



U.S. CONSUMER PRODUCT SAFETY COMMISSION
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STATEMENT OF ACTING CHAIRMAN NANCY NORD
ON THE STAY OF ENFORCEMENT FOR YOUTH RECREATIONAL OFF-HIGHWAY VEHICLES
May 1, 2009

In the case at hand, we must weigh the theoretical possibility of lead poisoning of a child from riding a youth ATV against the very real probability of death or severe injury from that child riding an adult ATV. This incongruent dilemma about child safety happens because the new law effectively makes youth ATV's unavailable in the U.S. We cannot allow the rigid exclusion provisions of the law to somehow put children at greater risk of injury or death. Since the law does not allow us to exclude these products, our only option is the stay of enforcement which will now go into effect for a limited period of time. During this "timeout", the ATV industry will have the opportunity to bring their products closer to the limits specified by Congress.

The Commission, again, is exercising enforcement discretion to address unintended consequences in the law, this time as it relates to the regulation of lead content in children's products. As both Commissioners have pointed out, enforcement discretion is not the preferred approach to solving this problem. Nevertheless this temporary approach is the only way, now, to work around the prescriptive exclusion provisions to protect the consumer in the meantime.

We have heard from Members of Congress that they did not mean for the law to impact youth ATV's in this way, that we should use stays of enforcement to address "anomalies" in the law and that, with respect to ATV's, we should regulate prospectively. During the time the stay is in effect, the Congress will have the opportunity to consider whether and how to give the Commission more flexibility to grant common sense exclusions and to take other regulatory approaches to better prioritize and appropriately address risks based on actual health and exposure data. As the ATV situation before us illustrates, Congress may wish to consider how the retroactive nature of the law is impacting consumers, as well as product sellers.

Both the Congress and the Agency should take time together to comprehensively address "anomalies" in the law so that consumers do not have to rely upon "timeouts" for their safety.