

CONTACT PERSON FOR MORE INFORMATION:

Jean A. Webb, 202-418-5100.

Jean A. Webb,*Secretary of the Commission.*

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COMMODITY FUTURES TRADING COMMISSION**Sunshine Act Meeting****AGENCY HOLDING THE MEETING:**

Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Wednesday, September 30, 1998.**PLACE:** 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.**STATUS:** Closed.**MATTERS TO BE CONSIDERED:**

Enforcement matters.

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CONSUMER PRODUCT SAFETY COMMISSION**All-Terrain Vehicles; Comment Request—Proposed Resolution****AGENCY:** Consumer Product Safety Commission.**ACTION:** Notice.

SUMMARY: The Consumer Product Safety Commission requests comments on a proposed Commission Resolution ("Resolution") that responds to action plans that certain members of the all-terrain vehicle ("ATV") industry will undertake. The proposed Resolution is attached at the end of this notice. (Unless otherwise noted, the action plans are referred to collectively as the "ATV Action Plan.") (ATVs are three- and four-wheeled motorized vehicles, generally characterized by large, low-pressure tires, a seat designed to be straddled by the operator, and handlebars for steering, which are intended for off-road use by an individual rider on various types of non-paved terrain.) The Commission staff has provided extensive input into the development of the ATV Action Plan, which the Commission believes will enhance consumer safety with respect to these products. The Resolution commends certain members of the industry for the ATV Action Plan, and announces that the Commission

will actively monitor sales, promotion and training activities of the ATV industry insofar as those activities pertain to safety, assemble data on deaths and injuries associated with ATVs, and take appropriate action, where necessary, based on the results of such monitoring activity and data.¹

DATES: Persons wishing to comment on the Resolution should send written comments to the Office of the Secretary not later than October 26, 1998.

ADDRESSES: Written comments should be captioned "ATV Action Plan" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504-0127 or by e-mail at cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: For information about the Resolution, call or write Leonard H. Goldstein, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; (301) 504-0980, Ext. 2202.

SUPPLEMENTARY INFORMATION:**Background**

The Commission's work on ATVs began in the mid-1980s after it learned of a rapidly growing number of deaths and injuries—particularly to children under 16 years old—involving these products. ATV sales had increased dramatically during that time, including more than a tripling of sales between 1980 and 1985. Most of the ATVs produced during that period were three-wheeled vehicles.

The Commission issued an Advance Notice of Proposed Rulemaking ("ANPR") in May 1985 (50 FR 23139). In December 1987, the Department of Justice, at the Commission's request, filed a lawsuit in federal district court under section 12 of the Consumer Product Safety Act against the five major manufacturers and/or distributors of ATVs. *United States v. American Honda Motor Co., et al.*, Civ. No. 87-3525 (D.D.C., filed Dec. 30, 1987). The companies named in the lawsuit were American Honda Motor Co., Inc. ("Honda"), Yamaha Motor Corp., U.S.A. ("Yamaha"), Kawasaki Motors Corp., U.S.A. ("Kawasaki"), U.S. Suzuki Motor Corp. (nka American Suzuki Motor

¹Chairman Ann Brown and Commissioner Thomas H. Moore approved this notice as here published; Commissioner Mary Sheila Gall approved publication of the notice with specified changes that were not adopted. The ballot vote sheets of the individual Commissioners are available to the public through the Office of the Secretary.

Corp.) ("Suzuki"), and Polaris Industries L.P. (nka Polaris Industries Inc.) ("Polaris"). The lawsuit sought a declaration by the court that then existing ATVs constituted an "imminent hazard" and requested certain remedial relief. The matter was settled with the court's approval of Final Consent Decrees on April 28, 1988 ("Final Consent Decrees"), and the ANPR was subsequently withdrawn (56 FR 47166). Among other things, the Final Consent Decrees required the companies to:

- Stop the sale of all new three-wheeled ATVs and repurchase them from dealer inventory;
- Promote and sell adult-size ATVs (i.e., ATVs with engine sizes greater than 90 cc) only for the use of riders age 16 and over;
- Promote and sell youth-size ATVs (i.e., ATVs with engine sizes between 70 cc and 90 cc) only for the use of riders age 12 and older;
- Provide free training to all ATV purchasers and members of their immediate families;
- Conduct a nationwide ATV safety public awareness media campaign;
- Adhere to guidelines for advertising and promotional materials;
- Include specified warnings on ATV labeling and in ATV owner's manuals; and

- Accelerate negotiations on a voluntary standard for ATVs. (The voluntary standard for ATVs ("Voluntary Standard"), as approved by the Commission, was published in the **Federal Register** on January 13, 1989. (54 FR 1407) Among other things, the Voluntary Standard includes configuration requirements for service and parking brakes, mechanical suspension, foot environment, lighting equipment, tire labeling, and various operational controls; there are pitch stability requirements and performance requirements for service and parking brakes; and there are requirements that relate specifically to youth size ATVs, including requirements for limitations on maximum speed capabilities.)

The CPSC staff subsequently negotiated a series of monitoring agreements with the companies to enforce compliance by their dealers with the requirement that adult-size ATVs not be marketed or sold to or for the use of children.

Arctic Cat Inc. ("Arctic Cat"), which started manufacturing ATVs in 1996, voluntarily entered into an Agreement and Action Plan with the Commission in September 1996 ("Arctic Cat Agreement"), whereby the firm agreed to take many of the same actions that were required of the companies under the Final Consent Decrees. Arctic Cat