

**\* Arizona Consumers Council \* Arizona Public Interest Research Group \* Chicago Consumer Coalition \* Columbia Consumer Education Council \* Concerned Families for ATV Safety \* Consumer Action \* Consumer Assistance Council \* Consumer Federation of America \* Consumer Federation of California \* Consumer Federation of the Southeast \* Consumers League of New Jersey \* Consumers Union \* Consumers for Auto Reliability and Safety \* Democratic Processes Center \* Florida Consumer Action Network \* Harlem Consumer Education Council \* Massachusetts Consumers' Coalition \* Oregon Consumer League \* U.S. Public Interest Research Group \* Virginia Citizens Consumer Council \***

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Office of the Secretary  
Consumer Product Safety Commission  
Room 502  
4330 East-West Highway  
Bethesda, Maryland 20814  
Via: [www.regulations.gov](http://www.regulations.gov)  
Facsimile (301) 504-0127

RE: Docket No. CPSC-2009-0087, Standard for Recreational Off-Highway Vehicles

Comments of Arizona Consumers Council, Arizona Public Interest Research Group, Chicago Consumer Coalition, Columbia Consumer Education Council, Concerned Families for ATV Safety, Consumer Action, Consumer Assistance Council, Consumer Federation of America, Consumer Federation of California, Consumer Federation of the Southeast, Consumers League of New Jersey, Consumers Union, Consumers for Auto Reliability and Safety, Democratic Processes Center, Florida Consumer Action Network, Harlem Consumer Education Council, Massachusetts Consumers' Coalition, Oregon Consumer League, U.S. Public Interest Research Group, Virginia Citizens Consumer Council

on

“Advanced Notice of Proposed Rulemaking for Recreational Off-Highway Vehicles”

## **Introduction**

Consumer Federation of America (CFA), Consumers Union of U.S., Inc. (CU), Arizona Consumers Council, Arizona Public Interest Research Group, Chicago Consumer Coalition, Columbia Consumer Education Council, Concerned Families for ATV Safety, Consumer Action, Consumer Assistance Council, Consumer Federation of California, Consumer Federation of the Southeast, Consumers League of New Jersey, Consumers for Auto Reliability and Safety, Democratic Processes Center, Florida Consumer Action Network, Harlem Consumer Education Council, Massachusetts Consumers' Coalition, Oregon Consumer League, U.S. Public Interest Research Group, Virginia Citizens Consumer Council (jointly "We") submit the following comments in response to the U.S. Consumer Product Safety Commission ("CPSC" or "Commission") in the above-referenced matter ("Advanced Notice of Proposed Rulemaking; Standard for Recreational Off-Highway Vehicles").<sup>1</sup>

## **Background**

The Consumer Product Safety Commission is considering, in this Advanced Notice of Proposed Rulemaking ("ANPR") whether there are "unreasonable risks of injury and death" associated with Recreational Off Highway Vehicles (ROVs).

ROVs are "motorized vehicles having four or more low pressure tires designed for off-road use and intended by the manufacturer primarily for recreational use by one or more persons."<sup>2</sup> These vehicles are distinguished from golf carts and other light utility vehicles by their speed, which exceeds 30 miles per hour.

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<sup>1</sup> "Standard for Recreational Off-Highway Vehicles," 74 Fed. Reg. 207 (October 28, 2009).

<sup>2</sup> "Standard for Recreational Off-Highway Vehicles," 74 Fed. Reg. 207 (October 28, 2009) at 55495 and 55496.

The CPSC has received more than 180 reports of ROV related death and injuries between January 2003 and August 2009. The injuries involved in ROV incidents tend to be severe, including amputation, degloving or other severe injuries to hands and feet.<sup>3</sup>

A voluntary standard has been developed by the Recreational Off- Highway Vehicle Association (ROHVA) under the ANSI process to address the hazards posed by ROVs. One of the organizations authoring these comments sits on the canvass board for this standard and has submitted comments to ROHVA concerning the proposed standard.<sup>4</sup>

We agree with the Commission that there unreasonable injuries and deaths associated with ROVs incidents; that the proposed voluntary standard is inadequate to address the harms posed by these vehicles; and that a mandatory standard that significantly builds upon the voluntary standard is necessary to protect consumers from the risks posed by these vehicles.

### **Recommendations**

Our organizations support the CPSC's promulgation of a mandatory ROV rule and urge the Commission to promulgate a standard that addresses five issues: 1) the stability standard for ROVs must be adequate; 2) the standard must have meaningful occupant protection measures; 3) the standard must sufficiently address handling of ROVs; 4) a maximum speed must be established for these vehicles; and 5) the standard must include measures to encourage use of seat belts by occupant of the vehicles or other occupant retention systems.

Based upon information announced by the U.S. Consumer Product Safety Commission in a press release dated, March 31, 2009 regarding one ROV "*repair program*" that essentially recalled ROVs from one manufacturer, CPSC stated that, "CPSC staff has investigated more than 50 incidents involving these three Rhino models, including 46

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<sup>3</sup> "Standard for Recreational Off-Highway Vehicles," 74 Fed. Reg. 207 (October 28, 2009) at 55496.

<sup>4</sup> Consumer Federation of America participates in the ROHVA/ANSI canvass. These comments build upon comments CFA has provided to the ROHVA/ANSI standard committee.

driver and passenger deaths. More than two-thirds of the cases involved rollovers and many involved unbelted occupants. Of the rollover-related deaths and hundreds of reported injuries, some of which were serious, many appear to involve turns at relatively low speeds and on level terrain.”<sup>5</sup> Unfortunately, the voluntary standard does not include measure to prevent such documented deaths and injuries. The mandatory standard that CPSC must develop should reduce the risks posed by these vehicles when operated.

### **Lateral Stability**

The voluntary standard includes a requirement that all ROVs in a fully-loaded configuration remain stable when laterally tilted 20 degrees. In addition, the standard also requires that when tested in the operator and passenger configuration, the vehicle remain stable when laterally tilted 28 degrees. The voluntary standard further states that all ROVs in an unloaded position meet a stability coefficient of one. This is inadequate for three reasons. First, a 28 degree tilt is not representative of what an actual user of an ROV may find while operating on severe terrain. It is likely that in the use of this vehicle the terrain would be steeper than 28 degrees. The intended use of these vehicles is “off highway,” making a grade of more than 28 degrees more than plausible.

Second, merely tilting the vehicle to a 28 degree angle does not adequately represent the dynamic forces at work when an operator is actually driving this vehicle. An operator could likely be turning and encounter a steep grade simultaneously. The one-dimensional aspect of this test fails to take this into consideration. For example, a “J-turn” -- when a moving down a slope and the abruptly turning to drive up the slope -- can promote a very unstable roll over condition.

Third, the stability coefficient should be greater than one; specifically, it should be increased to at a minimum of between 1.03 to 1.45, which is the static stability factor (SSF) used by NHTSA in its rollover ratings. Thus, a more robust stability test must be included in the mandatory standard to adequately reconstruct and test for real-world use. We agree with the Commission staff that the lateral stability requirement for ROVs must

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<sup>5</sup>U.S. Consumer Product Safety Commission Press Release available on the web at: <http://www.cpsc.gov/CPSCPUB/PREREL/prhtml09/09172.html>.

be improved by testing ROVs to meet the lateral stability requirement in an occupied configuration, and the SSF range should be increased to at a minimum reflect NHTSA's rollover standard for automobiles to adequately address ROV rollovers

### **Occupant Protection**

The mandatory standard should include adequate measures to ensure the protection of occupants and their arms and legs while riding a recreational off-highway vehicle. CPSC staff found, in a review of ROV death and injury data, that seventy-nine percent of the incidents involved at least one victim who exited the vehicle, partially or completely, in a collision. We recommend that the mandatory standard promulgated by CPSC include a provision requiring doors on ROVs to ensure that occupants and their limbs remain inside the vehicle -- especially if a roll over were to occur. This standard should also establish a test procedure to ensure that the doors sufficiently protect an occupant during a roll over. We further recommend that handholds for occupants be required and that standards for the integrity of the handholds be included as well.

### **Handling**

The mandatory standard should include sufficient measures to ensure adequate vehicle handling. For example, CPSC's press release announcing the Yamaha Rhino "*repair program*" stated that, "Yamaha's repair includes the installation of a spacer on the rear wheels as well as the removal of the rear anti-sway bar to help reduce the chance of rollover and improve vehicle handling."<sup>6</sup> The voluntary standard, however, does not include provisions to require a spacer on the rear wheels, nor does it require other conditions or mechanisms that would reduce the need for such a spacer. Similarly, the voluntary standard does not address the necessity of anti-sway bars. Thus, the CPSC's mandatory standard should include these provisions to ensure that the handling of these vehicles is adequate. Finally, we support CPSC staff recommendations that ROVs should exhibit the same understeering characteristics that exist in passenger automobiles.

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<sup>6</sup> U.S. Consumer Product Safety Commission Press Release available on the web at: <http://www.cpsc.gov/CPSCPUB/PREREL/prhtml09/09172.html>

### **Maximum Speed**

The voluntary standard does not include any limitation on the maximum speed of these vehicles. This is a critical provision that must be included in the mandatory standard to ensure the safety of occupants of these vehicles. The speed of the vehicle directly impacts the severity of the harm to the occupant if the vehicle were to crash or rollover. In addition, the vehicle must be able to operate sufficiently at such a maximum speed. Further, such speed limit should be determined based upon a consideration of an operator's ability to safely drive the vehicle at such speed.

### **Encouraging Seat Belt Use**

CPSC's press release announcing the Rhino "*repair program*" states that many incidents involved occupants who were not wearing seatbelts. In addition, as identified by CPSC's review of the death and injuries related to ROVs, the CPSC's Division of Hazard Analysis found that in those seventy two incidents of vehicles overturning for which they could determine whether a seatbelt was worn, seventy-one percent of these incidents (51 out of 72) appeared to involve at least one victim who was not wearing a seatbelt or wearing one improperly. In incidents of ROVs colliding, CPSC staff found that seventy-five percent (9 out of 12) of the incidents appeared to involve at least one victim who was either not using a seatbelt or using it improperly.<sup>7</sup> Thus, it is documented that occupants of these vehicles who are not wearing seat belts or wearing them improperly are getting hurt or killed.

The mandatory standard should address this issue and include measures to ensure the use of seat belts. The mandatory standard should require that ROVs be operational only when an occupant is properly using the seatbelt. Four point seatbelts should be required as the voluntary standard's three-point seatbelt provision fails to adequately protect consumers from exiting the vehicle in crashes and rollovers. In addition, we recommend that just as in cars, if an occupant is not secured by a seat belt, that an auditory stimulus be activated.

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<sup>7</sup> "Standard for Recreational Off-Highway Vehicles," 74 Fed. Reg. 207 (October 28, 2009) at 55497.

## **Conclusion**

In conclusion, our organizations support the CPSC's promulgation of a mandatory standard on ROVs because of the unreasonable risks posed by ROVs and because the voluntary standard does not adequately ensure the safety of occupants of recreational off-highway vehicles. We support CPSC staff recommendations to strengthen the flawed voluntary standard.

Respectfully submitted,

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