



OFF-HIGHWAY MOTOR VEHICLE RECREATION DIVISION INFORMATION BULLETIN

Volume 01

February 26, 2009

Number 01

UPDATE

Lead Content in Youth ATVs and Off-Road Motorcycles

What is this new law?

The Consumer Product Safety Improvement Act of 2008 (CPSIA) was enacted August 14, 2008. This law was created as a result of concerns about lead found in children's toys, particularly toys coming to the United States from China. The Consumer Product Safety Commission (CPSC) is responsible for implementing the law which requires that lead found in children's toys not exceed 600 ppm. The standard drops to 300 ppm on August 14, 2009 and may be further reduced to 100 ppm on August 14, 2011 unless the Commission determines that it is not technologically feasible to have this lower limit. For more information in the CPSIA related to lead content go to:

<http://www.cpsc.gov/ABOUT/Cpsia/cpsialead.html>

What does it affect?

This law applies to all products primarily intended for use by young children 12 years old and younger, including bicycles, Legos, and even library books printed before 1985. The implications are enormous.

How does this affect youth ATVs and off-road motorcycles?

For the motorized industry this means that ATVs, motorcycles, and all other products primarily designed and marketed for use by children under the age of 12, have been pulled from showroom floors effective February 10, 2009. It is a violation of law to sell these vehicles, or many of the replacement parts for these vehicles until the manufacturers have the unit tested and certified that its lead levels are within the standard. Dealers can take in a youth sized vehicle on a trade-in, but they cannot resell it. However, selling and trading of these vehicles between private parties is allowed on places such as Craig's list and eBay. Thrift stores are exempt.

How does this affect the SVRAs?

We have heard some people worry that OHV areas will be affected and that we will have to turn people away. This is not the case. However, this will affect our training programs for those under 12 years of age because for the time being we will not be able to purchase, repair or replace vehicles in our fleet of youth sized ATVs and motorcycles.

How do they know what to test?

Currently, in order to determine which parts need to be tested for lead substrate content, the CPSC has developed what is called the “probe” test which means that if the probe – effectively the size of 12 yr olds finger – can touch something, then it must be tested. All parts that can be touched by the “probe” must be tested, seat to skid plate, front guard to rear bar and almost everything in-between. Items which are totally encased and cannot be touched by probe are exempt from the testing requirement; these would include internal motor and transmission parts.

What are the manufacturers doing?

The major manufacturers have petitioned the CPSC asking for an exemption, which would allow them to test a more refined number of parts, parts that a child would be more likely to come in contact with instead of requiring them to test the total number of parts on the vehicle which can be touched by the probe (upwards of 2500 parts). If this exemption were granted, they would test the primary parts which a child is more likely to come in contact with, e.g., grips, handle bars, switches and keys.

Until manufacturers have testing done by an independent third party lab, they will not be able to sell new vehicles or parts because they don't know the amount of lead in the various parts. So if your child is 12 and under, and bends a handle bar or snaps a brake lever on their youth sized ATV or off road motorcycle, you will not be able to go to a dealer and purchase a new one.

So what's next?

CPSC has been inundated with requests for exemptions, so they have issued a “stay of enforcement” on third party testing. They recognize there are not enough certified labs or direction to those labs on how the testing will be done. However, this does not waive the requirement for the industry to comply. The “stay” simply gives CPSC time to fine tune their rules so as to provide better guidance on what the tests are and what parts need to be tested. It is unknown when the exemptions will be reviewed by the CPSC, although CPSC staff has been quoted as saying they plan to work on the exemption requests “sooner than later”. OHV manufacturers are instructing their dealers to stop selling new and used youth sized dirt bikes and ATVs and to store their stock until further notice. This also applies to applicable parts, accessories and apparel primarily intended for use by or on vehicles primarily intended for children 12 years of age and under.

NOTE:

While the CPSIA is burdensome, complicated and very disruptive to dealer sales, all manufacturers believe their stop-sales orders (on youth products) are a temporary setback. They are working with members of Congress to resolve this issue quickly and responsibly. Youth sized off-highway vehicles and the necessary replacement parts to provide safe off-highway vehicle recreation will be available to the public.