

June 19, 2015

The Honorable Elliot Kaye
Chairman
Consumer Product Safety Commission
Room 820
4330 East West Highway
Bethesda, MD 20814

Re: Safety Standard for Recreational Off-Highway Vehicles (ROVs); Proposed Rule
(Docket No CPSC-2009-0087)

Dear Chairman Kaye:

On behalf of the Specialty Equipment Market Association (SEMA), I am writing to urge the Consumer Product Safety Commission (CPSC) to set aside efforts to establish a mandatory safety standard for recreational off-highway vehicles (ROVs) and instead support the most recent ANSI/ROHVA standard. The industry standard is more responsive to public safety needs than a government standard and can be more easily adapted in the future to incorporate technological advances.

SEMA is a trade association made up of approximately 6,800 mostly small businesses nationwide that design, manufacture, distribute and retail parts and accessories for motor vehicles. In total, the specialty automotive equipment industry employs over 1 million Americans and is responsible for \$33 billion in annual retail sales. Our members produce performance, functional, restoration and styling enhancement products for use on passenger cars and trucks along with ROVs and other off-highway vehicles (OHVs). OHVs and related equipment represent an important segment of products manufactured by SEMA members. SEMA proactively encourages and advocates for member compliance with existing federal laws and industry standards.

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), 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. Conversely, the CPSC's proposed rule is unnecessary and is based on outdated information. SEMA and a number of other witnesses raised this concern at the CPSC's public meeting on January 7, 2015, noting that the rulemaking relies on test data from 2010.

Headquarters: P.O. Box 4910, Diamond Bar, Calif. 91765-0910
Telephone: 909/396-0289 • Fax, general office: 909/860-0184 • Fax, publications: 909/860-1709
SEMA 1317 F Street N.W., Ste. 500, Washington, D.C. 20004
Telephone: 202/783-6007 • Fax 202/783-6024



Although the CPSC cites safety as the reason for promulgating an ROV standard, it is not clear that injuries or fatalities would be reduced beyond the reductions achieved under the current ANSI standard. For example, with respect to the dynamic lateral stability and vehicle handling requirements, the Agency 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)

In the absence of data that demonstrates a need to establish a mandatory safety standard, Congress could direct the CPSC to pursue a rulemaking. This has not occurred. Current law does, however, require 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.”* 15 U.S.C. § 2056 (2014) In light of this directive, SEMA believes that there is not a sufficient basis for the CPSC to abandon the current industry standard.

The Commission’s proposed rule could also have the unintended effect of restricting design options and stifling future safety innovations. The proposal includes restrictive lateral stability and vehicle handling requirements that could potentially limit vehicle use. For example, the ability to turn quickly or be able to clear sand dunes or other ground anomalies becomes a safety issue. Conversely, the industry standard recognizes that there are a wide variety of uses and terrains for which ROVs are constructed, from utility to recreation.

Industry standards are also subject to periodic review and reconsideration and can be updated as new technologies emerge. The CPSC would have an active voice in helping shape any such revisions. In contrast, it is more challenging to update a government safety standard since it requires the dedication of staff resources and formal rulemaking processes.

Regulatory oversight of wheels for passenger cars and light duty trucks is a useful example of the difference between government and industry standards. The National Highway Traffic Safety Administration (NHTSA) has never issued safety standards for these products. Rather, NHTSA has relied on industry standards issued for decades by the Society of Automotive Engineers (SAE). The SAE standards provide NHTSA with a basis for measuring a company’s product against a recognized standard if there are any questions about safety.

Although the CPSC is seeking to safeguard users by pursuing ROV performance and design issues, failure to wear seat belts, drinking and excessive speed are the hazards most frequently associated with ROV injuries and deaths. Industry, the CPSC and state and local agencies and organizations seek to address dangerous user behavior through education campaigns and travel management plans. SEMA respectfully recommends that continued diligence in these areas will have the greatest benefit in reducing injuries and deaths.

SEMA urges the CPSC to continue to work collaboratively with industry on the ANSI/ROHVA voluntary standard in order to improve ROV safety.

Thank you for your consideration of this comment. If you have any questions, or require additional information please feel free to contact me at 202/777-1220 or stuartg@sema.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart Gosswein". The signature is fluid and cursive, with a long horizontal stroke at the end.

Stuart Gosswein
Sr. Director, Federal Government Affairs