



**Billing Code 6355-01-P**

**CONSUMER PRODUCT SAFETY COMMISSION**

**16 CFR Part 1420**

**[CPSC Docket No. 2017-0032]**

**All-Terrain Vehicles**

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY** The Consumer Product Safety Act (CPSA), as amended by the Consumer Product Safety Improvement Act of 2008 (CPSIA), required the Consumer Product Safety Commission (CPSC or the Commission) to publish, as a mandatory consumer product safety standard, the *American National Standard for Four-Wheel All-Terrain Vehicles*, developed by the Specialty Vehicle Institute of America (ANSI/SVIA 1-2007). CPSC published that mandatory consumer product safety standard on November 14, 2008. ANSI/SVIA issued a 2017 edition of its standard in June 2017. In accordance with the CPSA, CPSC is issuing this final rule to amend the Commission's mandatory ATV standard to reference the 2017 edition of the ANSI/SVIA standard.

**DATES:** This rule will become effective on January 1, 2019. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of January 1, 2019.

**FOR FURTHER INFORMATION CONTACT:** Justin Jirgl, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301-504-7814; e-mail: [jjirgl@cpsc.gov](mailto:jjirgl@cpsc.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background and Statutory Authority**

Section 42 of the Consumer Product Safety Act (CPSA), as amended by section 232 of the CPSIA, directed the Commission to “publish in the Federal Register as a mandatory consumer product safety standard the American National Standard for Four-Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements developed by the Specialty Vehicle Institute of America (American National Standard ANSI/SVIA 1-2007).” 15 U.S.C. 2089(a)(1). Accordingly, on November 14, 2008, CPSC published a final rule, codified at 16 CFR part 1420, mandating ANSI/SVIA 1-2007 as a consumer product safety standard. 73 FR 67385.

Section 42(b) of the CPSA provides that, if ANSI/SVIA 1-2007 is revised after the Commission has published a *Federal Register* notice mandating the standard as a consumer product safety standard, ANSI must notify the Commission of the revision, and the Commission has 120 days after it receives that notification to issue a notice of proposed rulemaking to amend the Commission’s mandatory ATV standard “to include any such revision that the Commission determines is reasonably related to the safe performance of [ATVs] and notify the Institute of any provision it has determined not to be so related.” 15 U.S.C. 2089(b)(1) and (2). Thereafter, the Commission has 180 days after publication of the proposed amendment to publish a final amendment to revise the ATV standard. *Id.* On February 29, 2012, the Commission revised part 1420, in accordance with the revision procedures set out in the CPSA, to reference the 2010 edition of the ANSI/SVIA standard. 77 FR 12197.

## **II. The Proposed and Final Rules**

On June 14, 2017, ANSI notified the Commission that the ANSI/SVIA standard had been revised in 2017, and that the new standard, ANSI/SVIA 1-2017, was approved on June 8, 2017. On September 13, 2017, the Commission published a proposed rule (NPR), 82 FR 42962, to amend part 1420 to reference the 2017 edition of the ANSI/SVIA standard. In the NPR, the Commission described two material changes to ANSI/SVIA 1-2017, which compared to the 2010 edition of the standard, are reasonably related to the safe performance of ATVs: (A) requirements for stop lamps or combination tail-stop lamps on all adult and transition category ATVs, and on all youth ATVs equipped with a head lamp or conspicuity lamp; and (B) requirements for reflectors for all categories of ATVs. 82 FR at 42961. These revisions have not changed for the final rule.

### *A. Stop Lamps and Reflectors*

ANSI/SVIA 1-2017 Section 4.17, Lighting & Reflective Equipment, requires that all categories of ATVs be equipped with reflectors, all adult and transition ATVs be equipped with stop lamps, and that all youth ATVs already equipped with a head lamp or conspicuity lamp also be equipped with stop lamps.

#### **1. Stop Lamps**

ANSI/SVIA 1-2017 requires stop lamps or combination tail-stop lamps on all adult and transition category ATVs, and on all youth ATVs equipped with a head lamp or conspicuity lamp. In May 2015, CPSC requested that SVIA consider adding requirements relating to stop lamps to increase the detectability of ATVs, based on a preliminary analysis of 2007 ATV fatality data involving two ATVs colliding. CPSC staff worked with SVIA to develop the stop lamp requirements contained in ANSI/SVIA 1-2017. The stop lamp requirements in

ANSI/SVIA 1-2017 are intended to improve the optional provision for stop lamps in the 2010 edition of the voluntary standard, to reduce rear-end collisions related to non-detection of a vehicle braking.

## **2. Reflectors**

ANSI/SVIA 1-2017 requires one amber reflector on each side of the ATV (mounted as far forward as practicable), one red reflector on each side of the ATV (mounted as far rearward as practicable), one red reflector on the rear of the vehicle, and one white reflector on the front of the ATV, if not equipped with a headlamp or conspicuity light. These requirements are for all categories of ATV. The NPR reviewed that reflector use may increase the detectability of ATVs, citing CPSC staff's review of 331 fatal ATV-related vehicular collision incidents that found that more than 30 percent of these incidents occurred at night and an additional 5 percent occurred in low light (*i.e.*, dusk). Moreover, CPSC's review of data demonstrate that fatalities occur when ATVs cross public roads between fields or trails. Although many factors contribute to incidents, increasing the visibility of ATVs at night will raise the likelihood that the driver of an oncoming vehicle will detect the ATV. Early detection of an ATV may allow the driver of an oncoming vehicle sufficient time to react and avoid a collision.

In May 2015, CPSC requested that SVIA consider adding requirements relating to reflectors, and worked with SVIA in developing the reflector requirements contained in ANSI/SVIA 1-2017. The ANSI/SVIA 1-2017 reflector requirements are intended to increase the visibility of an ATV at night and may reduce vehicular collisions related to non-detection of other vehicles.

The Commission now reviews the comments on the NPR, and finalizes the amendment to part 1420, updating the reference in part 1420 to ANSI/SVIA 1-1017, as described herein.

### **III. Response to Comments**

The Commission received 32 comments on the NPR. However, 26 comments were about renewable energy and climate issues, and thus, were not related to the proposed amendment of the consumer product safety standard for ATVs. Of the remaining six comments relevant to the NPR, three agreed with the proposed rule, two opposed the proposed rule, and one commented on the proposed effective date.

Below the Commission summarizes and responds to the significant issues raised in the relevant comments.

#### *A. Comment Regarding the Effective Date of the Final Rule*

**Comment:** The SVIA objected to the proposed 60-day effective date specified in the NPR. SVIA noted that although the CPSIA requires the Commission to issue an NPR within 120 days of receiving notification of the revised ANSI/SVIA standard, the Commission issued the NPR within 90 days of notification, on September 13, 2017, instead of closer to the statutory deadline of October 12, 2017. SVIA added that although the Commission is required to publish a final rule by March 12, 2018, the Commission could issue the final rule earlier. SVIA contended that the Commission's ability to issue the final rule earlier than the statutory deadline presents an uncertainty in the effective date, which makes it difficult for ATV manufacturers to plan for compliance. SVIA requested that the effective date of the final rule apply to ATVs beginning with the 2019 model year, to accommodate changes to the design of certain ATVs.

Moreover, SVIA stated that modifications to meet the new standard require "changes to the electrical system and will require new engineering, designing, fabricating, and testing of reflectors and mounting brackets, all of which must be arranged significantly in advance of implementation." SVIA noted that to meet the proposed 60-day effective date, all of these

changes must be done before ATVs are imported and would apply to 2018 model year ATVs, which have already been designed and are under production, and may be awaiting shipment. SVIA contended that a 60-day effective date would also impose a financial burden on manufacturers, contrary to CPSC's statement that the proposed rule would not pose a significant impact on small manufacturers.

**Response:** The Commission cannot set an effective date based on a model year for several reasons. First, effective dates for Commission rules are set by providing a calendar date based on the date of publication of a final rule. Second, manufacturers have varying schedules for manufacturing, importing, and distributing model years, making enforcement of a rule based on a model year more difficult. For enforcement purposes, and for clarity for consumers, the final rule provides an effective date that is a specific calendar date.

Note that when the Commission amended the mandatory standard for ATVs in 2012, the seven major distributors of ATVs requested that the amended mandatory standard be effective for 2013 model year ATVs, or alternatively, 60 days after publication of the final rule.<sup>1</sup> In the 2012 rulemaking, CPSC responded that tying the effective date to a particular model year was problematic because vehicle model years do not begin and end on the same date for each company. Based on this previous experience, the Commission proposed a 60-day effective date for the final rule, believing that the revisions required to meet the revised standard were not substantial, and that such a date would correspond with planning for the 2019 model year. 82 FR 42962.

SVIA's comment on the current rulemaking, however, provides sufficient rationale to demonstrate why the proposed 60-day effective date is not suitable for all ATV manufacturers.

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<sup>1</sup> All-Terrain Vehicles: Final Rule Amending Consumer Product Safety Standard, dated February 8, 2012. Retrieved from: [https://www.cpsc.gov/s3fs-public/pdfs/foia\\_atvfinal.pdf](https://www.cpsc.gov/s3fs-public/pdfs/foia_atvfinal.pdf).

Moreover, as explained above, the Commission's intention was to align the effective calendar date of the final rule with the introduction of model year 2019 ATVs to the U.S. market. SVIA's past comments indicate that planning for the 2019 model year has been under way since March 2017, and that model year 2019 vehicles will be released in the 2018 calendar year.

Based on SVIA's comments, the final rule establishes an effective date of January 1, 2019. A January 1, 2019 effective date will address staff's enforcement concerns, as well as provide manufacturers with sufficient time to make the changes SVIA states are needed so that all vehicles manufactured or imported after that date comply with the final rule.

*B. Comments Regarding Data Presented in the NPR*

**Comment:** Several commenters stated that the data presented in the NPR are insufficient to support the final rule. One commenter stated that the Commission failed to base the proposed requirement for rear-end lamps and reflectors on accurate or convincing statistics, noting: "Commission staff claims that this 13 incident-study provides proof that rear-end lamps would have prevented the pattern of rear-end collisions related to braking." Another commenter stated that the final rule should include additional evidence regarding the number of fatalities that result from rear-end collisions and the benefits that will accrue if manufacturers are required to install stop lamps on ATVs.

Focusing on the sufficiency of the data, one commenter argued that CPSC may exceed its authority to promulgate a rule because the majority of ATVs already have stop lamps, which does not support the conclusion that a stop lamp requirement is reasonably related to the safe performance of ATVs. Similarly, another commenter concluded that the proposed rule lacked "the factual or analytical basis" to support a rule, and therefore, was "arbitrary and capricious."

**Response:** Under section 42(b) of the CPSA, 15 U.S.C. 2089(b)(2), once notified by ANSI of a change to the voluntary standard for ATVs, the Commission is required to amend the consumer product safety standard for all-terrain vehicles to include any such revision that the Commission determines is reasonably related to the safe performance of all-terrain vehicles, and must notify ANSI of any provision the Commission determines not to be so related. This rulemaking follows the procedure required by the statute for the Commission to use when ANSI revises its voluntary standard. The Commission is not establishing its own consumer product safety standard under the requirements of sections 7 and 9 of the CPSA.

Regarding the data presented in the NPR, staff's analysis of the 2007 study identified 13 rear-end collisions, and staff noted that eight of the 13 incidents "illustrate the hazard of rear-end collisions related to braking." Staff did not, and does not, represent that anecdotal incidents constitute "proof" of the effectiveness of stop lamps.

The information provided in the NPR explained CPSC staff's interactions with the voluntary standard organization, and provided context for why the Commission determined that the provisions in the voluntary standard are reasonably related to the safe performance of ATVs, which is the standard required by statute. Further, the National Highway Traffic Safety Administration (NHTSA) recognizes that conspicuity of a vehicle is related to the safety performance of vehicles in its Federal Motor Vehicle Safety Standards (FMVSS) for automobiles. Stop lamps and reflectors are specifically included in FMVSS 108 *Lamps, reflective devices, and associated equipment* and FMVSS 500 *Low-speed vehicles* as safety equipment. SVIA also recognizes conspicuity to be related to the safe performance of ATVs, and in the Annex of ANSI/SVIA 1-2017, specifically states that "conspicuity lights, tail lamps, and stop lamps can also be beneficial under certain riding conditions such as heavy brush, dusty

or shaded trails, and similar low-light conditions” and that “reflex reflectors have been added for all categories of ATVs to aid in making ATVs more visible.”

Based on the information described in the NPR and reviewed above, the Commission has no basis to conclude that the conspicuity changes to the ANSI standard are not reasonably related to the safe performance of ATVs. In the NPR, the Commission determined that increasing the conspicuity of an ATV helps an ATV to be seen by other vehicles in various lighting conditions. Accordingly, the Commission determined that voluntary standard provisions that increase ATV conspicuity are reasonably related to the safe performance of ATVs. By statute, the Commission is required to include such provisions in the mandatory consumer product safety standard.

*C. Comments Regarding the Scope of the Stop-Lamp Requirement*

**Comment:** Two commenters stated that the final rule should clarify the scope of the proposed stop-lamp requirement and provide rationale if the requirement only applies to adult and transition category ATVs. One commenter stated that the requirement for stop-lamps should be for “all categories of ATVs.”

**Response:** ANSI/SVIA 1-2017 requires stop lamps on all adult and transition ATVs, and on all youth ATVs equipped with a head lamp or conspicuity lamp. A youth ATV without any front lights does not require a stop lamp. By design, youth ATVs do not have the same speed and equipment capabilities as adult and transition ATVs. For example, not all youth ATVs are equipped with lights, nor do they have electrical systems that are robust enough to support front or rear lights. Accordingly, revisions to the voluntary standard require reflectors on all categories of ATVs, but the revisions only require stop lamps on youth ATVs when it is technically feasible to do so. This approach in the voluntary standard is a practical technical solution for increasing conspicuity of youth ATVs.

The final consumer product safety standard for ATVs (16 CFR part 1420) will require that ATVs comply with the applicable provisions of the 2017 revision of ANSI/SVIA, 1 *American National Standard for Four Wheel All-Terrain Vehicles*. Therefore, the mandatory standard for ATVs will require stop lamps on all adult and transition ATVs, and also require them on all youth ATVs equipped with a head lamp or conspicuity lamp.

*D. Comment on the Burden Imposed by the Final Rule*

**Comment:** One commenter stated that the Commission did not adequately consider the burden on industry if the final rule is implemented, stating that the NPR “disregards the fact that adopting these new standards will impose financial hardship on ATV manufacturers.” This commenter suggested that, in lieu of the final rule, “the Commission implement a mandatory licensing program that teaches ATV safety.”

**Response:** The commenter provided no information or data for CPSC to evaluate regarding the alleged hardship to industry. SVIA stated that manufacturer planning for 2019 model year ATVs is under way and that manufacturers intend to meet the requirements of ANSI/SVIA 1-2017 for the 2019 model year. Other than the effective date issue discussed above, the Commission did not receive any comments from any ATV manufacturer or SVIA to support the contention that implementation of the final rule will impose a financial hardship. As discussed above, the final rule sets January 1, 2019 as the effective date to address SVIA’s concern.

Regarding the suggestion that the Commission establish a licensing and instruction program, such action is outside the jurisdiction of the CPSC’s authority. The authority to implement any licensing requirements for ATV drivers rests with the states.

#### **IV. Description of the Final Rule**

The final rule revises 16 CFR 1420.3(a), “Requirements for four-wheel ATVs” to incorporate by reference the ANSI/SVIA 1–2017 standard, instead of the ANSI/SVIA 1–2010 version. ANSI/SVIA 1–2017 contains requirements and test methods relating to ATVs, including vehicle equipment and configuration, vehicle speed capability, brake performance, pitch stability, electromagnetic compatibility, and sound level limits. Revisions incorporated into ANSI/SVIA 1-2017 are described in section II of this preamble.

#### **V. Effective Date**

Section 42(b) of the CPSA provides a timetable for the Commission to issue a notice of proposed rulemaking (within 120 days of receiving notification of a revised ANSI/SVIA standard) and to issue a final rule (within 180 days of publication of the proposed rule), but the statute does not set an effective date. The Commission proposed in the NPR that the final rule would take effect 60 days after publication of a final rule in the *Federal Register*, and it would apply to ATVs manufactured or imported on or after that date. However, based on the SVIA’s objection to a 60-day effective date, as discussed above in section III.A, the effective date for this final rule is January 1, 2019. Accordingly, all ATVs manufactured or imported on or after January 1, 2019, must comply with the final rule.

#### **VI. Regulatory Flexibility Act**

The Regulatory Flexibility Act (RFA) generally requires that agencies review a proposed rule for the rule’s potential economic impact on small entities, including small businesses. The NPR explained that the most significant changes to the voluntary standard involved requirements for brake-actuated stop lamps and reflectors, and that CPSC’s analysis demonstrated that the majority of ATVs already comply with these requirements. Consequently, the Commission anticipated that the cost of the changes required to bring ATVs that do not comply into

compliance with the rule would be very low on a per-unit basis. The Commission certified that the rule would not have a significant impact on a substantial number of small entities. 82 FR at 42962.

As discussed in section III.A of this preamble, the Commission received a comment from the SVIA stating that the proposed 60-day effective date could change the financial impact of the rule. In response, the Commission will provide additional time to comply with the final rule, setting January 1, 2019 as the effective date. Affording a later effective date should provide manufacturers sufficient time to incorporate any necessary changes during the normal planning and design of new model year ATVs. Accordingly, based on staff's assessment using January 1, 2019 as the effective date, the Commission certifies that the final rule is unlikely to have a significant impact on a substantial number of small entities.

## **VII. Paperwork Reduction Act**

The final rule does not impose any information collection requirements. Accordingly, this rule is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501–3520.

## **VIII. Environmental Considerations**

The Commission's regulations provide a categorical exemption for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement as they "have little or no potential for affecting the human environment." 16 CFR 1021.5(c)(2). This final rule falls within the categorical exemption.

## **IX. Incorporation by Reference**

Section 1420.3 of the final rule provides that ATVs must comply with ANSI/SVIA 1-2017. The OFR has regulations concerning incorporation by reference. 1 CFR part 51. These regulations require that, for a final rule, agencies must discuss in the preamble to the rule the way

in which materials that the agency incorporates by reference are reasonably available to interested persons, and how interested parties can obtain the materials. Additionally, the preamble to the rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR's requirements, the discussion in sections II, III, and IV of this preamble summarize the provisions of ANSI/SVIA 1-2017. ANSI/SVIA 1-2017 is copyrighted. Interested persons may purchase a copy of ANSI/SVIA 1-2017 from Specialty Vehicle Institute of America, 2 Jenner, Suite 150, Irvine, CA 92618-3806; telephone: 949-727-3727 ext.3023; www.svia.org. One may also inspect a copy at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone: 301-504-7923.

#### **X. Preemption**

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), provides that when a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a standard or regulation that prescribes requirements for the performance, composition, contents, design, finish, construction, packaging, or labeling of such product dealing with the same risk of injury unless the state requirement is identical to the federal standard. Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to the Commission for an exemption from this preemption under certain circumstances. Section 42(a)(1) of the CPSA refers to rules issued under that section as "consumer product safety standards." Therefore, the preemption provision of section 26(a) of the CPSA applies to this final rule.

## **XI. Notice of Requirements**

The CPSA establishes certain requirements for product certification and testing. Certification of children's products subject to a children's product safety rule must be based on testing conducted by a CPSC-accepted third-party conformity assessment body. 15 U.S.C. 2063(a)(2). The Commission is required to publish a notice of requirements (NOR) for the accreditation of third-party conformity assessment bodies to assess conformity with a children's product safety rule to which a children's product is subject. *Id.* 2063(a)(3). On August 27, 2010, the Commission published an NOR for accreditation of third-party conformity assessment bodies for testing ATVs designed or intended primarily for children 12 years of age or younger. 75 FR 52616. The 2017 revision to the ATV standard does not substantially alter third party conformance testing requirements for ATVs designed or intended primarily for children 12 year of age or younger. Accordingly, the NOR for third-party testing of youth ATVs remains unchanged. The Commission considers the existing accreditations that the Commission has accepted for testing to the ATV standard to also cover testing to the revised 2017 ATV standard.

### **List of Subjects in 16 CFR Part 1420**

Consumer protection, Imports, Incorporation by reference, Infants and children, Information, Labeling, Law enforcement, Recreation and recreation areas, Reporting and recordkeeping requirements, Safety.

For the reasons stated in the preamble, the Commission amends 16 CFR part 1420 as follows:

#### **PART 1420—REQUIREMENTS FOR ALL-TERRAIN VEHICLES**

1. The authority citation for part 1420 continues to read as follows:

**Authority:** The Consumer Product Safety Improvement Act of 2008, Pub. Law 110-314, § 232, 122 Stat. 3016 (August 14, 2008).

**§ 1420.1 [Amended]**

2. In the second sentence of § 1420.1, remove the words, “April 30, 2012”, and add in their place “January 1, 2019”.

3. Revise § 1420.3(a) to read as follows:

**§ 1420.3 Requirements for four-wheel ATVs.**

(a) Each ATV shall comply with all applicable provisions of the American National Standard for Four-Wheel All-Terrain Vehicles (ANSI/SVIA 1-2017), ANSI-approved on June 8, 2017. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from Specialty Vehicle Institute of America, 2 Jenner, Suite 150, Irvine, CA 92618-3806; telephone: 949-727-3727 ext.3023; [www.svia.org](http://www.svia.org). You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD. 20814, telephone: 301-504-7923, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html).

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Alberta E. Mills,  
Secretary, Consumer Product Safety Commission

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