



## Consumer Federation of America

November 13, 2015

Dear Members of Congress:

We, the undersigned health and safety advocacy groups, health professionals, insurance companies, and individuals who have lost loved ones to off-highway vehicle crashes, write in opposition to any policy rider that would delay the implementation of the Consumer Product Safety Commission's (CPSC) proposed rule to set minimum safety standards for recreational off-highway vehicles (ROVs).

Both the House and Senate Financial Services and General Appropriations Committees have proposed language that would require an unnecessary additional report to study the CPSC's proposed rule and prevent CPSC from moving forward on the rule until this extraneous study is complete.

ROVs are motorized vehicles designed for off-highway use with four or more wheels; bench or bucket seats; automotive-type controls; rollover protective structures; occupant restraint; and maximum speed greater than 30 mph.<sup>1</sup> The CPSC's proposed rule for ROVs seeks to strengthen the voluntary standard by effectively addressing key issues that pose potential hazards to consumers, including lateral stability, vehicle handling, and occupant protection. The proposed ROV rule would address these issues to better protect the safety of all ROV riders, and must be permitted to move forward.

Requiring an additional study will only serve to draw out a process of technical study that has already been going on for over half a decade at the CPSC.<sup>2</sup> The consequences of further delaying the ROV rule would be significant as ROV use has resulted in at least 141 deaths since January 2014, including 63 deaths in 2015 alone, according to data compiled by the Consumer Federation of America (CFA) and its partners in a coalition of consumer, health and safety advocates concerned with all-terrain vehicle (ATV), utility vehicle (UTV) and ROV safety.

**The CPSC has collected extensive research to support the proposed rule.** The CPSC should not be thwarted from completing the work it began five years ago: the CPSC has already commissioned extensive independent research to establish the basis for the proposed safety requirements in the mandatory standard. In February 2010 the CPSC contracted with SEA, Limited (a "worldwide leader in forensic analysis, research and testing")<sup>3</sup> "to conduct an in-

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<sup>1</sup> CPSC Briefing Package. Pg. 91.

[www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2014/SafetyStandardforRecreationalOff-HighwayVehicles-ProposedRule.pdf](http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2014/SafetyStandardforRecreationalOff-HighwayVehicles-ProposedRule.pdf)

<sup>2</sup> The study would evaluate: the technical validity of the lateral stability and vehicle handling requirements proposed by the CPSC; whether there is a technical basis for the proposal to provide information about a vehicles rollover resistance on a hangtag; and the impact of the proposed rule on ROVs used by the military.

<sup>3</sup> SEA, Limited website. <http://www.sealimited.com/aboutUs.html>

depth study of vehicle dynamic performance and static rollover measures for ROVs.”<sup>4</sup> In 2011, SEA designed and built a roll simulator to analyze how occupants respond during quarter turn roll events. As an indicator of how thorough the research behind the proposed rule is, there are nine reports on ROVs from SEA on the CPSC website,<sup>5</sup> and the September 24, 2014 briefing package for the ROV proposed rule is 593 pages long. The CPSC has ensured that there is a strong, well-established technical basis for its proposed rule over a long process that has lasted five years.

**This process has already been repeatedly delayed.** The advanced notice of proposed rulemaking (ANPR) was posted in the Federal Register on October 28, 2009.<sup>6</sup> On December 22, 2009, the comment period for that ANPR was extended 75 days from the original deadline to March 15, 2010.<sup>7</sup> The CPSC worked on the rule for nearly four years until the notice of proposed rulemaking was published in the Federal Register on November 19, 2014.<sup>8</sup> Since November 19, the comment period has been extended twice, from February 2, 2015, to April 8, 2015, and then from April 8, 2015, to June 19, 2015.<sup>9</sup>

**The death and injury data shows a need for swift action rather than more delay.** The CPSC’s staff is aware of 335 deaths and 506 injuries related to ROV crashes spanning from January 2003 to April 2013. An analysis of ROV crashes reviewed by CPSC staff found that 68% of the crashes involved rollovers and 52% of these rollovers occurred while turning the ROV. Where seat belt use is known for fatal victims, 86% of victims were ejected from an ROV, and 91% of those victims were not wearing a seat belt.<sup>10</sup>

CFA and its partners have documented at least 78 fatalities associated with ROVs from January 2014 through December 2014. From January 2015 through November 2, 2015, CFA and its partners have identified 63 deaths that involved an ROV. In total, CFA found that from January 1, 2014, through November 2, 2015, there were 141 ROV fatalities.

The additional delays imposed by an unnecessary study will serve to expose even more consumers to a product that the CPSC has already thoroughly researched and tested. The CPSC’s technical research and testing has found that ROVs lack the safety requirements that the CPSC has determined are necessary. Importantly, the CPSC’s and other groups’ death and

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<sup>4</sup> U.S. Consumer Product Safety Commission, Proposed Rule: Recreational Off-Highway Vehicles (ROVs), September 24, 2014 at 15, available online at <http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2014/SafetyStandardforRecreationalOff-HighwayVehicles-ProposedRule.pdf>.

<sup>5</sup> ATV and ROV Technical Reports. <http://www.cpsc.gov/en/Research--Statistics/Sports--Recreation/ATVs/Technical-Reports/>

<sup>6</sup> ANPR, CPSC-2009-0087-0001, 2009. <http://www.regulations.gov/#!documentDetail;D=CPSC-2009-0087-0001>

<sup>7</sup> Notice of extension of comment period, CPSC-2009-0087-0023, 2009. <http://www.regulations.gov/#!documentDetail;D=CPSC-2009-0087-0023>

<sup>8</sup> NPR, CPSC-2009-0087-0131, 2014. <http://www.regulations.gov/#!documentDetail;D=CPSC-2009-0087-0131>

<sup>9</sup> Extension of comment period, CPSC-2009-0087-0338, 2015. <http://www.regulations.gov/#!documentDetail;D=CPSC-2009-0087-0338>

<sup>10</sup> U.S. Consumer Product Safety Commission, Proposed Rule: Recreational Off-Highway Vehicles (ROVs), September 24, 2014 at 6, available online at <http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2014/SafetyStandardforRecreationalOff-HighwayVehicles-ProposedRule.pdf>

injury data supports the need for a strong mandatory standard from the CPSC that addresses the serious risks posed by ROVs as soon as possible.

In addition, we understand that the voluntary standard for ROVs is being updated which may render this policy rider unnecessary.

We look forward to working with you on this important safety issue and if you have any questions please don't hesitate to contact Rachel Weintraub at 202-387-6121 or [rweintraub@consumerfed.org](mailto:rweintraub@consumerfed.org).

Sincerely,

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