

Office of the Secretary
Consumer Product Safety Commission
Room 502
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**To the U.S. Consumer Product Safety Commission regarding Docket No. CPSC-2021-0014-
Off-Highway Vehicle (OHV) Fire and Debris-Penetration Hazards**

Advance Notice of Proposed Rulemaking

July 12, 2021

Consumer Federation of America (CFA) is an association of non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education.

CFA appreciates the opportunity to provide comments to the U.S. Consumer Product Safety Commission (CPSC or Commission) in response to the Off-Highway Vehicle (OHV) Fire and Debris-Penetration Hazards; Advance Notice of Proposed Rulemaking; Request for Comments and Information [Docket No. CPSC-2021-0014].¹

The CPSC is considering developing a mandatory standard (or standards) that will impose requirements to reduce injury risk from OHV fire and debris-penetration; CFA supports the development of such a standard. OHVs are currently subject to voluntary standards, none of which address OHV associated fire hazards or debris-penetration. CFA believes a mandatory standard is necessary to help reduce the risk of such injuries, and urges this proposal move forward.

1. Background

The CPSC has published an Advanced Notice of Proposed Rulemaking (ANPR) to consider whether it will develop a rule to address the risk of injury associated with fire and debris-penetration hazards associated with off-highway vehicles (OHVs). This Advanced Notice of Proposed Rulemaking (ANPR) is the discretionary first step of a multistep rulemaking process.

¹ Federal Register. (2021, May 11). 16 CFR Chapter II [Docket No. CPSC-2021-0014]: Off-Highway Vehicle (OHV) Fire and Debris-Penetration Hazards; Advance Notice of Proposed Rulemaking; Request for Comments and Information. Retrieved July 1, 2021 from <https://www.govinfo.gov/content/pkg/FR-2021-05-11/pdf/2021-09881.pdf>

The CPSC is not yet offering a proposal but rather is requesting information about the particular risk of injury, regulatory alternatives, and other possible means to address the hazards identified. We support the CPSC’s Advance Notice of Proposed Rulemaking and urge the CPSC to move forward with the rulemaking process to protect consumers from fire and debris-penetration risks posed by OHVs.

2. The Problem: OHV Incidents

a. CPSC Death and Injury Data

The CPSC released its most recent fatality and injury [report](#) related to OHVs in December 2020. CPSC staff is aware of 2,258 deaths associated with Off-Highway Vehicles (OHVs) that resulted from 2,210 incidents during the 3-year period from 2015 through 2017.² The CPSC received reports of 521 ATV fatalities, 168 ROV fatalities, and a total of 736 OHV fatalities in 2017.³ In 2016, the CPSC received reports of 565 ATV fatalities, 141 ROV fatalities, and 739 total OHV fatalities.⁴ Over the full 5-year period from 2015 through 2019, CPSC staff estimates that there were 524,600 emergency department-treated injuries in the United States associated with OHVs (ATVs, ROVs, and/or UTVs)⁵. This corresponds to an annual average of 104,900 emergency department-treated injuries over the period.⁶

b. CPSC Child Specific Data

The CPSC’s review of the reported OHV-related fatalities indicates that of total deaths between January 1, 2015 through December 31, 2017, 353 (16%) of the 2,258 total were younger than 16 years of age, and 171 (8%) were younger than 12 years of age. 48% of the child fatalities (i.e., children under 16 years of age) were children younger than 12 years of age.⁷ Of the CPSC’s estimated 524,600 emergency department-treated injuries from 2015 through 2019, on average children “Under 12 Years of Age” represented an estimated 13% of emergency department-treated injuries for all ages, or 50% of injuries to children under 16.⁸

c. CFA OHV Death Data and OHV Incidents Associated with the COVID-19 Pandemic

² Topping, J. (2020, December) 2020 Report of Deaths and Injuries Involving Off-Highway Vehicles with More than Two Wheels. Retrieved June 29, 2021 from https://cpsc.gov/s3fs-public/2020_Report_of_Deaths_and_Injuries_Involving_Off_HighwayVehicles.pdf?imC.TJWgDuptE5LCrTj9lKE08Vo3Nu4g at 2.

³ Ibid, 5.

⁴ Ibid.

⁵ Ibid, 2.

⁶ Ibid.

⁷ Ibid, 9.

⁸ Ibid, 13.

From 2013 through 2020, CFA and the OHV Safety Coalition documented over 4,860 deaths from OHV incidents. These findings are not yet complete, and the number of deaths will likely increase as additional information becomes available. CFA and our coalition compile death data through media reports.

CFA and our coalition identified:

- 366 ATV fatalities; 215 ROV fatalities, and 615 total OHV fatalities in 2020.⁹
- 395 ATV fatalities; 213 ROV fatalities, and 626 total OHV fatalities in 2019.¹⁰
- 416 ATV fatalities, 171 ROV fatalities, and 600 total OHV fatalities in 2018.¹¹
- 460 ATV fatalities, 147 ROV fatalities, and 635 total OHV fatalities in 2017.¹²
- 515 ATV fatalities, 118 ROV fatalities, and 679 total OHV fatalities in 2016.¹³

These numbers are likely low estimates given the complexity and difficulty of identifying the cause based on information provided to and obtainable by the CPSC. While CFA collects data on OHV deaths from media reports, information focuses on the incident itself and is usually not specific enough to include the hazard of debris penetration, for example.

CFA's OHV fatality data includes state specific data as well. Our data from January 2013 through December 2020, identifies that the states with the most OHV fatalities include: 1) Pennsylvania (269); 2) Texas (251); 3) California (204); 4) Missouri (201); and 5) Florida (195).

CFA also documents, that as a consequence of changes to daily life from the COVID-19 pandemic, numerous states have experienced increases in OHV incidents. At least sixteen states have documented increased OHV injuries between 2020-2021. Reports from doctors in Arkansas, California, Colorado, Florida, Georgia, Idaho, Kentucky, Louisiana, Minnesota, Missouri, North Dakota, Tennessee, Texas, Utah, Vermont, and West Virginia indicate increased emergency room visits as a result of [OHV incidents](#).¹⁴

d. CFA Child Specific Data

From 2019 to 2021, CFA has collected data for OHV fatality incidents involving children fifteen years old and younger.

CFA and our coalition identified:

⁹ Consumer Federation of America. (2021). Off-Highway Vehicle Safety and Fatality Data. Retrieved June 29, 2021 from <https://consumerfed.org/off-highway-vehicle-safety/>

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ CFA has documented increases in OHV incidents in 16 states based upon media reports. CFA's detailed report of state increases is available here: <https://consumerfed.org/wp-content/uploads/2021/07/OHV-Deaths-Sixteen-States-have-Documented-Increases-7-1-21.pdf>.

- Thus far, in 2021, 216 OHV total fatalities; 42 (19.4%) were of children ages 0 to 15 years.¹⁵
- In 2020, 615 OHV total fatalities; 97 (15.8%) were of children ages 0 to 15 years.¹⁶
- In 2019, 626 OHV total fatalities; 81 (12.9%) were of children ages 0 to 15 years.¹⁷
- In 2018, 600 OHV total fatalities; 64 (10.7%) were of children ages 0 to 15 years.¹⁸
- In 2017, 635 OHV total fatalities; 95 (15.0%) were of children ages 0 to 15 years.¹⁹
- In 2016, 679 OHV total fatalities; 111 (16.3%) were of children ages 0 to 15 years.²⁰
- In 2015, 618 OHV total fatalities; 114 (18.4%) were of children ages 0 to 15 years.²¹
- In 2014, 649 OHV total fatalities; 99 (15.3%) were of children ages 0 to 15 years.²²
- In 2013, 575 OHV total fatalities; 90 (15.7%) were of children ages 0 to 15 years.²³

The data for this year is incomplete. However, even with incomplete data for 2021, the percentage of youth fatalities is already higher than it was for the preceding years.

e. OHV Incident Data Related to Fires and Debris Penetration

While fire incidents have been identified in all ATVs, debris-penetration is unique to ROVs and UTVs. From January 2003 through December 2020, the CPSC identified 28 fatalities and 264

¹⁵ Consumer Federation of America. (2021, June 16). 2021 All-Vehicles Fatalities Report. Retrieved July 8, 2021 from https://consumerfed.org/wp-content/uploads/2021/06/2021-OHV-Deaths-Report-Generator-ALL_6-16-21.pdf

¹⁶ Consumer Federation of America. (2020, December 31). 2021 All-Vehicles Fatalities Report. Retrieved July 12, 2021 from https://consumerfed.org/wp-content/uploads/2021/02/2020-OHV-Deaths-Report-Generator-ALL_2-23-21_NO-FARS.pdf

¹⁷ Consumer Federation of America. (2019, December 31). 2021 All-Vehicles Fatalities Report. Retrieved July 12, 2021 from <https://consumerfed.org/wp-content/uploads/2021/04/2019-OHV-Deaths-Report-Generator-All-2021-Revision-1.pdf>

¹⁸ Consumer Federation of America. (2018, December 31). 2021 All-Vehicles Fatalities Report. Retrieved July 12, 2021 from <https://consumerfed.org/wp-content/uploads/2020/02/2018-December-OHV-Deaths-Report-Generator-ALL-2020.pdf>

¹⁹ Consumer Federation of America. (2017, December 31). 2021 All-Vehicles Fatalities Report. Retrieved July 12, 2021 from <https://consumerfed.org/wp-content/uploads/2020/08/2017-OHV-Deaths-Report-Generator-ALL-2020-revision.pdf>

²⁰ Consumer Federation of America. (2016, December 31). 2021 All-Vehicles Fatalities Report. Retrieved July 12, 2021 from <https://consumerfed.org/wp-content/uploads/2017/03/2016-OHV-Deaths-Report-Generator-ALL.pdf>

²¹ Consumer Federation of America. (2015, December 31). 2021 All-Vehicles Fatalities Report. Retrieved July 12, 2021 from <https://consumerfed.org/wp-content/uploads/2020/08/2015-OHV-Deaths-Report-Generator-ALL-2020-Revision.pdf>

²² Consumer Federation of America. (2014, December 31). 2021 All-Vehicles Fatalities Report. Retrieved July 12, 2021 from <https://consumerfed.org/wp-content/uploads/2017/03/2014-OHV-Deaths-Report-Generator-ALL.pdf>

²³ Consumer Federation of America. (2013, December 31). 2021 All-Vehicles Fatalities Report. Retrieved July 12, 2021 from <https://consumerfed.org/wp-content/uploads/2017/03/2013-OHV-Deaths-Report-Generator-ALL.pdf>

injuries from fire related OHV hazards.²⁴ From January 2003 through December 2020, the CPSC identified 6 fatalities and 20 injuries from debris-penetration hazards.²⁵

3. Voluntary Standards are Inadequate

The following voluntary standards for the three OHV types fail to include requirements that address fire hazards or debris-penetration:

- a. ANSI/SVIA 1-2017 *Four-Wheel All-Terrain Vehicles—Equipment, Configurations, and Performance Requirements* developed by Specialty Vehicle Institute of America (SVIA) for ATVs and incorporated by reference as a mandatory standard in 16 CFR 1420.3;
- b. ANSI/ROHVA 1-2016—*Recreational Off-Highway Vehicles*; and
- c. ANSI/OPEI B71.9-2016—*American National Standard for Multipurpose Off-Highway Utility Vehicles*.²⁶

The voluntary standards for ROVs and UTVs fail to include fire hazard or debris-penetration requirements, and the voluntary standard for ATVs fails to include fire hazard requirements.²⁷ Though these standards have been discussed between the CPSC and representatives from ROHVA, SVIA and OPEI, proposals to address fire prevention and debris-penetration in the voluntary standard have not been initiated. In addition, for at least one voluntary standard, participation has been difficult historically, due to lack of remote access, and lack of notice provided to stakeholders.

4. CPSC Recalls

The CPSC has issued 68 recalls from 2002 to 2019, due to OHV fire and debris-penetration hazards: 26 ATV fire hazard recalls; 33 ROV fire hazard recalls; 6 UTV fire hazard recalls; and 3 ROV debris-penetration recalls.²⁸ At least two youth model OHVs were recalled specifically due to fire risks: an October 7, 2015 recall of a BRP youth model ATV due to fire hazard;²⁹ a

²⁴ Federal Register. (2021, May 11). 16 CFR Chapter II [Docket No. CPSC-2021-0014]: Off-Highway Vehicle (OHV) Fire and Debris-Penetration Hazards; Advance Notice of Proposed Rulemaking; Request for Comments and Information. Retrieved July 1, 2021 from <https://www.govinfo.gov/content/pkg/FR-2021-05-11/pdf/2021-09881.pdf> at 25818.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

²⁸ At 25828

²⁹ Consumer Product Safety Commission. BRP Recalls Youth All-Terrain Vehicles Due to Fire Hazard (Recall Alert). Retrieved July 1, 2021, from <https://www.cpsc.gov/Recalls/2016/BRP-Recalls-Youth-All-Terrain-Vehicles>

July 23, 2015 recall of a Polaris RZR Youth model ROV due to fire hazard;³⁰ and a July 25, 2017 recall of a Polaris RZR 170 ROV due to fire hazard.³¹

CFA has analyzed OHV recalls from January 1, 2010, through June 10, 2021, and has identified that the cause of the most recalls is fire hazards. Fire related hazards accounted for 56 recalls (42.7%).³² This is significantly greater than the second most common hazard indicated in OHV recall notifications, throttle issues, which accounted for 18 of the 131 recalls (13.7%).³³ Fire related hazards include issues such as fuel hoses leaking, exhaust pipes cracking, firewalls failing, melting of components, and other fuel related issues.³⁴

5. Marketplace Information

Post-sale OHV safety modifications exist to prevent known problems that OHV riders are experiencing: fire hazards and debris-penetration. That these post-sale OHV safety modifications are available for sale in the marketplace is strong evidence that these are prevalent issues that a safety requirement would address to help reduce such risk.

This is important because, according to the CPSC, annual U.S. ROV sales have risen steadily since 1998; an estimated 2,700 units were sold in 1998 which rose to an estimated 376,000 units in 2018.³⁵ The CPSC identified 35 manufacturers domestically and internationally, and estimates that 79% of the 2018 U.S. ROV sales were by U.S. manufacturers.³⁶ The CPSC estimates that 90% of the ROVs sold in that period were manufactured by members of ROHVA or OPEI. Total OHV sales are beginning to recover after a decline post-2004, and the CPSC estimates that 75% of 2018 U.S. OHV sales were from U.S. manufacturers.³⁷ The CPSC estimates approximately 93% of sales for that period were by SVIA, ROHVA, and OPEI members.³⁸

Though the CPSC cannot accurately estimate the number of OHV's currently in use due to lack of reliable information on product life, they provide a table with a possible range of estimates possible for OHVs in-use under different assumptions of product lifespan.³⁹

³⁰ Consumer Product Safety Commission. Polaris Recalls Youth RZR Recreational Off-Highway Vehicles Due to Fire Hazard (Recall Alert). Retrieved July 1, 2021, from [Polaris Recalls Youth RZR Recreational Off-Highway Vehicles Due to Fire Hazard \(Recall Alert\) | CPSC.gov](https://www.cpsc.gov/Recalls/2015/Polaris-Recalls-Youth-RZR-Recall-Alert)

³¹ Consumer Product Safety Commission. Polaris Recalls RZR 170 Recreational Off-Highway Vehicles Due to Fuel Leak, Fire Hazards. Retrieved July 1, 2021, from <https://www.cpsc.gov/Recalls/2017/Polaris-Recalls-RZR-170-Recreational-Off-Highway-Vehicles>

³² Ibid.

³³ Ibid.

³⁴ Ibid.

³⁵ Federal Register. (2021, May 11). 16 CFR Chapter II [Docket No. CPSC-2021-0014]: Off-Highway Vehicle (OHV) Fire and Debris-Penetration Hazards; Advance Notice of Proposed Rulemaking; Request for Comments and Information. Retrieved July 1, 2021 from <https://www.govinfo.gov/content/pkg/FR-2021-05-11/pdf/2021-09881.pdf>, at 25821.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid, 25822.

Life expectancy	10 Years	15 Years	20 Years
ATV	3,217,376	5,782,667	7,467,359
ROV	2,419,854	2,725,373	2,853,372
UTV	895,474	1,226,299	1,417,666
Total	6,532,704	9,734,340	11,738,397

Table 1—Estimates of OHVs in Use

[Gamma distribution w/shape = 5 and beta = 1]

6. Recommendation

Due to the known injuries and deaths, inadequacy of the voluntary standards to address these hazards, recalls issued by the CPSC, and known market modifications that exist to address fire and debris-penetration hazards, we urge the CPSC to move forward with the rulemaking process to address these hazards posed by OHVs.