

June 2, 2015

Chairman Michael C. Burgess
Energy and Commerce Committee, Commerce, Manufacturing, and Trade
Subcommittee
United States House of Representatives
2336 Rayburn House Office Building
Washington, DC 20515

The Honorable Jan Schakowsky, Ranking Member
Energy and Commerce Committee, Commerce, Manufacturing, and Trade
Subcommittee
United States House of Representatives
2367 Rayburn House Office Building
Washington, DC 20515

**Re: May 19, 2015 Hearing, “Oversight of the Consumer Product Safety
Commission”**

Dear Chairman Burgess and Ranking Member Schakowsky:

On behalf of the Specialty Equipment Market Association (SEMA), I thank the Subcommittee for considering HR 999, the “ROV In-Depth Examination Act.” The legislation would instruct the National Academy of Sciences to study the Consumer Product Safety Commission’s (CPSC) proposed rule which could restrict the performance capabilities of recreational off-highway vehicles (ROVs). We respectfully request that you include this letter in the record of the Subcommittee’s May 19, 2015 hearing.

SEMA represents the \$33 billion specialty automotive aftermarket industry. Our trade association is made up of about 6,800 mostly small businesses nationwide that design, manufacture, distribute and retail specialty parts and accessories for motor vehicles. The industry employs over 1 million Americans and produces performance, functional, restoration and styling enhancement parts for use on passenger cars, trucks and collector vehicles along with ROVs and other off-highway vehicles (OHVs). ROVs and related equipment represent an important segment of products manufactured by SEMA members.

ROVs are a popular form of recreational transportation on backcountry roads and trails. They can attain speeds greater than 30 miles-per-hour and are configured differently than all-terrain vehicles (ATVs). ROVs generally accommodate a side-by-side driver and passenger in a compartment equipped with roll bars. They also include automotive-type controls for steering, throttle and braking.

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ROVs are currently subject to a nationally-recognized industry standard developed by the American National Standards Institute (ANSI) and the Recreational Off-Highway Vehicle Association (ROHVA) and which has been effective at protecting OHV riders. The ANSI-approved standard (ANSI/ROHVA 1-2014) is based on 2014 data and is the result of many years of cooperative efforts by industry and the CPSC to develop a voluntary approach to regulating these vehicles.

Despite the industry standard's success, the CPSC announced in November 2014 that it would pursue a rulemaking to establish a mandatory ROV safety standard. The Commission cited safety as its reason for promulgating the standard. However, it is not clear that a CPSC standard would reduce accidents beyond the reductions achieved under the ANSI standard. In fact, with respect to the dynamic lateral stability and vehicle handling requirements, the CPSC acknowledges that it does not "have sufficient data to estimate the injury rates of models that already meet the requirements and models that do not meet the requirements. Thus, we cannot estimate the potential effectiveness of the dynamic lateral stability and vehicle handling requirements in preventing injuries" (79 Fed. Reg. 69004 (2014)).

SEMA questions whether the CPSC has sufficient basis for abandoning the current industry standard since the law directs the Commission to pursue a voluntary consumer product safety standard whenever possible. 15 U.S.C. § 2056 directs the CPSC to "rely upon voluntary consumer product safety standards rather than promulgate a consumer product safety standard prescribing requirements described in subsection (a) of this section whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards." Given the unambiguous wording of the law and the lack of evidence that a rulemaking would result in increased safety, CPSC's basis for abandoning the current industry standard is without merit.

SEMA joined with ROHVA and a number of other organizations and companies in voicing concerns about the proposed ROV mandate at the CPSC's public meeting (January 7, 2015). Many attendees at the hearing, including SEMA, noted that the CPSC's proposed rule is based on test data from 2010 and largely reflects the outdated 2011 version of the ANSI/ROHVA rule. As a result, the Commission's proposed rule would have the unintended effect of imposing design restrictions and stifling future safety innovations. The proposal also includes restrictive lateral stability and vehicle handling requirements that could potentially limit vehicle use. Conversely, the industry standard recognizes that there are a wide variety of uses and terrains for which ROVs are constructed, from utility to recreation. ANSI/ROHVA standards, which reflect collaboration with the CPSC, are also much easier to update than a federal standard, which requires a lengthy rulemaking process.

While SEMA and other groups representing motorized recreation oppose the CPSC's rulemaking and question the benefit of moving from an industry standard to a government mandate, the Commission has not signaled that it will withdraw the rule. Accordingly, HR 999 is important as a tool in determining whether the CPSC's rulemaking is based on sound science, is necessary, and whether it would actually undermine ROV capabilities and intended uses. This bill ensures that before CPSC's rulemaking is finalized, the National Academy of Sciences (NAS), in consultation with the National Highway Traffic Safety Administration (NHTSA) and the Department of Defense (DOD), will conduct a thorough review of the technical validity of the proposed standards, determine whether the proposed rule would prevent ROV rollover accidents and perform a comprehensive analysis of the rulemaking's impact on the functionality of ROVs used by the Armed Forces.

SEMA strongly supports the "ROV In-Depth Examination Act" and again thanks the Subcommittee for considering the bill. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve M", with a long horizontal flourish extending to the right.

Stephen B. McDonald
Vice President, Government Affairs