry standards and are sold to customers who receive no offer of formal safety training.

I will address this topic in detail in a moment, but first I would like to provide some background.

In 1985 SVIA was accredited by the American National Standards Institute, or ANSI, to proceed with the development of a voluntary standard for the equipment, configuration and performance requirements of 4-wheel ATVs.

The ANSI administrative procedures for standards development are rigorous, extensive, transparent, and subject to audit.

The SVIA, as an accredited standards developer using the ANSI canvass method, assumed responsibility on behalf of the ATV industry for managing the standards development process to assure that the final product was acceptable to a consensus of interested parties and in full compliance with ANSI guidelines.

As I mentioned previously, for some time there have been a number of new entrants to the U.S. whose products do not meet the industry standard and are sold to customers who receive no offer of formal safety training. The SVIA considers these irresponsible sales practices.

This year SVIA engaged Marchica & Deppa, LLC, an engineering consulting company specializing in consumer product safety, to conduct testing on four representative new entrant ATVs for compliance with the ANSI standard and delivery of safety information, training and product support programs to consumers. The two principals of the company have more than 55 years' combined experience at CPSC. Roy Deppa was previously Director of the Division of Mechanical Engineering and Associate Director for the Office of Compliance. He also worked as Chief Engineer of the original CPSC ATV Task Force in 1986. Nick Marchica was Chairman of the original ATV Task Force and subsequently served as Associate Executive Director for Engineering Sciences, Assistant Executive Director of the Office of Compliance, and most recently as Special Assistant to Commissioner Nancy Nord.

The four ATVs they tested were manufactured in China and are all youth-size or small-size ATVs that are being marketed and sold for use by children under 16. Marchica & Deppa reported their test results and conclusions for each of the four new entrant ATVs. A copy of the report is being submitted for the hearing record.\*

The report found that *all four* new entrant ATVs *failed* to comply with the ANSI standard and that none met the safety program requirements that the sponsoring SVIA member companies have agreed to for many years under their Action Plans with CPSC. These failures were significant, and include violations of critical ANSI standard provisions such as maximum speed limitations for youth models, brake and parking brake performance, and mechanical suspension. Marchica and Deppa found that *three of the four new entrant ATVs* contained features, such as lack of front brakes, no or inadequate suspension systems, and starting in gear, that, in their expert opinion, may constitute substantial product hazards, *requiring immediate recalls* under Section 15 of the Consumer Product Safety Act. And the two smallest-size ATVs, which are being marketed and sold for use by young children, were deemed "too potentially dangerous" for a youth test-rider to operate because of poor brakes and excessive high speed.

In addition, Marchica & Deppa found numerous new entrant ATVs being marketed to children over the Internet. Three of the four new entrant ATVs tested were found on websites, purchased over the telephone, and delivered directly to the home of one of the experts. These vehicles were delivered without having been properly set up and adjusted, and had major problems such as tires that were flat or severely overly inflated, broken switches, and parts that were loose or dismantled. During the testing, nuts, bolts, and grommets fell off one of the ATVs while it was being operated.

The one ATV that was purchased from a store was delivered with no safety information. In fact, the store salesperson only instructed that if a passenger rode on the child-size ATV—which is designed for a single operator—the passenger should loop a shutoff lanyard (which is supposed to be used by parents for training purposes) *around the wrist of the passenger* so that if he or she falls off, the engine will stop and the vehicle will not run over the passenger. In addition, the website for this ATV's distributor directs purchasers to another website on safety; but, the "safety" website does not exist on the Internet.

The safety problems found by Marchica & Deppa are serious and representative of the hazards created by these new entrant ATV products. Recent industry estimates indicate that new entrant ATVs now account for approximately 20 percent of new sales in the U.S.—that's 20 percent of the new product market and growing. Action needs to be taken now to address the rapidly escalating number of new entrant ATVs that do not comply with the ANSI standards or provide U.S. consumers with adequate safety instruction, warnings, and training.

The recently released CPSC Staff Briefing Package contains an initial draft proposal to address this problem by proceeding with rulemaking to establish a mandatory ATV safety standard, based on the ANSI standard. But this draft proposal could take years to finalize. This is a situation that needs to be addressed immediately, both for the safety of American consumers and the good of the ATV industry generally. I urge the Subcommittee to consider taking immediate legislative action to elevate all companies selling ATVs in the United States to these standards and practices demonstrated by SVIA member companies.

The SVIA continues to extend a welcome to all new entrants into the ATV market in the United States to participate in its programs—key elements of which are aimed at deterring the use of adult-sized ATVs by children under age 16—generally by marketing ANSI-compliant products and providing appropriate safety information and training opportunities to consumers, comparable to those provided under the Action Plans.

Although certain new entrants have accepted the invitation, most have not.

\*The information referred to has been retained in Committee files.

ATV rider safety is the top priority of the SVIA companies and their dealers. In addition to the new entrant issue I addressed previously, the SVIA believes the most effective way to reduce ATV-related injuries is through a three-pronged approach that includes: enforceable state legislation, rider training and education, and parental supervision and responsibility.

State legislatures have an important role to play. Because the states have the authority to regulate—directly—the use of ATVs, SVIA supports state legislation that prohibits the use of adult-sized ATVs by children under 16, carrying passengers on ATVs designed for one rider, operating without an approved helmet and eye protection, and operation on public roads.

The second part of this approach is rider training and education, which I briefly described previously.

The third component of our approach is parental or adult supervision—and I'll add responsibility—for all riders under the age of 16. Parents literally hold the key to a child's safety. Every ATV has an ignition key, and the person who controls the key, controls the use.

Parental supervision is not only a key element for a child's safety, it is imperative. Children under the age of 16 must be supervised at all times when riding a youth-sized ATV.

SVIA formed the ATV Safety Institute (ASI) division in 1988 to implement an expanded national program of ATV safety and awareness that SVIA initiated in 1983.

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. ASI's programs are designed to inspire rider awareness that promotes a commitment to safety and respect for the environment.

ASI is the recognized leader in ATV safety. We improve the safety of riders through the delivery of hands-on training and the publication of educational materials for the ATV community.

More and more Americans are choosing to operate ATVs. Besides recreational use, ATVs are also used in agriculture, a wide variety of industries, and the Armed Forces and municipalities.

Along with increased use there has been an increase in ATV related injuries and fatalities. Sadly, most of these incidents could have been prevented. Consumer Product Safety Commission (CPSC) data show that 92 percent of ATV-related fatalities involved at least one or more warned-against behavior on the part of the rider.

To improve rider safety and communicate responsible use messages, ASI offers the ATV RiderCourse<sup>SM</sup> nationwide.

The ASI RiderCourse is free for purchasers of new ATVs and it is available to others for a reasonable fee. This includes purchasers of used ATVs, purchasers of non-member products, and prospective riders. The enrollment and training process is the same except that the ATV rider initiates contact with ASI. This is easily accomplished through the ASI Website, or toll-free telephone number. The cost for training is \$125 for adults and \$75 for riders under age 16. Approximately 25 percent the annual training is completed by paying students.

Once training is completed, purchasers of new SVIA member company ATVs are eligible for an incentive, typically \$100 cash or equivalent merchandise certificate. And through the "Try Before You Buy" program, paid students get all their training fees plus offered incentives if they take paid training and then buy a new ATV from an SVIA member company.

A major component of the ATV RiderCourse is what we call 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:

- Take an approved training course.
- Ride an ATV that's right for your age.
- Supervise kids under 16.
- Wear the right safety gear, especially a helmet.
- Rider only, no passengers on single rider ATVs.
- Ride only on designated trails and always ride responsibly.

The class is conducted completely outdoors and has a maximum size of eight students for one instructor. The main themes in the ATV RiderCourse are safety and responsible use.

Students practice basic safety techniques with hands-on exercises covering starting and stopping, turning—both gradual and quick—negotiating hills, emergency stopping and swerving, and riding over obstacles. Particular emphasis is placed on the safety implications relating to each lesson.

The course also covers protective gear, environmental responsibility and state and local laws. Participants receive an ATV RiderCourse Handbook, which reinforces the safety information and riding techniques covered during the ATV RiderCourse. Students keep the handbook as a reference as they continue to practice the skills taught in the ATV RiderCourse.

Individuals 6 years of age and older may take the class once a parent or guardian has determined that the youngster is appropriate to ride youth-sized ATVs. We help parents make the decision as to whether ATVing is appropriate for their child through the use of a publication called "*Parents, Youngsters and All-Terrain Vehicles*."

This booklet includes a readiness checklist that covers visual perception/motor skills development, physical development, social/emotional development, and reasoning and decision-making ability. Only after the parent has determined that ATV riding is the right activity for their child, we will train the child with participation from the parent.

In youth classes instruction is targeted as much at the parent as it is to the child. Riders younger than 16 are restricted to ATVs of the appropriate size recommended for the rider's age. There are special teaching provisions for students younger than 16, and parents are encouraged to attend as well. Students younger than 12 participate in separate classes, and a parent must be present during the entire course.

The ATV RiderCourse is only conducted by licensed ATV Safety Institute Instructors. Each licensed Instructor completes a four-day Instructor preparation program and must successfully complete a skills assessment, knowledge test and student teaching experience. SVIA offers its licensed Instructors ongoing professional development as a means to continually enhance the delivery of instruction.

As delivery of the ATV RiderCourse has been enhanced, so too has the administration of the program. As computer and telephony technology improved, ASI began development of a centralized enrollment system in an effort to provide more timely enrollment and training to purchasers. The latest innovation to improve access to training is online enrollment through the ASI website. This system allows students to enroll 24 hours per day, 7 days a week. We are experiencing increased use of this process and expect that its use will continue to grow.

Today, ATV Training is accomplished through a national network of:

- Over 900 Active Training Sites.
- Over 2,500 Active ASI licensed Instructors.
- And 53 Active ASI licensed Chief Instructors.

Over 45,000 ATV RiderCourse students have been trained each year since 2002. Total students trained since 1989 in the ATV RiderCourse is 661,729.

CPSC data show that first-time purchasers without prior riding experience benefit most from ATV training.

Whether a new rider or an experienced one, the feedback ASI receives from ATV RiderCourse participants is overwhelmingly positive. Our goal is to encourage all riders, especially inexperienced riders, to complete training. We accomplish this through continual program improvement and expanded access.

ASI is committed to increasing public awareness of ATV safety programs. ASI has developed a nationwide public awareness campaign to promote the safe and responsible use of ATVs. Activities include a collection of 21 public service announcements for print and web applications addressing the "Golden Rules."

In addition to PSAs, SVIA makes available publications and videos that communicate key safety messages and are useful tools for riders and parents. These include the *Tips and Practice Guide for All-Terrain Vehicle Riders*, the *Parents, Youngsters and All-Terrain Vehicles Booklet*, and the *Ride Safe, Ride Smart* video. Through Video Placement Worldwide, an international service company specializing in placing sponsored educational materials in our Nation's classrooms; we have distributed 3,500 copies of this video, which has been viewed by over 2.8 million people.

In addition to printed material, SVIA uses electronic media as well, including a toll-free ATV Hotline, an "ATV Rally" interactive CD-ROM that was distributed to 1.7 million children, and a School ATV Safety and Awareness Campaign. In this campaign an e-mail to principals across the country asking them to impress upon their students and their parents the importance of all-terrain vehicle safety. A letter accompanied the e-mail to parents and guardians, as well as a flyer "What is an ATV?". We received numerous positive responses, and facilitated requests to translate the letter to parents and guardians into Spanish, and to provide a complete supply of the letter and the flyer for all of their students to take home. The e-mail was sent to over 40,000 principals across the country and has a potential outreach to 5.8 million teachers, parents and students.

The *www.ATVSafety.org* website provides visitors with information about the ATV RiderCourse, Enrollment Express, safety tips, and publications for parents.

Another opportunity for improved safety that SVIA supports is managed recreation opportunities. An example is the Hatfield-McCoy Trail system in West Virginia. This system is managed for family recreation utilizing a well designed and maintained trail system with enforced rules for riding. This area provides an excellent experience for users, keeps riders out of inappropriate areas and has an excellent safety record.

And finally, ASI participates in both enthusiast and non-enthusiast events to promote the safe and responsible use of ATVs. In 2005, we participated in over 60 events in 26 states.

No other industry has undertaken an initiative as comprehensive and far-reaching as the members of the SVIA. SVIA believes it is crucial that all new entrants to the U.S. ATV market, including non-SVIA members, offer appropriate safety information and programs.

Safety messages are also prominently displayed via on-product labels, hangtags, safety videos and in ATV safety alerts provided to prospective purchasers. In addition, ATV dealers are prohibited from selling adult-sized ATVs for use by children under 16.

The SVIA companies share the Subcommittee's strong interest in compliance with ATV safety standards. We urge this Committee to give top priority to fixing the new ATV entrant problem through Federal legislation. The SVIA and its member companies will continue to do their part by promoting rider training and education, state legislation regulating ATV use, and active parental supervision. These steps are the keys to improving ATV safety for children and adults.

Thank you.

Senator ALLEN. Thank you, Mr. Buche.

What we're going to do is now interrupt the second panel. If Ms. Leland can come forward—what we did is—

Senator ALLEN.—and Mr. Buche—I've introduced all the members on the second panel, and Mr. Buche is the first—

Senator PRYOR. Right.

Senator ALLEN.—witness, and Ms. Leland stayed here ready to answer—

Senator PRYOR. Thank you.

Senator ALLEN.—your questions. Well, then I'm going to turn the gavel over to Senator Pryor—

Senator PRYOR. Thank you.

Senator ALLEN.—and I'm going to go vote. And then, once you're through with Ms. Leland, then Ms. Weintraub—

Senator PRYOR. Thank you.

Senator ALLEN.—we'll pick up.

Senator PRYOR. [presiding] Thank you. Thank you, Mr. Chairman.

I'm sorry for the interruption there. I had to race over and vote. I know the Chairman will be back in just a few moments.

Ms. Leland, I know that you are in the process of a rulemaking, right? Do you see the old compliance agreement and some of these Voluntary Action Letters as adequate? In other words, do you see the rule just following that track pretty well or do you think that there will be some differences?

Ms. LELAND. There are some differences in the staff's draft proposed rule that we have presented to the Commissioners. Staff proposes to revise the age guidelines so that youth will have more models available to them which will physically fit them, which will make them lean toward buying and using youth models. It will also open up accessibility to training for youths. So, that is a difference.

There are some mechanical requirements that are different than in the current voluntary standard, including requiring automatic transmission on youth models, prohibiting headlamps, but requiring stoplamps. Staff is also recommending, as part of the rule, that dealers offer certificates of training to each purchaser's immediate family for whom the ATV is age appropriate. And also, staff recommends that the dealers be required to inform—with a piece of paper—inform the purchasers of adult ATVs about the risks of children riding adult ATVs. And the purchasers would be required to sign those, and the dealers would need to keep those on record for at least 5 years.

Senator PRYOR. OK. Let me back up there just for a second. You mentioned headlamps. You're going to prohibit headlamps?

Ms. LELAND. Yes.

Senator PRYOR. Why is that?

Ms. LELAND. Our Human Factors staff has done some research, and we feel that youth should not be encouraged to ride at night. And so, we feel it is necessary to prohibit those.

Senator PRYOR. Do you have statistics that a disproportionate percentage of accidents happen at night?

Ms. LELAND. Our Human Factors staff has looked at research, in terms of lighting and conspicuity. In an analysis of 184 deaths of children that occurred in 1999–2000, CPSC staff found that nine involved children on youth ATVs; one of those occurred after dark. Other than that analysis, CPSC staff has not conducted a formal additional search of the data to determine whether a disproportionate percentage of incidents happen at night.

Ms. LELAND. I don't think many children have been riding at night, because there have not been the headlamps.

Senator PRYOR. OK. And I assume, from what you're saying, that you believe that youth-sized ATVs can be safe. I know that no vehicle is completely 100 percent safe, but they can be safe for children. In other words, I guess I can see an argument that there shouldn't be any youth-size at all, because it's not so much a matter of the size of the vehicle, it's the operator of the vehicle. Do you have a comment on that?

Ms. LELAND. We have data to show that the risk of injury for youth on a youth-appropriate ATV is half that of a youth on an adult ATV. We feel that with proper supervision, with all of the warnings, with the training, that youth can ride youth ATVs.

Senator PRYOR. OK. Now, as I understand it, the numbers of accidents and injuries on ATVs have increased. And to some extent, this is probably because the number of sales have increased. But, as I understand it, the CPSC is saying that it's not just about the number of ATVs that are out there. There's also something else going on. Is it a fact that ATVs are getting bigger and more powerful? Is it a fact that you have some of these imports that are coming in to this country that don't meet safety standards? What's going on in this industry?

Ms. LELAND. We did studies in 1997 and 2001, and those studies did show that there is something more than sales—the increase in sales—to account for the increase in injuries. And I think what you say, in terms of models coming in that don't meet the standard, in terms of youth riding adult ATVs, that all of that plays a part.

Senator PRYOR. And as I understand it, some would like to see a ban on ATV usage below a certain age—say, age 16—they would just like to see an absolute ban on that. The CPSC apparently does not agree with that suggestion. And could you tell us why?

Ms. LELAND. The staff is recommending that certain parts of our proposed rule will address the issue of alerting the parents to the risks of children riding ATVs. Staff feels that our change in age guidelines would allow children to have accessibility to training. They would be riding age-appropriate and fit-appropriate ATVs. And, with the disclosure statement, parents would have all of that information. Staff feels that we have enforceable solutions to the problems of children riding adult ATVs.

Senator PRYOR. OK. It also seems to me that when I look at these two models here on the floor in the Committee room today, clearly one has a number of safety features that the other doesn't. It's intuitive to me that the one without the safety features would be more prone to accidents and injuries. But my question for you is, do the statistics bear that out?

Ms. LELAND. The new entrants are new on the market, and so there is not a track record for those. We do have incidents on the new foreign-entrants ATVs. We do not know at this time if the number of incidents occurring on ATVs made by the new foreign-entrants are disproportionate to the share of the market held by these companies. These new entrants introduced their models into the U.S. market in 2000, and by 2005, approximately 10 percent of ATV sales in the United States were ATVs that were produced by these new entrants. Because of the large number of ATVs already in use, the proportion of all ATVs currently in use that were produced by these new entrants is probably substantially less than 10 percent. These new-entrant products have been primarily youth ATVs; the majority of our youth incidents occur with youth driving and riding on adult ATVs.

Senator PRYOR. My understanding is that some of these new imports vary in terms of the number of safety features they have or don't have. It just depends on the manufacturer, and that changes a lot from model to model. But, as I understand it, some have said that some of these new imports, a few models of them, at least, are—the safety issues are so severe that maybe they should be recalled. Does the CPSC have the power to recall those right now?

Ms. LELAND. I believe that we do.

Senator PRYOR. And are you in the process of doing that, or is that underway, or—

Ms. LELAND. Our Office of Compliance keeps track of what is coming into the market through various methods. And to the extent that we can contact those companies and be in touch with them and develop a recall plan, we can do that. One of the reasons the CPSC staff would recommend mandating the standard is that we would have more enforceability. We would be able to work with Customs officials when these products are coming into the market.

Senator PRYOR. OK. Do the statistics show that there was a fairly pronounced increase in ATV-related deaths right after the consent decree expired. Is that true?

Ms. LELAND. Yes.

Senator PRYOR. And even though the manufacturers still continue to, on a voluntary basis, more or less meet all the terms of the consent decree—do you have an explanation of why you saw an increase in deaths after that consent decree expired?

Ms. LELAND. There are a lot of factors that go into riding ATVs. Many of the incidents involve the use—the way people use them, not following safety recommendations. That could play a part of it. As the sales were going up, people were coming into the market, buying the ATVs. I had mentioned that many of the youth cannot get training, because they're buying the adult ATVs. So, there are a lot of factors involved—

Senator PRYOR. Right.

Ms. LELAND.—in that.

Senator PRYOR. OK. And as part of your rulemaking, are you looking at helmets as a possible requirement?

Ms. LELAND. The staff proposed rule does not include requirements for helmets. We continue to encourage users to wear protective gear, including helmets, and helmets that meet the DOT or the Snell standard. Traditionally, CPSC has not—as in the case of bicycles, CPSC has not required that helmets be available at purchase. So, at this point, the staff is recommending that people continue to wear them. We do mention them in the labels and in the warnings that are mandated. There is information there, telling consumers about the necessity of wearing a helmet. We do encourage companies to co-merchandise helmets with the ATV. We have heard of some companies that do that. We have heard of companies that offer vouchers so that people can use that toward the purchase of a helmet. So, we—

Senator PRYOR. OK.

Ms. LELAND.—recommend those types of activities.

Senator PRYOR. And the last question I have is—I see these two models here on the floor today, and you have one that's from a traditional manufacturer, and the other one is one of these newer imports. One thing I've noticed in Arkansas is that a lot of these imports are sold at nontraditional outlets. I think you talked about direct marketing through the Internet, et cetera. But I see them—some of them, at least—being sold in tire stores and auto-parts places—places that are not truly dealers. And I do have a concern that when people are purchasing these vehicles at these dealers, they're going for the cheapest model. People are getting what they pay for. They're getting a model that really doesn't meet the standards that we've customarily had in our marketplace. So, do you have any comment on that?

Ms. LELAND. That is our concern. In fact, we have seen ATVs for sale directly on the website that can be shipped directly to your home. We do not believe that those come with any type of safety information, no offers of training. So, that is our concern, as well. And our concern is that the numbers of these vehicles being sold through these nontraditional means may increase. That is why, actually, as part of our proposed rule, we would require that there be a domestic contact, an address, telephone number, some way that the American consumer would be able to contact the company.

Senator PRYOR. And you mention dealer requirements, as well, which would cover just any retailer; it doesn't have to be truly an auto dealer—I mean, a motorcycle or ATV dealer, per se, correct?

Ms. LELAND. That's correct. And that would also affect website sales.

Senator PRYOR. Mr. Chairman, that's all I have, and I think we're ready for Ms. Weintraub.

Thank you.

Senator ALLEN [presiding]. Great, thank you. That actually folded in well.

Ms. Leland, thank you so much for coming and testifying and holding over a little bit. Thank you.

Ms. Weintraub, I'd now like to hear from you.

**STATEMENT OF RACHEL WEINTRAUB,  
DIRECTOR OF PRODUCT SAFETY/SENIOR COUNSEL,  
CONSUMER FEDERATION OF AMERICA (CFA)**

Ms. WEINTRAUB. Thank you, Chairman Allen and Ranking Member Pryor. Thank you for the opportunity to speak today and for holding this very important hearing.

My name is Rachel Weintraub. I am the Director of Product Safety and Senior Counsel at Consumer Federation of America.

CFA is a nonprofit association of 300 consumer groups, with a combined membership of more than 50 million people. CFA was founded in 1968 to advance the consumers' interests through advocacy and education.

CFA has been deeply concerned about the safety of ATVs for many years. CFA believes that the current ATV safety standards are failing to protect consumers. We respectfully disagree with CPSC staff's recommendations, and believe that CPSC, Congress, and states should play a much more active role in preventing ATV deaths and injuries.

According to the latest data from CPSC, ATV deaths and injuries affected at least 136,100 people, in terms of having injuries serious enough to require them to go to emergency rooms. The estimated number of ATV-related fatalities increased from 621 in 2002 to 740 in 2003. Children under 16 suffered 31 percent of all injuries in 2004 and 28 percent of all fatalities.

Numbers alone, though, can be cold and sterile. ATVs affect real people, our neighbors, our children, our friends. This past weekend alone, there were reports of 18 deaths across the country. I just want to give you one real-life example. And, unfortunately, there are many, many to choose from.

On May 6, 2002, 10-year-old Kyle Rabe went ATV-riding with his friend Zach in a grassy field in rural Oregon. Kyle was a cautious rider, and he took the time to put on all the appropriate safety gear. On his way home, Kyle hit a rut in his path, lost control of the ATV, it rolled on its side, pinning Kyle to the ground by the small of his back. He was unable to breathe. CPR was administered 15 minutes after the crash, but it was too late. His father remembers tasting the cookies and milk on his breath that he had just had for a snack. Kyle had been riding for over a year and a half without an incident. Despite Kyle's experience, when the 500-pound ATV landed on top of him, he was too small to escape.

The current approach to ATV safety, the industry's self-regulating approach, is truly not working. Not only has self-regulation by the ATV industry led to larger and faster ATVs and more children being killed and injured, these increases have frequently been by statistically significant margins, and the Commission has routinely noted this in annual reports of ATV deaths and injuries. Importantly, they've also noted that they are not explained solely by rising ATV sales or usage.

The failure of the current approach compels the enforcement of a mandatory standard focused, in part, on banning the sale of adult-sized ATVs for use by children. Important evidence that the current voluntary system is failing is based, in part, on CFA's analysis of CPSC data, which found less than 4 percent of injured ATV drivers receive formal safety training; more than 40 percent of injured drivers in 2001 stated that their ATV did not have warning labels, or they didn't know if they did at the time of the incident, while, across the board, the vast majority did, at that time, and still do; and nearly 90 percent of children under 16 years of age were injured while riding adult-sized ATVs.

Our society suffers not only because ATVs cost the lives of almost 750 people each year in the United States. These deaths, and the over 135,000 ATV injuries incurred each year, also cost society considerable amounts of money. An analysis of ATV deaths in West Virginia alone from 1999 to 2003 found that ATVs have cost \$3.4 million in the state. And this takes into account medical costs, the costs of work lost, and the costs of quality-of-life. Taking into account the same factors for the entire country, it cost the United States \$8.9 billion between 1999 and 2003.

CFA analyzed all ATV recalls conducted by CPSC, those that were indicated on CPSC's website. We found some disturbing trends that CPSC staff, in their briefing package, failed to address. For example, we found that 77 percent of all recalls were due to a mechanical failure—36 percent of all ATV recalls involved a suspension failure, while 18 percent of all recalls were due to drivetrain failures. Together these two system failures make up 52 percent, over half, of ATV recalls. We also found that 62 percent of all ATVs were recalled due to the potential for the operator to lose control of the ATV. CFA is unaware of any other category of recalled products which could, in such large percentages, lead to such life-threatening hazards.

CFA is profoundly disappointed with the recommendations contained in the CPSC staff's briefing package. Significantly, the staff fails to recommend that the Commission take strong actions to truly protect children from ATV deaths and injuries. To name just a few of our concerns, CPSC staff's recommendation to weaken the definition of youth-sized ATVs by removing the engine-size component is incredibly problematic. There has been no evidence presented that such a change will save lives, nor any indication from the injury data. Further, we have no confidence that the speed governors will not be easily removed or modified to decrease or eliminate their utility. The training portion of the staff's recommendation does not appear to be substantially different from the *status quo*, fails to ensure the substantive quality of the training, and doesn't do enough to ensure that training will be made geographi-

cally available to everyone who needs it. The ban on 3-wheel ATVs should be accompanied by a recall of all 3-wheel ATVs currently on the market.

And, finally, the briefing package, as well as this hearing, contains numerous references to the problem of imported ATVs. While it is clear that large ATV manufacturers fear the rising percentage of less expensive ATVs as an economic threat, there has been no evidence that we've seen put forth other than the recent study disclosed just a few days ago, certainly not in the briefing package, that indicates that these ATVs pose an added threat to health and safety. In contrast, CFA found that in 2005 alone, 94 percent of all of the ATVs that were recalled, were recalled by major ATV manufacturers. We're concerned that this import issue is shifting the focus from other very, very serious concerns with ATVs. We will look at the data as it emerges, but there are problems with the rest of the 80 or 90 percent of the market involving the major ATV manufacturers and the ATVs they produce.

While CPSC can, and, in our opinion, should, ban the sale of adult-sized ATVs for use by children under 16, we urge CPSC and industry to join us as we work on State efforts to set licensing and rider training requirements, prohibit riders from carrying passengers, and require ATV riders to wear helmets and other protective equipment. Since CPSC staff has failed to recommend that the Commission issue a regulation banning the sale of adult-sized ATVs for use by children, we urge the introduction of legislation that would make the knowing sale of an adult-sized ATV for use by children a violation of the Consumer Product Safety Act. We also suggest that the Committee request GAO studies analyzing CPSC compliance efforts on the ATV voluntary action plans, actual costs to society of ATV deaths and injuries, and analysis of enforcement mechanisms to ensure compliance with existing state laws and the potential for enforcement of a Federal law.

Each and every year, more and more people, especially children, get killed or injured as they ride ATVs. The current approach, the voluntary approach, has allowed these deaths and injuries to not only continue, but also to increase. These deaths and injuries cost society billions of dollars and devastate families forever. CFA urges this Committee to introduce legislation that would actually protect children from the well-documented hazards of riding adult-sized ATVs.

Thank you.

[The prepared statement of Ms. Weintraub follows:]

PREPARED STATEMENT OF RACHEL WEINTRAUB, DIRECTOR OF PRODUCT SAFETY/  
SENIOR COUNSEL, CONSUMER FEDERATION OF AMERICA (CFA)

## **I. Introduction**

Chairman Allen, Ranking Member Pryor, and members of the Subcommittee, thank you for the opportunity to speak today and for holding this meeting. My name is Rachel Weintraub; I am Director of Product Safety and Senior Counsel at Consumer Federation of America (CFA). CFA is a nonprofit 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.

Consumer Federation of America has been deeply concerned about the safety of ATVs for many years. In fact, we have been involved in ATV safety issues since the 1980s when three-wheel ATVs dominated the market. We opposed the consent de-

cree between CPSC and ATV manufacturers in 1988 because we felt that it did not adequately protect consumers. We petitioned CPSC in the 1990s and again in 2002, and legally challenged CPSC's abandonment of their ATV rulemaking in the 1990s. The Commission deferred action on our most recent petition, CP-02-4/HP-02-1,<sup>1</sup> which requests that the U.S. Consumer Product Safety Commission ban the sale of adult-size four-wheel all-terrain vehicles "ATVs" sold for use by children under sixteen years of age. We have testified before the Commission on two occasions in support of our petition.<sup>2</sup> The CPSC briefing package that has just been released makes recommendations to the CPSC Chairman and Commissioners about how they should proceed on this issue. While CFA has enormous respect for CPSC staff, we respectfully disagree with their recommendations and believe that CPSC should play a much more active role in preventing ATV deaths and injuries.

## II. ATV Death and Injury Data

According to the latest data from CPSC on ATV deaths and injuries, released in October 2005,<sup>3</sup> at least 136,100 people have suffered ATV injuries that were serious enough to require emergency room treatment in 2004. This is an increase of almost 8 percent, from 125,500 in 2003. Children under 16 suffered 31 percent of all injuries in 2004, or 44,700 injuries, up from 38,600 injuries in 2003, 37,100 injuries in 2002 and 34,300 in 2001. This age group received more serious injuries than any other. The estimated number of ATV-related fatalities increased from 621 in 2002 to 740 in 2003, according to the latest data from CPSC. In 2004, ATVs killed at least 130 children younger than 16, accounting for 28 percent of all fatalities. Between 1985 and 2004, children under 16 accounted for 31 percent of all injuries and 31 percent of all deaths.

Numbers alone can be cold and sterile. I want to talk about some of the children who make up these statistics.

On May 6, 2002, 10-year-old Kyle Rabe went riding with his friend Zach in a grassy field in rural Oregon. Kyle was a cautious rider and he took the time to put on riding boots, gloves, layered clothing, and a full-face, approved helmet. On his way home, Kyle took a shortcut down a gentle slope, hit a rut in his path, and lost control of the ATV, sending it careening to the left and throwing Kyle down the hill. The ATV rolled on its side, pinning Kyle to the ground by the small of his back. Kyle was unable to breathe despite being uninjured. CPR was administered 15 minutes after the crash but it was too late. Kyle had been riding for over a year and a half without an accident. Despite Kyle's experience, when the 500-pound ATV landed on top of him, he was too small to escape.

James Anderson was just 14 years old when he died on August 8, 2004. On a vacation in New Hampshire with a group of friends, a supervising parent allowed James to ride a 700-pound 500cc ATV that could travel highway speeds. James crashed that ATV into a tree on a backwoods trail, killing him instantly. Before that weekend, James had never ridden anything but a bicycle.

Bryan "B.J." Smith was a confident young man who dreamed of being a football star. One Monday, he and his cousin decided to show off for a few neighborhood friends on a newly purchased ATV. B.J. was driving the ATV at a very high speed when a dog ran out and clipped one of the front wheels, spinning the ATV and throwing B.J. 25 feet. B.J. remained in a coma for 3 weeks at the hospital, enduring multiple brain surgeries, infections, and seizures. It took four and a half months in the hospital and two stints in rehab facilities for B.J. to return home. B.J. was lucky to survive his accident but will never be able to play football again.

## III. Failure of the Current Voluntary Approach

CFA's recommended policy solution 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 these increases cannot be explained solely by rising ATV sales or usage. We

<sup>1</sup> Consumer Federation of America filed the petition on August 20, 2002, along with the American Academy of Pediatrics, American College of Emergency Physicians, Bluewater Network, Danny Foundation for Crib & Child Product Safety, Kids in Danger, National Association of Orthopaedic Nurses and the U.S. Public Interest Research Group.

<sup>2</sup> CFA testified in the June 5, 2003 field hearing in West Virginia and in the March 2005 hearing on CPSC staff's briefing package.

<sup>3</sup> U.S. Consumer Product Safety Commission, 2004 Annual Report on All-Terrain Vehicle (ATV)-Related Deaths and Injuries, October 2005, available on the web at <http://www.cpsc.gov/library/foia/foia05/brief/atv2004.pdf>.

believe that the failure of the current approach compels CPSC, Congress and state governments to be involved, in part, through the enforcement of a mandatory standard.

A court-approved consent decree between ATV manufacturers and the U.S. Consumer Product Safety Commission, which forced the industry to end production of highly dangerous three-wheel ATVs, expired in 1998. Since that time, some manufacturers have been operating under voluntary, unenforceable “action plans.” These action plans rely on fine print in ads, warning labels, and recommendations enforced at the discretion of manufacturers. This voluntary approach is failing to curb the rising tide of ATV death and injuries and CPSC staff’s recommendations do nothing more than continue this failed approach.

In 2003, CPSC issued the latest in a long line of studies documenting the dramatic increase in ATV injuries and deaths.<sup>4</sup> In assessing trends between 1997 and 2001, the Commission provides compelling evidence that the industry is failing to protect consumers. CPSC concludes that:

- ATV-related injuries requiring emergency room treatment more than doubled, rising by 108 percent from 52,800 to 110,100, while the number of ATVs in use increased by less than 40 percent;
- Injuries suffered by children under 16 increased 66 percent to more than 34,000 in 2001. The proportion of these children among the driving population grew by 13 percent;
- Injuries caused by bigger and more powerful ATVs, defined by the Commission as machines with engines bigger than 400cc, shot up 567 percent, from 3,662 to 24,437, while the number of these machines grew by less than half as much;
- Less than 4 percent of injured ATV drivers received formal safety training from a dealer, salesperson or organized training program. This proportion is unchanged since 1997;
- More than 40 percent of drivers injured in 2001 stated that their ATV did not have warning labels or they did not know if it did at the time of their accident; and
- Nearly 90 percent of children under 16 years-of-age were injured while riding adult-size ATVs, in spite of the industry’s voluntary policy not to sell these machines for use by children. This proportion is also unchanged since 1997.

#### **IV. Cost to Society**

Our society suffers not only because ATVs cost the lives of almost 750 people each year in the United States. These deaths and the over 135,000 ATV injuries incurred each year also cost society considerable amounts of money. An analysis of ATV deaths in West Virginia alone from 1999 to 2003 found that ATVs have cost \$3.4 million, taking into account medical costs, the costs of workloss and cost of quality-of-life.<sup>5</sup> Taking into account the same cost factors, estimated ATV deaths in the United States from 1999 to 2003 have cost \$8.9 billion. These figures do not consider the cost of ATV injuries and do not take into account the costs of medivac transport, for example, that many jurisdictions have to pay for when an ATV crash in a rural area occurs far from a hospital trauma center. Tragically, these vast costs compel government action. With appropriate Federal and state regulations, lives as well as billions of dollars could be saved.

#### **V. Recall Analysis—Problems Illustrated**

CFA analyzed<sup>6</sup> all ATV recalls conducted by CPSC that are cited on CPSC’s website.<sup>7</sup> Our initial goal was to determine whether there were any pervasive haz-

<sup>4</sup>Levenson, Mark S., U.S. Consumer Product Safety Commission, “All Terrain Vehicle 2001 Injury and Exposure Studies,” January 2003.

<sup>5</sup>Helmkamp, Jim, Ph.D., MS, FACE Director, West Virginia University Injury Control Research Center, Research Professor, Department of Community Medicine West Virginia University conducted a Human Capital approach study incorporating medical, work loss and quality of life components to estimate the cost of reported ATV-related fatalities. This approach is based upon the 2002 National Highway Administration report, “The Economic Impact of Motor Vehicle Crashes, 2000” (Report DOT HS 809–446). The assumption was made that ATVs are motor vehicles, and in the absence of a specific model for ATV-related fatalities, the NHTSA model is used for ATV crashes.

<sup>6</sup>CFA was assisted in this effort by an engineer who works for Consumers’ Union, publisher of *Consumer Reports* Magazine. This engineer helped to categorize the failure type, system failure and type of hazard.

<sup>7</sup><http://www.cpsc.gov/cgi-bin/recalldb/prodpr.asp>.

ards appearing among recalled ATVs. Specifically, we encourage CPSC to propose safety standards that could solve the most pervasive problems appearing in recalls.

CPSC conducted 48 recalls of ATVs involving a total of 1,206,400 units from June 2000 to November 2005. From January to November 2005, there were 17 ATV recalls involving 80,910 units. The ATVs recalled in 2005 alone make up 35 percent of the number of ATV recalls and 7 percent of the total number of units recalled. 94 percent (45 out of 48) of all ATV recalls were conducted due to the potential for serious bodily injury or death.

*Failure Type:* We categorized ATV recalls by type of failure to capture the type of system failure upon which the recall was predicated:

- 77 percent of all recalls were due to a mechanical failure.
- 13 percent of all recalls were due to a fuel or fire risk.
- 8 percent of all recalls were due to an electrical failure.
- 2 percent of all recalls were due to a labeling error.

*System Failure:* We sought to characterize ATVs by a more specific, system-wide failure type:

- 36 percent of all ATV recalls involve a suspension failure.
- 18 percent of all ATV recalls involve a drive train failure.
- 16 percent of all ATV recalls involve a brake failure.
- 11 percent of all ATV recalls involve a fuel leak.
- 9 percent of all ATV recalls involve a throttle failure.
- 7 percent of all ATV recalls involve wheel failures.
- 4 percent of all ATV recalls involve a computer failure.
- 2 percent of all ATV recalls involve an electrical or wiring failure.
- 2 percent of all ATV recalls involve an oil leak.
- 2 percent of all ATV recalls involve a missing label.

We believe that failures in the suspension category are particularly important for CPSC to consider as it moves forward with an ANPR on ATVs. CPSC should seek to determine why 34 percent of all recalls were due to suspension failures and why 18 percent of all recalls were due to drive train failures. Together, these two system failures make up 52 percent—over half—of all ATV recalls. We urge CPSC to use its institutional expertise to determine why these suspension and drive train failures occurred in ATVs manufactured by numerous companies and what types of performance or design standards could be instituted to prevent these types of failures in the future. We are concerned that the CPSC staff's briefing package does not adequately take this information into account.

*Hazards posed by recalled ATVs:* We sought to categorize ATV recalls by the type of hazard posed by the ATV. We found:

- 62 percent of all ATVs were recalled due to the potential for the operator to lose control of the ATV.
- 19 percent of all ATVs were recalled due to the potential for fire.
- 15 percent of all ATVs were recalled due to the potential for a failure of the ATV to stop.
- 2 percent of all ATVs were recalled for a failure to comply with labeling requirements.
- 2 percent of all ATVs were recalled due to the potential for a flying projectile to hit an ATV operator or bystander.

The hazard posed by a large majority of recalled ATVs is severe, leading to the potential for a loss of control, serious injury or death. The seriousness of the potential hazard should compel CPSC to look critically at the pervasive causes for ATV recalls and to seriously consider solutions that will solve some of these problems. CFA is unaware of any other category of recalled products which could, in such large percentages, lead to such life threatening hazards

## **VI. Weakness of CPSC Briefing Package**

CFA is profoundly disappointed with the recommendations contained in the CPSC staff's briefing package. Significantly, the staff fails to recommend that the Commission take strong actions to truly protect children from ATV deaths and injuries. Further, the staff's recommendation largely keeps in place the same failed voluntary system which relies upon the ATV industry to communicate safety information to consumers as a way to curb ATV death and injuries.

CFA is concerned about the following components of the CPSC staff's recommendations:

- The specific mechanical performance requirements fail to take into account all factors leading to ATV recalls as well as all technological means of increasing safety.
- CPSC staff's recommendation to weaken the definition of youth-size ATVs by removing the engine size component is incredibly problematic. There has been no evidence presented that such a change will save lives nor any indication from the injury and death statistics compiled by CPSC that would suggest abandoning this principle. Thus, we see no support for the creation of a new "transitional" class of ATVs, which would serve to place children on larger, heavier and more powerful ATVs. Further, we have no confidence that the speed governors will not be easily removed or modified to decrease or eliminate their utility.
- The safety warnings, hang tags, etc. will be used to communicate safety information to consumers. This is merely a perpetuation of the same failed components of the ATV Action Plans. This relies upon the premise that consumers are actually 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 and falls short when it recommends the same flawed approach.

Furthermore, there is no evidence confirming that the presence of a label on a product assures consumer understanding and knowledge about the dangers of that product. However, CPSC staff does 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. While the disclosure statement warning consumers about the possible consequences of riding ATVs is better than the *status quo* it is insufficient, alone, to significantly decrease ATV deaths and injuries.

- The "training" portion of the staff's recommendation does not appear to be substantially different from the *status quo*, fails to ensure the substantive quality of the training and doesn't do enough to ensure that training will be made geographically available.
- The ban on three-wheel ATVs should be accompanied by a recall of all three-wheel ATVs in the market.
- The briefing package contains numerous references to the "problem of imported ATVs." While, it is clear that the large ATV manufacturers fear the rising percentage of less expensive ATVs as an economic threat, there has been no evidence put forth in the briefing package or anywhere else indicating that these ATVs pose an added threat to health and safety. In contrast, CFA has found that:
  - For ATV recalls listing the country of manufacture, 20 were manufactured in the United States, 3 were manufactured in Canada, 3 were manufactured in Japan, 1 was manufactured in Taiwan; and 1 was manufactured in China.
  - 91.7 percent of ATVs recalled involved ATVs manufactured by major ATV manufacturers who are members of the Specialty Vehicle Institute of America (SVIA).<sup>8</sup>
  - In 2005 alone, 94 percent (16 out of 17) of ATVs recalled were manufactured by major ATV manufacturers.

<sup>8</sup>Polaris joined SVIA in September of 2005.

Thus, CFA is concerned that efforts to deal with imported ATVs will have a marginal if any benefit to the health and safety of Americans riding ATVs.

## **VII. Benefit of a Federal Rule—Role of CPSC**

### *A. Children Should Not Ride Adult-Size ATVs*

The Commission, as well as the American Academy of Pediatrics (AAP), the American Academy of Orthopaedic Surgeons (AAOS) and the ATV industry's trade association, the Specialty Vehicle Institute of America (SVIA) have long standing policies stating that it is inappropriate for children under 16 years old to operate or otherwise ride adult-size ATVs. Our petition sought to give CPSC the necessary tools to enforce this guideline since no Federal mandatory ATV safety laws currently exist now. The Commission and experts in child health have concluded that children should not ride adult-size ATVs because ATVs are inherently difficult to operate for adults and beyond the development capability of children to control. Unfortunately, the staff's briefing package does not even consider the substance of our petition, but rather dismisses it out of hand.

According to CPSC, drivers of ATVs must make complex split-second decisions: If the ATV hits a bump, the driver has to determine almost instantaneously, the throttle setting, steering angle, and position of his/her body on the ATV. Such information can only be processed so fast and if the occurrence of the circumstances exceeds the ability of the driver to react appropriately, an incident will likely occur.<sup>9</sup>

CPSC has determined that children do not have the physical or mental abilities to make these complex, split-second decisions. We are not aware of any change in this perspective by CPSC.

The AAP and AAOS have issued formal policies concluding that ATVs are a significant public health risk; that children younger than 16 should not be allowed to operate ATVs, and that the safe use of ATVs requires the same or greater skill, judgment and experience as needed to operate an automobile.

While there seems to be almost universal agreement among experts that children should not be riding adult-size ATVs, no mechanisms are in place to ensure that this does not happen. Unfortunately, we know that children do ride adult-size ATVs and that that too many children are getting killed and injured when they drive vehicles that are too large for them. For example, over 90 percent of children who were injured on ATVs were driving vehicles that are too large. Our petition seeks to solve this problem through the issuance of a mandatory regulation that would give CPSC enforcement authority over ATV dealers who knowingly sell adult-size ATVs for use by children under age 16.

### *B. CPSC's Role*

Federal regulation barring the sale of certain ATVs for children could significantly change legal and other dynamics facing the ATV industry, and dealers in particular. When the consent decrees were in effect, CPSC reported that compliance was consistently high. Compliance dropped dramatically when replaced with a 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. 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 that existed 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.

## **VIII. Role for States in Conjunction With Federal Role**

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 and rider training requirements, 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.

<sup>9</sup>U.S. Consumer Product Safety Commission, *Briefing Package on All-Terrain Vehicles*, March 1991, p. 19.

### **IX. Congressional Role**

CFA believes that there is an important role for Congress to play in seeking to solve the public health crisis caused by ATVs.

#### *A. Legislation Prohibiting Knowingly Selling an Adult-Size ATV for Use By Children a Violation of the Consumer Product Safety Act*

Since CPSC staff has failed to recommend that the Commission issue a regulation banning the sale of adult-size ATVs for use by children, we urge the introduction of legislation that would make the knowing sale of an adult size ATV for use by children a violation of the Consumer Product Safety Act.

#### *B. Request GAO Studies*

We also suggest the request for GAO studies analyzing CPSC compliance efforts on the ATV voluntary action plans; actual costs to society of ATV deaths and injuries; and an analysis of enforcement mechanisms to ensure compliance with existing state laws and the potential for enforcement of a Federal law. We believe that these studies will fill existing gaps in the current knowledge of what is known about ATVs and their consequences.

### **X. Conclusion**

Each and every year, more and more people, especially children, get killed or injured as they ride ATVs. The current voluntary approach to safety has allowed these deaths and injuries to not only continue but also to increase. Every year, more and more families have to deal with the loss of loved ones, caring for a severely injured family member as well as the vast costs of medical care all caused by riding ATVs. Unfortunately, the staff's briefing package recommends a continuation of the current voluntary regime. Thus, CFA is vastly disappointed that CPSC staff has not urged a bolder course of action for CPSC. Finally, due to the absence of a strong recommendation from CPSC staff, CFA urges this Committee to consider requesting studies from GAO to fill in gaps in our knowledge about ATVs as well as introducing legislation that would actually protect children from the well-documented hazards of riding adult-size ATVs.

Senator ALLEN. Thank you, Ms. Weintraub, for your testimony. Now we'd like to hear from Mr. Williams. You may proceed.

#### **STATEMENT OF BRETT WILLIAMS, GENERAL MANAGER, COLEMAN POWERSPORTS**

Mr. WILLIAMS. Mr. Chairman, members of the Subcommittee, I'd like to thank you for the opportunity to come and offer some testimony to you today.

I'm not much of a political animal. My name is Brett Williams. I'm the General Manager of Coleman PowerSports. We are a large power sports dealer/retailer—motorcycles, watercraft, ATVs, of course—with two locations—

Senator ALLEN. Bring your microphone even closer.

Mr. WILLIAMS.—one in Falls Church, and one in Woodbridge.

ATVs have become a major part of our business. My, for lack of a better term, "expertise" in this area, I guess, is, where the rubber meets the road, I've worked at the dealership level from 1987 until now, spent some time as a representative for a major manufacturer, American Suzuki, and have seen ATVs go from the odd things that we sold off-in-the-corner to close to 30 percent of our business. Again, we're a major retailer. We sell in the hundreds of these a year. The people who are buying them are very much, you know, family oriented. They are, we call them, "vacations on trailers," where they're buying two or three, for the whole family. They're good citizens. They obviously care about safety of themselves and children. We care about their safety.

All the ATVs we currently sell are from the major manufacturers: BRP, Honda, Kawasaki, Suzuki, Polaris, and Yamaha. We've

been very satisfied with the quality of the ATVs, themselves, and the standards by which they hold us to. There are—and it's a severalfold thing. We have highly-paid, highly-trained guys that build these ATVs, because they do come crated, they do come partially assembled. And there are three layers of people that are getting to them before the consumer. There's a technician that builds them, a master technician that does a quality control of them, and then, of course, a service manager or service advisor that's going over the unit with the customer at time of delivery. So, three layers of people have touched this unit from the time it arrived in the crate until the time it's given to the consumer.

There's a billed checklist with safety things, 50 to 75 points of which we have to check—you know, tighten, as far as bolts, and the assembly process, and then what we have to then go over with the consumer. My concern with these come on that same level. They're often sold to consumers—the off brands—either directly, as this one was, on the Internet, where it arrives to the consumer in a crate, and you're hoping that they can put it together, like the dresser you got from IKEA, as opposed to something that you're going to put your child on and let him ride. We have—we're having trouble with them. There are large parts—Pep Boys retailer next to us that was selling these, just the month before Christmas. I noticed they've—they disappear during the rest of the year, and they show up at Pep Boys right around November. And, even us, we probably sell as many of these youth-unit ATVs in the 2 weeks before Christmas as we do in the 3 months before, as, obviously, these are being bought for Christmas presents.

And as we are reviewing the age requirements, and we have, you know, a customer in front of us—and I've had several uncomfortable conversations, especially this last year, with parents who are angry at my sales people for not selling their ten-year-old a 90cc or 110cc ATV, because it's against our voluntary agreement. And once we know that that's who it's for, we refuse the sale altogether, even if the parent then says, "Well, then, it's not for him, it's for me," you know, which is a common thing to say. This year, the new argument is, "Well, the guy at Pep Boys will sell me whatever I want." So, it became an ongoing issue with us being the bad guy by telling them they can't—their child can't operate this vehicle, and it shouldn't be operated by their child, and the guy at Pep Boys saying it wasn't a problem, if they even talked to anybody over there.

They're operating these things that are being purchased without safety gear, without helmets, without training. We not only offer training—the certificate's given to them that's then done by the ATV Institute—we offer training onsite. We have a cone set up, and we get to go through the controls with the child, the operator, preferably, how to operate the controls, the reverses, the parking brakes, all the little safety features. We do teach the parents how to change the governor settings so that they can operate how fast or slow the ATV will move for the child. There are even some hidden governors and hidden restricters that only a parent could get to, as far as throttle restrictions and exhaust restriction devices.

My concern here is—we have a lot of philosophical differences in what is safe and what's not. And four-wheelers are fun. They are

a risk behavior. You can control that risk with the safety of the unit and the safety of the operator and proper supervision, obviously. Parents have to be involved—adults have to be involved in where and how they're using them.

I'm concerned, now, with these—because, you're right, there are not a lot of studies yet, but I say it borders on common sense, that this vehicle does not have proper footwell protection, there's no parking brake, there's no guard on the chain or drive system. A child can easily run over his own foot with it. Some of these come with no front brakes. The controls that are being used in the throttles and hands are the same that they use on small mopeds and bicycles; they're not meant to be operated the way an ATV is. My shop currently—I've got 15 to 20 of these that we've taken on trade for these vehicles, but then don't sell. We scavenge them for parts, or we put them into our mechanics lien auctions for people that want to use the motors and things like that. We just don't consider them safe for use by consumers.

As, kind of, averse as I can be to Federal regulation, I do think that if it's going to be done properly, if we're going to make a difference here, that the one legislation that should be considered is that all ATVs, domestic and foreign, be held to the same product and safety standards, and that all the U.S. consumers receive the adequate safety information and free hands-on training for new ATVs. And I would add that these are delivered by a professional that has been trained in ATVs and safety and the operation of it, and not just given to somebody to use.

Thank you for your time, and I welcome any questions.

[The prepared statement of Mr. Williams follows:]

PREPARED STATEMENT OF BRETT WILLIAMS, GENERAL MANAGER,  
COLEMAN POWERSPORTS

Mr. Chairman and members of the Subcommittee, I want to thank you for the opportunity to appear here this morning. My name is Brett Williams. I am the General Manager of Coleman PowerSports. We have two Coleman PowerSports stores in Virginia, located in Falls Church and Woodbridge, where we employ over 120 persons. Our dealership originally opened in 1963 and is 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).

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. 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. Like our customers, the vast majority of ATV enthusiasts are responsible citizens who care about their families and their rights to participate together in recreational activities.

As General Manager, I oversee our dealership's sales practices. Coleman MotorSports sells several brands of ATVs from the major manufacturers, including Bombardier, Honda, Kawasaki, Suzuki, Polaris, and Yamaha. We have been very satisfied with the quality of these vehicles, which are manufactured in accordance with the ATV industry's voluntary product standards. Our customers have also been satisfied with the quality of these products—in fact, many of them are repeat buyers.

In addition, the major ATV manufacturers require us to take many steps to promote safe and proper use of the vehicles. At Coleman PowerSports, we believe that these requirements are part of responsible selling practices. We take these practices seriously because we care about our customers and want their ATV experiences to

be safe and enjoyable. All responsible dealers do. For example, 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. Our dealership works hard to make sure all sales personnel comply 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 major 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.

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 believe that state ATV safety laws are another potentially effective way to promote safe and responsible use of the vehicles. However, we do not support the proposed Federal ban on dealer sales of adult-size ATVs for use by children under 16. As I previously indicated, the major ATV manufacturers already prohibit us from making such sales. The problem is not in the dealer showrooms. It is out where the products are being used. So if you really want to make a positive difference on ATV safety, the focus should be ensuring American consumers have safely-designed, quality products and are given the appropriate riding instructions, warnings, and training to use their ATVs safely and responsibly. Passing a Federal law that is targeted against small independent businesses, like our dealerships, is nothing more than a political gesture that will have no positive real-world effect.

There is a role, however, for meaningful Federal legislation. Over the past several years, there has been a flood of new ATV products, mostly from China and Taiwan, that are being sold through nontraditional retail outlets, including the Internet and big box stores. These products are poorly made, do not comply with the ATV industry's voluntary standards, and are being sold with virtually no safety, training, or product support. By short-cutting on quality and safety, these products are being sold at cheaper prices and steadily gaining greater and greater market share, but at unacceptable costs to consumers from a safety and reliability standpoint. A number of Virginia consumers have brought these noncompliant ATVs to our dealership for repair. The units are so poorly made that repair is not an option. And we simply cannot assume the risk of even trying to fix these vehicles, given their shoddy construction and the obvious safety hazards they create. Instead, we tell consumers to dispose of them and to only purchase ATVs that comply with the industry's voluntary standards and provide the type of safety, training, and product support that the major ATV companies offer.

All manufacturers, distributors, and retailers that sell ATVs in the United States should be held to the same standards. The continuing flood of these noncompliant ATVs hurts our business, unfairly harms the reputation of the entire ATV industry, and—most importantly—undermines the safety of U.S. consumers. On behalf of all the ATV dealers in Virginia and across the country, we ask that this Subcommittee consider Federal legislation that provides a level-playing field for ATV safety, by ensuring that: (1) all U.S. consumers receive adequate safety information and training opportunities; and (2) all ATV manufacturers and distributors—domestic and for-

aign—are held to the same product safety and quality standards. That type of Federal law would make a positive and immediate difference, and it should be enacted as soon as possible to promote the safety of U.S. consumers and to end the unfair and unethical practices of these new entrants who are damaging the industry and small businesses like our dealership.

Thank you again for the opportunity to participate in this morning's hearing. I welcome your questions.

Senator ALLEN. Thank you, Mr. Williams, for your testimony. In fact, that's one of—we're going to hear from all the witnesses. We hear all these. It's good to hear what the differences are in the safety features. And you are aware of the point-of-sale, point-of-contact, and I commend you for the responsible way that you, at Coleman PowerSports, sell. And obviously, you could make more money doing the other way, but thank you for your ethical, responsible behavior and your testimony.

Mr. WILLIAMS. Thank you, Mr. Chairman.

Senator ALLEN. Dr. Aitken?

**STATEMENT OF MARY AITKEN, ASSOCIATE PROFESSOR,  
DEPARTMENT OF PEDIATRICS, UNIVERSITY OF ARKANSAS  
FOR MEDICAL SCIENCES**

Dr. AITKEN. Thank you, Mr. Chairman. My name is Dr. Mary Aitken, and I appreciate this opportunity to present testimony on behalf of the American Academy of Pediatrics.

The AAP commends you and the entire Subcommittee for holding hearings on the safety and regulatory issues involved with all-terrain vehicles. For over 20 years, the AAP has been calling attention to the grave risks of ATV-riding for children, and urging the Federal Government to take more aggressive action to curb the deaths and injuries associated with ATV crashes.

ATVs do pose unique dangers to the children who ride or operate them. Allow me to share with you just a few of the statistics regarding children and ATVs.

Between 1982 and 2004, over 2,000 children were killed in ATV crashes. In 2004 alone, 130 children perished due to injuries sustained when riding an ATV. An estimated 44,700 children were treated in emergency departments for ATV-related injuries in 2004, the equivalent of about 900 school buses of children. Injuries sustained by children riding adult-sized ATVs are often very serious, including brain, spinal cord, abdominal, and complicated orthopedic injuries.

I can 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. Just this week, sadly, an 11-year-old who was visiting Arkansas from California died of severe brain injuries after he failed to negotiate a hill and the ATV he was riding flipped. This child, who had no ATV experience, was riding alone and without a helmet when injured, according to news reports.

Currently, Arkansas Children's Hospital admits more than 60 children each year, an average of at least one per week, due to significant ATV injuries, and our emergency department treats many more. Traumatic brain injuries and severe orthopedic injuries are the most frequent injuries we see in children ranging from only a few months old, riding as ATV passengers, to pre-teen and teen

drivers. We recently published a case series describing seven patients with severe face and neck lacerations who had driven their ATVs through barbed-wire fences, including one youth who narrowly survived a near decapitation. He will likely experience lifelong disability as a result of his injuries. ATV injuries also tend to be extremely dirty, and, in some cases, necessitate multiple surgeries to clean and repair the damage. Some patients must essentially be treated as burn victims and receive skin grafts. I know, from my experience both as a clinician and as a researcher, that the impact on the children and on their families is both profound and long-lasting.

The primary Federal power regarding off-road vehicles is vested in the Consumer Product Safety Commission. Over the past two decades, the CPSC has engaged in an uneven and sometimes inconsistent pattern of regulation for ATVs. The Academy and its partners have engaged in repeated efforts to educate the Nation about the hazards of ATVs for children and urge the courts and the CPSC to adopt stricter standards. Today, however, the only Federal regulation of ATVs consist of consent decree provisions under voluntary action plans which are unenforceable and carry no penalties for noncompliance.

In Arkansas, we've been very successful in engaging with ATV manufacturers and dealers in our safety efforts, and I'm convinced that collaboration between the industry, the public health community, and other groups are vitally important to solving the problem of ATV injury. My own experience indicates that ATV dealers and other industry representatives are sincerely concerned, as we all are, about this problem and want to see ATVs used as recommended.

The Voluntary Action Plans require dealers to obtain signed acknowledgement from purchasers that they understand the age requirements for ATV use. However, CPSC's own undercover inspections have revealed uneven compliance with this requirement. The 2005 staff briefing package acknowledged that compliance with this requirement appears to have declined since 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." This indicates that over those 3 years, approximately one-third of dealers failed to comply with these requirements. These figures represent an unacceptable failure rate and indicate the ineffectiveness of the voluntary plans in this regard.

Like the CPSC, the Senate Commerce Committee has the power to reduce ATV-related deaths and injuries amongst our Nation's children. If the Federal Government adopted limitations on ATV use by children, this would serve as both a powerful message and a model for states and localities. The attention and publicity generated would educate parents, many of whom are unaware of the safety risks for the vehicles. The American Academy of Pediatrics has issued specific recommendations for all policymakers regarding children and ATVs. First, children under 16 should not operate ATVs. An ATV can weigh in excess of 500 pounds and travel at speeds greater than 60 miles an hour. Children do not possess the physical strength, coordination, or judgment necessary to pilot these vehicles effectively. When a child crashes in one of these

large machines, it often rolls over on them or traps them beneath it. The result is devastating injuries, as I've described.

A driver's license should be required to operate an ATV. No state or local government allows its children to drive cars, yet an unlicensed child is permitted to drive an ATV at high speeds without a helmet on unpaved surfaces in virtually every area. This defies all logic. The safe use of ATVs requires the same or greater skill, judgment, or experience as needed to drive an automobile. Alcohol use by operators of ATVs should be prohibited, with zero tolerance among 16- to 20-year-old operators. ATV use should be banned on paved roads. Appropriate protective gear should be required to operate an ATV. Carrying passengers on an ATV should be prohibited. ATVs should not be operated before sunrise or after sunset. And, finally, manufacturers should continue to redesign ATVs to improve safety.

Unfortunately, the measures proposed today by the CPSC fail to address any of the AAP's policy recommendations adequately. As a result, the CPSC proposals cannot be expected to have any meaningful impact on ATV injuries or deaths among children. The AAP is disappointed by the CPSC document, which represents a fundamental lack of leadership and vision for keeping our children safe.

In conclusion, the American Academy of Pediatrics urges you to support meaningful restrictions on children riding or operating ATVs. Clearly, ATVs pose a significant hazard to the children who ride them. This fact is indisputable. The cost to society is also high, not only in loss of life and health, and but in actual dollars. In March 2005, in the journal *Pediatrics*, we published a study that estimated hospital charges alone were in excess of \$74 million over a 2-year period for pediatric ATV injuries. If no further action occurs this year, we can expect over 100 children to die and over 40,000 to visit emergency rooms again next year due to ATV-related incidents.

The present state of affairs has been ineffective in keeping our children safe. I hope the Committee will take a leadership role in this issue and assure the safety of children by supporting the commonsense measures recommended by the American Academy of Pediatrics.

Again, thank you for the opportunity to make this testimony, and the AAP looks forward to working with you on these safety issues.

[The prepared statement of Dr. Aitken follows:]

PREPARED STATEMENT OF MARY AITKEN, ASSOCIATE PROFESSOR, DEPARTMENT OF  
PEDIATRICS, UNIVERSITY OF ARKANSAS FOR MEDICAL SCIENCES

I appreciate this opportunity to testify today before the Senate Commerce Subcommittee on Consumer Protection, Product Safety, and Insurance regarding all-terrain vehicles (ATVs). My name is Dr. Mary Aitken, and I represent the American Academy of Pediatrics, a nonprofit professional organization of 60,000 primary care pediatricians, pediatric medical sub-specialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults.

The AAP commends the Subcommittee and you, Chairman Allen, for holding this hearing on the safety and regulatory issues involved with all-terrain vehicles (ATVs). For over 20 years, the AAP has been calling attention to the grave risks of ATV riding for children and urging the Federal Government to take more aggressive action to curb the deaths and injuries associated with ATV crashes.

ATVs pose unique dangers to children who ride or operate them.<sup>1</sup> In fact, from the perspective of injury prevention, children riding ATVs often represent the perfect recipe for tragedy due to the confluence of multiple high-risk factors:

- *Person Factors*: Children lack the physical and developmental maturity to operate an off-road vehicle safely, especially in terms of judgment.
- *Environment Factors*: Areas where ATVs are used are often difficult to access for rescue crews due to distance and challenging terrain.
- *“Agent” Factors*: ATVs allow high rates of speed and completely expose the driver. ATVs have a well-known tendency to roll if not used properly.

### All-Terrain Vehicles

Allow me to share with you the statistics regarding children and ATVs:

- Between 1982 and 2004, over 2,000 children were killed in ATV crashes. In 2004 alone, 130 children perished due to injuries sustained when riding an ATV.<sup>2</sup>
- An estimated 44,700 children were treated in emergency departments for ATV-related injuries in 2004—the equivalent of 900 schoolbuses full of children. A line of 900 schoolbuses would stretch from the White House to Silver Spring, Maryland. These injuries have increased every year since 1995 and now exceed the near-record injury rates of 1985, when unstable three-wheeled ATVs were still in major production.<sup>3</sup>
- Injuries sustained by children riding an adult-sized ATV are often very serious, including severe brain, spinal, abdominal, and complicated orthopedic injuries. ATV riding involves almost twice the risk of injury serious enough to require hospitalization than any other activity studied. This is true even for activities generally considered to be high risk, including football (62 percent higher risk for ATV riding), snowboarding (110 percent higher risk for ATV riding) and paintball (320 percent higher risk for ATV riding).<sup>4</sup>
- Children lack the strength, coordination, and judgment to operate ATVs safely. In a Consumer Product Safety Commission (CPSC) study, the primary causes of children’s deaths on an ATV were overturning, collision with a stationary object, and other collisions.<sup>5</sup> Each of these implies the inability to control the vehicle properly.

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. Just this week, an 11-year-old child from California, visiting family in Arkansas, died of severe brain injuries after he failed to negotiate a hill and the ATV he was riding flipped. The child, who had no ATV experience, was riding alone and without a helmet when injured, according to news reports. Currently, Arkansas Children’s Hospital admits more than 60 children each year—an average of at least one per week—due to significant ATV injuries, 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 pre-teen and teenage drivers. We recently published 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 who will likely experience lifelong disability as a result of his injuries. ATV injuries also tend to be extremely dirty, in some cases necessitating multiple surgeries to clean and repair the damage. Some patients must essentially be treated as burn victims and receive skin grafts. 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.

<sup>1</sup>Committee on Injury and Poison Prevention. All-Terrain Vehicle Injury Prevention: Two-, Three-, and Four-Wheeled Unlicensed Motor Vehicles. *Pediatrics*, 2000;105 (6):1352–1354.

<sup>2</sup>Consumer Product Safety Commission, *2004 Annual Report of ATV Deaths and Injuries*, September 2005, Table 3.

<sup>3</sup>Consumer Product Safety Commission, *2004 Annual Report of ATV Deaths and Injuries*, September 2005, Table 5.

<sup>4</sup>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. 158.

<sup>5</sup>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. 110.

Mr. Chairman, if an infectious disease caused this level of death and disability, the Federal Government would spend millions of dollars toward studying, curing and ultimately preventing it. In the case of ATVs, however, the government has done virtually nothing over the past twenty years.

The primary Federal regulatory power regarding off-road vehicles is vested in the CPSC. Over the past two decades, the CPSC has engaged in an uneven and sometimes inconsistent pattern of regulation of ATVs. ATVs first began to be widely adopted as both utility and recreational vehicles around 1980. Accordingly, ATV deaths rose from 29 in 1982 to 299 in 1986—an increase of 930 percent in just 4 years. After pressure from the American Academy of Pediatrics and other concerned groups, the CPSC initiated negotiations with ATV manufacturers that resulted in a consent decree in 1987. The consent decree included a number of very modest measures:

- An end to the sale of unstable three-wheeled ATVs (which manufacturers were already phasing out);
- Age recommendations related to engine size in ATV marketing, which dealers would convey to consumers;
- Labels to warn purchasers that children under 16 should not ride adult-sized ATVs; and
- Free driver training and public awareness campaigns by ATV sellers.

These measures fell far short of a ban on ATV use by children, which the American Academy of Pediatrics and its partners had urged. As ATVs grew in popularity in the following years, death and injury rates also continued to rise unabated.

The Academy and its partners engaged in repeated efforts throughout the 1990s to educate the Nation about the hazards of ATVs for children and to urge the courts and the CPSC to adopt stricter guidelines. Despite these initiatives, the consent decree expired without further action in 1998. The ATV manufacturers agreed to continue abiding by consent decree provisions under Voluntary Action Plans, which were unenforceable and carried no penalties for noncompliance.

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 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 2005 staff briefing package acknowledged, moreover, that compliance with this requirement appears to have declined since 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."<sup>6</sup> This indicates that over those 3 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.

Over the past 5 years (2000–2004), an average of 500 people have died each year of ATV-related injuries. An average of over 115,000 per year people have been injured during that same time. Of these, an average of 131 deaths and over 37,000 injuries each year have been among children under the age of 16. Thirty-one percent of all ATV deaths now occur among children under the age of 16.<sup>7</sup>

Despite the alarming increases in ATV deaths and injuries, government regulation continues to be all but absent. For the past several years, regulation has consisted almost exclusively of voluntary, unenforceable measures. Recently, the Academy's Committee on Injury and Poison Prevention reviewed the evidence regarding children and ATVs and reaffirmed its long-standing recommendation that no child under the age of 16 should operate or ride an ATV.<sup>8</sup>

Due to this lack of activity at the appropriate regulatory agencies, in 2003 the American Academy of Pediatrics joined a number of other groups, including the American College of Emergency Physicians and Consumer Federation of America,

<sup>6</sup>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. 9.

<sup>7</sup>Consumer Product Safety Commission, *2004 Annual Report of ATV Deaths and Injuries*, September 2005, Tables 3 and 5.

<sup>8</sup>Committee on Injury and Poison Prevention. All-Terrain Vehicle Injury Prevention: Two-, Three-, and Four-Wheeled Unlicensed Motor Vehicles. *Pediatrics*, 2000; 105 (6):1352–1354.

to petition the CPSC once again to ban the use of ATVs by children under the age of 16. This petition underwent 2 years of review at the agency. In February 2005, the CPSC issued a briefing package recommending that the petition be denied. This recommendation was based primarily on two lines of reasoning: first, that a sales ban would not necessarily influence riding behavior; and second, that major distributors of ATVs already ban the sale of full-sized ATVs for use by children. The American Academy of Pediatrics considers both of these reasons to be specious. The sale of numerous products to children is banned, regardless of how or whether children may obtain or use those products otherwise (fireworks, lighters, and cigarettes are among the most obvious examples). Furthermore, the ban on the sale of ATVs for use by children is voluntary, and the CPSC's own surveys show that dealer compliance is inconsistent.<sup>9</sup> In March 2005, I testified before the CPSC to urge the commissioners to approve this ban. The American Academy of Pediatrics continues to support this ban fully and works toward its adoption.

The CPSC Commissioners have not yet voted upon the petition to ban the sale of adult-sized ATVs for use by children under the age of 16. Instead, this petition was rolled into a broad review of ATV issues directed to be undertaken by the CPSC Chairman. The staff briefing package on this issue was released on May 31.

Like the CPSC, the Senate Commerce Committee has the power to reduce ATV-related deaths and injuries among our Nation's children. If the Federal Government adopted limitations on ATV use by children, this would serve as both a powerful message and a model for states and localities. The attention and publicity generated would educate parents, who are often unaware of the safety risks of these vehicles. Last year, my colleague, Dr. Denise Dowd of Kansas City, Missouri, testified before the House Resources Subcommittees on National Parks and Forests and Forest Health to urge that restrictions be placed on ATV usage by children on public lands.

#### **Policy Recommendations**

The American Academy of Pediatrics has issued specific recommendations for all policymakers regarding children and off-road motorized vehicles:

*Children under 16 should not operate ATVs.* An ATV can weigh in excess of 500 pounds and travel at speeds of over 60 miles per hour. Children do not possess the physical strength, coordination, or judgment necessary to pilot these vehicles safely.<sup>10</sup> When a child crashes on one of these large machines, it often rolls over them or traps them beneath it. The result is devastating injuries, including crushed internal organs and multiple broken bones.

*A driver's license should be required to operate an ATV.* No state or local government allows children to drive cars. Yet an unlicensed child is permitted to drive an ATV at high speeds, without a helmet, on unpaved surfaces in virtually any area. This situation defies all logic. The safe use of ATVs requires the same or greater skill, judgment, and experience as needed to operate an automobile. A driver's license should be required to operate any motorized vehicle.

*Alcohol use by operators of ATVs should be prohibited, with zero tolerance among 16- to 20-year-old operators.* Just as alcohol- or drug-impaired operation of automobiles threatens the lives of drivers, passengers, and bystanders and is prohibited, operation of any motorized vehicle under the influence of alcohol or drugs should be forbidden. Young drivers under the influence of alcohol or drugs are particularly dangerous because of their relative inexperience and poorer judgment. Alcohol use by those under the age of 21 is already banned by Federal and state laws, and zero tolerance policies for underage ATV operators would strengthen the prohibition and send a strong message to parents and adolescents.

*ATV use should be banned on paved roads.* All-terrain vehicles lack the features necessary to operate safely on roads and highways. Most have few or no lights, mirrors, signals or safety features. A significant number of crashes occur on paved roads where cars or trucks cannot see the ATV, or where ATV operators make unexpected maneuvers. In the CPSC survey on ATV crashes mentioned earlier, the highest number of fatalities occurred on paved surfaces.<sup>11</sup> Use of ATVs should be allowed only on designated, well-maintained trails.

<sup>9</sup> 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. 15.

<sup>10</sup> 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.

<sup>11</sup> 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. 108.

*Appropriate protective gear should be required to operate an ATV.* Research regarding motorcycles and bicycles tells us that helmets save lives and that helmet laws result in greater helmet use.<sup>12, 13, 14</sup> The Federal Government should take a leadership role and require operators of ATVs to wear a helmet.

*Carrying passengers on an ATV should be prohibited.* The vast majority of ATVs are not designed to carry passengers. An ATV's large seat is meant to allow a rider to shift his or her weight and maneuver adequately. Children can easily be thrown from these vehicles at high speeds. The Academy is even aware of cases where parents drive ATVs with children strapped onto the rear in a car seat, in the tragically mistaken perception that this is somehow safe. In a recent CPSC analysis of 184 child deaths involving ATVs, the agency concluded that, "CPSC has long recommended against the carrying of passengers on ATVs, and yet 24 percent of the deceased children were riding as passengers, and 45 percent of the fatalities occurred in multiple rider situations. Certainly, if CPSC's recommendations had been followed, the deaths of at least 45 child passengers would not have occurred."<sup>15</sup>

*ATVs should not be operated before sunrise or after sunset.* ATVs are challenging to operate safely even under ideal conditions. Darkness adds an unacceptable degree of additional risk, due to both unseen hazards and the difficulty of being seen by other vehicles. The use of ATVs in low light or darkness should be prohibited.

*Manufacturers should redesign ATVs to improve safety.* Some of the hazards arising from ATVs can be attributed the design of the products themselves. Seat belts should be standard, and ATVs should have a roll bar to prevent the driver from being crushed by the weight of the vehicle in the event of a rollover. Headlights that automatically turn on when the engine is started should be installed on all ATVs to improve visibility by other vehicles. Speed Governors (devices that limit maximum speed) should be installed on ATVs used by inexperienced operators (such as teenagers or renters). Efforts should be made to design ATVs so that they cannot carry passengers.

### **Conclusion**

In conclusion, the American Academy of Pediatrics urges you to support meaningful restrictions on children riding or operating ATVs. 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. In March 2005, 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.<sup>16</sup> If no further action occurs this year, we can expect over 100 children to die and over 40,000 to be treated in emergency rooms again next year due to ATV-related incidents alone.

The present state of affairs has been entirely ineffective in keeping children safe. I hope this Committee will take a leadership role on this issue and ensure the safety of children by supporting the common-sense measures recommended by the American Academy of Pediatrics. Again, I thank you for the opportunity to testify about the dangers of all-terrain vehicles for children, and the AAP looks forward to working with you on ATV safety issues.

Senator ALLEN. Thank you, Dr. Aitken, for your testimony.  
Now we'd like to hear from Ms. Halbert, with the 4-H.

### **STATEMENT OF SUSAN W. HALBERT, SENIOR VICE PRESIDENT, NATIONAL 4-H COUNCIL**

Ms. HALBERT. Thank you for the opportunity to testify about ATV safety this morning and about the complex issues that are related to ATV safety.

<sup>12</sup> Kraus J.F., Peek C., McArthur D.L., Williams A. The effect of the 1992 California motorcycle helmet use law on motorcycle crash fatalities and injuries. *JAMA*. 1994; 272: 1506-1511.

<sup>13</sup> Watson G.S., Zador P.H., Wilks A. Helmet use, helmet laws, and motorcyclist fatalities. *Am J Public Health*. 1981; 71: 297-300.

<sup>14</sup> Committee on Injury and Poison Prevention. Bike Helmets. *Pediatrics*, 2001; 108(4): 1030-1032.

<sup>15</sup> 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. 110.

<sup>16</sup> Killingsworth, Jeffrey, *et al.*, "National Hospitalization Impact of Pediatric All-Terrain Vehicle Injuries," *Pediatrics*, 2005; 115(3): e316-e321.

I'm a little disappointed that Senator Stevens isn't here, because I started with this issue when it became a major concern in the State of Alaska, about 1981. I had people from all parts of the state reporting to me that kids were trying to see how far they could slide sideways down the dirt roads in the villages. And, needless to say, Alaska still uses the vehicles like you and I would use our cars and trucks today. So, it's a very different situation that started us off.

There is likely to be a continued increase in the number of ATV safety—riders in the future. If you look at our population statistics in this country, there's a big bulge around that 13–16 age range. We know that injuries will potentially increase, because the current surge of imported ATVs focuses on young riders, as well as on first-time purchasers who don't have any background and experience and training in riding, and the safety education in the main risk factors that affect them.

We also know that many young people regularly ride ATVs that are much too big for them, in spite of our many years of focusing on trying to help them understand how to fit the rider to the appropriate-size vehicle. My experience, however, suggests that youth probably won't respond by just hearing someone say, "You shouldn't ride this vehicle. It's too big for you. It's not right." Just saying no to teenagers, or having an official ban that says something like that probably isn't going to change their behavior. To date, it hasn't had much effect on changing the behavior of their parents either, or any other adult that's responsible for them.

The 4-H Community ATV Safety Program was created more than 20 years ago to address the reality that youth will continue to ride and take risks. It started as a collaboration between industry, the University of Alaska Cooperative Extension's 4-H Youth Program, as well as the CPSC and our public health officials in the State of Alaska. It has continued to this day as a major collaboration at the national level as well as in the many states where we operate local programs.

The focus of our program has continued to be on understanding the key risk factors—they've been mentioned by just about everyone testifying this morning—around the use of the ATV protective gear, staying off roads, off the places alongside the roads, not riding on pavement, and making sure that young people have training and understand how they can ride a particular vehicle based on their maturity level, as well as their physical size and ability, physically.

4-H, in this time, has reached more than 18 million youths and adults through courses, workshops, exhibits, classroom activities, and regular 4-H club meetings. We are supported by small grants from—largely from the industry. We've created many grant programs, where people in local communities apply to us for funding as a pass-through, to help them get the money together, and the resources so that they can do local ATV safety programs in their communities.

We also have created specialized curriculum that focus on those risk factors and make it a fun, exciting, enjoyable way for young people to learn. We believe that hands-on training, such as the SVIA offers, is extremely important, but that we need to reach

young people at an earlier age and in places that are more local and more community friendly where they can not only learn those messages, but then take part, as teenagers, in sharing those messages with other people.

We've conducted ongoing evaluation research of our efforts, and documented clearly, in a document that we've provided to you, that those efforts are successful in changing the behaviors of young people. Many parents have told us that they didn't even understand the risk that their young people were placed in when it comes to not wearing protective gear, not having the experiential training. So, as they've learned those things, they've begun to take more attention to paying—making sure their young people have helmets and other protective gear.

And we also emphasize youth/adult partnerships. We enable young people to take on meaningful roles from the beginning in helping design and market and deliver the safety messages to their peers. It's—often, as you might guess, they are listened to a lot more by young people than any of us would be, as adults.

In short, our focus is on young people—not on products. However, minimum product standards were established many years ago, and I still call—get calls from around the country from people who are asking me why those products that they see available don't have basic information on them, why they don't offer training. I've actually approached—a few years ago, I worked a little bit with Wal-Mart to try to help them use our safety tips brochures, at least, at the minimum, to make them available when they're selling these new machines.

In conclusion, I have several specific recommendations or suggestions I'd like to offer.

One of them is, we have a very limited effort in our ability to offer safety training and safety education and awareness, because we don't have the funds, as a nonprofit, to do that as widely as we could. So, if we could increase that kind of support, I think we could do a lot more, at the most local level.

I'd also like to recommend that we—public agencies promote modeling the behaviors we're talking about. There are a lot of law enforcement agencies using all-terrain vehicles. Young people see them all the time, and they—the law enforcement officials sometimes are not wearing helmets. Youth, in 1998, recommended that we ask the manufacturers to create a machine, whatever the engine size is, that everyone agrees is appropriate. The frame size is not appropriate for most teenagers. Teenage wrestlers just don't fit on these machines very well. And so, they're not going to ride them. They are going to look for something that's bigger, that's more appropriate, that's not demeaning, from their perspective, at their place in life, in high peer pressure.

We'd also like to see more attention focused on parents, the people who give the young people the keys, allow them access to ride.

And, last, I think all of us could really provide attention to giving young people opportunities to partner with us as we try to find ways to address the issues that we're all talking about here today.

Thank you, again, for the opportunity to speak this morning, and I welcome your questions.

[The prepared statement of Ms. Halbert follows:]

PREPARED STATEMENT OF SUSAN W. HALBERT, SENIOR VICE PRESIDENT,  
NATIONAL 4-H COUNCIL

Thank you for this opportunity to testify about ATV safety. I share your deep concern about this issue. Every year, far too many people are injured or killed while driving ATVs. But I speak to you today convinced there is a viable way to dramatically reduce this problem. Youth-focused training programs based on sound educational principles have proven effective in improving attitudes and behaviors relating to ATV safety.

We need these types of programs now more than ever. Since 1985, children under the age of 16 have consistently represented the largest category of people injured while using ATVs according to the Consumer Product Safety Commission's (CPSC) research. And there is likely to be an increase in the number of young ATV riders in the near future. According to the U.S. Census Bureau, our Nation's population pyramid currently bulges at the ages of 13-20.

Clearly, we must address the main risk factors, which include riding without a helmet and without training, while carrying passengers, driving on paved roads, and under the influence of alcohol and/or illicit drugs. In addition, many young people regularly ride ATVs that are simply too big for them. Consequently, the 4-H movement fully supports the CPSC stance that youth under the age of 16 should not operate adult-size ATVs.

While rules and regulations play a vital role in mitigating these risks, they are very hard to enforce. That is one reason why I advocate that all youth should have to complete safety training before they ride independently.

I'm proud to say that the 4-H Community ATV Safety Program has been committed to this goal for more than 20 years. With the Commission's support, we've reached more than eighteen (18) million youth and adults through courses, workshops, exhibits, classroom activities, and regular 4-H club meetings. These experiences are supported by small grants and specialized curriculum funded by private donors.

And the results have been excellent. For example, a 2002 study conducted by Halley Research demonstrated that our program helped increase the number of youth who always wear helmets by nearly 10 percent. I was also impressed with the report's qualitative findings. One participant said, "I shared with my sister, my little brother, and my friends how it's important to follow the safety tips that we learned in the ATV school."

What a powerful statement! It underscores the importance of placing ATV safety in the larger context of positive youth development—a movement that provides young people with the support, the relationships, and the research-based experiential learning opportunities they need to become competent and contributing citizens.

This philosophy is the backbone of 4-H ATV safety initiatives. For instance, we emphasize youth-adult partnerships, which enable young participants to take on meaningful roles, from preparing and marketing events to actually presenting safety information. It's really no surprise that this emphasis has played a critical role in our program's success—most youth are more receptive to messages about safety when their peers deliver them.

I believe the youth development field is uniquely suited to deliver ATV safety training to young people. A 2001 national survey revealed that 85 percent of 4-H'ers agree or strongly agree that experience in 4-H helps them improve their decision-making capabilities.

Simple bans on the sale of such vehicles will not achieve the safety and education programs, the wise and careful use of the vehicles, and the reduction in injuries and fatalities we all seek. Rather, a comprehensive education and safety training program designed for the appropriate needs and the unique population of each area holds the best hope for results. Such programs will be even more effective if we continue to emphasize engaging youth as full advisors in the design, marketing, and implementation of such programs to their peers. By engaging young ATV users through such a "youth-in-governance" process, we experience increased enthusiasm, use, and effectiveness in the safety education programs local 4-H professional staff and volunteers administer. And we continue to find new—and more effective—ways for government agencies such as the CPSC to conduct their work in matters related to our Nation's young people.

I encourage you to encourage the importance of education, and the effectiveness of local grass roots activities. One size does not fit all, and the changes we all seek will not come from either Washington, or our state capitals. Rather, a program designed for and relevant to the needs and interests of today's youth holds the best hope for progress in the Nation's 3,067 counties. The 4-H history in ATV safety training is remarkable for its ability to reach both youth, and their parents—advo-

cating wise and safety-conscious decisions by both groups. I hope all of us will seek ways to enhance these efforts as the most effective way to accomplish the goals of safe and proper use of ATVs.

To conclude, while regulations and legislation may be able to improve safety, they simply do not provide enough protection for our young people. Therefore, I urge the Commission to continue supporting ATV training programs based on sound youth development practices.

Senator Allen, members of the Committee, thank you again for holding this important meeting. I'll be more than happy to answer any questions, either today or at a later date.

#### APPENDIX A

##### **The 4-H History in ATV Safety Training**

In 1981, thanks to the initiative of a local 4-H agent, America's 4-H movement created an ATV Safety Program. Six months of research into the injuries and fatalities among youth riding these vehicles revealed there was no organization with curriculum or programs available to address the problem. In 1989, National 4-H Council with support provided by the Consumer Product Safety Commission and American Honda Motor Company developed a program of safety education. Four regional workshops, with representatives from 37 states, developed a nationwide network of state safety programs. Each program recognized the unique diversity of their state, the typical use of such vehicles within their state, and the appropriate safety education program. They also structured such programs to reflect the unique 4-H mission and the teaching of life skills. (4-H has always made youth/adult partnerships, and the active participation of youth key cornerstones of their programs and curricula.)

##### **Program Description**

The purpose of The National 4-H's Community ATV Safety Program is to positively influence the behavior of young people in four areas shown to increase their risk of ATV-related injuries and fatalities. These factors include:

- The use of helmets and other protective gear.
- Carrying passengers.
- Riding on pavement.
- Riding on or alongside the road.

The 4-H program consists of a series of multi-state ATV safety workshops to train youth-adult teams on the principles of ATV safety, use of an experiential curriculum specifically designed for the youth age range of most concern and how to plan and implement safety programs at the local level. Teams usually consist of an equal number of both youth and adults. At the conclusion of these workshops, teams are encouraged to apply for grants from National 4-H Council to implement ATV safety training programs in their area. As a nonprofit organization, National 4-H Council has consistently depended on private donors to support training, curriculum development, mini-grants to communities and ongoing research.

##### **Research**

The 4-H Community ATV Safety Program has conducted ongoing research and evaluation of the program since its inception in Alaska in 1982. We have consistently been able to document an increase in the use of helmets and other protective gear and decreases in all risk behaviors identified by the CPSC. The most recent study, conducted by Halley Research, LLC, in cooperation with National 4-H Council between January 2001 and January 2003, revealed both the success of their present program and suggestions for further improvement in the future. In summary, as a result of the 4-H Community ATV Safety Program:

- Youth increased how often they wear helmets while operating ATVs.
- Youth decreased how often they carry passengers while operating ATVs.
- Youth decreased how often they ride on pavement when operating ATVs.
- Youth decreased how often they ride on or alongside the road when operating ATVs.
- Youth reduced ATV-related injuries or accidents.

**The 4-H Community ATV Safety Program Provides Community-Based Grants Through Funding from the Specialty Vehicle Institute of America**

2005 4-H Community ATV Safety Grant Program—Financial Summary

Statistics	
Number of Grants Issued	22
Geographic Impact (States)	20
Extensions Granted	6
Total Grant Funds Distributed	\$135,000
In-kind and Other Contributions	\$78,865
Number of Youth Involved	16,120
Number of Adults Involved	15,149
Number of Youth in Leadership Roles	115
Age of Youth Involved (range)	7–18
Number of Newspaper Articles	48
Number of Radio Presentations	13
Number of people reached with media efforts	498,114
Number of Speeches, Presentations and Exhibits	68
Projects primarily located	Small towns and rural areas

2006 4-H Community ATV Safety Grant Program—Financial Summary

[Total Grant Funds Requested and Granted as of May 31, 2006: \$99,643]

Statistics	
Number of Grants Issued	18
Geographic Impact (States)	16
Extensions Granted	
Total Grant Funds Distributed	\$99,643
Projected In-kind and Other Contributions	\$175,588.40
Number of Youth Involved	
Number of Adults Involved	
Number of Youth in Leadership Roles	
Age of Youth Involved (range)	7–18
Number of Newspaper Articles	
Number of Radio Presentations	
Number of people reached with media efforts	
Number of Speeches, Presentations and Exhibits	
Projects primarily located	

Senator ALLEN. Thank you, Ms. Halbert, for your testimony and your efforts—not just yours, but that of the 4-H, as well.

Let me go with, say, 10 minutes, or 7—what do you want to go with?

Senator PRYOR. Either one.

Senator ALLEN. All right. I'll ask some questions. Senator Pryor will ask some questions. We'll see if there'll be a second round or not.

Let me first address these questions mostly to you, Mr. Buche. Mr. Williams, if you so desire, you may want to—I'm going to be asking about sales and compliance issues.

Can you describe, Mr. Buche, some of the state-level programs that you and your members undertake? There are two different—several different levels here. Number one is just the vehicle standards, the safety-standards aspects. Mr. Williams explained, oh, about half a dozen different dangers in a less-safe vehicle than those complying with the current standards. The other noncomplying vehicles have: feet getting caught, the chain wrapping up in

a cuff or the variety of different problems. Then you get the enforcement aspects of this, which, generally speaking, motor vehicles are—as far as things such as helmets, helmet laws—it's not a—that's not a Federal—you could have a Federal law, but my general view is that it should be left to the states to determine such laws. The Federal standard is more of one of the design, the engineering, the safety of the product sold, no matter whether it's in Arkansas, Virginia, Alaska, or any other state in the United States. Then you get the aspect of the dealers and the different responsibilities of someone who is actually distributing one of these products, and what requirements are there of them? In most cases, the dealers or distributorships are a contract between the manufacturer and whomever the distributor is; and those laws for distributors, for the most part, are state laws.

Now, to actually get this effective, it would seem to me that the programs are going to have to be as localized as possible. The major relationship that you would have would be with the states. So that's what I'd like you to share with us. What state-level efforts are you all making to make sure that your members are undertaking it? And how much do you all spend, as an association, on safety issues? Do you recommend—Mr. Williams, you went through some of the training, and they don't have to go to a 4-H center, they can do it on their own lots, but do you recommend a helmet being purchased and so forth? So, I'd just like to hear, just operationally, how this works in the real world and what sort of compliance do you have in working at the state or local level?

Mr. BUCHE. Thank you, Mr. Chairman.

Important to note that, still, there's the Federal role—the vehicle, as you say, is best addressed federally. To have a vehicle standard nationally is important. We think that the sales practices can also be embraced federally. And we'd also like to see the free training offer with purchase for all eligible-age family members for that vehicle that is purchased extended to every single buyer.

When we move to the state—

Senator ALLEN. Do you agree with that, Mr. Williams? Let me interrupt. Seeing how you're going to be one that would have to comply with such an assertion.

Mr. WILLIAMS. I do. At that level—if offering it to the consumer, yes, I think every consumer should be offered—every buyer, every family member should be offered—

Senator ALLEN. OK.

Mr. WILLIAMS.—that training.

Senator ALLEN. Thank you.

Carry on, Mr. Buche.

Mr. BUCHE. OK, thank you.

Senator ALLEN. I just want to adduce testimony here logically.

Mr. BUCHE. OK, very good.

To look at, then, the state, we really look to the use issues. And just to do a quick recap, there are 5 states with currently no ATV legislation whatsoever. There are 20 states with fairly comprehensive—25 states with fairly comprehensive legislation, and 20 that have parts of our model state legislation. The quick recap of the model state legislation: protective gear is required—eye protection

and approved helmet; prohibiting single—no passengers on a single-rider ATV—so passenger—

Senator ALLEN. Some—you say that's model state legislation?

Mr. BUCHE. This is our proposed legislation that we're trying to enact in every state.

Senator ALLEN. You would actually propose a prohibition on two-seaters?

Mr. BUCHE. No, the prohibition would be for a passenger on a single-operator ATV. Tandem ATVs, one passenger. And they're designed—

Senator ALLEN. Oh.

Mr. BUCHE.—accordingly. Next, no one under 16 operating an adult-sized ATV. Again, 92 percent of the fatalities with youth are youth using an adult-sized ATV, the terrible story we heard of Kyle and a 500-pound ATV. Had he been on the appropriate-sized vehicle, that would have been 150 pounds and limited to 15 miles per hour. So, again, it comes to use. And that's a—

Senator ALLEN. Would you make that a Federal law? I understand the other aspects. Would you actually make that a Federal law?

Mr. BUCHE. Well, I'm talking now specifically about—

Senator ALLEN. A model.

Mr. BUCHE.—state legislation.

Senator ALLEN. OK, this would be what you would like to see the states—

Mr. BUCHE. At the state level, because we're dealing with youths—

Senator ALLEN. Right.

Mr. BUCHE.—and we feel that the states have the ability to enforce safety provisions and certainly the youth age limits are critical to that. Adult supervision that—we require parental supervision—that's active supervision, not knowing that someone is out riding in the field, but watching them ride, to be active. It's important to remember that 16 million people use these products. Many are families, and they are riding together. The tragedies we hear of are when we see a youth off in a field on his own, no experience, no helmet. The warned-against behaviors that we've really tried to incorporate and address through state legislation are key. Education, in our model state legislation we'd like to see mandatory training for those under 16—not just the offer, but mandatory training. And some states now require proof of an ATV-course completion, a certificate, to show that if you're on public lands, you've been trained. So, certainly that is key to the model state legislation. We know that the product is—

Senator ALLEN. Who enforces that? Game wardens?

Mr. BUCHE. It depends.

Senator ALLEN. But how do—on public lands, most—

Mr. BUCHE. Sure.

Senator ALLEN.—most—I suppose if you are in and they allow vehicles in the national forest—they're not going to allow them in too many of the national parks, but they may—most, at least in Virginia, are on private land.

Mr. BUCHE. Sure.

Senator ALLEN. And so, you know, even game wardens have a heck of a job trying to keep track of folks, and most of these folks are not on roads. They may be on a road to cross a road to get over to some other piece of property, but mostly on private land. It seems to me that the states could pass such laws. You do have to recognize how difficult this is to actually enforce. And to expect a parent, who's going to let their kids go out, and they're going to be going into the woods, they'll be in the mountains, they'll be exploring around, they'll be going through creeks and all the rest, and to be watching—it's one thing if they're out in a field and you have 10 acres there and you can watch them in some flat lands, there are no trees, and it's plowed-up, you know, soybean field or something like that, but most of the time they're not in a place where parents can watch them. So, you do recognize, just practically that—to make a law that says a parent has to be supervising all the time is not likely to occur. It may be a desirable sort of thing, out in the real world, kids like to go off and explore and see things. And, granted, they're going to do different things.

I think your best idea that I would emphasize is the way that you have these so-called "governors" on ATVs and having parents being able to figure out what sort of horsepower it can get—I know you have those on some of the jet skis, for example. And if you have those sort of controls, I think that's a really important safety matter, regardless of the size of—the cc's of the engine, that parents could control that when the kids are out of sight.

Mr. BUCHE. I would point out that, more and more, you're seeing ATV riding parks, states that are setting aside land.

Senator ALLEN. Right.

Mr. BUCHE. In California, we have the State Vehicular Recreational Areas. And the good thing with enforcement there is that the riders are riding in a specific area, enforcement becomes much easier. Other states are enacting that.

Senator ALLEN. I see.

Mr. BUCHE. I think the key is that it's a solid deterrent when people know the rules. The laws are communicated through the dealerships. And it's why the new entrant poses a particular challenge when they're not supporting the safety programs, because those people don't hear of training. If a new entrant purchaser comes to Mr. Williams' store, he's able to offer our training, the ATV Safety Institute training offered by SVIA, to those new purchasers. There's no—

Senator ALLEN. How much do you all spend on such training, as an association?

Mr. BUCHE. Collectively, the membership spends in excess of \$8 million per year, and then each company spends millions in supporting direct training costs, advertising, communication, public information, education, Secret Shopper programs, which are conducted both by the manufacturers and the CPSC. Important to note that compliance issues—because that has been brought up—important to note there is that the offer to sell does not mean that that person would have made it out of the dealership with the vehicle. There are a number of disclosures along the way, other people involved in the sale, and catching someone at the parts counter or a salesman that may say, "Yes, we'd sell you that," doesn't mean

that delivery would take place. And it's key that we have responsible sales practices. We think Federal legislation can embrace that, as well.

Senator ALLEN. All right. Now, you heard the differences in these—some of the ATVs that were manufactured and sold that the former CPSC engineers bought and tested and found defective, you consider that a problem, is that correct?

Mr. BUCHE. It's a serious—

Senator ALLEN. All right. Now, what, specifically, would you have us do about that? Because this is important testimony as to what we might consider as legislation here.

Mr. BUCHE. I think one of the good opportunities is the ANSI standard. SVIA is the ANSI standards developer. We have just conducted our pre-canvas mailing. That's to notify all substantially interested parties that the process is in place. And later this year, all interested parties will be able to comment on that standard. That standard could be embraced, then, through CPSC, or even Federal legislation, to set an ATV safety standard. If you start with a safe vehicle, then you're really left to address only the use issues, but with unsafe vehicles in the marketplace, particularly sold to new entrants who are attracted by, you know, a low price, a good value, until they determine the safety issues—the examples we have before us here, this 80cc—it's a 79cc Yamaha that complies with the ANSI standard, the "Ride Safe, Ride Smart" video, three workbooks, speed limiters in that model—that would be set up for 15 miles an hour at point of delivery. The unit to the left, though slightly smaller in physical size, is 110cc's, with inappropriate—we have a list of about 14 safety violations.

Senator ALLEN. Why don't you list them for us.

Mr. BUCHE. Let's—to go through those—no front brakes—I'm sorry, no parking brake, no mechanical suspension, the flagpole bracket for conspicuity not present, it has a headlight, it lacks spark arrester—

Senator ALLEN. What's wrong with it—what's wrong with the headlight?

Mr. BUCHE. Well, this youth model should not have a headlight. That could encourage nighttime use. That's against the standard. That's against CPSC recommendations.

Senator ALLEN. So, you agree with—I think it was Ms. Weintraub, or maybe it was Dr. Aitken, who said that you ought to have—they shouldn't be able to drive these things at night?

Mr. BUCHE. Well, we're anxious to discuss that, and we think the CPSC rulemaking process will allow industry and other interested parties to comment on without the light and riding at night, whether you're in more danger. So, I think that's yet to be determined. But as this—

Senator ALLEN. Carry on with the other—

Mr. BUCHE. As the current—

Senator ALLEN.—violations.

Mr. BUCHE.—standard would allow, this is an inappropriate vehicle. The brake performance was key. And, important to note here, in particular, this vehicle went almost 30 miles an hour, an arithmetic average of 29.1 miles per hour, as set up and delivered in a crate to the home of one of the experts who tested it. So, there are

a number of failures here. There was a flat tire. Three of the tires were overinflated, which also is against the standard. It's important that these are low-pressure tires for best traction and compatibility in an off-road environment. The delivery failed, in that it was delivered without proper setup. The speed-limiting device, I mentioned. The performance requirements, does not have an ATV parking brake. And it started in gear, so that as you start it, you could go in motion right then. There's an interlock on compliant products. So, there were a number of failings, including the delivery, including the lack of safety support programs; and, of course, no offer of free training with purchase.

So, this is a very serious matter. This market is growing. The chart over here is from one of the trade publications. We would put the volume at about 20,000 more units each year, but a similar trend. So, this will only exacerbate the problem. Again, if you start with unsafe vehicles and factor in the use issues, we've got a serious complication here that we think Federal legislation could address with an ANSI safety standard.

Senator ALLEN. Thank you, Mr. Buche.

Senator Pryor?

Senator PRYOR. Thank you, Mr. Chairman.

Let me start, if I may, with Dr. Aitken. I'm curious about the types of injuries you've seen in your practice, in the emergency room, et cetera, there at Arkansas Children's Hospital. You mentioned face lacerations, and you also mentioned head injuries. On the head injuries, would helmets have made a significant difference there?

Dr. AITKEN. Unfortunately, helmet use is not very widespread at all. I did—I can give you one anecdote, though, where I'm sure the helmet saved the life of a child. I was seeing, actually, the boy's sister in the clinic, and noticed that this 11-year-old had an incredible amount of abrasions and lacerations and an arm in a cast, and he told me that he had come off his ATV. He was riding with another child and suffered a concussion, despite the use of a helmet. He later sent me his helmet, which had a crack in it. So, I'm convinced that that had a significant role in his survival. And—but, unfortunately, in the ER and in the in-patient setting, we see very few helmeted patients at all at Arkansas Children's Hospital.

Senator PRYOR. I assume you see a lot of broken bones?

Dr. AITKEN. Yes, there are a lot of broken bones.

Senator PRYOR. And what about neck and spinal injuries?

Dr. AITKEN. We definitely see those. And those are amongst the most serious injuries we see. Again, the head injuries are most common, and they can range from concussions to very serious injuries that can kill a child and certainly have lifelong disability. The orthopedic injuries can be very complicated—pelvic fractures or femur fractures that can sometimes require multiple surgeries. We also see, as I mentioned, some—we've seen several recently—very dirty wounds that require surgery every couple of days until they're fully stabilized.

Senator PRYOR. And I assume some of the complex injuries—complicated injuries you're talking about are the result of crushing, where the ATV falls on the person?

Dr. AITKEN. Right. One of the most common mechanisms for injury that we see—and, again, 60 percent of the injuries we see occur on roadways, not in—not on unpaved surfaces—are when the child is either hit by another motor vehicle, usually a car, or the vehicle flips onto the child and causes severe injury.

Senator PRYOR. That's interesting. So, you estimate about 60 percent of the ones you see are on roadways.

Dr. AITKEN. That's what we see.

Senator PRYOR. Is that also may be due to the fact that they get on a roadway, and it's flat, and they can really open up?

Dr. AITKEN. I think that's part of it. And the visibility issues. And—I mean, if a car interacts with an ATV, the car will win. And, unfortunately, we see that frequently.

Senator PRYOR. OK. Let me ask about the parents of these children. When you talk to parents, are they surprised that their children have been hurt? Did they go through the safety training? Were they aware how fast the vehicle could go, or how dangerous it was? Give us your general impressions.

Dr. AITKEN. Many of the parents express surprise at the severity of the injuries their children have sustained, really didn't seem to understand the inherent instability of the vehicles in the hands, especially, of the younger children. And they—most of the folks—we've done focus groups with adult and youth ATV riders to try to frame our safety campaigns that we're doing, and, of the 50 or so people we interviewed, only one had undergone the training, and she was a middle-aged woman, who was probably not the riskiest driver that we interviewed. So, it is—many of the parents have not received any of the training, and the children have not, at all.

Senator PRYOR. And I know you've been involved in trying to raise awareness of ATV safety in Arkansas. Tell us some of the things that you've done in Arkansas to try to prevent ATV injuries.

Dr. AITKEN. There have been several things. We've had an active workgroup at Children's Hospital since about 2001, when we became aware in the late 1990s, of the doubling in the number we see at the hospital. And, as I said, we have not just medical people, we do have some industry representatives that have been very, very helpful in making sure that we're aware of the practical issues involved. We have done public service announcements and educational campaigns that have been statewide, but also focused on a couple of high-risk counties in the mountainous parts of the state to make sure we engage with hometown health improvement committees and other groups that can begin to really inform parents better.

Senator PRYOR. By the way, Mr. Chairman, just so you know, Arkansas Children's Hospital doesn't just focus on ATV safety. They have a lot of carseat safety and a lot of other safety programs where they try to educate the public.

Also—and this may be a little bit beyond your area of expertise, Dr. Aitken, but I know the American Academy of Pediatrics is very concerned about this—does the AAP have a set of recommendations where they'd like to see alterations in the design of ATVs? In other words, do they have a list of things, like weight limits and governors and brakes and headlights and all those? Do they have a set of agreed-to things you'd like to see in design?

Dr. AITKEN. Yes, there is a policy recommendation that was published in the 1980s, and then renewed in 2001, which has some general recommendations about safety equipment. We certainly would encourage, if possible, the further study of roll bars and safety belts so that if the children—if the vehicle does roll, there will be some protection against the crushing injuries; some of the factors to make them more visible. But, again, the main message that we have promoted is that children are sometimes physically too small to ride these vehicles. And, even if they're physically large enough, they may not have the maturity or judgment to really ride them properly.

Senator PRYOR. Does AAP recommend that there be a ban on people under 16 operating ATVs?

Dr. AITKEN. That has been the recommendation, that children under 16 be discouraged from riding the vehicles.

Senator PRYOR. OK. In my time remaining, Mr. Buche, I want to ask a follow-up on one of the Chairman's questions, just so I'm clear in my mind. There's a so-called 2-Up ATV, which is apparently an ATV that's actually designed for two people. If I understand what you're saying, you think that single-rider ATVs should only have one rider; but, if you have one that is designed for two people, do you think that's OK for them to ride that way?

Mr. BUCHE. Yes, we do.

Senator PRYOR. And——

Mr. BUCHE. In fact——

Senator PRYOR. Go ahead.

Mr. BUCHE. Yes, we do. In fact, there are a couple of iterations, the fore/aft—in other words, front/back—seating. And there are newer products coming that are side-by-side. So, they are designed for two, and they work quite well. And we conduct the training for those vehicles, as well.

Senator PRYOR. Do you prefer legislation or regulation?

Mr. BUCHE. We truly believe that we're here to ask for legislation. We believe that the Federal Government could act to make sure safe vehicles are available and only safe vehicles are available, to the U.S. consumer. We'd take that even a step further to say that sales practices could be embraced and a requirement, federally, that the offer of free training for the purchaser of the vehicle, and all eligible-aged family members, so that the people have the best chance to get training.

I might also note that we offer training before the purchase. If someone's thinking of an ATV, we want to determine if it's right for them, we charge \$75 for youth, and \$125 for those 16-and-over. For those under 10, we require that the parent stay for the entire class, and we actually teach the parent how to be a good, active supervisor. So, there should be no excuse for not getting the training. In our view, the only constraint to training is demand. There is a lack of demand, and we make numerous calls to every purchaser of our member-company products enticing them to take the training, and, in fact, offering cash incentives or gift certificates back to the retailer as an incentive.

Senator PRYOR. Do you believe that the training should be mandatory? In other words, before the sale can be completed, they should complete the training?

Mr. BUCHE. We think, federally, if you could act to encourage the offer of free training by the manufacturers and distributors; and, at the state level, we encourage mandatory training for those under 16, and we think that's where the state could get involved, in that they would be able to enforce that.

Senator PRYOR. As I look at the possibility of legislation, or even regulation, I see a couple of goals. One, obviously, is safety. Clearly, that's a huge goal of what legislation or rulemaking could accomplish. But, also, I do think there is a level-playing-field argument here, that certainly you can bring to market much cheaper vehicles that don't have all the safety equipment on it, and it would entice consumers to buy that. So, as a matter of fairness, I think that we ought to consider leveling that playing field so everybody's playing by the same rules.

Ms. Weintraub, let me ask you, if I may, is it your belief that the U.S. ATV industry has been voluntarily complying with the standards put forth in the 1988–1998 consent decree? Do you think they are continuing to comply with that?

Ms. WEINTRAUB. No. In fact, we think there's not only widespread noncompliance, a lack of enforcement, as well as an inadequacy of the standards as they exist now. Our concern with the import issue is that it would be requiring a level playing field for a playing field that's inadequate, basically. So, we think there is a lot of work to do to improve the ANSI standard, make the ATV action plans enforceable, have the Consumer Product Safety Commission actually release the compliance numbers, which were redacted from the 2005 briefing package. We still don't know what actual compliance is with the voluntary action plans.

Senator PRYOR. OK.

Mr. Chairman, I have a few more questions, but I'll wait until the second round.

Senator ALLEN. No, no.

Senator PRYOR. Are you sure?

Senator ALLEN. Well—

Senator PRYOR. Why don't you go, and I'll wait for the second round.

Senator ALLEN. All right. Thank you.

Mr. Buche, let me bring this up with here again. Ms. Weintraub, I believe, was talking about how many ATVs were recalled, for a variety of reasons. There were two or three significant reasons with it. These recalls are voluntary recalls, I think Ms. Weintraub said. Do your companies initiate these voluntary recalls?

Mr. BUCHE. Yes. The matter of recalls, I think—the matter of recalls, in fact, points out that the system works. These are voluntary recalls by the manufacturers. They are made immediately upon any opportunity to improve the product or make an adjustment. They're done at no expense to the consumer. And it's important to note that there's a reliable reputable dealer, much like Mr. Williams, about 7,000 dealers nationally, where that product may be taken back to a dealership of that brand to correct any problem that was found with the vehicle.

Senator ALLEN. Do you—I know you're looking at the ATV industry—do you know of any other product that has that level of recalls for repairs or defects?

Mr. BUCHE. I really couldn't compare to other industries, but I am very proud of our member companies and the responsibility they take to make sure that consumers have good and safe product, and they support that after the sale.

Senator ALLEN. Now, you heard Mr. Williams and what Coleman PowerSports does, as far as the training onsite. Is that fairly unique? And, if it is unique, do you partner with any other agencies? Do you work, for example, with 4-H in any places? Because I'm not sure every one of your hundreds and hundreds of dealerships are all the same as Coleman PowerSports in having those capabilities, especially if they're in city areas, having a lot of land around there. It costs a lot of money. So, how do your other dealerships or your members handle training?

Mr. BUCHE. Great. The ASI, the ATV Safety Institute, is a division of the SVIA, and it offers the free training on behalf of all of our participating member companies, every single SVIA member. We do make the Try Before You Buy Program available. That's available to all. And many—

Senator ALLEN. What—the what program?

Mr. BUCHE. The Try Before You Buy. In other words take the training course—

Senator ALLEN. Oh, Try Before You—

Mr. BUCHE.—before you buy the vehicle. That may help you determine if ATVing's right for you or your family. Many dealers—I think it's important to remember, these are small, independent businesses in the community. They are active enthusiasts, often riding with their customers. And they take safety and their responsibility in the community very seriously. The Secret Shopper Program exists to offer an additional incentive to do the right thing all the time. I'll, again, reiterate that, though the relationship between the dealer and the manufacturer is between them, and the association is not involved, we are aware that dealers have, when acting improperly, lost the ability to sell that product. Again, testimony to how seriously these member companies take their responsibility to the American consumer.

Senator ALLEN. Well, let me ask you this, then. Again, Mr. Williams, I'm going to pull you into this. You mentioned another company that is selling these less safe, more dangerous ATVs, or those with fewer safety devices on them, and they're selling everything from—they're not in motor sports. And I don't want to repeat the name of the company, because it's—you did.

[Laughter.]

Senator ALLEN. And I—you know, I'm just listening to your testimony. It doesn't need to come out of my mouth. As a practical matter, you're dealing with an inherently—a product—it's not as dangerous as a chainsaw, but it is—just like any other motor vehicle, there's a risk to operating any motor vehicle. In the event—just—this is in a very litigious society—would those who are selling, number one, a vehicle that, at the outset, is not meeting these voluntary standards—would that cause added liability for whomever the manufacturer is, but what they're going to go to first is not some company in China, which will probably be very hard to get after, unless they have some assets here, but they're going to go after that person who actually sold that product that is less safe

than the voluntary—they're—granted, let's say, right now, they're voluntary; let's assume, then, they're mandatory standards—would they not incur liability on the part of a parent if—or any purchaser by engaging in the sale of, one, a less safe product; two, a product that does have certain risk to it, and being neglectful—I'm just thinking of the creativity of lawyers—but selling a product, and it did not offer any training, no questioning as to who's going to operate this, and any instruction on how that product would operate—do they not—maybe you could—Mr.—I'm going to ask Mr. Williams that, but, Mr. Buche, you may know what kind of lawsuits might have been filed across the country in these sort of situations. But, go ahead, Mr. Williams.

Mr. WILLIAMS. Well, I would just say the simple point of fact, yes, it would leave them very open to that kind of litigation, you know, against them, where—every manufacturer we have has continuing liability clauses in our dealer agreements, so if something does go wrong with a product, or somebody is injured, Yamaha will also, you know, defend its product and speak on behalf of the dealer. If there was a product defect, there's that continuing liability, moving up a chain with a major distributor and people that can step forward if something did go wrong. Where, with these, there are none. If there is a distributor at all, it's often a distributor of, you know, many other kinds of products, canoes and kayaks. They might just be a private, kind of, road-rep, road-warrior kind of guy that sells these things out of a trailer, and if they—you know, they'll—you'll see these makes, kind of, change their name of make with the—this one being the Longchang, and then there are Pandas and things, and they'll all look the same. And the name changes about every 6 to 8 months. And we've wondered how many times that has come because of a lawsuit of some form or another, so that manufacturer just goes away, and now it has been rebadged as something else, and it's a new manufacturer with the exact same unit.

Senator ALLEN. What are your experiences with such litigation, Mr. Buche—

Mr. BUCHE. While I'm—

Senator ALLEN.—what you're seeing across the country?

Mr. BUCHE. While I'm not aware of litigation, specifically, I think we look to marketing practices and, as Mr. Williams said, the change in company names. We've identified over 400 companies in China and Taiwan that say they manufacture and distribute ATVs. We don't know how many of those are truly independent, distinct manufacturers. But I think we look to a couple of things. We look to their claims. And they claim they send hundreds of thousands of vehicles to the U.S. And we look to their marketing practices, their lack of support, and the lack of offer of training. And I think this one example, here to my right, just points out, on the top, how our member companies promote their product, and the listing of free training promotion of the adult supervision, proper riding gear complying with ATV size recommendations for ATVs for youth, speed restrictions, and the educational safety programs, and, on the bottom, one of the new entrants—this is pulled from a website, similar pictures in owners' manuals—I'm not great at guessing age, but I would put this child at 3–4, maybe, at best—an owner's man-

ual that shows a barefoot rider in a swimsuit on a large vehicle. So, we look to their marketing practices, and we look to the lack of support, the lack of a resident address for the corporation in the U.S., a number of product names, and then we compare to those complying products and these leading companies.

Some have worried that this could smell of protectionism. We would say, "Absolutely, the protection of the U.S. consumer." And we're proud of our member companies. We want to level the playing field, but we want to level it at our level, and we're proud of that.

Senator ALLEN. Well, your member companies are not just U.S. companies. I guess Polaris is American, but Bombardier is Canadian, and obviously Yamaha and—what—many of them are Japan-based companies. I don't know if—

Mr. BUCHE. Right.

Senator ALLEN.—there's any other—I don't know if Brazil or Germany or France makes these, but—

Mr. BUCHE. Japan-based. But, I think, also important to note that most adult-sized ATVs are manufactured here in the United States, with plants by Japanese-owned companies, but American subsidiaries. So, again, these are, in all intents and purposes, American companies distributing safe and responsible products, marketing responsibly to our fellow U.S. consumers and riders.

Senator ALLEN. All right. One other thing. On the 3-wheelers, are they being manufactured any longer?

Mr. BUCHE. Not by the responsible companies. We have yet to actually acquire from a new entrant, but we understand that there are plans, or rumors, of 3-wheel product coming in from new entrants. The manufacturers—the leading manufacturers voluntarily agreed, in the late 1980s, to discontinue sale of 3-wheelers, and they have done that, with no manufacturing or marketing. But, again, concern with a new entrant which will bring anything that they think might sell. Some of these companies—in our research, we've found ATV companies whose other line of business is to manufacture lawn and garden patio furniture, a number of industries where they—

Senator ALLEN. Well, you can—

Mr. BUCHE.—simply put an engine on a frame.

Senator ALLEN. Yes, but I wouldn't criticize the company because they do a lot of different things. John Deere has tractors, or lawn tractors, and they may be good at motorized vehicles, as well.

Mr. BUCHE. We're just concerned about their commitment to the market and the U.S. consumer.

Senator ALLEN. Now, Ms. Weintraub said that those 3-wheelers that are presently, however many 3-wheelers may be out there still, ought to be recalled. Ms. Weintraub, who is to pay or compensate the owners of these 3-wheelers? And how many of them are out there? I—

Ms. WEINTRAUB. Well—

Senator ALLEN.—the industry has recognized that 3-wheelers are inherently more dangerous than a 4-wheeler. It's just a matter of—

Ms. WEINTRAUB. Which—

Senator ALLEN.—physics and balance. But how many are there out there, and who would compensate the owners for the taking of that 3-wheeler?

Ms. WEINTRAUB. Well, I know that according to the most recent data from CPSC, in terms of injuries, 3-wheel ATVs are responsible for about 10 percent of injuries. So, they're still on the market, through the used market, which is rather substantial in the ATV industry. Many of the—my understanding is that the manufacturers of the 3-wheelers in—before new production was banned—remained the same manufacturers who are now manufacturing 4-wheel ATVs. So, I think it's those manufacturers, to the extent that they do exist, which I believe they do, in large numbers, they would ultimately be responsible for the cost of the recall.

Senator ALLEN. I would guess that the folks at Coleman PowerSports, and the industry, generally, would not want to be buying used 3-wheelers.

Mr. WILLIAMS. Let's be really selfish. As a dealer, I would sell a lot of 4-wheelers that way, if Yamaha has to buy it back. I just think it's a really bad idea, in general, but—the same with these, on selfish note. There's nothing stopping us from becoming retailers of the off-brand kind. So, protectionism at the dealer level almost doesn't exist. If I want to sell these, I can. You know, they don't have franchise agreements, so I could call Panda and have, you know, 300 of them delivered, and put them together, and start selling them as such—there's no—as a matter of fact, there would probably be some economic plus to selling them, because of their low cost and their lack of an established MSRP. Dealers can really sell these for whatever they wanted to, because there's no market—you know, you don't know the off brand, you don't know what its market is, you don't know what it would sell for. But, in the end, you know, unless you wanted to start reducing your customer base by selling something like this, it's just not a good idea.

Ms. WEINTRAUB. Chairman Allen, if I may.

Senator ALLEN. Yes, Ms. Weintraub.

Ms. WEINTRAUB. I mean, if the issue that we're all working on here is safety, I think it makes sense to get a vehicle that people agree—which is—really is universal among all different stakeholders—that the 3-wheelers are hazardous. Whether they're more hazardous than 4-wheelers is another story.

Senator ALLEN. Well, they are more hazardous than 4-wheelers. I think that's understood, just a matter of physics and—the difference in driving—I don't know if you've ever driven these things, but a 3-wheeler doesn't operate like any other vehicle you drive. It doesn't operate like a motorcycle or a bicycle. And a 4-wheeler is like a wide-track motorcycle, in many respects.

Ms. WEINTRAUB. In terms of stability, I completely agree; however, in terms of looking at the data, the death and injury numbers are almost what they—with 4-wheelers are almost what they were with 3-wheelers in the late 1980s. So, in terms of pervasiveness of an impact on American consumers, the 4-wheelers seem to be at the same level as 3-wheelers. But I think, going back to recalling, I mean, we advocated for a recall at the time the consent decree was put into effect, and we thought that made a lot of sense. If, you know, CPSC felt, at that time, that these ATVs were so dan-

gerous that they should be considered an inherently dangerous substantial product hazard, then banning them from new production was a very important step, but it didn't solve the problem of all the vehicles on the market. And, as time has shown, it has been 20 years, and these vehicles are still having an impact on death and injuries across the country. So, I think, to close the loop—

Senator ALLEN. Did you find—do you know of any analogy that—of where—for example, I'm going to use chainsaws again. Chainsaws are much safer than they were 20 years ago, but a lot of chainsaws are still working—you keep them oiled, sharpen the chains, you know, repair the parts, if you can find them—and so, does that mean—but where—has a product, like a 3-wheeler, not—even a Pinto—they had the lawsuit on the Pinto. They didn't—Ford wasn't forced to, "Here, we're going to go and buy all these Pintos," or the Chevy Novas, way before your time. I just vaguely remember, as a young pup, myself. Where else has a government commanded a private company that sold a legal product to actually then buy them back and compensate that owner? Maybe there is an analogy. You may know. I'm just—seeing if there's any precedent for such a command.

Ms. WEINTRAUB. Well, the vast majority of the recalls at the Consumer Product Safety Commission are actually voluntary, so it doesn't have to be a mandatory action. In fact, the ATV manufacturers who produced the 3-wheelers could voluntarily say, you know, "In our interest to protect the safety of American consumers, we want to voluntarily recall these products."

Senator ALLEN. Fair enough. That's not the government commanding them, and they—

Ms. WEINTRAUB. Right.

Senator ALLEN.—could do it, if they so desire.

Senator Pryor?

Senator PRYOR. Thank you, Mr. Chairman.

Ms. Weintraub, let me ask, on the 2-Ups, does the Consumer Federation of America believe that they should be included in the definition of ATV?

Ms. WEINTRAUB. It's a complicated question. Ultimately—

Senator PRYOR. That's why I asked it.

Ms. WEINTRAUB. Yes.

[Laughter.]

Ms. WEINTRAUB. Ultimately, you know, we—with this whole discussion, we have some philosophical concerns about the existing standards, about whether they are adequate. We also have concerns that ATVs inherently, because of their wide seat—or long seat—seem to encourage dual passengers, even though they're not designed for dual passengers. So, our concern is that having a vehicle specifically designed for two passengers may impact the occurrence of more than one passenger on a 1-Up, on a machine designed for one person.

So, that's sort of our philosophical concern. However, if there are going to be 2-Up machines on the market, we would hope that they would, you know, at least be required to meet the same standards, even though we think there needs to be more effective standards. So—

Senator PRYOR. So, if they're going to be in the marketplace, you'd like them to be regulated or covered by a rule or statute.

Ms. WEINTRAUB. Yes. I mean, they're virtually not regulated. The system is voluntary. But, yes, we would want the voluntary standards. So, the existing safety regime, voluntary as it is, inadequate as it may be, to at least cover tandems, if they're going to be on the market, yes.

Senator PRYOR. Mr. Buche and Mr. Williams, I just have an observation for you. I have a popular magazine, which says it's the number-one sport-quad magazine, which I take their word for it that it is, called *ATV Sport*.

[Laughter.]

Senator PRYOR. As you notice, there are all kinds of pictures of people having lots of fun on ATVs. One thing I notice is, a major manufacturer has in their ad, racing and fun. In fact, there are two ads, back to back. And, there is a lot of fun, a lot of great stuff going on here. But then, when you read the fine print, that's where the safety stuff comes, and it's so small that you just don't notice it unless you're really looking for it. But one thing I noticed in here is, it does give you some basic safety information. It says, "ATVs can be hazardous to operate. For your safety, always wear a helmet, eye protection, and protective clothing," and all of that's good, "always avoid paved surfaces," which we talked about a few moments ago, "never ride on public roads, never carry passengers or engage in stunt riding." You know, all that's good. But the problem is that even though it says, "don't engage in stunt riding," almost every picture in this magazine has them jumping over things and popping wheelies on the cover and—you know, so, it's just an observation that it's a balance that I think the manufacturers and the promoters of the sport need to strike, in terms of pushing safety out there. These things can be dangerous, and, obviously, there are lots of injuries that occur. And I would just, sort of, caution the industry to think about, you know, how the industry is presented.

Mr. Williams, I do have a couple of questions for you. And we have these two models here on the floor today. And I assume, given these two models, you like the Yamaha. Is that right?

Mr. WILLIAMS. Yes. Yes, of these two.

Senator PRYOR. And I think that you've mentioned, just briefly, some of the things you don't like about the Longchang model, and some of them are safety, but let me ask about some of the less expensive imports you see. You mentioned, in your testimony—what do you see—when these less expensive imports come into your shop, you know, some on a trade-in or some people want to get them fixed or whatever—what do you see? In my limited experience with them, and hearing what some of the witnesses have said today, it sounds like there might be some design problems with them, some craftsmanship problems, just inconsistency in engineering? What do you see—

Mr. WILLIAMS. Sure.

Senator PRYOR.—when you see them in your shop?

Mr. WILLIAMS. It really does run the gamut. I would say that the biggest portion would be electrical, ignition systems—the little CDI box, or the computer that tells the unit how to run—failing, and then not being able to get that part again. A lot of ignition systems

going out, lighting systems that don't work properly. I actually have a disagreement with some of the industry about headlights, because if you've ever ridden on, you know, a pathway, whether it's real dusty and things like that, headlights really let you know somebody else is coming at you. They don't necessarily promote nighttime riding. I think they're a safety, to have lights on both sides. But they often don't work on these. And, when they don't, you know, it's hard to take the hard stance and tell somebody you can't work on their unit, but, at the same time, it's hard to put a technician on a 3-hour diagnosis to find some mystery electrical problem, where he bought the unit for \$900, and I'm going to charge him \$700 to fix it. That's just not going to fly. So, we really try hard to trade them out of those and onto one of the more reliable manufacturers that we can then service.

Senator PRYOR. So, it sounds to me like there are a variety of problems with them, safety being one, but other mechanical problems as well.

Mr. WILLIAMS. Broken parts, bolts that break off, things like that, a lot of it's pot metal instead of steel.

Senator PRYOR. OK. So, it sounds like you would not want your family on one of those.

Mr. WILLIAMS. Absolutely not.

Senator PRYOR. Is that fair to say?

Mr. WILLIAMS. Yes.

Senator PRYOR. The other thing I was going to ask is, I hope you didn't find it offensive a few moments ago when I called that the "El Cheapo."

Mr. WILLIAMS. No, it is, I guess. You know, I mean—and the hard part is telling consumers that they don't have that option, you know, if somebody does want to—you know, it's hard to say it when a youth model is involved. You know, if an adult wants to go and buy a substandard unit to go ride on, because he's—he doesn't care as much about safety, or thinks he's going to ride it less or something, I don't care. It's when a parent says, "Well, you know, my son really doesn't ride it that much," or, "It's not that big a deal," you know, and I start thinking, "Well, it's not that a big a deal until he kills himself on it," you know, and then it'll be a very big deal. So, yes, I do become concerned when it's out there for—you know, the youth isn't the one that's going to buy that unit. He's not making the decision as to what's safe or what's not.

Senator PRYOR. And your company does not sell these cheaper imports, but is it your understanding that other dealers may be starting to sell those?

Mr. WILLIAMS. Many dealers have, kind of, caved to picking up the lesser expensive brands, just to at least have them available.

Senator PRYOR. Because they want something in that price point?

Mr. WILLIAMS. Yes, absolutely.

Senator PRYOR. OK.

Mr. Chairman, that's really all I have. I actually have a few other questions, if I can submit those for the record, to save everybody some time.

But one thing I would say to the panel here, to all the panelists, is, if we are going to push legislation, it would be very, very helpful

for the members of the panel to really sit down and work through some legislation, so there might be some consensus on what that might look like. And I know that we have a range of views here, but it would be awfully helpful to us, here in the Senate and in the Congress, if we could find something that we could all support and could feel good about.

So, with that, I just want to thank the panel for being here; and thank you, Mr. Chairman, for doing this.

Senator ALLEN. Well, thank you, Senator Pryor. And I, also, thank all our witnesses, Ms. Leland and this panel, as well, for your interest and work in attempting to address this issue in a proper way, in a proper jurisdictional way, dealing with ATV safety.

One thing that is clear from this is, you don't have to wait around for Congress or any state to act. Parents need to be responsible. There is a value in having this hearing, the fact that it's covered, and it'll be covered in the media, that parents may actually pay greater attention. Hopefully, they'll buy from responsible dealers, but also recognize that their most cherished loved ones, their young children, or others who may be driving on these vehicles, need to have safety training. They can be dangerous. They're a lot of fun. And, again, I don't want to outlaw fun. And nor should any government outlaw fun. But people do need to be personally responsible. And it's hard to say, "Well, gosh, if 15, 16, or younger kid ought to be responsible," sure, he or she should be, but, ultimately, it's the parents purchasing these ATVs.

And so, the one thing that I think we've discerned from this is that, at a bare minimum, there ought to—where there is a consensus on what the safety standards ought to be on these vehicles, ought to be uniform throughout this country, because it seems to me that's just—it may be not enough for Ms. Weintraub or Dr. Aitken in it; however, it is something that does make some sense, because there shouldn't be an unreasonable risk to injury or even death. I think we've heard some good, reasoned analysis today on ways that the Federal Government may, along with the states, assist in educating parents. The dealerships are going to be involved in this, as well, in your responsibilities on proper ATV safety precautions. And I'm glad to hear there's at least somewhat of an agreement here as to compliance, insofar as the ATV market here in the United States. It does make sense, if you're going to sell an ATV here in this country, to have certain safety requirements.

And as far as the practices and the rules and regulations, a lot of those, where appropriate, ought to be at the state level. There will be some at the national level.

But, again, I think this hearing has increased public awareness. And that, in itself, is the most important aspect of it. It is a shame that you'd have to have Federal—I'm one who generally does not like more regulations. I don't like more laws. The Consumer Product Safety Commission is moving in this regard, but sometimes agencies have limited ability to make it enforceable. And so, we're going to work with the good research from the Consumer Product Safety Commission. I think Ms. Leland's very knowledgeable and could be helpful to us, as well, Senator Pryor, as—in the event that we decide to move forward with legislation, we want to do it in a

considered and measured way, with, in my view, minimal intrusion, but also making sure that there is that—I don't call it so much a level playing field, but minimum standards, safety standard, insofar as the manufacture of these vehicles that are being sold here in the United States.

So, I thank, again, you, Senator Pryor, for your interest, your leadership, and also our witnesses, for your testimony and the time you took to prepare your testimony. And we look forward to working with you in the months and years to come. This hearing is adjourned.

[Whereupon, at 12:10 p.m., the hearing was adjourned.]

# A P P E N D I X

PREPARED STATEMENT OF EDWARD J. HEIDEN, PH.D., PRESIDENT,  
HEIDEN ASSOCIATES

## ATV Recall Analysis

At the June 6, 2006 hearing of the Senate Commerce Subcommittee on Consumer Affairs, Product Safety, and Insurance, a representative of the Consumer Federation of America presented testimony regarding all-terrain vehicle (ATV) recalls between June 2000 and November 2005. Following your testimony on behalf of SVIA at the hearing, the Subcommittee Chairman, Senator George Allen, asked how these ATV recalls compared to recalls of other products. You indicated you would provide a response for the hearing record.

At your request, Heiden Associates has conducted an analysis of the number of units, incidents and injuries involved in ATV recalls during the specified time period. Attached are three exhibits summarizing our analysis of how ATV recalls compare to other consumer product recalls announced by CPSC press release or recall alert between June 2000 and November 2005.

*Table 1* one provides summary information on recalls for the 31 product categories in which there were three or more recalls announced that collectively involved at least one million products. ATVs, with 1.21 million recalled products, ranked 27th on this list of 31 product categories.

*Table 2* ranks the recalled product categories by the number of reported incidents per 10,000 products recalled. The list was confined to product groups with recalls of 5,000 products or more. ATVs ranked 24th out of the 42 product categories with incident rates of 10 or more per 10,000 affected products.

*Table 3* ranks categories of products in terms of the number of injuries per 10,000 products recalled. The list is also restricted to product groups with recalls of 5,000 products or more. There were 72 categories of products with injury rates of 0.5 or higher per 10,000 affected products (or one per 20,000 affected units). ATVs ranked 59th out of the 72 product groups on this list.

This analysis indicates the ATV recalls from June 2000 to November 2005 involved fewer units collectively, and are characterized by lower incident and injury rates per 10,000 affected products, than is the case for recall programs involving many other significant categories of consumer products during the same time period. These results, especially those in *Table 3*, support the view that the ATV recall activity was largely preventive and precautionary. In fact, there were no injuries reported in 31 of the 47 ATV recall notices for which this information was available, and no product incidents were reported in 18 of the ATV recall notices.

We also extracted and reviewed recall announcements from the NHTSA vehicle recall database for the same time period of June 2000 to November 2005. It is not possible to separate these recalls into those involving cars or trucks specifically without reviewing and coding the individual program descriptions. However, there were 944 car and truck recalls reported in the NHTSA database which involved 10,000 or more units in the recall. The total number of affected vehicles included in these recalls was nearly 115 million. In comparison, the 1.2 million ATVs included in the 48 recalls conducted during the same time period seems very small.

Table 1—Product Recalls by Number of Recalled Products

[Recalls Announced June 2000–November 2005 w/ Press Release or Recall Alert]

Product	Recalls	Products	Incidents	Injuries
cigarette lighters	12	14,938,400	5	1
lamps/lights	32	8,480,010	989	46
slow cookers	6	7,885,000	5,439	53
baby carriers	6	7,542,135	2,969	301
air guns	4	7,525,800	172	171

Table 1—Product Recalls by Number of Recalled Products—Continued

[Recalls Announced June 2000–November 2005 w/ Press Release or Recall Alert]

Product	Recalls	Products	Incidents	Injuries
chairs	21	6,226,454	185	58
candles	36	6,138,036	164	20
stuffed animals	4	4,346,500	33	0
exercise equipment	14	3,266,039	894	172
notebook computers	14	3,083,282	60	0
juice extractors	4	2,746,058	68	45
printers	4	2,656,431	5	0
coffeemakers	6	2,546,160	282	12
battery chargers	4	2,525,660	6	2
fans	7	2,416,800	39	1
cut-off wheels	3	2,186,400	172	0
high chairs	3	2,185,000	327	164
portable heaters	11	2,153,800	211	5
strollers	8	1,958,730	1,391	538
fireworks	8	1,901,000	7	5
basketball	3	1,778,600	28	1
food processors	4	1,759,300	30	21
dehumidifiers	3	1,502,500	20	0
scooters	11	1,497,772	564	47
toys	12	1,383,490	8	1
drills	7	1,275,000	87	7
<i>all-terrain vehicles</i>	48	1,207,538	2,247	80
cell phone batteries	3	1,190,000	36	3
baby jumpers	3	1,082,300	211	47
pacifiers/teethers	13	1,018,907	8	0
extension cords	5	1,001,200	5	1

Note: List includes all product groups with 3+ recalls of 1,000,000 products or more.

Table 2—Product Recalls by Number of Incidents per 10,000 Recalled Products

[Recalls Announced June 2000–November 2005 w/Press Release or Recall Alert]

Product	Number of Products	Incidents	Inc. Rate per 10,000
deck/railing materials	11,000	370	336.4
leaf blowers/vacuums	11,191	285	254.7
thermos bottles	45,000	654	145.3
spinning ride toys	103,000	1,427	138.5
steam cleaners	30,100	347	115.3
pressure cookers	7,400	63	85.1
spas	26,050	206	79.1
riding mowers	218,814	1,592	72.8
tables	7,000	33	47.1
playpens	102,000	421	41.3
table saws	59,900	241	40.2
snowboard bindings	17,000	63	37.1
water disinfection systems	12,500	40	32.0
refrigerators	26,000	82	31.5
fireplaces	8,334	22	26.4
camping stoves	32,986	74	22.4
handheld vacuum AC adapters	10,000	22	22.0
mugs	6,500	14	21.5
cribs	472,773	980	20.7
gasoline stove fuel	9,700	20	20.6
toaster ovens	7,000	14	20.0
hair straightening irons	20,000	38	19.0
hikers	7,500	14	18.7
<i>all-terrain vehicles</i>	1,207,538	2,247	18.6
wet/dry vacuums	6,500	12	18.5
pans	8,700	16	18.4
water coolers	12,000	20	16.7
baby table toys	20,000	32	16.0
baby changing tables	5,000	8	16.0

Table 2—Product Recalls by Number of Incidents per 10,000 Recalled Products—Continued

[Recalls Announced June 2000–November 2005 w/Press Release or Recall Alert]

Product	Number of Products	Incidents	Inc. Rate per 10,000
lawn mowers	507,000	760	15.0
battery for GPS	10,300	15	14.6
grills	917,374	1,256	13.7
cordless sweepers	59,400	80	13.5
fire alarm control panels	6,000	8	13.3
baby toys	21,000	27	12.9
deep fryer baskets	50,000	63	12.6
weather radios	10,000	12	12.0
cotton candy machines	188,000	225	12.0
miter saws	6,400	7	10.9
air conditioners	61,060	63	10.3
steel kettles	13,000	13	10.0
wax/candle melting pots	9,000	9	10.0

Note: List includes product groups with recalls of 5,000 products or more.

Table 3—Product Recalls by Number of Injuries per 10,000 Recalled Products

[Recalls Announced June 2000–November 2005 w/Press Release or Recall Alert]

Product	Number of Products	Injuries	Inj. Rate per 10,000
steam cleaners	30,100	222	73.75
pressure cookers	7,400	53	71.62
wet/dry vacuums	6,500	12	18.46
miter saws	6,400	7	10.94
wax/candle melting pots	9,000	6	6.67
goalie masks	5,000	3	6.00
thermos bottles	45,000	23	5.11
fireplaces	8,334	4	4.80
furniture	31,849	14	4.40
baby toys	21,000	9	4.29
cowboy hats	5,200	2	3.85
propane cylinders	6,400	2	3.13
strollers	1,958,730	538	2.75
baby walkers	537,200	143	2.66
toy battery packs	7,900	2	2.53
steel kettles	13,000	3	2.31
pans	8,700	2	2.30
baby changing tables	5,000	1	2.00
deep fryer baskets	50,000	10	2.00
minibikes	5,000	1	2.00
jackets and vests	5,100	1	1.96
wooden baby gates	20,500	4	1.95
climbing gear	42,539	8	1.88
human transporters	6,000	1	1.67
push toys	54,900	9	1.64
sprayers	6,100	1	1.64
baby strollers	300,000	48	1.60
mugs	6,500	1	1.54
bicycles	993,565	151	1.52
crib mobiles	47,000	7	1.49
choral risers with guard rails	7,000	1	1.43
ball toys	43,000	6	1.40
glove compartment organizers	15,000	2	1.33
bicycle parts	7,720	1	1.30
children's tent sets	15,700	2	1.27
brushcutters/trimmers	63,600	8	1.26
gun holster	8,000	1	1.25
teapots	24,257	3	1.24
camping stoves	32,986	4	1.21
pogo sticks	154,000	17	1.10
water guns	38,600	4	1.04

Table 3—Product Recalls by Number of Injuries per 10,000 Recalled Products—Continued

[Recalls Announced June 2000–November 2005 w/Press Release or Recall Alert]

Product	Number of Products	Injuries	Inj. Rate per 10,000
hair straightening irons	20,000	2	1.00
grout sealer	300,000	28	0.93
toy stands	300,000	26	0.87
air powered rockets	140,000	12	0.86
bicycle accessories	120,604	10	0.83
riding mowers	218,814	18	0.82
radial arm saws	3,700,000	300	0.81
children's tent set	13,040	1	0.77
grills	917,374	69	0.75
high chairs	2,185,000	164	0.75
toy animal farms	67,000	5	0.75
weather thermometers	28,000	2	0.71
infant swings	57,000	4	0.70
toy chests	14,400	1	0.69
pencils w/sharpeners	176,000	12	0.68
air hockey tables	15,000	1	0.67
water kettles	15,000	1	0.67
<i>all-terrain vehicles</i>	<i>1,207,538</i>	<i>80</i>	<i>0.66</i>
defrost heaters	16,000	1	0.63
hand trucks	32,000	2	0.63
cribs	472,773	29	0.61
outdoor appliance timers	16,700	1	0.60
playground equipment	605,636	36	0.59
toddler beds	1,200,000	69	0.58
toy play rings	18,000	1	0.56
exercise equipment	3,266,039	172	0.53
benches	19,757	1	0.51
ranges/ovens	159,630	8	0.50
baseball video games	140,000	7	0.50
ear guards	60,000	3	0.50
eyelash curlers	220,000	11	0.50

Note: List includes product groups with recalls of 5,000 products or more.

