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MER/PRV/BR NOTIFIED *8/13/09*  
COMMENTS:  YES  NO  
 OVERRULED;  ATTACHED  
 EXCISIONS/FOIA Hrs.  ;  
 DO NOT RE-NOTIFY  RE-NOTIFY



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Submission Date: Aug 12, 2009

Re: **TOMBERLIN OUTDOOR'S ATV Action Plan**

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PowerGroup International, LLC of Augusta, Georgia has been developing, distributing and selling all-terrain vehicles (ATVs) in North America under the Tomberlin Outdoor brand name since 2004 and previously under the AlphaSports Motors brand from 1999 to 2004.

Tomberlin Outdoor has been a vocal advocate of safety standards in the manufacture and consumer use of ATVs, even before joining the Specialty Vehicle Institute of America (SVIA) in 2001. One of our first objectives was to join SVIA and assure that we met the regulatory standards while delivering a superb product.

With the continued involvement in ATV safety, the continued support with eight years of membership in the SVIA, and the continued help with updating and improving the SVIA to be a strong contributor to the manufacturing standard known as ANSI-SVIA 2007, there should be no doubt of Tomberlin Outdoor's involvement in ATV safety!

Even though Tomberlin Outdoor was not one of the five manufacturers of ATVs named in Civil Action 87-3525 which was settled with the court's approval of the Final Consent Decree of April 28, 1988, Tomberlin adhered to the various provisions of the now-expired document since it began selling Youth Model ATVs in 1999, under the former

AlphaSports Motors brand. Additionally, some provisions of the Final Consent Decree regarding vehicle labels, hang tags, and owner's manuals are now part of the ANSI / SVIA 1-2007 Four Wheel All-Terrain Vehicle standard that was approved July 23, 2007 and Tomberlin Outdoor has always followed those requirements.

Since its origin, Tomberlin Outdoor has used the previous Consent Decree guidelines and ANSI /SVIA 1-1990 for Four Wheel All Terrain Vehicles – Equipment Configuration, and Performance Requirements as the basis for all ATV design and manufacture. All ATVs to be developed, manufactured and distributed going forward from Tomberlin Outdoor will use the newly approved ANSI / SVIA 1-2007 Four Wheel All-Terrain Vehicle standard.

Tomberlin Outdoor is committed to product safety, quality and reliability. We have worked diligently to establish and maintain our reputation with the Consumer Product Safety Commission (the CPSC) and adhere to the overall objective of reducing ATV accidents among youth riders.

Tomberlin Outdoor's entrance into a voluntary safety program with the CPSC and membership in the SVIA soon after its entry into the market in 1999 confirms our commitment to this objective. The details of our ATV Action Plan are as follows:

#### Age Recommendations

Tomberlin Outdoor has a well documented record that youth-operated, appropriately sized ATVs have an excellent safety record. Tomberlin Outdoor supports the CPSC's concern over ATV fatalities among persons under the age of 16 resulting from the operation of adult-sized ATVs. Tomberlin Outdoor has always only marketed and sold in the past, ATVs that conform to ANSI /SVIA 1-1990 and will only market and sell ATVs that conform to ANSI/SVIA 1-2007 mandatory standards for speed and speed limitations in the future. Tomberlin Outdoor will only recommend, market, and sell ATVs for use under the age category/speed guidelines specified at Section 6 of the ANSI/SVIA 1-2007 mandatory standards for ATVs. Tomberlin Outdoor will not recommend, market, advertise or sell adult-sized ATVs for the use of persons less than 16 years of age. Tomberlin Outdoor will use its best efforts to ensure that its dealers comply with these requirements.

#### Dealer Monitoring Program Regarding Age Recommendations

Tomberlin Outdoor will use its best efforts to obtain dealer compliance with the age recommendations. Tomberlin Outdoor will execute dealer compliance by conducting on-site undercover monitoring of dealer sales activity through random inspections selected through random sampling with the sample weighted toward the higher sales volume dealers. Tomberlin Outdoor will conduct 65 of these undercover, on-site dealer inspections using independent investigators. Tomberlin Outdoor will undertake remedial actions, including possible termination to the extent permitted by applicable state and

local laws, against dealers who do not abide by Tomberlin Outdoor's age recommendation based on Section 6 of the ANSI/SVIA 1-2007 standard for ATVs.

#### Dealer Monitoring for Safety Training Requirements

Tomberlin Outdoor will continue to monitor dealers for compliance to training requirements. Tomberlin Outdoor will conduct random phone surveys of consumers and follow-up surveys regarding compliance with training requirements.

When training requirements are not met by dealers Tomberlin Outdoor will undertake remedial actions, including possible termination to the extent permitted by applicable state and local laws, against dealers who demonstrate a pattern of failure to comply with safety training requirements.

#### ATV Operator Training

Tomberlin Outdoor offers free hands-on training to all purchasers of new Tomberlin Outdoor ATVs and age appropriate members of the purchaser's family.

To encourage participation, after completion of the training course, the rider will qualify for an incentive worth \$100. The \$100 incentive for training will include at least \$50 in cash, with the balance offered (at the consumer's choice) as a rebate for already purchased safety equipment or a credit towards the purchase of new safety equipment, such as helmets, gloves, boots and other safety protection for the rider.

The incentives of taking and completing the course by consumers will be encouraged by Tomberlin Outdoor's dealer poster program, "Safety First Approach" that will loudly advertise the free ATV Safety Institute (ASI) ATV RiderCourse program along with the \$50 cash and \$50 worth of free safety equipment. In the poster, there will be the printed announcement of the ASI free training and the additional incentives offered to all family members of the purchaser, along with a picture of a rider in full protective safety riding gear on a Tomberlin Outdoor ATV. This poster will compliment the existing safety poster program by the SVIA.

Tomberlin Outdoor believes that this "Safety First Approach" dealer poster campaign will increase the training participation with consumers. Combined with close to 100% of independent monitoring of dealer's participation in this program, the results should create one of the higher percentages of consumer participation in ASI training among SVIA members. As a member of SVIA, we can document the results of this poster program and the consumer participation by SVIA, and provide CPSC with the results.

All ATV training will be conducted through the existing programs of the ATV Safety Institute. This training program is in addition to the training information already provided in a number of methods which includes the owner's manual warnings, hang tags, ATV Safety video and other media. At the time of purchase, Tomberlin Outdoor dealers will not only encourage the consumer to view the ASI training video, but to sign up for the ASI free ATV RiderCourse before they leave the store with the purchase. The registration

with our dealers will be made very easy since more than 80% of our dealers are currently ASI qualified training centers.

Tomberlin Outdoor will promote the attendance of its free training program by offering a "Try Before You Buy" incentive to prospective buyers of Tomberlin Outdoor ATVs. Prospective buyers will be offered the opportunity to take the ASI ATV RiderCourse even before they purchase the Tomberlin Outdoor ATV and then will be credited for the training costs upon purchase.

#### ATV Safety Video

Tomberlin Outdoor will use the ATV Safety Institute's new safety/training video "Ride Safe, Ride Smart" that promotes the ATV RiderCourse and provides key safety and risk information, such as the importance of following age recommendations. The contents of the "Ride Safe, Ride Smart" video conform to the requirements specified at H.3.b.(4)(b) and paragraphs II.A and II.C of Appendix I of the 1988 ATV Consent Decree. This new video will be given to each purchaser at point of purchase and dealers will be encouraged to show this video at the point of purchase. Tomberlin Outdoor sent representatives and supplied several of the ANSI-SVIA 2007 specification designed Youth ATVs actually used for promotion of the video and for photography on the ASI website online training courses, further demonstrating our dedication to the cause of Youth & Adult ATV safety.

#### Safety Alerts

Tomberlin Outdoor will continue to provide to its dealers, for dissemination to prospective purchasers, information that conveys the substantive safety messages contained in Section H.3.b.(4)(c) and Appendix J of the 1988 ATV Consent Decree. Information concerning the estimated number of fatalities and injuries associated with ATVs will be accompanied by an explanation that such numbers are estimated and do not imply causative factors involved in such accidents. The Safety Alerts will include ATV age recommendations for use of youth, transition and adult ATV models as well as information about death and injury statistics for ATVs; ATV safety rules; and information about the ATV training course.

#### Toll-Free Safety Hotline

Tomberlin Outdoor, as a long standing member of SVIA, contributes to a fund for a toll-free safety hotline, 800-852-5344, administered by the SVIA which has been in use since 1988. This hotline number is supplied with the ASI training DVD and is also printed in the Owner's Manual of all Tomberlin Outdoor units distributed and sold.

#### Advertising

All of Tomberlin Outdoor's advertising practices depict the use of an ATV's operation in a safe and responsible manner which is appropriate to the machine, rider age and situation shown. All advertising and promotional material will show our products in a consistently safe and responsible manner of operation and all riders shown in such advertisements shall wear helmets and full protective gear.

Moreover, Tomberlin Outdoor will use best efforts to promote dealer compliance with Tomberlin Outdoor advertising practices, including conditioning any cooperative advertising funding on such compliance.

At Tomberlin Outdoor we feel that this "Safety First Approach" to marketing our ATVs through our dealers will position Tomberlin Outdoor as a leader in ATV safety. We also believe that we will increase the training participation with consumers dramatically. Also, by combining the "Safety First Approach" safety poster campaign with close to a 100% independent monitoring of dealers participation, we believe that this program should result in one of the highest percentage of consumer involvement in the ASI ATV RiderCourse training among SVIA members. As a member of SVIA, we can document the results of this program and participation by consumers through the SVIA, and provide the results to the CPSC.

More specifically, Tomberlin Outdoor will not only produce the in-store "Safety First Approach" posters with dealers, but will ensure through our monitoring program that the poster will be positioned in multiple locations inside the store and facing out to potential new customers through store windows. We have always felt the need to position Tomberlin Outdoor as a proponent of "Safety First" with riders and users of ATVs, and will continue to position our company with both dealers and consumers with that image.

To this end, Tomberlin Outdoor ATV advertising and promotional materials will include the substance of the safety messages described in Section J.1 of Appendix K. of the 1988 ATV Consent Decree.

#### Information / Education Effort

The Tomberlin Outdoor Information and Education Program will be directed primarily at providing safety information and at deterring children under the age of sixteen from operating adult-sized ATVs. Tomberlin Outdoor is currently participating in information and education efforts designed to promote the safe and responsible use of Tomberlin Outdoor ATVs through the SVIA. These efforts include video distribution and partnerships with state, local and private safety programs. In addition to safety information in the Owner's Manual and Tomberlin Outdoor's website, a copy of the recently released ATV Safety Institute DVD "Ride Safe, Ride Smart" will be included in the Owner's Materials delivered with the unit at time of retail sale (more details below).

Tomberlin Outdoor will conduct dealer education by using its dealer website, [www.tomberlin.net](http://www.tomberlin.net) and by using a web-based learning management system, available through the ATV Safety Institute (ASI) website at [www.atvsafety.org](http://www.atvsafety.org).

As a long term member of SVIA, Tomberlin Outdoor has continually participated in the efforts of the SVIA to improve, update and revise the ATV voluntary standards. The management and founder of Tomberlin Outdoor applauds and fully supports all of the efforts of the CPSC to enforce the safety requirements that are now mandatory by law and enforceable. The founder of Tomberlin Outdoor, Michael Tomberlin, has been a

previous Director on the Board of SVIA and has been very active in both adult and youth ATV safety advances.

Tomberlin Outdoor was very active in the most recent updated version of SVIA safety training video, and participated in the spring of 2008 by providing at no cost to the SVIA, Tomberlin Outdoor manufactured ATV vehicles. Tomberlin Outdoor Company personnel assisted in the promotion of the current SVIA / ASI safety video and provided the photographs used on the ASI website ATV Safety Online training courses.

Tomberlin Outdoor has worked on many occasions with ASI on youth safety and training programs. The messages included in these campaigns address the identified behaviors important to ATV safety that includes the importance and support of training and following age recommendations. This program is suited to reaching individuals most likely to use the ATV products that Tomberlin Outdoor will be selling.

Tomberlin Outdoor will continue to be robust in its informational and safety efforts by promoting our "Safety First Approach" with outreach packages of safety information to organizations such as the Future Farmers of America. Due to our location in Augusta, Georgia and the geographical location of our current dealer base, we feel that by working with young groups such as the FFA, we will be reaching the heart of the consumers that we market to in the United States.

Tomberlin Outdoor will work through both the national charter organization of the Future Farmers of America to provide information to their members and also to provide an educational outreach to all of the local chapters of the organization, regarding safety and proper use of ATVs in a farm environment. Tomberlin Outdoor realizes the popularity and extensive use of ATVs on the farms of America. The most successful informational and educational outreach program always starts with direct contact with ATV consumers. Our best asset in this safety outreach program would be our local dealers in each market area.

Tomberlin Outdoor will work directly with our network of dealers to provide a platform of information, safety and ATV training through our ASI ATV safety-trained dealers to groups like the Future Farmers of America. To ensure a successful program of ATV safety awareness, we will provide the local dealer working with the local FFA chapter with literature, posters and safety information. This presentation program will be provided through the efforts of Tomberlin Outdoor and additional materials provided by the SVIA. Finally, Tomberlin Outdoor will allow dealers to use their cooperative advertising fund to encourage actual ATV safety demonstrations by ASI safety-trained, local dealers at organized meetings of the local chapters of the FFA. We believe that any successful educational and informational outreach program requires participation by the consumer through the direct efforts of the local dealer, and with total support by Tomberlin Outdoor.

Notice

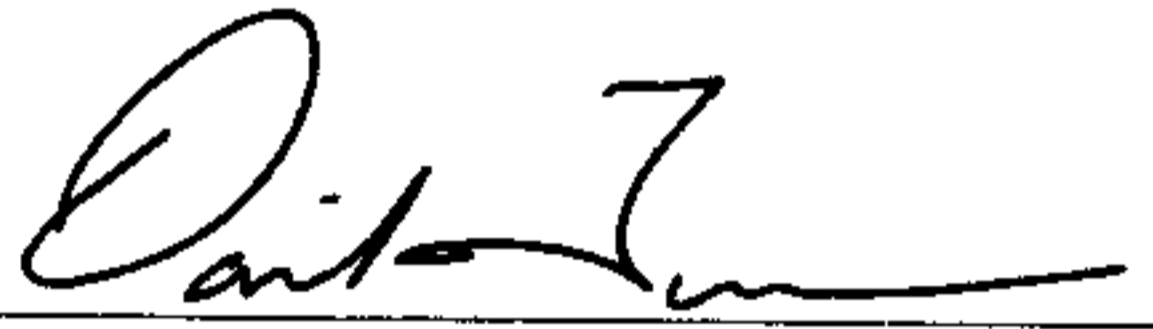
Tomberlin Outdoor will notify the agency at least sixty (60) days prior to terminating or materially changing any of these activities.

Tomberlin Outdoor will provide information about these activities upon receipt of reasonable requests from the CPSC.

Conclusion

Tomberlin Outdoor is committed to promoting the safe and responsible use of its products and will continue to work with its dealer network to promote safe and responsible purchase and use of ATVs by Tomberlin Outdoor customers. We look forward to working with and maintaining our relationship with the CPSC's staff in an effective and productive manner.

Signed: \_\_\_\_\_



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Ask Your Dealer For Details On Free ATV Safety Gear.



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Safety Poster

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