

### Optional Terminating Action

(j) Accomplishing the actions specified in paragraph (j)(1), (j)(2), or (j)(3) of this AD, as applicable, terminates the repetitive inspections required by paragraph (f) of this AD for the repaired or modified frames only.

(1) Accomplishment of the repair specified in Part 3, or the preventive modification specified in Part 4, of the Accomplishment Instructions of Boeing Alert Service Bulletin 737-53A1261, including Appendices A through X inclusive, dated January 19, 2006.

(2) Accomplishment of the repair or the preventive modification specified in Boeing Message M-7200-02-01294, dated August 20, 2002.

(3) Accomplishment of the repair or the preventive modification in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO).

### Alternative Methods of Compliance (AMOCs)

(k)(1) The Manager, Seattle ACO, FAA, ATTN: Wayne Lockett, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 917-6447; fax (425) 917-6590; has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by an Authorized Representative for the Boeing Commercial Airplanes Delegation Option Authorization Organization who has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

### Material Incorporated by Reference

(l) You must use Boeing Alert Service Bulletin 737-53A1261, dated January 19, 2006, to do the actions required by this AD, unless the AD specifies otherwise. If you do the optional terminating actions specified in this AD, you must use Boeing Message M-7200-02-01294, dated August 20, 2002; or Boeing Alert Service Bulletin 737-53A1261, dated January 19, 2006; to do those optional actions, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of Boeing Message M-7200-02-01294, dated August 20, 2002, under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) On August 12, 2008 (73 FR 38905, July 8, 2008), the Director of the Federal Register approved the incorporation by reference of Boeing Alert Service Bulletin 737-53A1261, dated January 19, 2006.

(3) For service information identified in this AD, contact Boeing Commercial

Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207; telephone 206-544-9990; fax 206-766-5682; e-mail [DDCS@boeing.com](mailto:DDCS@boeing.com); Internet <https://www.myboeingfleet.com>.

(4) You may review copies of the service information incorporated by reference at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; 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: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

Issued in Renton, Washington, on October 10, 2008.

**Ali Bahrami,**

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8-25893 Filed 11-13-08; 8:45 am]

**BILLING CODE 4910-13-P**

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1420

#### Final Rule: Standard for All Terrain Vehicles

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The recently-enacted Consumer Product Safety Improvement Act of 2008 ("CPSIA"), sets forth several requirements for all terrain vehicles ("ATVs"). Among these, the CPSIA requires the United States Consumer Product Safety Commission ("Commission" or "CPSC") 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). This document satisfies that requirement and reviews other provisions of the CPSIA that apply to ATVs.

**DATES:** The rule takes effect April 13, 2009. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of April 13, 2009.

**FOR FURTHER INFORMATION CONTACT:** Tanya Topka, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504-7594.

**SUPPLEMENTARY INFORMATION:**

### A. Background

The Consumer Product Safety Improvement Act of 2008 ("CPSIA") was enacted on August 14, 2008. Public Law 110-314, 122 Stat. 3016 (August 14, 2008). The CPSIA amends statutes which the U.S. Consumer Product Safety Commission ("Commission" or "CPSC") administers, adding requirements with broad applicability and some product-specific provisions as well. Section 232 of the CPSIA adds a new section 42 to the Consumer Product Safety Act ("CPSA") that sets forth numerous requirements for all terrain vehicles ("ATVs"). 15 U.S.C. 42, as added by CPSIA § 232.

The Commission has been involved with ATVs since the 1980s. In 1987, the Commission filed a lawsuit to declare ATVs an imminently hazardous consumer product under section 12 of the CPSA against the five companies that were the major distributors of ATVs in the U.S. at that time. The section 12 lawsuit was settled by Consent Decrees that were filed on April 28, 1988 and remained in effect for ten years. The Consent Decrees contained provisions concerning restrictions on the distribution of three-wheel ATVs; development of a voluntary performance standard; requirements for ATV warning labels, owner's manuals, point of purchase safety materials, free rider training, and media and advertising materials. The parties also agreed to promote and sell adult-size ATVs (defined in the Consent Decrees as ATVs with engines greater than 90 cc) only for the use of riders 16 years of age and older.

In accordance with the Consent Decrees, the main distributors, working through the Specialty Vehicle Institute of America ("SVIA"), continued work on a voluntary standard for ATVs. The standard, known as ANSI/SVIA, *The American National Standard for Four Wheel All-Terrain Vehicles Equipment Configuration, and Performance Requirements*, was first published in 1990, was revised in 2001 and again in 2007.

While the Consent Decrees were in effect, the companies entered into monitoring agreements with the CPSC agreeing to monitor their dealers' compliance with the Consent Decrees' requirements, particularly the age restrictions.

After the Consent Decrees expired, the distributors who had been parties to the Consent Decrees (and three companies that had entered the market later) developed action plans, also known as letters of undertaking, in which the companies agreed to undertake

voluntary actions to continue many of the actions that were required under the Consent Decrees and to continue monitoring their dealers. *See* 63 FR 48199 (1998).

## B. CPSIA Requirements for ATVs

### 1. Mandating the Voluntary Standard

Section 232 of the CPSIA (now section 42 of the CPSA) states that within 90 days of enactment of the CPSIA “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).” 15 U.S.C. 42(a)(1) as added by CPSIA § 232.

The ANSI/SVIA standard specifies requirements concerning the vehicle’s equipment and configuration (including requirements for owner’s/operator’s manuals, labels and hang tags), maximum speed capability, speed capability of youth ATVs, service and parking brakes, pitch stability, electromagnetic compatibility, and sound level limits. It also requires that ATVs have a certification label indicating that they comply with the ANSI/SVIA standard.

The CPSIA requires the Commission to publish the ANSI/SVIA standard in the **Federal Register**. The Commission is fulfilling this direction by incorporating the ANSI/SVIA standard by reference. Congress mandated that the ANSI/SVIA standard will go into effect as a consumer product safety standard 150 days after it is published in the **Federal Register**. The Freedom of Information Act states that a standard that is incorporated by reference in the **Federal Register** and made reasonably available is deemed to be published in the **Federal Register**. 5 U.S.C. 552(a)(1)(E). Because Congress mandated the standard without any changes, we believe that it is appropriate to incorporate the standard by reference.

The standard takes effect as a consumer product safety standard 150 days after this publication in the **Federal Register**. *See* 15 U.S.C. 2058(g)(1). This means that ATVs manufactured on or after the effective date must comply with the standard. They also must meet additional requirements related to action plans. *See* 15 U.S.C. 42(a)(2) and (e)(2), as added by CPSIA § 232. The statute provides: “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” the ATV complies with the newly-mandated standard, the ATV is subject to an ATV action plan filed with and (unless the action plan was filed with the Commission before August 14, 2008) approved by the Commission, and the manufacturer or distributor is in compliance with the action plan. (CPSA § 42(a)(2) as added by CPSIA § 232). Failure to comply with these requirements is deemed to be a failure to comply with a consumer product safety standard and subjects the violator to the penalties and remedies applicable under the CPSA. *Id.* § 42(a)(3).

### 2. Action Plans

The statute requires ATV manufacturers and distributors to file with the Commission an ATV action plan. Unless the ATV action plan was filed with the Commission before August 14, 2008 the action plan must be approved by the Commission. The manufacturer or distributor must be in compliance with the action plan. CPSA § 42(a)(2), as added by CPSIA § 232.

The statute defines “ATV action plan” as a plan or letter of undertaking describing safety-related actions the manufacturer or distributor agrees to take concerning ATVs. The plan must be “substantially similar” to the action plans distributors entered into in 1998. CPSA § 42(e)(2), as added by CPSIA § 232.

### 3. Three-Wheel ATVs

The CPSIA also addresses 3-wheel ATVs. It provides that until the Commission issues a consumer product safety standard applicable to 3-wheel ATVs (and the standard goes into effect) “new 3-wheeled all terrain vehicles may not be imported into or distributed in commerce in the United States.” CPSA § 42(c), as added by CPSIA § 232. Violation of this restriction is a prohibited act under section 19(a)(1) of the CPSA.

### 4. Future Actions

The CPSIA provides procedures for modifying the standard in the future either if SVIA revises the underlying voluntary standard or if the Commission determines on its own to amend the standard.

The CPSIA also requires the Commission to issue a final rule in its open rulemaking concerning ATVs. (The Commission issued a notice of proposed rulemaking related to ATVs on August 10, 2006. *See* 73 FR 54564.) The CPSIA directs the Commission to

consult with the National Highway Traffic Safety Administration (“NHTSA”) and consider whether to establish a multiple factor method of categorizing youth ATVs. Also in consultation with NHTSA, the Commission must review the mandated ANSI/SVIA standard and “establish additional safety standards for all-terrain vehicles to the extent necessary to protect the public health and safety.” The statute specifies certain provisions that the Commission is to consider adding or strengthening. CPSA § 42(d), as added by CPSIA § 232(a).

The CPSIA also requires the U.S. Government Accountability Office (“GAO”) to conduct a study of ATVs’ utility, recreational and other benefits and the costs associated with ATV-related accidents and injuries. CPSIA § 232(b).

## List of Subjects in 16 CFR Part 1420

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

For the reasons stated in the preamble, the Commission amends Title 16 of the Code of Federal Regulations by adding a new part 1420 to read as follows:

## PART 1420—REQUIREMENTS FOR ALL TERRAIN VEHICLES

### Sec.

- 1420.1 Scope, application and effective date.
- 1420.2 Definitions.
- 1420.3 Requirements for four-wheel ATVs.
- 1420.4 Restrictions on three-wheel ATVs.

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

### § 1420.1 Scope, application and effective date.

This part 1420, a consumer product safety standard, prescribes requirements for all terrain vehicles. The requirements for four-wheel ATVs in § 1420.3 take effect on April 13, 2009, and apply to new assembled or unassembled ATVs manufactured or imported on or after that date. The restrictions on three-wheel ATVs stated in § 1420.4 take effect September 13, 2008.

### § 1420.2 Definitions.

In addition to the definitions in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052), the following definitions apply for purposes of this Part 1420.

- (a) *All terrain vehicle or ATV* means:

(1) 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

(2) Does not include a prototype of a motorized, off-highway, all-terrain vehicle that is intended exclusively for research and development purposes unless the vehicle is offered for sale.

(b) *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).

#### **§ 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 (American National Standards Institute, Inc. ANSI/SVIA 1–2007), approved July 23, 2007. 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, California 92618–3806; telephone 949–727–3727 ext. 3023; <http://www.svia.org>. You may inspect a copy at the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 502, 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: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) Each ATV must be subject to an ATV action plan filed with the Commission before August 14, 2008 or subsequently filed with and approved by the Commission, and shall bear a label certifying such compliance and identifying the manufacturer, importer or private labeler and the ATV action plan to which it is subject.

(c) The ATV manufacturer or distributor shall be in compliance with all provisions of the applicable ATV action plan.

#### **§ 1420.4 Restrictions on three-wheel ATVs.**

Until a mandatory consumer product safety standard applicable to three-wheel ATVs promulgated pursuant to the Consumer Product Safety Act is in effect, new three wheel ATVs may not be imported into or distributed in commerce in the United States.

Dated: November 7, 2008.

**Todd Stevenson,**

*Secretary, U.S. Consumer Product Safety Commission.*

[FR Doc. E8–26974 Filed 11–13–08; 8:45 am]

**BILLING CODE 6355–01–P**

### **DEPARTMENT OF ENERGY**

#### **Federal Energy Regulatory Commission**

#### **18 CFR Part 40**

[Docket No. RM08–3–000; Order No. 716]

#### **Mandatory Reliability Standard for Nuclear Plant Interface Coordination**

November 7, 2008.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Energy Regulatory Commission published in the **Federal Register** of October 27, 2008, a final rule approving the Nuclear Plant Interface Coordination Reliability Standard developed by the North American Electric Reliability Corporation (NERC) and directing NERC to develop a modification the Reliability to address certain concerns. This document corrects references in two footnotes of the final rule.

**DATES:** *Effective Date:* November 26, 2008.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Wartchow (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8744.

**SUPPLEMENTARY INFORMATION:** In FR Document E8–25139, published October 27, 2008 (73 FR 63770) make the following corrections to citations in Footnotes 51 and 60:

1. On page 63781, column 1, Footnote 51, second sentence, change “125 FERC ¶ 61,062.” to “125 FERC ¶ 61,064.”
2. On page 6378, column 2, footnote 60, second sentence, change “125 FERC ¶ 61,062” to “125 FERC ¶ 61,064.”

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E8–26971 Filed 11–13–08; 8:45 am]

**BILLING CODE 6717–01–P**

### **DEPARTMENT OF THE TREASURY**

#### **Internal Revenue Service**

#### **26 CFR Part 1**

[TD 9416]

**RIN 1545–BH74**

#### **Determining the Amount of Taxes Paid for Purposes of Section 901; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final and temporary regulations (TD 9416) that were published in the **Federal Register** on Wednesday, July 16, 2008 (73 FR 40727) under section 901 of the Internal Revenue Code providing guidance relating to the determination of the amount of taxes paid for purposes of the foreign tax credit.

**DATES:** *Effective Date:* This correction is effective November 14, 2008, and is applicable on July 16, 2008.

**FOR FURTHER INFORMATION CONTACT:** Michael Gilman, (202) 622–3850 (not a toll-free number).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The final and temporary regulations that are the subjects of this document are under section 901 of the Internal Revenue Code.

##### **Need for Correction**

As published, final and temporary regulations (TD 9416) contain errors that may prove to be misleading and are in need of clarification.

##### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

##### **Correction of Publication**

- Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

#### **PART 1—INCOME TAXES**

- **Paragraph 1.** The authority citation for part 1 continues to read, in part, as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

- **Par. 2.** Section 1.901–2T is amended as follows:

- 1. The first sentence of paragraph (e)(5)(iv)(C)(5)(i) is revised.
- 2. Paragraph (e)(5)(iv)(D) *Example 5.* paragraphs (i)(A), (i)(B) and (ii) are revised.