

(A) the posting of an escrow, proof of insurance, or security sufficient in amount to cover the cost of destruction of a domestically-produced product or substance regulated under this chapter or any other Act enforced by the Commission; and

(B) the posting of an escrow, proof of insurance, or security sufficient in amount to cover the cost of an effective recall of a product or substance, domestic or imported, regulated under this chapter or any other Act enforced by the Commission.

(2) Report

Not later than 180 days after August 14, 2008, the Comptroller General shall transmit to the appropriate Congressional committees a report on the conclusions of the study required under paragraph (1), including an assessment of whether such an escrow requirement could be implemented and any recommendations for such implementation.

(Pub. L. 92-573, §41, as added Pub. L. 110-314, title II, §224(a), Aug. 14, 2008, 122 Stat. 3069.)

§ 2089. All-terrain vehicles

(a) In general

(1) Mandatory standard

Notwithstanding any other provision of law, within 90 days after August 14, 2008, the Commission shall 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). The standard shall take effect 150 days after it is published.

(2) Compliance with standard

After the standard takes effect, it shall be unlawful for any manufacturer or distributor to import into or distribute in commerce in the United States any new assembled or unassembled all-terrain vehicle unless—

(A) the all-terrain vehicle complies with each applicable provision of the standard;

(B) the ATV is subject to an ATV action plan filed with the Commission before August 14, 2008, or subsequently filed with and approved by the Commission, and bears a label certifying such compliance and identifying the manufacturer, importer or private labeler and the ATV action plan to which it is subject; and

(C) the manufacturer or distributor is in compliance with all provisions of the applicable ATV action plan.

(3) Violation

The failure to comply with any requirement of paragraph (2) shall be deemed to be a failure to comply with a consumer product safety standard under this chapter and subject to all of the penalties and remedies available under this chapter.

(4) Compliant models with additional features

Paragraph (2) shall not be construed to prohibit the distribution in commerce of new all-

terrain vehicles that comply with the requirements of that paragraph but also incorporate characteristics or components that are not covered by those requirements. Any such characteristics or components shall be subject to the requirements of section 2064 of this title.

(b) Modification of standard

(1) ANSI revisions

If the American National Standard ANSI/SVIA-1-2007 is revised through the applicable consensus standards development process after the date on which the product safety standard for all-terrain vehicles is published in the Federal Register, the American National Standards Institute shall notify the Commission of the revision.

(2) Commission action

Within 120 days after it receives notice of such a revision by the American National Standards Institute, the Commission shall issue a notice of proposed rulemaking in accordance with section 553 of title 5 to amend the 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 notify the Institute of any provision it has determined not to be so related. The Commission shall promulgate an amendment to the standard for all-terrain vehicles within 180 days after the date on which the notice of proposed rulemaking for the amendment is published in the Federal Register.

(3) Unreasonable risk of injury

Notwithstanding any other provision of this chapter, the Commission may, pursuant to sections 2056 and 2058 of this title, amend the product safety standard for all-terrain vehicles to include any additional provision that the Commission determines is reasonably necessary to reduce an unreasonable risk of injury associated with the performance of all-terrain vehicles.

(4) Certain provisions not applicable

Sections 2056 and 2058 of this title shall not apply to promulgation of any amendment of the product safety standard under paragraph (2). Judicial review of any amendment of the standard under paragraph (2) shall be in accordance with chapter 7 of title 5.

(c) Requirements for 3-wheeled all-terrain vehicles

Until a mandatory consumer product safety standard applicable to 3-wheeled all-terrain vehicles promulgated pursuant to this chapter is in effect, new 3-wheeled all-terrain vehicles may not be imported into or distributed in commerce in the United States. Any violation of this subsection shall be considered to be a violation of section 2068(a)(1) of this title and may also be enforced under section 2066 of this title.

(d) Further proceedings

(1) Deadline

The Commission shall issue a final rule in its proceeding entitled “Standards for All Terrain Vehicles and Ban of Three-wheeled All Terrain Vehicles”.

(2) Categories of youth ATVs

In the final rule, the Commission, in consultation with the National Highway Traffic Safety Administration, may provide for a multiple factor method of categorization that, at a minimum, takes into account—

- (A) the weight of the ATV;
- (B) the maximum speed of the ATV;
- (C) the velocity at which an ATV of a given weight is traveling at the maximum speed of the ATV;
- (D) the age of children for whose operation the ATV is designed or who may reasonably be expected to operate the ATV; and
- (E) the average weight of children for whose operation the ATV is designed or who may reasonably be expected to operate the ATV.

(3) Additional safety standards

In the final rule, the Commission, in consultation with the National Highway Traffic Safety Administration, shall review the standard published under subsection (a)(1) and establish additional safety standards for all-terrain vehicles to the extent necessary to protect the public health and safety. As part of its review, the Commission shall consider, at a minimum, establishing or strengthening standards on—

- (A) suspension;
- (B) brake performance;
- (C) speed governors;
- (D) warning labels;
- (E) marketing; and
- (F) dynamic stability.

(e) Definitions

In this section:

(1) All-terrain vehicle or ATV

The term “all-terrain vehicle” or “ATV” means—

- (A) any motorized, off-highway vehicle designed to travel on 3 or 4 wheels, having a seat designed to be straddled by the operator and handlebars for steering control; but
- (B) does not include a prototype of a motorized, off-highway, all-terrain vehicle or other motorized, off-highway, all-terrain vehicle that is intended exclusively for research and development purposes unless the vehicle is offered for sale.

(2) ATV action plan

The term “ATV action plan” means a written plan or letter of undertaking that describes actions the manufacturer or distributor agrees to take to promote ATV safety, including rider training, dissemination of safety information, age recommendations, other policies governing marketing and sale of the ATVs, the monitoring of such sales, and other safety related measures, and that is substantially similar to the plans described under the heading “The Undertakings of the Companies in the Commission Notice” published in the Federal Register on September 9, 1998 (63 FR 48199–48204).

(Pub. L. 92–573, §42, as added Pub. L. 110–314, title II, §232(a), Aug. 14, 2008, 122 Stat. 3071.)

CODIFICATION

August 14, 2008, referred to in subsec. (a)(2)(B), was in the original “the date of enactment of the Act” and was translated as reading “the date of enactment of the Consumer Product Safety Improvement Act of 2008”, which enacted this section, to reflect the probable intent of Congress.

EFFECTIVE DATE

Subsec. (c) of this section effective on the date that is 30 days after Aug. 14, 2008, see section 239(a) of Pub. L. 110–314, set out as an Effective Date of 2008 Amendment note under section 2051 of this title.

DEADLINE FOR RULE BY CONSUMER PRODUCT SAFETY COMMISSION ON STANDARDS FOR ALL TERRAIN VEHICLES

Pub. L. 112–28, §9, Aug. 12, 2011, 125 Stat. 282, provided that: “The Commission shall issue the final rule described in section 42(d) of the Consumer Product Safety Act (15 U.S.C. 2089(d)) not later than 1 year after the date of enactment of this Act [Aug. 12, 2011].”

CHAPTER 48—HOBBY PROTECTION

Sec.	
2101.	Marking requirements.
2102.	Private enforcement.
2103.	Enforcement by Federal Trade Commission.
2104.	Imports.
2105.	Application of other laws.
2106.	Definitions.

§ 2101. Marking requirements**(a) Political items**

The manufacture in the United States, or the importation into the United States, for introduction into or distribution in commerce of any imitation political item which is not plainly and permanently marked with the calendar year in which such item was manufactured, is unlawful and is an unfair or deceptive act or practice in commerce under the Federal Trade Commission Act [15 U.S.C. 41 et seq.].

(b) Coins and other numismatic items

The manufacture in the United States, or the importation into the United States, for introduction into or distribution in commerce, or the sale in commerce of any imitation numismatic item which is not plainly and permanently marked “copy”, is unlawful and is an unfair or deceptive act or practice in commerce under the Federal Trade Commission Act [15 U.S.C. 41 et seq.].

(c) Rules and regulations

The Federal Trade Commission shall prescribe rules for determining the manner and form in which items described in subsection (a) or (b) shall be permanently marked.

(d) Provision of assistance or support

It shall be a violation of subsection (a) or (b) for a person to provide substantial assistance or support to any manufacturer, importer, or seller if that person knows or should have known that the manufacturer, importer, or seller is engaged in any act or practice that violates subsection (a) or (b).

(e) Exemption

Subsections (a)¹ (b), and (d), and regulations under subsection (c), shall not apply to any com-

¹ So in original. Probably should be followed by a comma.