The Task Force Briefing in the above-entitled matter commenced at 10:10 o'clock a.m., pursuant to notice, before:

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CAROL G. DAWSON, Commissioner
ANNE GRAHAM, Commissioner

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Stephen Calabrese, Heiden Assoc.
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INDEX

Presentation by Greg Rodgers 5
Presentation by Ross Koeser 64
Presentation by Nick Marchica 92
Presentation by Terry Van Houten 96
Presentation by Roy Deppa 98

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CHAIRMAN SCANLON: Good morning. The ATV Task Force Briefing will resume. We will begin this morning's session with the economic information, Greg Rodgers. Good morning.

Presentation by Greg Rodgers

MR. RODGERS: Good morning. What I would like to do today is give you the latest information on market trends and then give you a brief overview of the economic analysis of the project.

First, for market trends, the trends that stand out are that shipments are down from previous years and that four-wheeled ATVs are taking a bigger share of the market. Recent information from the industry shows that the total ATV shipments between January and October of this year are down by about 27% for the same period of time as last year. If that trend continues for the rest of the year, total shipments may be on the order of about 425,000 units during 1986, shipments to retailers. That compares with about 600,000 ATVs that were shipped to retailers during 1985.

About eighty percent of this year's ATV shipments
have four wheels. Last year, only 61% had four wheels. By
the end of this year, also, about 35 to forty percent of the
ATVs in use will have four wheels. So, there is a trend
toward four wheels, both in the marketplace and, consequently,
in the numbers in use.

We have also tried to examine the types of
suspension systems that ATVs have. We have less information
on this, but as I mentioned yesterday, about two-thirds of
the 1987 models had both front and rear suspension systems;
about 18% had front only suspension systems; and, only 16%
had no mechanical suspension system at all.

There may be about 2.3 to 2.4 million ATVs in use
by the end of the year. That would represent about a ten
percent increase in the number in use since the beginning of
1986 and compares to about a thirty percent increase in the
numbers in use that occurred during 1985.

Now, I would like to explain just what we did in
our economic analysis of the ATV project. We calculated
injury costs and tried to determine some of the factors
involved in injuries. We then combined this information to
carry out a preliminary cost benefit analysis of the task
force recommendations. First, we estimated the annual cost of
ATV related injuries and deaths. Based on our injury cost model, emergency room treated injuries cost consumers about $421 million in 1985 and about 65% of that figure is an imputed cost for pain and suffering.

In addition, and although we have no precise figures, we know that a large number of medically attended injuries were treated in facilities other than emergency rooms. These injuries could have cost consumers on the order of about $400 million in 1985. And, if we assign a cost of -- pardon me. There were also at least 238 deaths in 1985 and, if we assign a cost of $1 million for each death, the aggregate costs of deaths and injuries during 1985 could have been as much as $650 million to one billion dollars.

Since there were about 1.9 million ATVs in use during 1985, the death and injury costs range from about $350 to $525 in 1985 for every ATV in use.

This information for 1985 enables us to estimate the expected costs of deaths and injuries over the expected product life of an ATV. We know, based on information from the SVAI, that an ATV has an average product life of about seven years. If we multiply the yearly death and injury
costs by the number of years in use, the expected costs of deaths and injuries over the product life of an ATV range from about $2,000 to $3,000. This $2,000 to $3,000 injury cost figure enables us to determine what safety costs can be economically justified.

For example, if we knew that a performance requirement could reduce injuries by about ten percent, it could cost consumers as much as $200 to $300 in terms of increased retail prices of ATVs and still be cost justified. By the same token, if a safety fix costs $200 to $300, it would only be cost justified if it reduced injuries by at least ten percent.

After we estimated injury costs, we carried out a multiple regression analysis of factors affecting the likelihood of ATV accidents. The analysis was based on information from the injury and exposure surveys. We found both driver and ATV characteristics affected the risk of injury.

The regression technique allowed us to examine the effect of each of several factors separately by holding the others constant. This means, for example, that we were able to separate the relationship between age and the risk of
injury from the relationship between riding time and the risk of injury.

Driver age, sex and experience were the major driver characteristics that affected the risk of injury. The risk was inversely related to the age and experience. That is, the greater the age and experience of the driver, the less likely an accident. The risk of accident was also greater for males than it was for females.

The ATV factors which affected the accident risk were engine size, the number of wheels, and whether or not a major modification had been made to the ATV. The risk increased with engine size and was greater for three-wheeled ATVs than it was for four-wheeled ATVs.

We also found, as I mentioned, that if a major modification was made on the ATV, and this would include such things as changing tires or modifying the suspension system or making some sort of major engine modification, that the risk of injury declined. The reason for that is probably one of two things. First, this variable could kind of give us the effect of expertise. In other words, if someone makes a major modification to their ATV, that may be an indication that they are more of an expert rider and that may be one of
the reasons the injury risk declines. The other possibility is that some modifications may actually make ATVs safer. For example, changing the tires on an ATV in order to drive it under certain conditions might tend to reduce the risk of injury.

We also found that riding time and whether or not the ATV was used for nonrecreational purposes affected the risk of accident. The accident risk decreased if the ATV was used nonrecreationally and, as would be expected, the risk of injury increased with riding time.

The regression also allowed us to estimate the changes in the relative magnitude of injury risk as driver and ATV characteristics changed. Since the regression technique involved the weighting procedure, these estimated changes should be considered approximations.

For example, if we assume that all other ATV and driver characteristics remain constant, the risk of injury for a male driver is about the twice the risk for a female driver; the risk for a 15-year-old driver is roughly twice the risk for a 45-year-old driver; the risk for an inexperienced driver, which we defined as a driver with less than a year of experience, is about three times the risk of injury for an
experienced driver; the risk of injury on a three-wheeled ATV is roughly twice the risk on a four-wheeled ATV, all else constant; the risk on a 250 CCA TV is roughly twice the risk on a 110 CCA TV; and, finally, the risk of injury for a purely recreational driver is about twice the risk of a driver who spends about thirty percent of his or her time on nonrecreational activities.

The final part of our analysis was a preliminary cost benefit study of the Task Force recommendations. We based this cost benefit study on our estimates of ATV injury cost and the injury risks derived from the regression analysis.

The Task Force recommendations fell into three general categories: age recommendations; performance recommendations; and consumer information and education recommendations.

Injuries and deaths involving drivers under 16 years of age cost the public about $225 to $300 million in 1985 or roughly about one-third of the total ATV injury costs. We do not know precisely how effective product labels and warnings would be in reducing the exposure of children to injuries, but if they were, for example, on the order of...
about five to ten percent effective, the potential reduction in the costs of injuries and deaths to children might be about $15 to $30 million.

No specific performance requirement recommendations were made by the Task Force, but one of the major findings was that the dynamic stability of four-wheeled ATVs was much better than the dynamic stability of three-wheeled ATVs. As I have already mentioned, the regression analysis indicated that the risk of injury on a three-wheeled ATV was about twice the risk on a four-wheeled ATV.

Based on this higher relative risk, the expected annual injury costs for a three wheeler are about $125 more than for a four wheeler. If we multiply this $125 figure by the expected product life of about seven years, the present value of the difference in injury costs between three and four-wheelers adds up to about $650.

Therefore, costs on the order of about $650 might be economically justified in making three wheelers as safe as four wheelers.

Another engineering finding was that the suspension systems strongly influenced an ATV's handling performance. Neither the regression nor the hazard analysis
were able to show that the presence of mechanical suspension systems reduced the risk of injury, possibly because the suspension systems are highly correlated with engine size.

But, based on some of our earlier work, a mechanical suspension system may add about $100 to $200 to the retail price of an ATV. This means that mechanical suspension systems would have to reduce the probability of an injury on the order of about five to ten percent to be economically justifiable.

The Task Force also found that hands-on training was necessary to reduce the risk of injury and death to new drivers. Both the regression and the hazard analyses showed the importance of experience in reducing injuries. As mentioned earlier, we found from the regression analysis that the risk of an accident for an inexperienced driver was about three times the risk of an experienced driver. Therefore, if training could reduce the amount of riding time necessary for a rider to become experienced, it could be an effective tool in reducing injuries and deaths.

We cannot estimate from existing data how effective training would be, but if, for example, training could reduce by about one third the time necessary to become experienced,
it might reduce injuries to new drivers by about 22 percent. This reduction would reduce the expected injury costs to a new driver by about $50 to $120 depending on whether they were driving a three or four-wheeled ATV and would justify, from an economic perspective, a training program costing a similar amount.

We can also conduct similar cost benefit analysis for any other regulatory option the Commission may wish to consider.

CHAIRMAN SCANLON: Thanks, Fred. Your presentation was one of the best we have had and I think your package or your portion of the package was done very well.

Could you describe the regression and logit analysis in laymanese for us?

MR. RODGERS: Well, regression analysis, in general, is a technique that can be used to determine the impact of a number of variables simultaneously, in this case, on the risk of injury.

For example, when we were just getting started with the project, there were a lot of comments about whether age was a factor in the injury risk or whether, for example,
young children tended to drive a lot more than older drivers and consequently, it was not age so much that was a factor, but rather, riding time.

Regression analysis enables us to separate out the effect from each of these factors and, in fact, when we conducted the regression analysis, we found that both age and riding time had an independent impact on the risk of injury, and that is the benefit of regression analysis.

We cannot run controlled experiments in an economic situation or in a hazard situation like can be done in science. We cannot control a number of variables once we get the data that is available to us, while multiple regression analysis allows us to statistically hold all those other variables constant so we can measure the incremental or the marginal impact of each of the variables.

CHAIRMAN SCANLON: Then based on regression analysis, what can you say about the relative role of vehicle characteristics and driver behavior, sex, age --

MR. RODGERS: I'm sorry, Mr. Chairman. Could I back up just for one second?

CHAIRMAN SCANLON: Sure. I forgot to answer what logit analysis was, and then I will go on to the next question.
The logit analysis is a specific type of multiple regression analysis in which technically, the dependent variable is either a one or a zero. In this case, the dependent variable, which was the risk of injury -- well, if the information came from the injury survey, we gave the dependent variable, which is to be a function of a number of independent variables, a value of one.

If the observation of the driver came from the exposure survey where there was not an injury, we gave it a value of zero and using a special method of estimating the regression, were able to generate results that give us the actual risk of injury.

But your next question?

CHAIRMAN SCANLON: Do you want me to repeat it?

MR. RODGERS: I think I can remember it, basically. From the regression analysis, we found that both ATV and driver characteristics affected the risk of injury. As far as ATV characteristics, for example, as I have already mentioned, regardless of who the driver is, if the driver is on a three-wheeled ATV, the risk of injury is about twice the risk on a four-wheeled ATV. But, on the other hand, we also know that behavioral factors also affect the risk of injury.
This is exemplified by the fact that, for example, males have twice the risk as females. There is no reason for us to believe that males are inherently -- pardon me. There is no reason for us to believe that males are inherently less capable drivers than women; consequently, the implication is that there is some behavioral factor going on that leads to a higher risk of injury for males compared to females.

CHAIRMAN SCANLON: In your opinion, following that point, how much of a factor is rider behavior in accident causality -- alcohol, poor judgment, whatever?

MR. RODGERS: I am not sure I can -- Are you asking me to say what proportion of the probability of an accident is related to behavior and ATV characteristics?

CHAIRMAN SCANLON: Right.

MR. RODGERS: We cannot really do that. One of the problems with the regression technique, as well as any other statistical technique, is we do not really have a variable that really is, you know, a risk variable. Now, we can look at a particular variable -- say, the sex of the driver -- and when we observe that males seem to have twice the risk of injury as females, we can assume that there probably is some behavioral factor going on, but it does not
really allow us to estimate the magnitude of that risk factor, so I am really not able to specify how much is due to behavior and how much is due to the ATV.

But for the second part of your question -- what is the role of alcohol and, say, rider misbehavior in general --

CHAIRMAN SCANLON: Poor judgment, whatever.

MR. RODGERS: Again, I really cannot answer that question, although I can say that for some of the runs with my regression analysis, I eliminated all of the accident victims who had been drinking or who had been driving on paved roads or had, in some other way, been using bad driver judgment, and it did not really change the results of the regression analysis. The engine variable still remained significantly different from zero. There still was an impact based on sex. There still was an impact based on the number of wheels and so forth.

But, more specifically, to answer your question, I really cannot say what the role of riders, say, misbehaving might have been.

CHAIRMAN SCANLON: What percent of owners are aware of safety concerns?
MR. RODGERS: We have some information from the exposure survey. I think about -- we asked the respondents to the survey whether they had received safety information with an owners manual and about 85% said that they had. Another 75% of the respondents indicated that they knew there were some safety warnings on their ATV, and I believe about 60% of the respondents said that they had heard or read about safety concerns from the ATV safety concerns from the media. So, that is about all the information we have on that, but it indicates that a lot of people realize that there is some risk on an ATV.

CHAIRMAN SCANLON: Can you discuss the cost and benefits of training?

MR. RODGERS: We cannot determine the benefits of training directly, because very few drivers have actually been trained, but we know, both from the hazard analysis and the regression analysis that experience is an important factor in the injury risk and that, as experience increases, the risk of injury decreases.

As I mentioned from the regression analysis, a driver who was inexperienced, which we define to be a driver who had less than a year of experience, had about three times
the risk of injury as an experienced driver.

Now, based on that information, it is probably reasonable to assume that training could reduce the amount of time that it takes to become experienced and if it could do that, it could reduce the risk of injuries to new drivers.

In our cost benefit analysis, we made the assumption that if someone had training, that it might reduce by about one-third the time necessary to become experienced. We have no solid data to base that assumption on, but it seemed to be a reasonable assumption to us.

But, if you take that assumption, you would reduce -- we would reduce the number of injuries to new drivers by about 22 percent. Now, if that 22 percent injury reduction is translated into reduced injury and death costs, we can estimate that the expected costs of deaths and injuries could be reduced from $50 to $120 depending upon whether the driver was riding a three wheeled or a four wheeled ATV.

Now, that $50 to $120 represents the benefits of training and if training can be provided for that amount of money, then it would be cost beneficial to do so. So, we do not have a direct answer, but based upon the information
we have and several assumptions, it looks like training would
be cost beneficial because it seems reasonable that it could
be provided for somewhere in that $50 to $120 range.

CHAIRMAN SCANLON: Yesterday, in the briefing,
here, Rae Newman said that if riders were to use good helmets
and to stop carrying passengers, that the injury and death
rate would be reduced significantly. Do you agree with that?

MR. RODGERS: Well, we did discuss helmets in our
cost benefit analysis and basically, well, again --

CHAIRMAN SCANLON: That is what I am getting to.

Give a cost benefit analysis of helmets.

MR. RODGERS: Well, again, it is not a perfect
analysis, because there is a lot of information we do not
know. But based on information we have from the hazard
analysis and information from the medical analysis indicating
that about 25% of the fatal accidents where the fatality was
due to head injuries could have been prevented if a properly
fitting helmet was being used.

Based on that information, the hazard analysis
information and a couple of assumptions, we can show that the
use of a properly fitting helmet could reduce the expected
costs of deaths and injuries by about $100 to $160 for a
driver over the average product life of a helmet. Again, the
$100 to $160 would represent the benefits of helmet wearing.
So, if a helmet could be purchased for that amount of money--
and they can; you can buy a good helmet for $100 to $160 and
even less, I understand, from Roy Deppa, it is cost
beneficial -- it is clearly cost beneficial to have a helmet
and wear it.

CHAIRMAN SCANLON: Would most people spend $150
for a helmet?

MR. RODGERS: That, I am really not sure. We do
not really have any information on that. All we can say is
at this point, it looks as though it would be cost
beneficial if they did.

CHAIRMAN SCANLON: Would you discuss the overall
Task Force's recommendation on banning children's ATVs or the
smaller sized ATVs?

MR. RODGERS: Well, from the regression analysis,
it did not appear that children driving children's ATVs
posed a particularly high risk of injury to children. That
is not to say that there were not injuries, but relative to
other drivers, there was not a particularly high risk of
injury for children driving children's models. Also, with
respect to the ATVs that the Task Force recommended either
be -- that the manufacturers either voluntarily withdraw them
from production or be banned, there really were not very many
injuries that took place on those ATVs.

CHAIRMAN SCANLON: How many children's ATVs are
now on the market?

MR. RODGERS: I think -- and this is -- I would
have to check up on this, but I think that Bill Zimula, in
his jurisdictional memo, indicated that about 60,000 of
the ATVs in use might be the 50 and 60 CC ATVs. I do not
remember the number of larger children's models. I think
from the exposure survey, it was about eight percent total
were children's models.

CHAIRMAN SCANLON: Give us your opinion. If the
Commission were to ban the smaller size ATV, what percent of
kids would then use the larger one?

MR. RODGERS: That is the potential pitfall of
banning the very small ATVs. It is possible that some
children who now ride the small ATVs might start riding
larger sized ATVs.

From the regression analysis, we calculated that
the risk of injury would increase by about one third if a
child who was riding a child's ATV started driving a small, adult sized ATV, about a 33 or 35% increase in the risk of injury.

Well, given that increased risk, if about 75% of the children who were driving the small ATVs started driving the smaller adult-sized ATVs, if 75% of these children started driving the adult-sized ATVs, the actual number of injuries would be predicted to be about the same. So, if more than 75% drove these -- moved from the child to the adult-sized ATVs, the number of injuries could even increase.

Now, I do not know -- it is not unreasonable that a large number of children would move from the smaller to the larger sized ATVs, but we do not really know. We do not know how much that would be.

I think we do know, though, that a large proportion of children currently ride the adult-sized ATVs. I think it is about 95% of the kids between 12 and 15 ride adult-sized ATVs and something on the order of about two-thirds of the children less than 12 drive adult-sized ATVs.

CHAIRMAN SCANLON: Do you think a person's size relative to the engine size is more of a factor than the age?
MR. RODGERS: It is hard to sort out the relative importance. Our analysis indicated that the less the driver weighed, holding all else equal, and that is an important assumption, if you held everything else equal and the weight of the driver decreases, the risk of injury would tend to increase and that is probably because the weight of the driver would mean -- the less the weight of the driver, the less control the child might have over the ATV's operation.

My own suspicion is that age is the most important factor, but I have not really sorted out the relative importance of these. But, again, with the regression analysis, you have to remember it is an analysis that sometimes is called a ceteris paribus analysis where all else is held equal.

CHAIRMAN SCANLON: Whatever that means. That is Latin, I guess.

MR. RODGERS: That is a very important phrase in supply and demand analysis, if you are taking introductory courses.

CHAIRMAN SCANLON: Thank you very much. I have exceeded my twenty minutes, so I will come back to you.

Commissioner Dawson?
COMMISSIONER DAWSON: Greg, I have noted a couple of things in the economics material that I wanted to clarify. There is a lot of data in the regression analysis where you come up with things like accident rates on three wheelers are about the twice as on four wheelers and the part about males to females and so forth.

Then there is also a statement in here that says: Correlation does not necessarily imply causation. Could you kind of elaborate on that for us?

MR. RODGERS: Well, in regression analysis -- and I believe it holds for all other types of statistical analysis, the mere fact of correlation does not necessarily mean cause. As an example, the presence of mechanical suspension systems tends to be highly correlated with accidents, but that may be because ATVs with large engines are highly correlated with accidents.

So, as an example, if we throw in a suspension variable into the regression analysis or, as Rae Newman did, in the hazard analysis, there is a high correlation between suspension -- mechanical suspension systems and the risk of injury just looking at the correlation, but that does not necessarily mean that -- I mean, if you just took that at face
value, it would imply that the presence of mechanical suspension systems caused the injuries. That is unlikely. I mean, it is unlikely that that is the case.

COMMISSIONER DAWSON: So it is in track with our engineering data.

MR. RODGERS: Right.

COMMISSIONER DAWSON: Would you say, then, that you would have to sort of be cautious in interpreting these kinds of analyses because you would have to also take into consideration other factors?

MR. RODGERS: Yes, I would say that. As far as our regression analysis was concerned, I feel pretty confident that where we talked about cause, it probably existed. The relationships we found were very significant and no matter what I did to the equation, the variables seemed to remain very stable. But, you are right. There is always the caveat that the high correlation does not always imply causality; that is right.

COMMISSIONER DAWSON: You say there are some you feel comfortable with asserting that, indeed, you have got some solid basis, one of which is that experience is probably the single most important variable?
MR. RODGERS: Yes, I think I would say that. The experience variable -- I mean, if we can distinguish between relative magnitudes of significance, was clearly the most important variable in that sense. There was a very strong relationship between experience and the risk of injury.

I might just add that in the regression analysis, I excluded all accident observations where the driver did not come from a household that owned an ATV, because we did not get information from the exposure survey on ATV borrowers, so we felt we should exclude them.

COMMISSIONER DAWSON: So, you have no idea how much experience those people might have had?

MR. RODGERS: Well, from the injury survey, we knew how much experience the injured borrowers had had and when we did include the injured borrowers in the regression analysis, the experience variable even became more significant. We decided to exclude those from our final analysis because we did not have any comparison with the non-accident victims who might have been borrowers, but it seemed logical to us that one of the main differences between borrowers and owners would be that the borrowers probably had much less experience. So, I may be muddying that up, but --
COMMISSIONER DAWSON: Am I correct in interpreting from one of your statements that the risk of injury increases as driving time increases?

MR. RODGERS: Yes.

COMMISSIONER DAWSON: Does that conflict with your experience variable?

MR. RODGERS: No, because, again, when we are looking at the riding time variable, we are assuming all else is held constant. What that tells us is that if a driver drives an ATV thirty days a month as opposed to five days a month, the risk of injury is higher.

COMMISSIONER DAWSON: More likely, too.

MR. RODGERS: Yes, and that is what the riding time variable does show us.

COMMISSIONER DAWSON: I wanted to ask some questions, too, about what you found with regard to children. I believe it is on Page 14. You said: Aside from the inverse relationship between the risk of injury and age, which was already described, there was no evidence that young children face a particularly high risk of injury. In other words --

MR. RODGERS: What did I mean by that?
COMMISSIONER DAWSON: -- they were getting injuries but the rate of injury was not abnormally high?

MR. RODGERS: Yes. What I was trying to say there is: The regression analysis indicated that the probability of an accident for, say, a ten-year-old was somewhat greater than the probability of an accident for a 14-year-old, but there was not a big change at that age level. In other words, the risk of injury did not radically increase as you became ten years old.

COMMISSIONER DAWSON: In other words, it was gradual?

MR. RODGERS: Yes, it was a continuous sort of impact, and there is a slight increase in the risk. Again, holding all else equal, if the age of the driver decreases by one year, our expectation is that the risk of injury would increase a little bit but not an unexpected amount.

COMMISSIONER DAWSON: In other words, there was no age at which you could say the risk jumped, in other words?

MR. RODGERS: That is right.

COMMISSIONER DAWSON: You also say that the analysis did not indicate that children driving children's
ATVs were at a significantly high risk?

MR. RODGERS: That's kind of what I mean. What we were just discussing is kind of what I meant there. They were not at a -- They were not a particularly high risk of injury. There was not anything going on that when you were ten years old, the risk radically increased. That is what I meant there.

I was not saying that the risk was less for them. I was just saying that it did not increase really fast.

COMMISSIONER DAWSON: Did you do analysis both of children riding the child sized ATVs and then another one of children riding -- all children, regardless of the size?

MR. RODGERS: No, no. In the regression analysis, I used the engine size and the age of the rider as just two variables, so from the analysis I did, both of those factors would have an impact but I did not separate out children who drove kid's models and children who drove adult's models and run the regression separately.

COMMISSIONER DAWSON: Just for the record, when we say children, are we talking about under 12?

MR. RODGERS: I guess I am just using the term generally.
COMMISSIONER DAWSON: Yes, I was, too, but I think probably we ought to define it.

MR. RODGERS: If I say children again, I will talk about less than 12.

COMMISSIONER DAWSON: Under 12?

MR. RODGERS: That is not exactly what I had meant.

COMMISSIONER DAWSON: It could mean the 12 to 15 year old category as well?

MR. RODGERS: Yes.

COMMISSIONER DAWSON: I want to get into the injured costs. We talked about in 1985, you mentioned 421 million as being an estimate of the --

MR. RODGERS: Emergency room treated.

COMMISSIONER DAWSON: The emergency room treated.

Then you would have to add to that the death estimates?

MR. RODGERS: Yes.

COMMISSIONER DAWSON: And if you assigned a cost to life, then you would come up with another amount.

MR. RODGERS: The way we did it, we simply assigned a cost of one million dollars per death.

COMMISSIONER DAWSON: So, what would be the total,
then, if you included the cost of the deaths and the injuries? What would be the total cost to society, let's say, in 1985?

MR. RODGERS: The emergency room treated injuries plus deaths would have amounted to about $650 million. As I mentioned this morning, I also mentioned the fact that there are a lot of injuries that take place that are not in emergency rooms.

COMMISSIONER DAWSON: That are not in emergency rooms.

MR. RODGERS: We do not have a good fix on that number, but that could add another 400 million to the aggregate injury costs.

COMMISSIONER DAWSON: Have you, in any of this analysis, taken into account also the costs of the -- let's say, the cost of care; that is, for someone who has become handicapped?

MR. RODGERS: The answer is: Yes and no. Our injury cost model assigns a certain -- I am probably not the best one to explain how the injury cost model operates, but basically, it will take an injury, say, a broken leg and based on a large sample of accidents, it will say: Well, if someone has a broken leg, there is going to be this amount of
medical costs and they are going to miss five days of work and that value is this, and they are going to add up all the different costs associated with that accident and, including the pain and suffering component, because that is a real cost of injury. It is a private cost paid for by the person injured, but it is a real cost.

COMMISSIONER DAWSON: But an economist would figure that in as a cost, a real cost?

MR. RODGERS: It is a real cost.

COMMISSIONER DAWSON: I am talking about those that, say, may be confined to wheelchairs.

MR. RODGERS: We do not have any specific information on, say, quadriplegics or paraplegics and those are expensive injuries, but the injury cost model, I don't believe has a specific component for that. It averages everything out and presumably, expensive injuries like that, in terms of perhaps even lifetime care, would be factored in in the average.

COMMISSIONER DAWSON: Overall.

MR. RODGERS: Yes.

COMMISSIONER DAWSON: So, based on the injury cost that you did use and the numbers for 1985, you came up with...
an average cost per vehicle projected over the life of that vehicle?

MR. RODGERS: Yes.

COMMISSIONER DAWSON: That was what?

MR. RODGERS: I do not mean to add more than what you are asking for, but for 1985, the average injury cost and death cost for each ATV in use amounted to about $350 to $525.

COMMISSIONER DAWSON: For each ATV in use?

MR. RODGERS: Right, for 1985. Now, since the average life is about seven years, if you multiply that 350 to 500 by seven and, of course, that does not take into account the fact that we want to discount future costs, it amounts to about $2,000 to $3,000.

So, in other words, if a new ATV comes off the assembly line and someone buys it, on average, the costs associated with that ATV are going to be $2,000 to $3,000 in terms of injuries and, again, that does include the pain and suffering component, which is a significant component.

COMMISSIONER DAWSON: It does include that?

MR. RODGERS: Yes.

COMMISSIONER DAWSON: Do you think that that is a
high cost for a consumer to pay?

MR. RODGERS: It is a high cost. There is no doubt about that. That tends to be a bit out of our typical experience at the CPSC, because if there is a faulty toaster or something, it is not going to usually cost that much money, so it is a little bit out of our frame of reference and it is high.

COMMISSIONER DAWSON: Speaking of frame of reference, I noticed in the data, too, there were some figures given to us based on on-highway motorcycle injuries and if I am remembering correctly, those injuries, even though there were a higher number of injuries, the cost per injury was lower than that of the cost per injury that was estimated for ATV injuries.

MR. RODGERS: I guess I do not recall precisely the numbers. You are talking about when I estimated the expected cost for, say, on-highway motorcycles?

COMMISSIONER DAWSON: Yes.

MR. RODGERS: I can tell you what the total number was. Is that what you are asking?

COMMISSIONER DAWSON: If you want to refer back to the memo, but I think, if my memory serves, the overall
average cost per injury for the on-highway motorcycle injury was considerably less.

MR. RODGERS: I do know that the majority of the costs associated with on-highway motorcycles were death related.

The injury costs per ATV in use were about $222 and the injury costs per on-highway motorcycle in use were $166, so the injury costs per vehicle in use tended to be higher for ATVs.

COMMISSIONER DAWSON: Is there any particular reason for that? I mean, based on the fact that on-highway motorcycles tend to get involved in traffic accidents, I suppose, you would at least tend to think that it would be logical that their injuries would be more severe.

MR. RODGERS: I guess that what it is saying is that on a relative use basis, there tend to be more accidents with ATVs than with on-highway motorcycles per vehicle in use, so, for example, with an ATV --

COMMISSIONER DAWSON: I thought it was just the opposite.

MR. RODGERS: Well, with an ATV, it might be -- I forget what the actual number is, but, say, five accidents
per hundred ATVs in use. With an on-highway motorcycle, it
might be about four accidents per hundred motorcycles in use
unless I am getting confused here.

COMMISSIONER DAWSON: Well, is there a correlation
between those cost figures? That is what I am trying to get
at.

MR. RODGERS: The reason we tried to compare those
numbers is we just wanted to get perspective on what was
happening with ATVs, because as I said, ATVs are different
than most products that we deal with and so we thought it
would be useful, just to see what was going on with other
similar types of vehicles, and on-highway motorcycles might
be a similar type of vehicle.

But, just looking at those numbers, it did not
look like there was a lot of difference between the expected
injury cost per ATV and per motorcycle. The ATVs were
higher, but not an awful lot higher. The major difference
between on-highway motorcycles and ATVs were that there were
a lot more deaths, given the number of motorcycles in use as
opposed to ATVs in use.

COMMISSIONER DAWSON: Well, did you separate out
the cost of the injuries separate from the deaths?
MR. RODGERS: I think in that table, I had one column or one row that said injury costs per vehicle in use, and then another row that said cost of deaths per vehicle in use. On-highway motorcycles, there are a lot of deaths involved with them and that is why the deaths per vehicle in use is higher for on-highway motorcycles.

COMMISSIONER DAWSON: I may have some more questions for you later, but I think I will stop for now.

CHAIRMAN SCANLON: Thank you, Commissioner Dawson.

Commissioner Graham, any questions?

COMMISSIONER GRAHAM: I have two. Greg, I was wondering if it was safe to assume that the total number of riders was increasing more quickly than the total number of ATVs?

MR. RODGERS: I guess we do not really know. When I tried to get a fix on the number of riders for ATVs, what I have done is take into account information we have from the exposure survey. The exposure survey indicated that there were about 2.3 drivers per household and about 1.25 ATVs per household. So, when I have been calculating drivers, I have relied on those ratios plus the number of ATVs that we believe to be in use, which is based, in turn, on product
survivability rates and shipment information that we have
gotten from the industry.

COMMISSIONER GRAHAM: Well, if that is a safe
assumption, could you talk a little bit about what the
potential demands would be on training?

MR. RODGERS: I suspect that the demands for
training will be less as time goes on, since it looks like
the proportion of new riders is slowing down. In other
words, in 1985, the numbers of ATVs in use went up thirty
percent, so that probably indicates an awful lot of new
drivers.

Now, in 1986, it looks like the number in use is
going to go up by about ten percent and although that is on a
bigger aggregate base, it probably indicates that there would
tend to be relatively fewer new drivers.

COMMISSIONER GRAHAM: I have got another question
about used ATVs. In the exposure survey, you noted that
thirty percent of the ATVs were used. Do you have a break­
down available on the engine size or the number of wheels or
the age of the riders?

MR. RODGERS: I do not have it now, but I could
prepare that for you.
COMMISSIONER GRAHAM: I would be interested in seeing that.

MR. RODGERS: You want the breakdown for the number of wheels and --

COMMISSIONER GRAHAM: Age.

MR. RODGERS: Of the vehicle?

COMMISSIONER GRAHAM: Yes, and engine size, and then, if you have something on the age of the riders.

MR. RODGERS: I will get that for you and try to get it back to you.

COMMISSIONER GRAHAM: Thank you. Thank you, Mr. Chairman.

CHAIRMAN SCANLON: Thanks, Commissioner Graham. I have a follow-up on one of Commissioner Graham's questions. You are saying that the number of riders is increasing even though the number of ATVs coming into the country is decreasing; is that right?

MR. RODGERS: My calculations are based on the number of drivers per household and the number of ATVs per household, so my estimates would indicate that if the number of ATVs in use is growing, that the number of drivers is growing. So, yes, there are new drivers.
CHAIRMAN SCANLON: In your briefing package, Greg, you indicate that in a typical month, there are approximately 70 million users and, I believe, 7,000 injuries; was that correct?

MR. RODGERS: I did not specify the number of injuries, but that is what Rae Newman has specified.

CHAIRMAN SCANLON: Where did that data come from and what does it mean?

MR. RODGERS: Again, the basis for that was information we had from the industry and information from the exposure survey and if you want me to detail that right now, I can do it.

CHAIRMAN SCANLON: Would you? That would be helpful.

MR. RODGERS: From the industry, we have two important things that allow us to get a good fix on the number of ATVs in use. We know the number of shipments of ATVs precisely because they have told us the figures and also, we know to the best that anyone can know, the product life of an ATV, because the industry has published product survivability rates in one of their publications, so we have a good fix on the number of ATVs in use. Now, right now,
that is probably on the order of about 2.3 million ATVs. So, given the number of ATVs, from the exposure survey, we know that there are 2.3 drivers per household and 1.25 ATVs per household and that gives us something like -- you know, fiddling around with those ratios, I think it is something like about 1.8 drivers per ATV. So, 1.8 times the number of ATVs in use would give us the number of drivers within ATV owning households.

I think, when I wrote my market update memo for this briefing package, there were about -- I calculated about 4.25 million ATV drivers in ATV owning households. But, in addition to that -- and also, based on information from the exposure survey -- we know that there are lots of drivers that drive ATVs that do not own ATVs. My recollection is that about forty percent of the households that owned ATVs at the time of our exposure survey, which was March and April of this year, about forty percent of the households that owned ATVs let drivers outside the household also use them.

So, we calculated that based on that information, and it is not -- we do not have precise information, but based on that information, we calculated that there were at least 2.5 million drivers outside of ATV owning households.

That's it.
that either drive on a regular basis or at least have driven
ATVs. So, the 4.25 and the 2.5 adds up to roughly 7 million
drivers that may drive in a typical month.

CHAIRMAN SCANLON: That is helpful. In the report,
you state that you did not have enough data to construct a
demand curve for ATVs. On what basis is a demand curve
normally developed?

MR. RODGERS: Well, I guess there are a couple of
different methodologies. In this case, I think what we would
need to do would be to get some marketing information
directly from the manufacturers.

CHAIRMAN SCANLON: Don't we have that?

MR. RODGERS: We have some information. I do not
think we have enough at this point to calculate a demand
curve. We would need to know precisely what sorts of -- how
their decisions in terms of pricing were made. That is really
what we would need.

We have some information from the industry, but it
is more of general sort of marketing information, how to
people react to different colors, do they want suspensions,
but there is not any stuff that we could really zero in on
to calculate the demand curve as of this point, anyway.
CHAIRMAN SCANLON: Give us, in your opinion, the major demographic characteristics of ATV users.

MR. RODGERS: I do not recall, off hand. If I can just look at one of the tables in the exposure survey memo.

CHAIRMAN SCANLON: Sure.

MR. RODGERS: One characteristic is that ATV owning households tend to live in low density areas, which is not unexpected. There probably are not too many people that own ATVs in New York City. It is in the more rural or outer suburban areas that ATVs tend to be owned.

ATV owning households tend to be larger in size than the average American household, probably -- I guess because a lot of the households that own ATVs are family households, but right off hand, I do not recall why that would be the case.

ATV owners tend to be younger than the population at large and ATV owning households tend to have incomes that are somewhat higher than the average for the U.S. and I guess that might not be unexpected since ATVs are fairly costly items.

CHAIRMAN SCANLON: The average cost being about $2,000?
MR. RODGERS: Yes, roughly. Excluding the kids' models, the range for adult models is probably on the order of about 1300 for, say, a 110 CC ATV up to as high as $3,000 or even a little more than that for a 350 CC ATV.

CHAIRMAN SCANLON: Greg, discuss the breakdown between the amount of recreational and nonrecreational use of ATVs and then what is the difference in terms of the relative rate of injury, then, between the two.

MR. RODGERS: In general, based on information from the exposure survey, we calculated that on the order of about twenty percent ATV usage may be nonrecreational in nature. I forget precisely -- my memory is jogged.

CHAIRMAN SCANLON: Use the book; that is all right.

MR. RODGERS: Well, I think that about fifty percent of the households from the survey indicated that they used the ATV for some nonrecreational purpose, whether that be one percent of the time they use it for nonrecreational purposes or a hundred percent. But, about half said that they use it for some nonrecreational activity. Overall, then, about twenty percent of the usage might have been for nonrecreational usage. Only a small percentage -- I think it was -- I should not even mention it. A small
percentage used it for work purposes, but very small, for only work purposes.

CHAIRMAN SCANLON: What is the difference between the relative rate of injury of these two?

MR. RODGERS: For nonrecreational versus recreational?

CHAIRMAN SCANLON: Right.

MR. RODGERS: It looks -- well, we found that there were a few concerns when we were doing the regression when comparing the nonrecreational use between owners from the exposure survey and from the injury survey, partly because we did not collect information in the exposure survey on precisely how much each driver drove nonrecreationally. What we asked in the exposure survey was what proportion of the household's driving time was nonrecreational.

So, what I tried to do was kind of develop a decision making set of rules to decide whether a particular driver in a household drove nonrecreationally. I think that we came up with a pretty reasonable method for determining that. What I am saying is that this is not a perfect calculation, but based on the information we have, it looks like if you drive an ATV for nonrecreational purposes as much
as thirty percent of the time, the risk of injury is about
twice as — pardon me, about half as much as it is if you
use it only for recreational.

So, for example, if someone used it ten percent of
the time for nonrecreational purposes, you might expect the
injury risk for them to be maybe 75% of the person who drives
it purely recreationally.

CHAIRMAN SCANLON: If we are seeing 7,000 injuries
a month and approximately twenty deaths and the total
population in which this occurs is seven million, what kind
of a risk does that represent?

MR. RODGERS: If we use the 7,000 injury figure
and, say, the 7 million driver figure or user figure, that
would calculate out to about .1% per month, so based on that
sort of calculation, you might say that the risk overall is
about 1.2% per year.

But, I caution that we do not know the relative
use between drivers in ATV owning households, who probably
tend to be more regular users, and those borrowers who may
use it less frequently.

CHAIRMAN SCANLON?: Your data indicated that the
larger engine size is related to a higher risk of injury; is
that correct?

MR. RODGERS: Yes.

CHAIRMAN SCANLON: Is that because the vehicles, in your opinion, are inherently less safe or is that some way reflected because the owners or the users of the larger engines are less careful?

MR. RODGERS: I believe it would be a little bit of both. On the one hand, if you have a larger ATV, you may accelerate faster. There may be characteristics of that large engine size that make it just generally harder to drive. Now, Roy Deppa might be better to answer that question.

Also, we can probably say that someone who buys a large engine-sized ATV wants to -- well, driving an ATV with a large engine size may be partly an ATV characteristic leading to an increase in the risk of injury, but also, the higher speeds that a large ATV is capable of facilitates risk taking on the part of the driver and so there may be some behavioral factor in there as well. We cannot really sort out and distinguish between the two, but they are probably both present.

CHAIRMAN SCANLON: Could you discuss current
market trends for both three and four wheelers? Are three wheelers being phased out and to what degree? Are we going to have three wheelers in two years, in your opinion?

MR. RODGERS: About twenty percent of current sales are three wheelers, it looks like, based on shipments to retailers.

CHAIRMAN SCANLON: What were they, say, two years ago?

MR. RODGERS: Two years ago, I think it was on the order of about forty percent were four wheelers, but I would have to check to be sure of that. So, clearly, there is a trend toward four-wheeled ATVs.

Now, how much further that is going to go, I am not entirely sure, because I suspect that there is some hard core of ATV riders that just like three-wheeled ATVs. So, I am not sure what the market would naturally tend to in the future. It may decrease some more, but it may not go too much farther down. It is really unclear. Of course, I am not privy to what the manufacturers are thinking of.

CHAIRMAN SCANLON: What would you attribute that trend to, safety considerations?

MR. RODGERS: Well, I guess there are a number of
motivations. My suspicions: do you want me to tell you what my suspicions are?

CHAIRMAN SCANLON: Yes.

MR. RODGERS: I suspect that on the part of the public, there is some tendency for them to be moving toward four wheelers because of all the safety concerns they have heard in the media, so, in a sense, I would suspect that Commission activity in the area of ATVs has tended to shift the demand for ATVs from three wheelers to four wheelers. I do not know the magnitude of that.

I suspect that maybe manufacturers are having the same tendency because there may be product liability concerns.

CHAIRMAN SCANLON: Are there any differences in owner characteristics or in characteristics among three-wheel owners versus four-wheel owners?

MR. RODGERS: I guess I cannot answer that right now. I suppose we could go back to the exposure data. Well, actually, I have calculated some of the differences, because when I was -- I calculated the average age, the average engine size, for both -- the average age of the driver, the average engine size, for each of the three and four-wheeled ATVs. For all the other variables, I found the average, for example,
well, the average, sex, if you will, of the driver for four
versus three wheelers. Economists have no problem talking
about .7% male and things like that.

(Laughter)

But, I have calculated the averages and the only
difference I recall right off hand is that the four-wheeled
ATVs tend to have larger engines. The reason for that, I
believe, is that four wheelers tend to be newer ATVs and
along with the other trends in the market, there has also
been a trend towards larger engine sizes, so I suspect that
is why four wheelers tend to have larger engines than
three wheelers.

CHAIRMAN SCANLON: In your opinion, are four
wheelers safer than three wheelers?

MR. RODGERS: Yes. I think that the regression
analysis I conducted is fairly conclusive on that. Again, it
is possible that there may be some risk factor involved. In
other words, people that would tend to take risks may, to some
extent, want to drive three wheelers, although we have no
evidence of that, I mean, we have no -- that is simply a
possibility. But, based on the results of the regression
analysis, based on the results of the hazard analysis and
based on the engineering results, I think that four wheelers are safer.

CHAIRMAN SCANLON: In the findings, we were unable to separate the effects of mechanical suspension and size. Is there any way to measure this?

MR. RODGERS: I do not believe there is right now. The problem, as has already been discussed -- I mean, it could be a data problem, as already discussed, in the sense that mechanical suspension systems tend to be present on ATVs with large engines and it is the ATVs with large engines that tend to be in accidents, so there is a high correlation between engine size and -- I forget, what was the other variable; oh, sorry -- suspension.

So, there is a high correlation between engine size and the presence of mechanical suspension systems. It is very difficult at this point to separate the two out. I tried to do that with my regression analysis. For example, I won't get into any detail, but what I tried to do was look at specific engine size categories of ATVs.

So, for example, if I could look at only 200 CC ATVs and I could find some factor associated with the suspension system when, clearly, there is no engine impact if
we are only looking at one engine size, then maybe that would
give us an indication, but we were unable to do that. There
were just -- when you get up to the 200 CC ATV engine size,
almost all of them have front and rear suspension, so it was
just impossible to separate the differences out.

CHAIRMAN SCANLON: Greg, you have noted that the
sales of ATVs are declining, which means in the population of
inexperienced riders or users will also decline, and the
market is going toward the four wheeler. You said an increase
of twenty to forty percent in one year.

Can you project injuries and deaths, say, for the
next two years using that as your basis?

MR. RODGERS: Not in terms of numbers. We might
be able to do that based on a number of assumptions, but I
think it is fairly clear -- well, I won't say it is fairly
clear. But, again, I believe that given that the market is
shifting very strongly toward four-wheeled ATVs, which I have
found have about half the risk of injury of three wheelers
and as the market turns towards four wheelers, as I have
already said, 35 to 40 percent of the ATVs in use at the end
of this year may have four wheels, and the fact that the
experience, on average, is increasing in the ATV rider
population, there probably will be a -- we probably will
witness a reduction in injuries. To some extent, that may
already be present in the data to some extent, because as
Rae Newman has indicated, the emergency room treated injury
estimate has stayed about the same for 1985 and 1986, but the
population of ATVs in use has increased somewhat and so the
risk on a per vehicle basis is probably down. I suspect
that that is because a larger proportion of the market is
four wheeled now, and maybe also the experience factor, that
on average, people tend to be more experienced now than they
were, say, a year ago, taking into account the new drivers
and so forth.

CHAIRMAN SCANLON: Thank you. Commissioner Dawson,
do you have any questions?

COMMISSIONER DAWSON: Yes, I have a couple more
that I wanted to follow up on.

Earlier, we were talking about the overall medical
costs, including costs of deaths and cost of rehabilitation
and whatever and you gave us a figure of about $650 million
for the vehicles that were in use in 1985.

Do we have any figures to determine the value of
the industry, in other words, the sales or the numbers of

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jobs and so forth that are related to this industry? Do we have any of that kind of data?

MR. RODGERS: I included some information along those lines in the market sketch that I wrote in December 1985. I suspect the figures are about the same now. We have more recent information from the industry and I could, you know, I could update that data and I will, if you wish.

COMMISSIONER DAWSON: I would like to see that.

MR. RODGERS: Okay.

COMMISSIONER DAWSON: Is there a term of art for that, for the total value of the industry?

MR. RODGERS: Well, if you just want to talk about the value of the total sales, which is just kind of an aggregate figure, I do not know what it would be, but it would be something like $2,000 for the average price times, say, 400,000 ATVs this year would give you the aggregate sales value, but I am not sure -- I mean --

COMMISSIONER DAWSON: In other words, what I am thinking about is in terms of the value to the economy.

MR. RODGERS: Well, the value to the economy -- I mean, if people like riding ATVs, that is a value. If ATVs create jobs, that is a value. Now, there are some
manufacturing jobs in the U.S., because a couple of the companies -- at least one company and maybe two, at this point -- have some manufacturing facilities here.

But, probably the largest segment of employment related to the ATV market is dealers. I forget precisely how many dealerships there are right now. I think it is something -- well, I won't even say, because I am not sure, but that was also mentioned in my market sketch. But that would give you an idea of the jobs that are associated with ATVs.

Now, that does not mean that if ATVs all of a sudden were no longer going to be produced and sold, that all those jobs would be lost because, of course, there are also the on-highway motorcycles and the trail bikes that are also sold to the same dealerships, but certainly, there are retail jobs that are associated with ATVs.

COMMISSIONER DAWSON: To some extent, aren't there also repair facilities that service the ATVs?

MR. RODGERS: Yes, I think that most of the repair facilities are with the dealers themselves.

COMMISSIONER DAWSON: With the dealerships?

MR. RODGERS: Yes.
That is why I held constant the age of the driver; I held constant riding time; I held constant all the other variables and, given that, it indicated that three wheelers, all else equal, were more risky than four wheelers.

COMMISSIONER DAWSON: I think the only question you put on that was that there was a question where people who tended to be risk takers were more likely to buy the three wheeler than the four wheeler.

MR. RODGERS: There is that possibility, but we cannot separate -- I mean, it is true that someone who -- it is possible that someone who is a risk taker will buy a three-wheeled ATV, but on the other hand, I might just mention that given that up until a few years ago, only three wheelers were on the market, my guess would be that the fact that someone has a three wheeler is not probably because they are an inherent risk taker.

Now, given the presence of three and four wheelers, there may be a greater tendency for risk takers to buy the three wheelers, but given the fact that up until a few years ago, almost all ATVs were three wheelers, I do not think that that is as big as it might be, say, for the engine variable, where engine size may very easily facilitate risk taking.
COMMISSIONER DAWSON: Nick, you wanted to add something to that? Go right ahead.

MR. MARCHICA: Yes, I think there may be a way of answering that and that is, if you look at substitution, if the assumption is that more risk takers will buy high performance three-wheeled ATVs, then the chances are that you will not see a high performance four-wheeled ATV in the marketplace.

On the contrary, what we are seeing, at least with one major manufacturer, is the substitution of a four-wheeled high performance ATV for a very good selling three-wheeled high performance ATV. So, I think what Greg is saying makes a lot of sense and we are actually seeing it in the marketplace, where you are seeing a substitution of high performance vehicles that used to be three wheelers, now you are seeing that in four wheelers, also.

COMMISSIONER DAWSON: So, you would have to assume that at least the manufacturers are targeting those people who previously would have been the target of the high performance three wheeler, they are now giving them the option of the four wheeler.

MR. MARCHICA: Exactly.
COMMISSIONER DAWSON: I guess the final comment I am asking is: Given the market trend that you have described, about an increasing percentage of the market going to the four wheelers, that still leaves us quite a few three wheelers in the consumer's hands at the moment.

Do you think that a drop in injury rates is going to show up because of the entrance of the four wheeler?

MR. RODGERS: I think that will be noticeable, but I guess I have to partly say we will have to wait and see. Actually, I have been trying to think of some ways that I might be able to predict what the number of injuries might be, again based on kind of a regression technique, and I've just been thinking about it at this point. But I would not be surprised to see a reduction in injuries, given the fact that the number of four wheelers is growing very rapidly and, on average, probably experience will be greater.

COMMISSIONER DAWSON: Would you expect to see the same rate of injuries continue on the three wheelers, though, the ones that are still being used?

MR. RODGERS: All else constant, as long as people keep riding them the same way that they have been, I would say yes.
COMMISSIONER DAWSON: So that overall, the numbers or the rates for ATVs as a whole would go down, but the rate for ATVs, for three wheelers, you would expect to remain constant?.

MR. RODGERS: If all of a sudden, people who had a three-wheeled ATV for the last five years and they start losing interest in it and they start riding it half the amount of time they did three years ago, then, of course, there probably would be a reduction in injuries on three wheelers. But, again, holding all else constant, and that includes how many days they ride the ATV and so forth, holding all those other things constant, I would expect about the same rate.

COMMISSIONER DAWSON: Thank you.

CHAIRMAN SCANLON: I have got a question. In calculating injury costs per vehicle, why do you discount future costs?

MR. RODGERS: Very simply, and I do not know how simple it will sound, but the value of the dollar -- a dollar today is worth more than a dollar tomorrow, and that is basically reflected in the fact that you could take that dollar and invest it now, and you might have a dollar and
five cents a year from now, so in a sense, if you only had a
dollar a year from now, it would be worth less than a dollar
now. Anyway, I'm not saying this very well, but --

CHAIRMAN SCANLON: I understand what you are
saying.

Commissioner Graham, do you have any other
questions?

COMMISSIONER GRAHAM: No, I do not.

CHAIRMAN SCANLON: Okay. Well, then, this
portion of the session is over. We will take a ten-minute
recess and come back at quarter to 12:00.

(A short recess was taken.)

CHAIRMAN SCANLON: We will resume the ATV Briefing
with Ross Koeser on State Cooperation and Legislation.

Ross, good morning.

Presentation by Ross Koeser

MR. KOESER: Good morning, Mr. Chairman and
Commissioners.

I would like to cover three things this morning
fairly briefly. I would like to give you an update on the
ATV Clearinghouse, which we were asked to set up to share
information with state, local and other officials. I would
like to give you a summary of the state and local officials' testimony at the six public hearings held throughout the country and a review of the current state ATV legislation.

The Commission directed the ATV Task Force to carry out six specific actions and one of those actions was to share information with ATV user groups, state, local and federal officials. To do this, the Task Force established an ATV Clearinghouse.

We canvassed the states, the regional offices, headquarters, directorates and others to obtain interested contacts to place on the mailing list. That list has grown from 150 initial names to over 325 and it continues to expand today. The list includes federal, state, local officials, manufacturers, dealers, health professionals, academia, media, and attorneys and law firms.

To date, we have made six major mailings and our mailings not only include ATV information from the Commission but also information provided to us from the states. A couple of states have been very helpful in this area; Alaska in particular, has been super in providing us information such as ATV programs that are going on in Alaska, educational materials and injury data, and we passed that on
to everyone that is on the Clearinghouse. The Clearinghouse is still operational. It continues to fulfill a need and provide a service.

Next, I would like to discuss our review of the state and local testimony at the six public hearings. State and local officials support a view that operator mis-use or poor judgment was the single most contributing factor associated with ATV accidents, injuries and deaths. Examples of mis-use or poor judgment included riding double, use of alcohol, riding on paved roads, riding at night, risk taking, riding on unfamiliar terrain and young children riding on vehicles designed for adults.

In terms of remedies, the two recommendations which consistently were mentioned in the testimony were the need for protective equipment -- and helmets were mentioned the most often -- and safety education and training. The majority of the testimony supported mandatory safety education and training through state legislation.

Other recommendations at the hearing included the need for minimal age requirements, the need for uniform model legislation, the need for designated riding areas, local law enforcement, the need for a licensing program at
the state level, and a need for warning labels. Finally, the third thing I would like to do is just give you a summarization of the ATV laws at the state level. Basically, in the 1970s, off-road vehicle legislation appeared at the state level, covering mostly environmental issues. During the 1980s, states began introducing and passing specific ATV legislation focusing on safety issues.

The following is a brief review of state ATV laws as of September 1986. Much of the information is based on information provided by SVIA.

Sixteen states have laws, in part or in whole, which apply specifically to ATVs. Of the remaining 34 states, 18 states have laws or regulations pertaining to off-road vehicles, of which ATVs, by definition, are included. Thirteen states require operator helmet protection; however, the states' requirements are not consistent in relation to age restrictions, land use, supervision, possession of a safety certificate or regulations governing helmet protection in competitive events.

Less than half the states, 21, set a minimal user age for ATV operation, yet in 17 of these states, the respective age --
CHAIRMAN SCANLON: Ross, I hate to interrupt you. When you say half, are we talking about half of the sixteen, half of 18 or half of --

MR. KOESER: Half of all the states.

Yet, in 17 of these states, the respective age restriction, ranging from 12 to 16 years old does not apply if the youngster is being supervised. In other states, the restriction may be waived if the rider has a safety certificate or the restriction applies only when the rider is on public lands. Only Iowa and North Dakota appear to have set definitive age limitations of 12 and 16, respectively.

Twenty-two states prohibit on-road use of ATVs except to cross public highways or for agricultural purposes. Twenty-six states now require ATVs to be registered through State Departments of Motor Vehicles or through recreation management agencies. However, in various states, such registration applies only to the use of an ATV on public lands. Eight states require a motor vehicle operator's license as a prerequisite for driving an ATV. Yet, even these states require -- excuse me. Yet not even these states require a license under all circumstances. Maryland, Ohio and Oregon only require a license when riding on public lands.
In reviewing state laws in terms of safety education and training, we determined that safety education certificates and/or training for ATV operators is mandated in eleven states. In five other states, the mandate is less specific and provides for a mandate under more general off-road vehicle regulations or calls for a more general ATV information and education program.

Completion of an ATV safety training course is generally required in order to receive a certificate, but this is not always clear when reviewing the legislation. Course standards may include on-vehicle training and/or safe riding practices. Seven states require certificates unless operators are supervised, have a motor vehicle license or to cross highways. Eight states require certificates for operators between the ages of 10 and 12 years of age. Iowa requires that anyone born after July 1, 1965 must complete a safety course, including instruction and written exam, and receive a safety certificate.

In 1986, new ATV laws were passed in Connecticut, Maine, Minnesota, New Hampshire, Wyoming and New York. Bills that were introduced in '86 but failed to pass are in the following states: Alabama, Alaska, Arizona, Florida,
Illinois, Maryland, Massachusetts, and Utah.

In summary, the majority of states do not have
laws regulating ATVs. Where laws exist, they are non-uniform
and encompass a multitude of requirements, such as environ-
mental, user, educational, as well as requirements for
protective equipment.

According to state and local testimony, operator
mis-use was the single most important factor contributing to
the ATV accidents. The two most mentioned remedies were the
need for safety education and training and the need for
protective equipment, especially helmets.

Finally, the Task Force recommends that the staff
be directed to work with the states and other federal
agencies to encourage the development of practical,
technically sound, uniform model legislation for operation
of ATVs on public lands.

CHAIRMAN SCANLON: Thanks, Ross. Could you
describe briefly the -- you said 16 states have enacted
legislation in part or in whole. Tell us what is included.

MR. KOESER: Well, I don't -- I have a copy of
the summary of every single law that -- including the 16,
which is the ATV specific, and the other 34, which relate to
the off-road vehicles. I can pick out some of the states,
but generally, it is the user requirements, user restriction
requirements, some environmental, licensing, registration,
education, training, certificates. That is basically what
we've got.

CHAIRMAN SCANLON: How many of the 16 have
minimal age requirements?

MR. KOESER: I do not have that broken down. I
could get that for you.

CHAIRMAN SCANLON: Would you provide that?

MR. KOESER: Yes, sure.

CHAIRMAN SCANLON: How long would that take to
get, Ross?

MR. KOESER: I can do it by the end of the day.

MR. MARCHICA: One thing to keep in mind, though,
Mr. Chairman, is that typically, with the state legislation,
there is a caveat associated with the minimum age. In other
words, if you are in the supervision of an adult or if you
are in the supervision of someone over 18 years of age or if
you are under the supervision of someone possession a safety
certificate, so there are certain caveats associated with many
of the minimum ages.

MR. KOESER: I think that is one thing, when you review the legislation, one thing you find very consistent is that each one is different than the other ones and they are all nonuniform.

CHAIRMAN SCANLON: Two states have minimum age requirements, you said?

MR. KOESER: Two states?

CHAIRMAN SCANLON: I thought that is what you said.

MR. KOESER: No, I did not.

CHAIRMAN SCANLON: No? How many?

MR. KOESER: I think it goes back to what Nick said. There are a number of states that have minimal age requirements and each one is different. Let's see. Twenty-one states set a minimal user age requirement for ATV operation. Seventeen of these states have a respective age restriction ranging from 12 to 16 years old, which does not apply if the youngster is being supervised, and then there are even more restrictions after that. So, it is very difficult to get a handle on it. Every one has to be qualified.

CHAIRMAN SCANLON: On the six states that have
passed legislation, are they using the SVIA model or are they so disparate that you cannot draw any conclusions?

MR. KOESER: I think there is a combination. SVIA I know does have a model ATV uniform legislation. I know that they are active at the state level and I do not know for sure if they are using it, but I would guess that they are. I would say that the new legislation that has been passed in the past year reflects, to some extent, the model law that SVIA has, yes.

CHAIRMAN SCANLON: Where legislation has been introduced, has it been rejected in any states?

MR. KOESER: Yes.

CHAIRMAN SCANLON: Which states?

MR. KOESER: Ten of those.

CHAIRMAN SCANLON: Can you summarize for us why it was rejected?

MR. KOESER: Mr. Chairman, I cannot tell you specifically, but I can say this, in the little work I have done in the legislative area. It is not a one-year process. The first year is generally an education process and to get the legislator to pass it the second or third year, I think you are doing fine. So, in many cases, those states that I
mentioned that were not passed, that is not to say it is not
going to pass. It is going to be reintroduced this year and,
through education of the legislators themselves and the users,
it very well could pass this year.

CHAIRMAN SCANLON: Was there objection to the
proposed legislation by users?

MR. KOESER: I do not know that answer.

CHAIRMAN SCANLON: You do not know?

MR. KOESER: I do not know.

CHAIRMAN SCANLON: Do any of the states address
the problem of kids on adult-sized ATVs?

MR. KOESER: In terms of —

CHAIRMAN SCANLON: Legislation?

MR. KOESER: — legislation? Many, yes, by age
restrictions, yes, by training, yes, they do.

CHAIRMAN SCANLON: Nick, did you want to comment
on that?

MR. MARCHICA: If I understand the question
correctly, do you mean that are certain age restrictions
placed on certain sized ATVs in certain states?

CHAIRMAN SCANLON: That is the question.

MR. MARCHICA: I think the answer is: No, I am not
aware of any states that specifically prohibit operation of
an ATV, let's say, an adult-sized ATV by an operator under
16, for example, which is what we are recommending.

CHAIRMAN SCANLON: Has any analysis been done of
the 16 states that have passed legislation, whether the
injuries and deaths have been reduced, or is it too soon?

MR. KOESER: I would say it is definitely too soon
and, even if we had some injury data or the states had some
injury data, I would guess that there would be other factors
involved other than just the state legislation, public
awareness, moving from three to four wheelers. I am sure
there are many factors that would be involved in that
reduction figure than just the introduction of legislation
or the passing of legislation at the state level.

CHAIRMAN SCANLON: Ross, if the Commission were to
adopt your state legislative recommendation in the summary of
recommendations, how would -- who would write that up?

MR. KOESER: Well, I think it would be probably
most appropriate for experts in the field, state and local
officials, perhaps industry, as a consultant, by putting
together some kind of a committee that would have the best
minds together and that are willing to work fast. I think we
are behind the eight ball already. State sessions are already meeting the first two weeks in January. Pre-planning sessions are going on right now and anything that happens in this area should be happening pretty quick.

CHAIRMAN SCANLON: At the CPSC-sponsored state designee conference in Louisville, the California representative, Chavez, is that his name?

MR. KOESER: Yes.

CHAIRMAN SCANLON: He indicated that there was a reduction in injuries in California since legislation passed there.

MR. KOESER: Well, let me just answer it and I'll give Nick, as Nick might -- he may have been referring to those designated park areas, which are fairly controlled environments. I am guessing that he is not using projections statewide. I would think that he is just referring to those park trail areas.

MR. MARCHICA: That is correct. Mr. Chavez was talking about the State Vehicular Recreation Areas, SVRAs. The number of deaths that they have seen in those SVRAs over the last two years has decreased. They have had only one death in those designated riding areas and I think that is
something that can be pointed to the presence of park rangers who are on ATVs, riding on the dunes and other areas and keeping a good watch on what is going on, and also the fact that some of the all terrain vehicle associations are conducting training courses to make people more aware of what is happening.

Plus, the State of California has about a $12 million operating budget, which makes it very easy to do those sorts of things.

CHAIRMAN SCANLON: I think Chavez indicated that they had spent in excess of one million already just on this activity; isn't that correct?

MR. MARCHICA: Right.

CHAIRMAN SCANLON: If the Commission were to propose model state legislation and since most states convene their legislatures in the early part of January and they do not usually stay in very long, that would necessitate us getting something done quickly. Could that be done?

MR. KOESER: My feeling is that it could be. I mean, I think the SVIA --

CHAIRMAN SCANLON: Could it be done by Christmas?

MR. KOESER: Yes. The SVIA provides an excellent
model. I think what we need to do is take the findings that are coming out of this meeting and make the connection between their model and what we determine would be best from the Commission's standpoint.

CHAIRMAN SCANLON: Nick, do you agree with that?

MR. MARCHICA: Mr. Chairman, I think that the Agency could act as a good resource. I think that what Ross said before makes a lot of sense about having those people, the state and local people, the industry people, who are attuned to this process, actually get involved with the drafting. We could be a very excellent resource in providing them with the supporting documentation for the various aspects of the model legislation. We should be involved with it.

But, as far as a Consumer Product Safety Commission model state legislation, I am not convinced that there is an actual need to do that. I think we can help, as a resource, to do that, but I do not think it would serve anybody's purposes for us to go through a long, drawn out process to get a Commission-agreed-upon model legislation that could be given to states. I think the resources are here to provide the information and I think there is a
willingness upon the state people, as evidenced in Louisville, that they are ready to run and we can help them by providing information to them and assisting them with various aspects of the legislation. But, I do not think there is a need to call it CPSC model legislation. We can help, but it does not have to be ours.

MR. KOESER: I did not mean to imply that, if I did imply that.

CHAIRMAN SCANLON: Thank you both.

Commissioner Graham, do you have questions?

COMMISSIONER GRAHAM: I do not have any questions.

CHAIRMAN SCANLON: Commissioner Dawson?

COMMISSIONER DAWSON: Yes. Ross, in the states, you mentioned 16 states that do have state-wide laws. Is there any correlation between those states and the states that the Commission's data shows have the highest numbers of deaths?

MR. KOESER: I did not look into that, I really did not. I mean, I can, but I am not sure that anybody looked into that on the whole Task Force and I am not so sure that it would --

COMMISSIONER DAWSON: I mean, we say that over half the states have no legislation, but then there are
certain states that do not have as much of a problem as other states do, too.

MR. MARCHICA: My gut reaction is that I do not think there is any correlation whatsoever. I think it is also a function of a number of things. One is that a lot of these state laws have not been in place for all that long. The other thing is that usually --

COMMISSIONER DAWSON: The purpose of my question was to determine whether or not those state laws were correlated in any way to the fact that they are seeing a big problem there, as we are.

In other words, the sixteen states, did they tend to track the states that we have seen problems in?

MR. MARCHICA: The answer to that is yes.

COMMISSIONER DAWSON: It is. So, in other words --


COMMISSIONER DAWSON: Didn't you say Minnesota has just passed a law, too?


MR. MARCHICA: Roy just told me that the easiest way to do it is to look at the compilation of deaths since
1982 and you can see that when you are talking in terms of the largest states -- California, 45; New York, 41; Wisconsin, 30.

COMMISSIONER DAWSON: So it does tend --

MR. MARCHICA: Sure.

COMMISSIONER DAWSON: So, when the injuries reach a certain proportion, the states tend to take action?

MR. MARCHICA: Right. Whether or not those injuries are decreasing or the deaths are decreasing --

COMMISSIONER DAWSON: We don't know that, yet.

MR. MARCHICA: -- as a result of intervention, we have no idea.

COMMISSIONER DAWSON: Right.

MR. MARCHICA: But, certainly, our review of the state laws show that there is a need for consistency and we have the information that we have developed over the last year and a half that could be very useful to many of these states.

COMMISSIONER DAWSON: Did any of these states that have recently adopted legislation, did they have our input? Did they request to be provided it specifically? Do you recall?
MR. KOESER: Not through me. I mean, again --

MR. MARCHICA: I think in New York, I sent

information to the people in New York. My recollection is

that I did talk with a few staffers for state legislatures in

New York.

In Minnesota, I did send information to the

Department of Natural Resources and they are in the

Clearinghouse.

COMMISSIONER DAWSON: Ross, in the Clearinghouse,

how does that operate? Do all -- Are all the states

automatically getting this information or only the ones

that request it?

MR. KOESER: We put the state designee on the

Clearinghouse.

COMMISSIONER DAWSON: Okay, so the Commission's

state designee is getting it.

MR. KOESER: We asked our regional offices to give

us names of interested people. We asked headquarters to give

us names of interested people. Nick gave me a whole bunch of

names to start out with and that was our basis and it has
grown more than double, so people heard about it and wanted
to get on, and I think they thought they were getting, you
know, information they would not get otherwise.

So, it is a low key effort, but it has been successful.

COMMISSIONER DAWSON: I agree that it is needed, but you do say that it is low key. Do you think there is any benefit in intensifying that effort, in publicizing it more, in somehow getting the word out more broadly to not only the state officials, but to the legislators themselves and the people?

MR. KOESER: Certainly. I mean, I think what we are really doing is two things: passing out information and findings from the Commission and reports that are not restricted from the Commission; in addition, we are attempting to take other information, especially states that have good programs, training programs, education programs and passing it on to let other state people know.

We have a mechanism in the Commission, also, if for instance, a state is passing on -- Alaska is a good example, because, as we all know, Ivan Archer up there does just a tremendous job in the educational materials. He will have a pamphlet, for instance, and we will send that pamphlet to the state designees, which is kind of -- we don't
need to send it at all; we may only have that, but we'll --
states among states, that type of a clearinghouse effect.

COMMISSIONER DAWSON: You mentioned that in some of
these states, training was a requirement to operate the
vehicle.

MR. KOESER: Yes.

COMMISSIONER DAWSON: And most of those require-
ments were only applicable to operation of the vehicle on
state-owned lands?

MR. KOESER: Both. You see, one thing about when
you are dealing with the states, you are always dealing with
fifty unique different things and it works -- it is both.
The training programs -- I've been trying to get a handle on
it in the last month in terms of those training programs that
are at the state level.

There is no program, to my knowledge right now,
that is providing hands-on training and providing a certifi-
cate. There are states that are in different phases. SVIA
is working very closely with some of the states. There are
states that have education programs, but not hands-on
training leading to a certificate. Wisconsin, for instance,
is coming up with what seems to be a very good program, but
it is not going to be operational until July 1st, 1987.

COMMISSIONER DAWSON: Do you mean in terms of training?

MR. KOESER: Right.

COMMISSIONER DAWSON: What do they --

MR. KOESER: To the best of my knowledge, it will be an education and hands-on training program which will lead to a certificate.

COMMISSIONER DAWSON: So, really, at this point, there is no state that has that on the books.

MR. KOESER: At this point to my knowledge -- and Nick, if you know differently -- there is no state that has that very specific program.

MR. MARCHICA: As Ross said, it is very difficult because of all the caveats associated with it.

COMMISSIONER DAWSON: I think you said that some states require certificates. On what basis do they get the certificates?

MR. KOESER: Well, all right, well, there is legislation. Let me give you an example. I was involved in the Hazardous Substances Act Uniform Legislation. Thirty states have passed that legislation, but not all. In fact,
in this case, probably only half the states have any kind of actual implementation of the program. They have never been funded and they have never been staffed. So, I think you are going to find the same thing, if history is true, with ATV legislation. Because ATV legislation says something does not mean that the state is going to provide it with money and staffing.

I do find that in areas that are very specific, like ATVs, the chances are that they will get funded and the chances are that they will get staffed.

COMMISSIONER DAWSON: This issue I am sure was discussed at the Louisville conference. You have just returned from that. Can you summarize that discussion and what emerged from that discussion with the state designees?

MR. KOESER: I think that with the discussion of model -- any kind of uniform legislation or uniform guidance was discussed throughout the morning off and on, but there was not any time spent to it. We had break-out sessions by region and the state designees had an opportunity just to talk about ATVs in a very informal setting.

Out of that meeting, one of the regions made a number of recommendations and one was a recommendation which
turned out to be a resolution that CPSC be involved in model legislation, not necessarily CPSC, but that model legislation be developed.

COMMISSIONER DAWSON: And who would be involved in the development of it? I assume that our staff would be part of that.

MR. KOESER: Someone from the staff has to be providing some support, guidance and information, yes, but basically --

COMMISSIONER DAWSON: I mean, what other outside entities were referenced in this resolution that you are talking about? In other words --

MR. MARCHICA: Industry?

COMMISSIONER DAWSON: Can you give us the details of what the resolution said and what --

MR. KOESER: I do not have the resolution here. Basically, that there ought to be model legislation; that we ought to do it quickly, and I cannot remember the exact -- you know, a month or so. Industry should be a part of it, but not a voting member. It should be made up of mostly state and local officials. Basically, I think that is it.

COMMISSIONER DAWSON: Did it make any provision
for inclusion of voluntary groups?

MR. KOESER: Users, do you mean?

COMMISSIONER DAWSON: Users?

MR. KOESER: Yes.

COMMISSIONER DAWSON: Safety organizations?

MR. KOESER: I do not think it mentioned safety organizations. I really believe that it was just -- it was not meant to be a final document. It was more of a: ‘Hey, we ought to put it on the record that the state people gathered and assembled in this area are interested in a document. It does not necessarily have to be the industry document, where the best thoughts come into play, both industry, state and local and federal, so that when a document comes before them in the January session or whenever, the best minds are at it.

COMMISSIONER DAWSON: The Resolution, then, was adopted, then, by the people that were attending the conference.

MR. KOESER: Yes, show support for the resolution.

COMMISSIONER DAWSON: Is it being implemented and by whom?

MR. KOESER: It is not being implemented at all.
right now.

We would hope that the recommendation which deals with the model legislation, which the Commission will be taking up, I will assume is one of the findings and then the recommendation that the Commission would -- when I say "we", I am talking for the states right now, that the recommendation, the Commission would act favorably upon that recommendation.

COMMISSIONER DAWSON: Could we see a copy of that resolution?

MR. KOESER: Yes.

COMMISSIONER DAWSON: Not necessarily today.

MR. KOESER: Sure. As a matter of fact, I do not have a copy. The young lady from Tennessee is the one that read it and I will get it tomorrow.

COMMISSIONER DAWSON: Nick, I wanted to just explore with you, too, because even though I am hearing from Ross there is a lot of support out there for a model state legislation of some kind, you indicated that you did not think that necessarily the Commission should adopt a particular model.

MR. MARCHICA: That is correct. I think the role
of the CPSC in this particular effort is to identify areas
that need to be addressed, to provide the supporting
information to address those areas and then, through a
mechanism that Ross just described, have the model legislation
drawn up.

I do not think that it is worth any of our while
to spend hours and hours debating whether or not the CPSC
stamp of approval should be on any model legislation. I
would sooner get into a mode where we get something
implemented at the state level based on the Commission's
overall guidance that these are key areas that need to be
addressed, these are the data that support those key areas,
and now, let's give it to some group and let them do it and
we can provide whatever support, whatever expertise is
required in order to help them justify why those requirements
are there.

COMMISSIONER DAWSON: What format would you see
this taking, any sort of document, or would it be some
communication from the Commission identifying the areas of
problems and supplying the data that we have accumulated?

MR. MARCHICA: It is something where the format
could be discussed, but I would think that perhaps a decision
by the Commission telling the whatever entity is running the
ATV project after the decision to implement this particular
recommendation, and in that recommendation, we do lay out a
number of items that we think should be in model legislation,
including penalties and fines, and we do have the data to
support all that information. So, from my perspective, by
merely voting to approve that particular recommendation, that
is enough to run with it.

COMMISSIONER DAWSON: In other words, the staff
would then take it from there and develop some particular
material that could be used to implement it.

MR. MARCHICA: Exactly.

COMMISSIONER DAWSON: I do not have any more
questions. Thank you.

CHAIRMAN SCANLON: Could I just follow up on a
question that Commissioner Dawson asked about Wisconsin?
Can you elaborate on that? Are they talking about mandatory
training would be necessary before licensing for use on public
lands, exclusively, or everything?

MR. KOESER: I believe they are talking about
public lands, but my knowledge of that is from a brief
conversation with Jane Jenson, you know, in Louisville. What
I would like to do is follow up on that, if I may, and get you more information. I cannot elaborate in detail more than what I have.

CHAIRMAN SCANLON: That would be helpful.

Commissioner Graham, do you have any questions?

COMMISSIONER GRAHAM: No, I do not.

CHAIRMAN SCANLON: That concludes the state cooperation and legislation portion. Thank you, Ross.

We will proceed with the SVIA voluntary standard.

Presentation by Nick Marchica

MR. MARCHICA: Thank you. What I would like to do is give you a brief chronology of what has happened in the development of the voluntary standard. We had our first meeting on April 26, 1985 in California and, at that time, the voluntary standards committee agreed that they would use the American National Standards Institute canvas procedures in order to develop a voluntary standard.

The first draft of that voluntary standard, which encompasses standardization of controls, labeling, information and education, was sent out to the canvas list on August 16, 1985. There were a number of comments that were received on that voluntary standard, including quite a few from the CPSC
and, after a period of review, we did have monthly meetings of the voluntary standards committee.

In June of 1986, the second draft of the first phase of the voluntary standard went out to the canvas for review. Most recently, on Monday, we met in Bethesda and we discussed the comments on the second phase of the -- on the first phase of the draft voluntary standard and there was an ANSI representative there and he told the voluntary standards committee that based on the changes that were made to the voluntary standard, the SVIA would have to go through a third -- a re-ballot, a second re-ballot of the voluntary standard.

So, the third draft will go out for comment by the canvas list. It will be announced in the December 12th Standards Action Newsletter with a comment period to close February 10th.

Along with that first phase of the voluntary standard, there is a second phase that deals with the performance characteristics, the dynamic stability of the ATV. In late April and early May of this year, we went out to California and were given a little demonstration of the kinds of tests the voluntary standards committee would like to...
have in the voluntary standard. After some discussion, those procedures were sent to Japan where a great deal of testing was done to provide information to the Specialty Vehicle Institute of America contractor. They came back in September and provided us with a number of provisions for dynamic stability provisions for the second phase of the voluntary standards. It was not all of them. There were a couple of uphill, downhill, cross hill tests, that were not given to us.

At the Monday meeting, they told us that they are going to send to the canvas list phase two of the voluntary standard, the dynamic stability part of it, for a sixty-day comment period. That, too, will be announced in the Standards Action Newsletter that will be published on December 12th and it will also have a comment period of February 10, 1987.

As you can see, the Specialty Vehicle Institute of America and the voluntary standards committee is following the due process procedures of ANSI. It has necessitated two re-ballots of the first phase and as I have said, in the voluntary standards committee meetings, it is of some cause of concern to me, but we are following the due process
provisions of the ANSI people.

To the credit of the industry, they have written letters of intent to the Commission stating that although this is going through the process, particularly the first phase, that they will meet the requirements of the first phase of the voluntary standard and they are doing that now.

However, we do have some concerns with the first phase of the voluntary standard. We also have concerns with the second phase of the voluntary standard. Because of these concerns, we have made recommendations to the Commission concerning the first phase, where we are asking for intervention, and, in the second phase, that we continue to do the necessary technical work to proceed with the Notice of Proposed Rulemaking.

Now, what I have done is, I have asked Roy Deppa and Terry Van Houten to give a little bit of detail about our concerns with the first phase of the voluntary standard and then when we are done with that, I would like Roy to give you some comments about his concerns, or actually, the Task Force concerns with the second phase. Why don't we start with Terry?

CHAIRMAN SCANLON: I think it would be helpful for
us if you give us what is to be included, whoever is going to present this, in phase one, and then what you had hoped for in phase two and then where you have the concerns, and then maybe where you are happy, what is going well and what is not going well.

MR. MARCHICA: I think that is basically the way the presentation will be given. Terry will talk about the labeling. He will talk about the minimum age recommendations, will talk about training, and Roy will talk about standardization of controls, and that is the first phase.

In the second phase, the dynamic stability phase, Roy will talk about some of the preliminary work that we have done.

CHAIRMAN SCANLON: Thank you.

Presentation by Terry Van Houten

MR. VAN HOUTEN: As Nick indicated, we have comments in three areas -- training, labeling and the age groups contained in the SVIA standard.

With respect to labeling, the SVIA standard does contain provisions for labeling messages to be placed on the ATVs; however, as I indicated yesterday, there were no specifications in the current standard beyond a general
statement of the message content. We recommended that a labeling format, such as contained in the voluntary labeling standard, ANSI-Z535, be incorporated into the SVIA standard. That standard prescribes a format and a criteria for ranking the importance of messages, such as the danger, caution, and so forth.

I do wish to say that on Monday, the SVIA committee did give us a proposed format for a label which would contain the six messages they consider important to be placed on an ATV. We think this is a significant move in the right direction, but we do not have specific wording for each of those six messages. Until we do receive such wording, this will remain a concern with us.

With respect to the age groups, the SVIA standard currently has the groups six to 12, 13 and 14, and 14 and over. As you know, we are recommending that no one under 12 years drive an ATV and, further, that youth ATVs be directed towards riders 12 to 16 years of age to address the injury rate in this group.

Until, particularly, the under 12 is addressed, we will tend to have concerns in this area.

With respect to training, the only information in
this standard which indicates the necessity of training right now is a hang tag. The importance of obtaining training tends to be immersed in some other information on this hang tag and really is the only thing that the consumer sees at the point of purchase. We believe more can be done in this area. Those are my comments.

CHAIRMAN SCANLON: Shall we ask questions now or do you want us to wait?

MR. MARCHICA: When Roy finishes.

Presentation by Roy Deppa

MR. DEPPA: As Nick indicated, the first phase -- well, the second phase contains the dynamic provisions and the stability provisions. The first phase, in terms of issues which Engineering feels are important, elements have to do largely with the controls of the vehicles.

We have made a number of comments in terms of shift pattern, standardization, control, location and orientation, recommendations which we believe are based on basic safety principles and are desirable elements to be incorporated in the standard to help enhance the operator's ability to know where the controls are, to be able to react just intuitively to actuate them, to have some indication of
what speed or what gear the vehicle is in, so these would be basic principles in controls, location and operation.

We are still discussing those items with the standards committee and I think, from the Engineering standpoint, I would express some dissatisfaction that we are still discussing whether or not to incorporate those provisions and to what extent after a number of months of time passage. But, that does not get at the issues of, of course, the stability and the dynamic considerations which we will talk about with phase two.

MR. MARCHICA: If you would like to discuss phase one, we can do that now and then we will get into phase two.

CHAIRMAN SCANLON: Okay. I am personally concerned about the total lack of training component in phase one. I mean, it is evident that the hang tag will be removed shortly after purchase and other riders in the family probably won't even see it and, certainly, friends of the owner will never see it.

Would you agree with that?

MR. MARCHICA: Yes, and the two opportunities that we have had to submit written comments on the voluntary standard, we have expressed that we would like to see
training as part of the purchase price of the ATV. If the Commission votes to intervene in the development of the voluntary standard, that would be one of the items that would be discussed in the letter to them or whatever mechanism you choose.

CHAIRMAN SCANLON: Historically, I have supported the '81 amendments to the Consumer Product Safety Act on voluntary standards to try to implement them wherever. But, this is one phase or one aspect of it that just has not worked at all. Do you agree with that?

MR. MARCHICA: The industry has made a number of comments to us concerning that, and I think Terry expressed it very well yesterday, particularly apathy, location of training site, insurance. There are a number of items that are not helping this thing to get off the ground as quickly as we would like it.

Nevertheless, when you look at the injury figures and you compare it to what is going on in the exposure, the fact that you are 13 times more likely to get hurt in the first month of operation of an ATV is a very compelling argument to me that you need hands-on training.

CHAIRMAN SCANLON: And a hang tag won't minimize
injuries or deaths, do you think?

MR. MARCHICA: I think, from what Terry said yesterday, and the American Institute Research report, you have to have hands-on training.

CHAIRMAN SCANLON: Thanks. Terry, could you tell us the six messages that you want included?

MR. VAN HOUTEN: These are messages out of the voluntary standard that we have already agreed on in previous meetings. They are: operator use only, which means no passengers; off-road use; helmets and safety equipment; age recommendation; no alcohol or dangerous —

CHAIRMAN SCANLON: I'm sorry, helmet and —

MR. VAN HOUTEN: Helmet and other safety equipment.

CHAIRMAN SCANLON: The fourth one?

MR. VAN HOUTEN: Age; alcohol or controlled substances; read the owners manual; and, a seventh one in the case of youth vehicles would be supervision by an adult.

CHAIRMAN SCANLON: That's the 50 and 60 only?

MR. VAN HOUTEN: In their age scheme right now, 12 to 14.

CHAIRMAN SCANLON: For vehicles designed for 12 to
14 year olds?

MR. VAN HOUTEN: Yes, correct.

CHAIRMAN SCANLON: Where would the label be placed?

MR. VAN HOUTEN: The question right now is whether we are talking about one label or six labels or some combination. That has not been resolved. They have come forward with one label which would contain six messages. We are still evaluating the appropriateness of that.

CHAIRMAN SCANLON: If they adopted the one with one label with six messages on the one label, where would that be located?

MR. VAN HOUTEN: We would like to see it within view of the driver or in the driver's field of vision.

CHAIRMAN SCANLON: Would it be the size print that is indicated on this ATV in front of me?

MR. VAN HOUTEN: From this side, I cannot quite see it, but it would probably be larger and it would have varying types of print. For example, there would be a signal word, "warning", which would be in very large letters. There would be another one or two lines which would express the consequences of not reading the following six items. It
1 is essentially a blanket warning that says, "Failure to
2 follow the following could result in serious injury."
3
4 CHAIRMAN SCANLON: In your opinion, what is more
5 effective, six different labels or one?
6
7 MR. VAN HOUTEN: I have mixed feelings about that.
8 Depending on how each -- depending on how the one label is
9 worded, it can be very effective. With six labels, you have
10 somebody looking all over the vehicle, perhaps, and there
11 may not be space for six labels. So, you run the risk of
12 missing one or more messages.
13
14 CHAIRMAN SCANLON: The print on this one is very
15 small. I cannot read it from here and that is, what, three
16 to four feet away.
17
18 MR. VAN HOUTEN: Ideally, the label should be able
19 to be read by the driver in the driver's position, which
20 would put it towards the top of the gas tank or on a fender.
21
22 CHAIRMAN SCANLON: Commissioner Dawson, do you
23 have questions on the phase one?
24
25 COMMISSIONER DAWSON: On the labeling, still, I am
26 not really clear what you mean by lack of specification.
27
28 MR. VAN HOUTEN: The voluntary standard merely
29 says there will be a warning message on the vehicle which
30
states: The rider shall not consume alcohol. That is the full substance of the warning. It says nothing about how that label is to be formatted, the colors, the signal word or even what the word "warning" means, if it really does connote the ANSI meaning of a warning.

COMMISSIONER DAWSON: Does this also apply to the age recommendation?

MR. VAN HOUTEN: Yes.

COMMISSIONER DAWSON: What does the standard, at this stage, say about age recommendation and --

MR. VAN HOUTEN: It says nothing.

COMMISSIONER DAWSON: Nothing?

MR. VAN HOUTEN: That is why I had trouble recalling it.

COMMISSIONER DAWSON: Well, why is that? I mean, I thought --

MR. MARCHICA: Technically speaking, the voluntary standard requirements merely state that the manufacturer will provide a minimum recommended age. In the discussion or part of the standard that goes with it, the rationale, there is a discussion of current industry practices. Again, on two occasions, we have written comments
that state they should have these age recommendations as part of the requirements of the voluntary standard.

So, to answer your question, based on the rationale, if you would like --

COMMISSIONER DAWSON: But the rationale is not really a standard, per se, is it?

MR. MARCHICA: That is correct.

COMMISSIONER DAWSON: In other words, when we talk about a standard, it is not in there.

MR. MARCHICA: That is correct.

COMMISSIONER DAWSON: So, under this standard, if it were adopted as it is right now, the manufacturers would not be compelled to put an age recommendation in.

MR. MARCHICA: If they were to follow the letter of the standard, that is correct; however, they have indicated --

COMMISSIONER DAWSON: That they are going to do that?

MR. MARCHICA: -- that they are going to do it, and they are going to do it.

COMMISSIONER DAWSON: Then why don't they put it in the standard?
MR. MARCHICA: The feeling on the part of the voluntary standards committee was that perhaps in the future, there would be other ATVs developed and they did not want to be locked into any specific recommended minimum age for any specific sized ATVs.

COMMISSIONER DAWSON: On the other hand, the standard is a dynamic thing and, of course, it changes, which I am sure you pointed out.

MR. MARCHICA: Sure.

COMMISSIONER DAWSON: Other than the labelling, then, would you refresh my memory as to the other major components of this particular phase one?

MR. MARCHICA: Control standardization and the materials that would be provided to the buyer or prospective buyer.

COMMISSIONER DAWSON: But nothing specifically about training other than a general admonition?

MR. MARCHICA: There is information that would be in the hang tag that talked about the need for training.

COMMISSIONER DAWSON: Are we comfortable with the control: standardization part?

MR. MARCHICA: Roy can talk about that. The answer
is: We are not. Roy can talk about that.

COMMISSIONER DAWSON: Could you elaborate on that a little, Roy?

MR. DEPPA: Yes. There are several issues I think we have discussed at some length in that regard, things like the direction of activation of kill switches. A kill switch, obviously, is something the operator may want to use in a hurry or in an emergency situation, that some standardization of that form of switch, we feel, is important.

The entire issue of gear shift and the operator's knowing what gear the vehicle is in is something that we feel is a basic safety consideration that needs to be addressed in the control standardization process.

COMMISSIONER DAWSON: What is the current state of that? In other words, of all the models that are on the market, is there a wide range of location?

MR. DEPPA: In general, of course, we are dealing with two different types of vehicle, those which have a manual clutch and those which have a manual clutch. We have to talk about the gear shift pattern according to those two categories, because they are different because of the type of clutch. In addition, past practice has been a bit haphazard
in that the actuation direction of the gear shifter has not been consistent. On the orange vehicle, to go to higher gears, you shift down; on the blue vehicle, to go to higher gears, you shift up. In some vehicles that are utility oriented, there are -- there is what traditionally is called a grandma gear, a very low gear for very low speed operation and sometimes, that is at the bottom of the shift pattern, which may be at the top, and sometimes it is not, depending on where the neutral is. So, if you are to get off one vehicle and get onto another one, it takes a few moments to figure out what the gear shift pattern is.

COMMISSIONER DAWSON: You could get into trouble if you were not familiar with it.

MR. DEPPA: You could be. Now, that assumes an operator who will be going from machine to machine, which is perhaps not the normal situation.

But, there has been no standardization particularly in the past and I believe that has changed somewhat with more recent model years. The vehicles which have an automatic clutch generally now have the shift pattern such that neutral is at the bottom. The gear shift is activated with the operator's left foot. Neutral is at the bottom and you lift
that situation as a basic safety matter. It is very important to the control of the vehicle to be in a gear and to have some idea of relatively what that gear is, and without a visible actuator, such as you have on an automobile with an automatic transmission, even with an indicator. The operator does not know necessarily what gear he is in or where neutral is and can inadvertently shift into neutral in a situation where that would be fairly undesirable.

There is a difficulty, of course, with that trying to put a different shift pattern in that the automatic clutch makes it mechanically somewhat complicated. On the vehicles that have a manual clutch, their gear shift pattern is the same as current practice on motorcycles, and that is, the lowest gear is first and then there is a half click or a half position up to neutral and another half position out of neutral to second, so the full range of gears may be used, shifting from first across neutral to second, up to third, back down to second, across neutral into first, so that by shifting down a full click in actuating the gear shifter from second to first, you cross neutral and you do not drop into neutral. That, with that kind of a clutch, is relatively easy and has been a practice for a number of years on
motorcycles and that is the practice on manual clutch all

terrain vehicles.

There is some difficulty with the automatic clutch
vehicles, in that actuating the lever, it, in effect, is
first shifting the vehicle into neutral with a neutral clutch
position and then on into the gear, so there are a couple of
mechanical things happening and there is just not enough space
mechanically to accommodate that.

The industry has expressed considerable concern
that trying to do that would be mechanically difficult, to
provide the same sort of shift pattern as exists on the
manual clutch machines.

COMMISSIONER DAWSON: In other words, to make them
correlate with the automatic?

MR. DEPPA: Yes, the manual and the automatic with
the same thing.

COMMISSIONER DAWSON: What is the current state of
the voluntary standard, then, in this?

MR. DEPPA: There is a comment from CPSC expressing
a desire for that sort of standardization and there is a
disagreement from the committee with that request, and it has
been on the table for some time.
There is a further — what, the front brake issue, which I think we have been discussing. Again, not all vehicles have front brakes. We have expressed strong concerns that that should be specified, simply the presence of a front brake because, in operation on hills, even as specified in the SVIA materials for controlling the vehicle in a hill situation, the front brake is a necessity. We agree that it is a necessity. We feel that it is necessary to specify for adult-sized vehicles that they have that front brake. We do not have an agreement on that issue, either, to date.

COMMISSIONER DAWSON: Any other areas where we disagree?

MR. DEPPA: Those are the major ones, I believe, at the present time.

COMMISSIONER DAWSON: Thank you very much.

CHAIRMAN SCANLON: Is it a fair assessment, then, to say that both of you, Nick and Roy, are dissatisfied with the progress to date of the voluntary standard, phase one and phase two?

MR. MARCHICA: I think that the task force finding is that the voluntary standard is inadequate.
CHAIRMAN SCANLON: Are you finished with your presentation?

MR. MARCHICA: The first phase. Now we would like to talk about the second phase.

CHAIRMAN SCANLON: Any other questions? No.

MR. MARCHICA: The second phase deals with performance characteristics of the dynamic stability requirements and Roy is going to talk a little bit about that.

MR. DEPPA: This, of course, is the area that we have been very concerned about because it is the issue that addresses the basic reason we are all here, the dynamic characteristics of the vehicle and the stability of the vehicle.

In assessing the provisions in the drafts of the standard, of course, we have primarily two major types of concern with the individual requirements. The first is whether the requirement is appropriate to address a safety concern and whether it addresses that concern in an appropriate fashion. In other words, is the item a safety concern to us and is the test procedure able to discriminate between "good" and "bad" machines?

The second level is once you have accepted a
procedure as being an appropriate procedure, is the pass/fail
criterion adequate to pass good vehicles and fail bad
vehicles?

The progress in developing the dynamic provisions,
of course, has lagged behind the first phase. It is a much
more complex area. We have seen demonstrations of tests in
progress, tests in demonstration. I think I am still at the
point of being concerned whether all the provisions really
address adequately the safety concerns that we have.

I think it was certainly in the presentation I
made yesterday a prime concern of ours that those
characteristics of the vehicle that contribute to the -- that
are a measure of the suspension performance of the vehicle
and that are related to the dynamic stability of the
vehicle are key issues in our minds and, of course, that is
what we have focused on.

I think we have some concerns whether the test
procedures that seemed to address those issues are
appropriate to discriminate between the vehicles in a way
which would agree with our belief as to what is an
appropriate level of performance and what is not. Then, of
course, is the issue of: Are the criteria that have been set
up to pass or fail those vehicles really adequate to extend
the state of the art, improve the state of the art of the
vehicle's stability, or are they merely an extension of the
status quo?

We received the draft of the dynamic portions, the
phase two testing program, on Monday in the form in which it
is being mailed out to the canvas list for comment. We had
received an earlier draft of that for our own use on
September 22nd and, in the meantime, we were able to run only
a portion of those tests, but those were the tests which
were most closely parallel with our own -- the bump
stability and the rut stability -- so that they were the
suspension type tests.

I would say that we did not run them exactly
according to the specifications because of differences in our
instrumentation and lack of time, but we made a very good
effort to keep them as representative as possible, and I do
not think we compromised the basic tests.

I believe, from a preliminary look at the values,
which resulted from our examination of our test vehicles,
that either the procedures or the pass/fail criteria will not
discriminate between what we believe to be less than
desirable and better handling vehicles. So, I think we are
dissatisfied at the current status of the development of that
test program.

Now, there are a number of provisions in the test
that we have not run and that will be a bit difficult for us
to do, certainly, very quickly. There are provisions for the
test facility that are rather difficult to meet. I know they
have caused the industry some difficulty in generating the
facility for the slope-type tests and, certainly, that would
be a difficulty to us, too.

So, I cannot really comment upon the content of
the cross slope stability, the upslope stability, downhill
stability tests at the moment because we have not run them
under the conditions specified in the test.

I think the bottom line is that I am not satisfied
with the progress of the test in focusing in on discriminating
between the vehicles in the way that we believe they should
be discriminated between, and I am a bit impatient to see
some progress move a little faster, perhaps.

CHAIRMAN SCANLON: I just have a question for
Doug Noble, if I may. Are you finished?

COMMISSIONER DAWSON: Before you start that, I
just wanted to follow up on one thing.

CHAIRMAN SCANLON: Sure. Commissioner Dawson.

COMMISSIONER DAWSON: You said you were not satisfied with what you have seen so far, with the performance in phase two, the ones that you have had an opportunity to run a test on. Can you say why? In other words, what is it lacking?

MR. DEPPA: Basically, it is based upon my assumptions as to what is acceptable and what is not acceptable. As you know, we ran these 14 vehicles and I have some feeling that some suspensions are simply inadequate for the intended purpose and others, of course, are adequate. I would -- and, quite rightly, the industry would probably disagree with my assumptions about which ones are acceptable and which ones are not.

COMMISSIONER DAWSON: You are saying acceptable, based upon your own experience in testing the vehicles that you have run tests on?

MR. DEPPA: Yes, absolutely, with that limitation, based upon our own test program. When we ran those same vehicles from our test program under their test program, I had hoped to see at least something close to a discrimination
between those vehicles that would parallel our own assumptions.

The conclusion that I believe we will come to when we finish processing the data completely is that the measures that have been chosen as pass/fail criteria, say, for the bump test, are simply not stringent enough to discriminate between the very best machines and the very worst machines.

COMMISSIONER DAWSON: In other words, the discrepancies that were showing up in our testing that you had demonstrated for us yesterday are not showing up to the same degree?

MR. DEPPA: In other words, they all pass and they all pass very easily. Now, I would not dispute that they might come in as a first offer and show us something that passed everything, but I would prefer to see the worst machines sort of near the bottom of the list in terms of the results. I do not think the test really discriminates that broadly between the vehicles.

COMMISSIONER DAWSON: Thank you.

CHAIRMAN SCANLON: Doug, I have a question for you. We have heard this morning that the ANSI process is going slowly and with limited progress in some areas. With
your broad experience in voluntary standards, is this 
atypical or can this be overcome? How would you assess it?

MR. NOBLE: I have heard the allusions made to the 
ANSI process and I would say that I do not consider that a 
problem at all. In fact, I think that is very positive.

Now, there are reasons why you have to go and reballot and 
those reasons may be you develop a new piece of information 
you did not have before, but in order to incorporate it into 
a standard, you have to go through the review process that 
the ANCI procedures call for.

I guess one could argue that if you did it right 
the first time, you would not have to go back again for 
reballoting, but that is not an issue, either.

I think the real issue the Commissioners have to 
focus on is: (1) That the industry is scrupulously following 
the procedures that will allow them, under the ANSI process, 
when this process is finished to have a certified, non-
Government standard, a voluntary standard for this product.

The real issue, I think, is: How effective is it 
going to be? Timing, to me, is not an issue at this point. 
If timing were an issue to the extent, let's say, that the 
standard was holding back improvements, the development was
holding back improvements, my first response would be very much like what Nick has said. That standard in its draft stage is not prohibiting any manufacturer from improving their vehicle's safety based on whatever they feel is the correct thing to do or even taking our recommendations.

I understand that many of the draft proposals that the industry favors have already been incorporated, so, in essence, many of the provisions in the draft standard are already in effect, or will be soon. So, I think it is really incorrect for anyone to point at the ANSI process as causing any problems in this area.

What really is the essence of the issue here is: What does the draft standard contain and how effective is it going to be? Now, there has been a lot of discussion between the staff and the industry and a lot of work on this. I urge the industry to submit to the Commission a chronology of events, starting with the first meeting all the way up to today, to show you the degree of effort that went into this activity, and it is considerable. I think they have done that. I believe they have submitted a chronology of events to you and it runs several pages. That in itself indicates the degree of effort that has gone into it.
So, yes, there has been 18 or 19 months of activity from the time that the effort first began, but I think there has been considerable progress made. The question really comes back to, though, what does the standard call for and how adequate is it to address the Commission's concerns.

CHAIRMAN SCANLON: Thank you. Commissioner Dawson, do you have a question?

COMMISSIONER DAWSON: Since you have raised that question, can you answer it for us?

(Laughter)

MR. NOBLE: I think the answer has already been presented to you. I think the staff believes that the current draft requirements that we have been looking at are inadequate to address the hazard that we feel is out there, presented by this vehicle.

COMMISSIONER DAWSON: And that is just the first phase draft?

MR. NOBLE: That is right.

CHAIRMAN SCANLON: Does that complete your presentation, Nick?

MR. MARCHICA: Only to just say that attached to

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your agenda are the major findings and recommendations of the task force and if you have any specific questions concerning any of the major findings or any of the recommendations that we have made, we can take the opportunity now to do that.

I think that as far as the major findings go, it is loud and clear, based on the past two days' discussions that we can support every major finding that is there. I am very comfortable with the recommendations that we made. I will note that as the Commission's questions have indicated, there is a little controversy concerning Recommendation No. 1, requesting the ATV industry to voluntarily cease marketing ATVs intended for use by children under the age of 12.

Within the ATV task force, that was not a unanimous recommendation, but a majority did vote for that recommendation.

CHAIRMAN SCANLON: I think we have considerable questions on more than just No. 1, so we are going to take a lunch break. We will come back at 2:30 and then we will get into this.

(Whereupon, the luncheon recess was taken.)
Afternoon Session

(2:43 p.m.)

CHAIRMAN SCANLON: Good afternoon. We apologize for the brief delay. We will resume the ATV Task Force Briefing with major findings and recommendations.

Nick?

MR. MARCHICA: Just to reiterate, over the past two days, the Task Force has presented the information that supports the major findings that are listed on Page 2 of your hand-out and the recommendations of the ATV Task Force are contained on Pages 3 and 4.

I would just like to point out again that these recommendations were unanimous within the Task Force except for Item No. 1, where a majority of the Task Force recommends the cessation of marketing ATVs intended for the use of children under 12. If you all have any questions that you would like to ask of any Task Force members concerning the major findings and recommendations, we would entertain those questions now.

CHAIRMAN SCANLON: I have a number of those. What I would like to do, when we get to that point, is that you read each one and then we would open it up to the three of us
for questions on that one; if there are any, we would ask, you would answer and we would go to the next one.

I have a number of questions before we get into that on things that have not been covered in the day and a half or, if they were, I have got followup questions on those. In the public hearings, the six public hearings that we held, a number of witnesses made suggestions about design improvement that would improve ATV safety.

Could you comment on each of these? You might just jot them down, because I think a couple of these you can combine. Use of a deferential axle -- Nick, I'd ask you to join in, if you would; using smaller seats on the ATV; tire modifications, size; air pressure, tread, et cetera; use of seat belts; speedometers; and, the lowering of the center of gravity. Could you address those for me?

MR. DEPPA: I think the answer is: No, no, no, no and yes.

(Laughter)

CHAIRMAN SCANLON: You missed one.

MR. DEPPA: Let me just run down through them. It should not take me long to destroy these ideas. The differential axle -- as I described yesterday, I think the
handling characteristics of the vehicles are highly dependent on the solid rear axle, the whole discussion about the steering response characteristics, the fluctuating response characteristics. All of those are a function, to a large extent, of the tire characteristic and the solid rear axle. A differential rear axle, which is what is used in an automobile, allows the two wheels to rotate at different -- that is where the term "differential" comes from" -- differential speeds. That is because, in going around a turn, one wheel has farther to travel than the other wheel and there is a magical box built into the axle, which allows power to be applied through both wheels, but allow the two wheels to travel a different distance in the same amount of time.

Automobiles operate, of course, in a very limited sort of terrain environment. They operate on pavements, very smooth most of the time. Of course, as you are familiar, in the wintertime, if you park your car with one rear wheel on ice and the other rear wheel on pavement, the vehicle won't go because the wheel that has the less traction is the one which spins. Power does not get applied in that case to the tire which has traction.

That, with an all terrain vehicle, is a hazardous
situation, because if you are to operate the vehicle on irregular terrain, which is irregular in its slipperiness, one wheel will speed up in the slippery surface until the vehicle crosses, so that it would be moving faster than the other wheel and, as the vehicle then would come back on to firm ground, that wheel spinning faster would cause the vehicle to respond to that faster spinning wheel and it would veer suddenly in the other direction.

So, I think that a standard, traditional type differential not only would not solve the problem, but it would introduce a further safety problem.

Now, there is one caveat that I would throw into that and that is that there is, I believe, one manufacturer of a very limited production type of limited slip differential. That operates in the same way, but it is controlled mechanically, so that very little relative difference in speed is allowed between the wheels -- some, but not a lot. I suspect there may be some benefits from that type of device. I think there may be some promise there. That has been used in other types of off-road vehicles, to some extent, very specialized vehicles. I have not seen it operated on this sort of a vehicle, and so I really cannot comment upon
possible limitations that it might have. But, I think it is
certainly something that would warrant some research by
someone.

In terms of a general differential, no, it is
not the answer to the problem.

CHAIRMAN SCANLON: Smaller seats?

MR. DEPPA: Smaller seats, we have heard a lot
about that discussion about the necessity of the operator
moving about the vehicle to control the vehicle, to influence
the way it is being maneuvered.

The purpose of the large seat is to allow the
operator room to move around the vehicle but still be sitting
on a seat. That is the argument for having the big seat and
for the reason for not reducing the size of the seat.

In general, I agree with that point.

I am not convinced that a seat could not be
designed which would allow the operator still to move around
on the fenderwork, which currently happens, also, but the
seat itself would look more like a solo seat, but I really
could not comment on what design innovations might be made
there so that it would not look as though it is intended for
a second passenger.
Obviously, related types of vehicles -- snowmobiles and motorcycles -- have big seats and they are intended, certainly motorcycles, definitely intended to have a passenger on there, so the perception in looking at this seat might be that a second person is perfectly appropriate.

But, in general, I agree with the necessity of a seat which allows the operator to move around on it and still be seated on the seat, so the basic idea of the long seat is something that I tend to agree with.

Tire modifications. We have not tested to evaluate the different types of tires. We have tested these vehicles as we received them from the manufacturers. In the discussion yesterday about the stability characteristics of the vehicle and the frictional force contribution to the instability relationship, that is a function of the traction of the tire sidewise.

These tires have a very high degree of traction, so that frictional force capability is high and I think an improvement in the vehicle, generally on relatively smoother terrain, could result from a tire which had less friction in the sidewise direction. We have talked a bit about our interest in seeing what effect a ribbed type tire, for
instance, that has traction to drive the vehicle or to brake, but would not have as much lateral friction, what kind of effect that might have on the stability relationship of the vehicle.

So, I really cannot quantify what I am talking about, but I believe that there may be some room for some experimentation with tires, that might help some of the concerns we have in the stability area. Obviously, things like the size of the tires and the pressure of the tires, the vehicles are designed around these tires, so that is a basic feature of the vehicles as they exist right now.

CHAIRMAN SCANLON: The tread should be kept the same?

MR. DEPPA: Well, the tread is the issue that I am talking about. These -- you will notice the studs on these tires generally have the same frictional characteristics forward as sideways. I was talking about a ribbed tire, as a research item, would have the same amount of friction to drive it or for braking, but sidewise, would have much less frictional capability. So, tread design is something that I would like to see -- I would like to see some research just to see if there is promise of some increased stability in the
performance in the dynamic mode.

Nick has reminded me that we did have a meeting last winter with Tom Sepeck (phonetic), who is the president of a rather large company that supplies after-market items for all terrain vehicles, motorcycles, jeeps, trucks, a great many off the road vehicles.

Probably one of his major product lines is specialized tires for off-road equipment, whether trucks or motorcycles. We had quite a bit of discussion with him about the process of developing a new tread, which is generally based on marketing principles.

My understanding of the situation, at least from his viewpoint as an after-market manufacturer, is that the tread design is an — the design process is empirical. That is, it is more of a trial and error process than it is an analytical design process.

In other words, they perceive trends in what is the popular tire in the marketplace. They have their people who I would characterize, being an engineer, I would characterize them more as stylists than as analysts, to work on new tread design, new tread designs and when a prototype is developed, they give it a trial marketing, see how it responds and then
go with that if it is a successful item.

What impressed us, I think, at the time was that for a very specialized tire with a lot of capabilities, there did not seem to be, from his statements, much methodical, analytical development of treads, but it was more of a trial and error development. The area of tire development is a very complex one and certainly, I do not think there probably are simple answers to tire problems.

CHAIRMAN SCANLON: I do not think -- yesterday, you addressed improper inflation of tires.

MR. DEPPA: That is correct.

CHAIRMAN SCANLON: How does that affect the vehicle?

MR. DEPPA: It is a key issue. As I said, the vehicle is designed around the tires and these tires generally -- there is some variation, but generally -- are inflated to about two to two and a half PSI, which is an extremely low pressure compared to other tires. That gives it a footprint -- that is, the pressure of the point at which it sits on the ground -- roughly equivalent to that of a human foot. So, you can think of it in terms of being able to ride these vehicles where you could walk. If it is firm
enough snow to walk on it, you could drive an ATV, roughly, as compared to, say, an automobile whose tire is ten times that pressure. Obviously, tires on cars bog down in snow quite readily.

These tires depend on that low pressure for the capability of the vehicle. In addition, if you recall my discussion about the dependence of suspension on the tires in the vehicles that do not have a mechanical suspension, obviously, the whole suspension is provided by the tire and that is a function of the pressure of the tire. So, changing the pressure of the tires significantly changes the behavior of the vehicle.

It is very important that the proper inflation pressure be maintained and also that the proper pressure be maintained between the tires. In other words, you do not want to allow one rear tire to be softer than the others. It is something that the owners manual, the training programs and everything stress -- the necessity of constantly checking to make sure the tire pressure is correct.

CHAIRMAN SCANLON: Should there not be a label indicating something relating to the correct amount of air for the tire?
MR. DEPPA: Yes, and I think maybe I should let Terry answer that. I believe that is addressed in some labels currently on some machines. Isn't that the case, Terry? It's not in the six though, is it?

MR. VAN HOUTEN: No, it is not.

CHAIRMAN SCANLON: Is that because you did not think it was important enough to address?

MR. VAN HOUTEN: What we did was we made a trade-off decision. As I mentioned yesterday, each message that you place on an ATV competes with the others.

CHAIRMAN SCANLON: Could you talk a little louder?

MR. VAN HOUTEN: Each message that you put on an ATV tends to compete with the other messages and each additional one tends to degrade all the remaining ones. In the research conducted by Essex, they found between four and seven messages resulted in the highest recall rate and, therefore, the greatest effectiveness.

Based on that, you can rank the messages that you wish to get across to the rider and tire pressure did not fall in those first six or seven. Now, the present practice is yes, they are labelling them, for the most part, with tire pressure on the tire itself.
CHAIRMAN SCANLON: All of them are doing that?

MR. VAN HOUTEN: I do not know about all of them, but most --

CHAIRMAN SCANLON: The four major manufacturers are?

MR. VAN HOUTEN: Yes.

MR. DEPPA: I think the next item was seat belts.

CHAIRMAN SCANLON: Seat belts.

MR. DEPPA: That is entirely inappropriate. I think it should be clear from my discussion of the necessity of moving about on the vehicle, you cannot do that if you are strapped down to it. So, if the operator were to be seat belted onto the vehicle in the first place, it would be very difficult to handle the vehicle properly, because you could not shift weight from side to side, front to back, or be able to stand up when you hit a bump, which is a very important maneuver to be able to make.

In addition, of course, if you were to roll the vehicle over, and you were seat belted to it, that would be a bad situation. There has been some further discussion about how you would, of course, couple the seat belt requirement with a roll bar requirement. That is done with
agricultural tractors, at least in the show rooms; I do not
know how many farmers actually do that. But, the roll bar
would seriously, I think, reduce the -- certainly, the.
utility of the vehicle. There are a lot of environments
where you could visualize a large roll bar being a problem
if you were to hit that against a tree branch or a tree trunk
or something, it would overturn the vehicle backwards. It is
comparable to the situation with motorcycles where seat
belts are entirely inappropriate.

The next item you asked about was speedometers.
Currently, while there are after market speedometers avail-
able, I think for almost every model of machine, only a few
are marketed with a speedometer. I am not a behavioral
expert, but I suspect that a speedometer would be a goad to
most kids to try to see how fast they could get the thing to
go.

Certainly, some of these vehicles and, especially,
a few very recent vehicles are capable of extremely high
speeds. I think our own experience, I think, in operating
the vehicles during our testing program is that we frequently
think that we are doing maybe 25 or 30 miles an hour under
some conditions, and because we have had instrumentation
there to measure it, it turns out we were doing 14 or 15. I have been surprised a number of times at how much slower I was actually going than I thought I was. I think if you started telling the average kid that he is only doing 14 when he thought he was doing 40, then he would have to try to do 40. I do not think it is a good idea, generally.

CHAIRMAN SCANLON: It would just be an encouragement to go faster?

MR. DEPPA: That is my view. Lowering the CG, you asked about. That is part of the whole stability issue we talked about yesterday. It is not simply that one dimension of the height of the CG, but the stability of the vehicle is a function of these other linear dimensions, also.

Obviously, lowering the CG helps, but there are other factors that could be done that would go along with that to have the same effect that would be less -- would have less of an effect. If you were to try to achieve a big increase in stability simply by lowering the CG, you would probably have to change the design of the vehicle, but you could get some of that by changing wheel stance and some of the other dimensions as well. So, that is part of the overall stability issue that I talked about.
CHAIRMAN SCANLON: In that general area, your studies indicated that short, heavier riders are less likely to have accidents. Is that too broad of an assumption?

MR. DEPPA: My studies did not, actually, the dynamic analysis, but the -- the examination of the history of incidents has indicated that, yes.

CHAIRMAN SCANLON: That was certainly the inference.

MR. DEPPA: Yes.

CHAIRMAN SCANLON: Doesn't that then suggest that lowering the center of gravity would reduce the risks, less accidents?

MR. DEPPA: I did not mean to imply that it would not. Yes, lowering the center of gravity, certainly, I believe would help with the vehicles. But, the point that I am trying to make is that it is not simply lowering the center of gravity.

CHAIRMAN SCANLON: It is not necessary?

MR. DEPPA: No, it is desirable. I think it is a desirable thing to do, but in addition, there are some other dimensions that can be adjusted at the same time that have the same effect. The basic idea, yes, I agree with. It
improves the stability of the vehicle.

CHAIRMAN SCANLON: Roy, can we infer from your presentation yesterday that all -- I would underline "all" -- four wheelers are safer to operate than three wheelers?

MR. DEPPA: Yes, from the viewpoint of the stability of the vehicle. Now, there are a lot of safety issues associated with the vehicle, but those safety issues that are a function of the stability of the vehicle, I would say yes, because the stability of four wheelers is higher than it is of three wheelers. So, it is a limited "yes". It is a "yes" to a part of the problem, I think is what I am saying.

CHAIRMAN SCANLON: Do you agree with that, Nick?

MR. MARCHICA: Yes, I agree with it. Again, as Roy has been stating, it is a function of the linear dimensions of the vehicle and that is why we can make the blanket statement: The four wheeler will always be more stable than a three wheeler, because of those linear dimensions.

CHAIRMAN SCANLON: That is very helpful.

I have got a question for Dr. Esch on the Franklin Report. Could you come up? Dr. Esch, on Page 61, there was
a table showing vehicle characteristics and accident
causation. Do you have it there?

DR. ESCH: I do not have it, but I am familiar
with it.

CHAIRMAN SCANLON: On Page 51 -- you have that,
do you not, Nick?

MR. MARCHICA: We are talking about the --

CHAIRMAN SCANLON: The Franklin Report. Table 20
lists the physical or judgmental factors involved in accident
causation. You are familiar with both of these?

DR. ESCH: Yes.

CHAIRMAN SCANLON: Can you just give an overview
of both of these, beginning with the one on Page 61?

DR. ESCH: Which is the vehicle characteristics?

CHAIRMAN SCANLON: Relative to accident
causation.

DR. ESCH: The contractor in this study felt that
there were several -- just a moment; I actually have the table
now. He was referring to rather obvious things here, such as
the difference between three and four wheels and character-
istics where if you were trying to take a turn on a rapid
turn on a three wheel vehicle, that you would certainly be at
a disadvantage.

This particular contractor made quite an issue of the center of gravity and, in his opinion, this was a focal point that was one of his recommendations that this subject should be looked at. Of course, it would be in the way that you just heard, as an inherent part of the overall stability of the machine.

He tried to sort out the different factors in causation and, for this reason, tried to separate out the vehicular characteristics. Under that, he addressed the example of tripping, which we discussed yesterday. He felt that that was a characteristic where the vehicle would be at fault, where it would encounter an object which was, in the estimation of the operator, to be an insignificant object, but that the vehicle had the characteristics that would allow it to be tripped and with the consequent change in yaw, it was destined for a roll-over.

That type of accident that I have just described would be an example where he would say: Yes, the vehicle was involved in the causation. That would be an atypical example of it.

CHAIRMAN SCANLON: Are you in general agreement
CHAIRMAN SCANLON: You agree.

DR. ESCH: Right.

CHAIRMAN SCANLON: Nick, was that the general consensus of the task force group?

MR. MARCHICA: The description of that scenario is fine, based on the expertise of the person doing the analysis. Clearly, when we look at it from the engineering point of view, there is a little bit more going on there, but based on the way that that contractor saw it, it is not inconsistent with what Roy did. There is just more to it, that's all.

CHAIRMAN SCANLON: And, Roy, you are in general agreement with it?

MR. DEPPA: Yes. In general, I do not disagree with it. That is correct. I think you have to keep in mind we have several different blind men feeling an elephant here and describing it. Dr. Esch's contractor looked at a problem from one point of view with one particular type of expertise. We have looked at the problem from a different point of view and, while there are subtle differences in the conclusions that we have reached and some of those occasionally sound contradictory, you have to keep in mind that his results and my results were produced at the same time. I
think it would take a fair amount of work to mesh the areas of agreement between the different areas. But, in general, I do not disagree with the conclusions that he came to.

For instance, he talks about tripping. I disagree with that terminology for that accident scenario, but looking beyond that, at the scenario that he is describing, I agree then with the conclusions, so there are some differences in viewpoint but not, I think, in our general conclusions.

CHAIRMAN SCANLON: Greg, I have a followup question on something that Commissioner Dawson raised with you this morning regarding comparative injury and death data from motorcycles and ATVs.

You had given us the costs of injuries and deaths with ATVs. First of all, how many injuries and deaths with motorcycles and then what would their relative cost be?

MR. RODGERS: Would you like me to give you the annual figures on a per-vehicle-in-use basis? Is that --

CHAIRMAN SCANLON: Yes, that would be helpful.

MR. RODGERS: For on highway motorcycles, did you say, or all of them?

CHAIRMAN SCANLON: What did you refer to this morning?
COMMISSIONER DAWSON: On highway.

CHAIRMAN SCANLON: For highway.

MR. RODGERS: For on highway motorcycles, the injury costs -- and these are emergency room treated injuries, now. The injury cost per on highway motorcycle in use was $166 and that compared with $222 for ATVs. So, for the on highway motorcycles, there were slightly less costs per vehicle in use.

CHAIRMAN SCANLON: How many are there, how many injuries and deaths?

MR. RODGERS: How many injuries?

CHAIRMAN SCANLON: Yes.

MR. RODGERS: Well, there were 200,400 emergency room treated injuries for on highway motorcycles compared to 85,900 injuries for ATVs. If you want to talk about deaths, for ATVs, of course, there were 238 deaths; for on highway motorcycles, there were 4,798. So, on a per vehicle --

CHAIRMAN SCANLON: That is in one year?

MR. RODGERS: That is in one year. So, on a per vehicle in use basis, the cost associated with death, if we assign a cost of one million dollars for on highway motorcycles, the death costs per vehicle in use are $857, and that
compares with $125 for ATVs. Once you get into an accident, if you are on an on highway motorcycle, it is much more likely to result in death.

CHAIRMAN SCANLON: Moreso than ATVs?

MR. RODGERS: More than ATVs. One difference between on highway motorcycles and ATVs is that on highway motorcycles are on the roads and ATVs, generally speaking, are not. So, if you get into an accident with a car on a motorcycle, it is much more likely, I would suspect, to have a death as a result.

CHAIRMAN SCANLON: Commissioner Graham, do you have any questions on this?

COMMISSIONER GRAHAM: No, I don't.

CHAIRMAN SCANLON: Commissioner Dawson?

COMMISSIONER DAWSON: Yes. Just before we broke, I think we were getting into that area of the staff's views on the recommendation about limiting ATV use for children under certain ages. Would you want to continue with that and let us know how the staff felt about it and why?

MR. MARCHICA: If I understand the question from Commissioner Dawson, she would just like a general discussion concerning minimum recommended ages. I think it is best to
start with children under 12 years of age and, as a result of 
human factors work, the major finding was that typically, 
children under 12 aren't able to operate any sized ATV safely 
and this is based on a number of things -- lack of adequate 
physical size and strength, cognitive abilities, motor skills 
and perception.

Terry had a table yesterday where he attempted to 
walk us through how these aspects of development change as a 
child grows older. Because of that major finding, we felt 
that it was necessary, as a policy, not to market ATVs that 
are intended for use by children under 12.

The next category would be the 12 through 15 
year olds. This age group is at very high risk of injury 
and death while operating adult-sized ATVs and that was 
another major finding. Again, from the information that had 
been generated, now, we are also talking about human factors, 
the medical work, the multiple regression analysis, the hazard 
analysis. Clearly, it appeared to us that although these 
children could operate an ATV, it was probably in everyone's 
best interest that they be operating child sized ATVs. That 
is why we made the recommendation to issue a notice of 
proposed rulemaking for youth sized ATVs, that they were not
intended for use under the age of 12 and, coupled with that, on adult sized ATVs, a label that they were not intended for use by children under the age of 16.

COMMISSIONER DAWSON: You indicated earlier that there was disagreement among the task force members on this particular recommendation.

MR. MARCHICA: Yes, there was.

COMMISSIONER DAWSON: Can you give us what the debate was about?

MR. MARCHICA: Clearly, we have seen -- I am not convinced that they are typical, but we have seen children under 12 operate ATVs. I received a letter from the former editor of ATV News, which we have shared with the Commission, where he was adamantly opposed to that recommendation because his three children safely ride ATVs.

I think if I was an endurance motorcycle champion, my kids would know how to ride a motorcycle and an ATV, also, so I am not convinced that his children are typical and I am not convinced that he is a typical adult.

But, yes, there are -- I know he is not a typical adult.

(Laughter)
A PARTICIPANT: But he's a good guy.

MR. MARCHICA: He is a good guy and he has been very helpful throughout this process.

The point of the matter is we realize that there are going to be some children who are equipped to operate an ATV that are under the age of 12, but the problem that we have is we do not think that a typical child can handle it. Plus, we are not convinced that it is a good statement to be making to have machines available to children under 12 when they just do not have the proper cognitive abilities to perceive a problem.

COMMISSIONER DAWSON: Was an argument advanced that if you make -- if you eliminate the youth sized ATVs from the market, then you were simply going to create a situation where the younger children are automatically going to go to the adult-sized ATVs, which we know is a problem?

MR. MARCHICA: Sure, that's the reality. That is the reality. The reality is that children under 12 or children between 12 and 15 are not riding youth sized ATVs. That is clear. They are riding adult-sized ATVs, and that is why the package of recommendations that we have given you attempts to address the whole issue. If we take any one
recommendation in a vacuum, it does not look like it makes sense, but if you take it together in a package, the whole philosophy of getting children under 12 off of ATVs, children 12 to 15 on youth sized ATVs and children 16 and above on adult-sized ATVs, we think will reduce injuries and deaths. That is why we have to look at it as a total package of recommendations.

COMMISSIONER DAWSON: I understand that and without indicating what my eventual decision is going to be on this, but just for the sake of argument, what do you say, then, to those atypical children under the age of 16 or even under the age of 12 who have learned to ride ATVs safely, many of whom compete or who find this their major sport? What do we say?

MR. MARCHICA: The same thing I say to my five-year-old who beats the heck out of eight-year-old children in certain sports: He'll have to wait. That is all there is to it. We all have situations where your 95 percentile height and weight child who happens to have very good motor skill development has to be held back a little bit, and that is just the way it is. It is really philosophy now, that you are getting into, and that is the problem.
COMMISSIONER DAWSON: Really. The other problem is how to substantiate this kind of an argument when we do not see the rates of injuries with the smaller sized models.

MR. MARCHICA: It is compounded, clearly, because the kids 12 to 15 are on adult-sized ATVs.

COMMISSIONER DAWSON: Exactly. But, I mean, in other words, we are seeing injuries with that group, but we are not seeing many or as great a rate of injury with the youth models.

MR. MARCHICA: Our experts are telling us that if this was an ideal situation and children aged 12 were put on youth sized ATVs, that typically, those children would not be able to handle it. That is what it is based on. Terry can expand, if you would like.

COMMISSIONER DAWSON: No, I just wanted to hear what was going on in the minds of the task force people when they made this recommendation. You are saying, basically, that because you came to a conclusion that children under 12 did not have all of the skills and developmental abilities required, that you had to make a decision somewhere along the line and that 12 was the age that you selected.

MR. MARCHICA: It can be supported based on this
information that has been developed in our report.

COMMISSIONER DAWSON: I think, though, Greg was saying in his analysis, there was no clear demarcation in terms of age. It was just a slope; it was a curve.

MR. RODGERS: I was just going to say that the Economics Directorate was one of the directorates that disagreed with eliminating the 50 and 60 CC ATVs. We were not in disagreement with the human factors finding that children under 12 years of age, in general, do not have the capabilities to operate motor vehicles, but the simple fact was, when we looked at the injury data, there simply were not very many injuries that involved the very small ATVs, and that was --

COMMISSIONER DAWSON: Which is a problem to try to support a recommendation. I think we just need to acknowledge that as a problem.

MR. MARCHICA: I do not see it as a problem. It is a concern, but it is not a problem.

COMMISSIONER DAWSON: A concern.

MR. MARCHICA: It is not a problem. It can very easily be explained. Dr. Esch would like to add a few comments.
COMMISSIONER DAWSON: Please.

MR. MARCHICA: And then Rae Newman.

COMMISSIONER DAWSON: I'm sorry, Dr. Esch, did you want to make a comment?

DR. ESCH: On this same point of the 12-year-olds, I think, really, when you are evaluating safety, perhaps the difference has to be made between safely doing something and successfully doing something. If you make a trip or use a vehicle and successfully reach the point you want to reach, you may have had many near misses on the way and near accidents. Because you reached your destination, whether it be air transportation or just automobiles, does not mean that in the fullest sense, you safely did it. It means you successfully did it.

Not to belabor that point, I think it does have to be pointed out that when you see a child in the younger age group successfully riding an ATV, I certainly would not agree that they were safely riding one.

I would like maybe just to reiterate some other reasons because I think this is a very important point. First of all, they do have accidents. The rates we have said, are comparable. Second, you have the four points that
have been delineated by human factors. Beyond that, I think you have these other things that we have talked about -- maturity, judgment and so forth, which, to me, compound the case for the 12-year-old, because in addition to the four that human factors have pointed out, you also lack these.

Yesterday, I made the summation where I said that maturity plus experience equals judgment. Certainly, you would not have that in the younger age groups. Then I believe there is still another reason. It is the question of injuries.

Injury per injury, it is a lot more impressive, if I may use that word, to see a child in a younger age group that has been bedridden for life than to see one in an older age group. When you get down to specific injuries, something as simple as a fracture, if you have a fracture at an epiphyseal joint, the end of a bone which has yet to grow, it can be a lot more significant in children.

So, I believe in the analysis of injuries, there is still another reason, but I believe all that has to be taken into consideration beyond the four factors that we have given as our rationale.

COMMISSIONER DAWSON: Thank you, very much.
CHAIRMAN SCANLON: Do you have any other questions, Commissioner Dawson?

COMMISSIONER DAWSON: No.

CHAIRMAN SCANLON: I just have a followup to one of Commissioner Dawson's questions. We were told in the Holiday Toy Safety Packet that was given to us last week there are 25,000 hospital treated injuries with skateboards. I do not know what percentage of these are young kids. I would imagine the vast majority are young kids, but we do not propose anything as drastic as what you are proposing.

Would you care to comment on that?

MR. MARCHICA: I read the skateboard hazard analysis when I first came here in 1978. That is all I know about skateboards.

CHAIRMAN SCANLON: Well, last year, there were 25,000 hospital treated injuries.

MR. MARCHICA: I am not convinced that there is a large percentage of those hospital emergency room treated skateboard injuries that were hospitalized. We do know that quite a few of these are. I think, given the opportunity, we could go back and make quite a comparison to show that the severity of those injuries are much higher, much greater, on
an all terrain vehicle than they are with a skateboard.

CHAIRMAN SCANLON: Wouldn't you say, though, the same lack of development is there?

MR. MARCHICA: It is a --

MS. NEWMAN: One is a motorized vehicle and the other is your own skill in riding it. I think there is a little difference between controlling a motorized vehicle that may be difficult to control, as Roy said, and difficult to steer sometimes.

MR. MARCHICA: Roy points out the fact that typically you are operating a skateboard on a pavement, a concrete surface, perhaps. An ATV is off-road. There are hidden terrain features that may get you upset and once that accident sequence occurs, if you do not have the size and strength to respond, you are in trouble. You are talking about a 250 to 450 or 500 pound machine here that is going to land on a 50 to 70 pound child.

CHAIRMAN SCANLON: Any other questions on Finding No. 1?

(No response.)

CHAIRMAN SCANLON: Do you want to read Finding No. 2, Nick?
MR. MARCHICA: Would you like to deal with the findings or with the recommendations?

CHAIRMAN SCANLON: Either one, whatever is easier for you. Findings comes first, doesn't it?

MR. MARCHICA: Yes, but they are tied with the recommendations. I think it is perhaps easier to talk about recommendations, because when you get into the recommendations, some of them are based on multiple findings, so maybe it will shorten the discussion a little bit.

CHAIRMAN SCANLON: All right.

MR. MARCHICA: The second recommendation is to issue a notice of proposed rule making for a warning label standard for the current ATVs intended for use by children under the age of 14. This standard would require labeling stating that these ATVs are not recommended for use by children under 12, because of their lack of maturity and good judgment.

Again, this is part of the age issue that I discussed earlier. If you have any questions, we will field them.

CHAIRMAN SCANLON: How receptive is the industry to this labeling suggestion?
MR. MARCHICA: I have not heard.

CHAIRMAN SCANLON: Hasn't that come up in your discussions?

MR. MARCHICA: No, it has not.

CHAIRMAN SCANLON: You are making a recommendation, but we have no idea what the makers of the vehicle think?

MR. MARCHICA: Clearly, you know what is in the voluntary standard. We know what is in the voluntary standard. It says what will be classified as adult ATVs, 90 CCs and above, are currently labelled for use by age 14 and above.

CHAIRMAN SCANLON: Let me ask you this: Do you think industry would be supportive enough that they would advise their dealers not to sell ATVs to kids under this age?

MR. MARCHICA: The age differential is not that great. I do not think that would pose a problem, but again, we do not have any communication concerning this issue. The only communication that we have from the ATV manufacturers has to do with Recommendation No. 1.

As Terry stated, we are in the process of discussing the format of the warning notice and as part of that discussion, it may well get into an age -- a minimum age
change. But, I think I would just have to stick with the adult-sized ATVs, 14 and above, and put 12 and 13 year olds on 70 and 80 CCs and 6 to 11 year olds on 50 and 60 CC machines.

CHAIRMAN SCANLON: I think Greg had said there were no particular jumps in risk among age groups, but rather, a gradual increase in risk as age declines. So, how does that finding fit with what you are indicating?

MR. MARCHICA: It is still consistent. What we are dealing with are findings that are coming from other areas -- from the human factors area, from the hazard analysis and from discussions from the medical directorate.

CHAIRMAN SCANLON: Greg, do you want to comment?

MR. RODGERS: Yes. I just might mention as far as age is concerned, that is absolutely correct. There is a -- there seems to be a gradual rise in the risk of injury as age declines. But also, we have to remember the engine size of the ATV that is being used also affects the risk of injury, so if you are talking about a ten-year-old child, which has a somewhat higher risk of injury than, say, a 15-year-old child, it is going to have a big impact on the actual risk whether that child is driving a 50 CC ATV or a
200 CC ATV. If you put a ten-year-old on a 200 CC ATV, you are going to have both their age and the engine size of the ATV tending to push the risk of injury upward.

I might also say I think that one or two manufacturers no longer are producing ATVs for kids under 12, I believe.

CHAIRMAN SCANLON: I think only one is making them; is that correct?

MR. MARCHICA: We are aware of one manufacturer that is currently marketing a 1987 model all terrain vehicle intended for use by children under 12. Another manufacturer has a 1986 ATV model that is intended for use by children under 12 and they are selling it along with their 1987 line, so there are, for all practical purposes, if you were to go into two of these manufacturers' dealerships, you would find these ATVs intended for use by kids under 12.

CHAIRMAN SCANLON: Greg, then how much more at risk are 12 to 15 year olds on adult-sized ATVs than average, either for all riders or for when they are on youth-sized vehicles?

MR. RODGERS: Well, as I said earlier, I think that a child on a child-sized ATV does not present a
great risk of injury. If you are talking about a 12 or 13
year old on a very large-sized ATV, then the risk of injury
is higher. I cannot say precisely what it would be right
now, but also in there, if this 14-year-old driver is
inexperienced, that also tends to raise the risk; if he or
she would be more experienced, then that would reduce the
risk.

CHAIRMAN SCANLON: So, this is basically where the
difference in opinion among the members of the ATV task force,
as Commissioner Dawson asked, is that right?

MR. MARCHICA: These are slight differences. I
think the information is still consistent, depending on how
you look at the data. It still is showing that as you
increase in age, your chance of injury is less, so when you
come up with a remedial strategy, you have got to try and
figure out the best way to approach it.

I can tell you clearly that there was a discussion
among the task force that perhaps no children under 16 should
be allowed to operate an ATV, so depending on how you look at
the information, you can cut it various ways. It was the
consensus of the task force that this was the best recommenda-
tion to make to the Commission.
CHAIRMAN SCANLON: Any other questions on Recommendation No. 2?

(No response.)

CHAIRMAN SCANLON: Number 3?

MR. MARCHICA: Number 3 is to issue a notice of proposed rulemaking for a warning label standard for adult-sized ATVs. This standard would require a labeling stating that these ATVs are not recommended for use by children under 16 because they are at a greater risk of injury and death than adults due to deficiencies in judgment and failure to recognize and operate within their skill levels. Here again, this is based on the medical work, the human factors work, the regression analysis and the hazard analysis.

CHAIRMAN SCANLON: Questions?

(No response.)

CHAIRMAN SCANLON: Number 4?

MR. MARCHICA: Recommendation 4: Issue a proposed rule making for a warning label standard for ATVs. This standard would require labeling stating that ATVs have unique handling qualities and that hands-on training of the operator is necessary to reduce the risk of injury and death.

I will point to Roy's work and Dr. Esch's work and
the hazard analysis shows it and Terry Van Houten's analyses show it. It is pretty straightforward, that there is a need for hands-on training because this is a unique machine.

CHAIRMAN SCANLON: Can you briefly describe the type of information that would be disseminated?

MR. MARCHICA: I think you are one ahead of me. That was for the hands-on training part of it.

CHAIRMAN SCANLON: Oh, all right. You are right. Let's go on.

MR. MARCHICA: I will go on to the next one, then.

Disseminate to the public the comparative safety information developed by the ATV task force. This information would describe the relative safety among ATV models and this is the basis of Roy's work. I think Roy can give you some idea of what is going on with that comparative safety. Roy?

MR. DEPPA: I think basically, this would be the kind of information that I presented yesterday in some format which will be appropriate for public use.--I guess if I could say a Consumer Reports on ATV handling qualities -- to do the kind of tests or other tests along the same kind of lines that we have been doing and to work with the public
information people to develop that in a format that is
understandable and usable, to try to give guidance to people
as to what we think is a safer designed vehicle and why.

CHAIRMAN SCANLON: What kind of research would be
undertaken to develop that?

MR. DEPPA: In terms of resources? I do not think
I would hazard a guess right at the moment, without our being
able to think it through.

CHAIRMAN SCANLON: What I'm getting at is:
Wouldn't much of that be available from the data and the
information that you collected during the 18 months?

MR. DEPPA: I would envision that as -- yes, the
same type of work.

CHAIRMAN SCANLON: How would you update it?

MR. DEPPA: Perhaps with the model years, the
designs tend to change with model years and so on a yearly
basis.

CHAIRMAN SCANLON: Do you have any idea what the
cost would be for this?

MR. MARCHICA: We have to go back and give you a
resource estimate. Certainly, it is not going to be in the
range of $2.2 million; that's for sure.
MR. DEPPA: Bigger than a breadbox. It would depend, of course, on whether we are talking about every model or whether we are talking about types of model designs. In other words, are we talking about unsuspended vehicles or are we talking about testing and commenting upon each unsuspended vehicle? It could be structured according to the format of presentation of the information.

CHAIRMAN SCANLON: Re-reading your recommendation, are you talking about both types of vehicles in No. 5?

MR. DEPPA: I would intend to cover all vehicles, but the point I am trying to make is: Do we publish a list of each model and comment upon it or do we talk about what is in the market in terms of design types and their relative safety qualities?

CHAIRMAN SCANLON: Legally, could we do that?

MR. MACKEY: I think we would have to look at it carefully when you are dealing with specific models. I think we would have to take a long hard look at it.

MR. MARCHICA: If I may here, we are, for purposes of the ATV task force over the last year and a half, we are in the midst of a rule making, as such. The ANPR is the document that implemented the start of the rule making. We
can release manufacturers' names. We have released manufacturers' names. Every in-depth investigation that we have conducted has gone out with manufacturers' names on it, so for purposes of what we have done in this fiscal year, that can be done.

If the Commission were to decide to withdraw the advance notice of proposed rule making, then, as John says, it would cause difficulty. But, for the work that we did this year, that can be done. It is covered under the advanced notice of proposed rule making.

MR. MACKEY: The General Counsel's Office would look at this issue of comparative safety a little differently than the rule making.

MR. MARCHICA: In addition, another way of doing this is: We have had conversations with basically enthusiast magazines. The editors of those magazines are looking for a sort of test protocol that they could use so they could evaluate these ATVs and they would publish the findings.

Early on, Roy and I and Jim Bradley went out and talked with the editors of Three-Wheelie Magazine and ATV News and they were very excited about that sort of thing, so it is possible that it is something that the federal
government would not even have to do. It could be done by a
private party, but this would be the start. Plus, the
information could be sent generically -- tire only suspended,
front only suspended, front and rear suspended, three
wheelers, four wheelers, and maybe that would get around the
6(v) issue.

CHAIRMAN SCANLON: Commissioner Dawson, do you
have a question?

COMMISSIONER DAWSON: No. I was just about to
bring up some of the questions that you have already
answered. Maybe I will phrase one of the questions a little
bit differently.

You say you have talked to some magazines that
were interested in doing this kind of thing. My question
was whether or not some standards organization or someone
like an independent organization, one that was not necessarily
affiliated with the industry or with the users might be
willing to undertake something like this without our cooperation,
of course.

MR. MARCHICA: Perhaps. Are you thinking in terms
of the National Safety Council or someone like that?

COMMISSIONER DAWSON: An organization something
Have you ever looked at whether or not there is any precedent for this in terms of federal activity, other agencies? Have they done this type of an analysis and made it available to the public?

MR. MARCHICA: I guess off the top of my head, the only thing that I can think of are the energy labeling standards, where if you were to buy a water heater or a refrigerator or something like that — I mean, there is a federal requirement there.

COMMISSIONER DAWSON: Basically, it is just informing the public, then, about the comparative energy efficiency of the appliances?

MR. MARCHICA: Right. The least expensive is here, the most expensive is here, and the model that you bought is right here.

COMMISSIONER DAWSON: That could be compared to what you are proposing here in terms of just letting the public know what is going on. Specifically, since one of the findings that we have is that many people lack that kind of information when approaching a purchase in terms of what their ultimate use is, what use they have in mind, I think
it is an interesting idea and I think it is one that we need
to develop, but I can see a lot of problems with it, too.

MR. MARCHICA: There is a section in the Act,
Section 2 of the Act, the Consumer Product Safety Act, that
allows the Commission to develop this information and publish
it.

CHAIRMAN SCANLON: Don't you think that would have
to be done generically?

MR. MARCHICA: Well, if there are legal issues
involved, then in order to get the information out in a timely
manner, then perhaps the best way to do it is generically.

CHAIRMAN SCANLON: Recommendation No. 6?

MR. MARCHICA: Direct the Commission's staff to
carry out technical work necessary to support issuance of one
or more notices of proposed rule making to address the
performance characteristics of adult-sized ATVs.

This basically deals with the discussion we had
earlier this morning about the industry voluntary standard.
Roy, if you would like to add any more, you can.

CHAIRMAN SCANLON: Are these performance standards
the ones envisioned by you this morning that you mentioned
this morning?
MR. DEPPA: I think from my standpoint, from the engineering standpoint, I am less concerned with what the format is than with developing the technical data, whether that is to aid in participation in developing a voluntary standard or whether it is used to lead to rule making. I think from our standpoint as engineers, the important issue is that the technical work be developed that supports whatever that action is.

CHAIRMAN SCANLON: Nick, what kinds of performance standards are you envisioning here?

MR. MARCHICA: Roy gave us a hint of that yesterday when he talked about the various dimensional limits or the performance standards that could be met as far as suspension characteristics, so I think those are the two areas that we would concentrate on -- stability and energy absorbence.

CHAIRMAN SCANLON: How long will that take?

MR. MARCHICA: It is something that perhaps we could -- it is a difficult thing to talk about, but I would envision that we could get the task force together and try and work out a plan to develop this sort of information.

CHAIRMAN SCANLON: Well, just generally? I am
trying to get an idea on resources if this were adopted for the next two years. How many people would be involved and for how long?

MR. DEPPA: It would rank right in there with major programs. It is not a simple issue. I think the specific answer is a function of -- are we talking about developing performance standards that we are trying to get them to adopt voluntarily, or are we trying to do it with the legal basis behind it to go to mandatory rule making? The requirements, I think, in the complexity of our work would vary quite a bit, depending on that target.

But, in either case, I think we are talking about dynamic issues with a complex vehicle in a complex environment and it is a major program type of effort.

MR. MARCHICA: I think you are talking about the kind of resources that we have devoted to this project over the last two years that we have in the operating plan for this fiscal year and for next fiscal year. We are talking major priority project work in the million dollar a year range.

CHAIRMAN SCANLON: Any other questions?

COMMISSIONER DAWSON: No.
CHAIRMAN SCANLON: Commissioner Graham, any other questions on Recommendation No. 6?

COMMISSIONER GRAHAM: No.

CHAIRMAN SCANLON: Number 7?

MR. MARCHICA: Number 7: Intervene in the development of the ATV voluntary standard by formally requesting that CPSC staff comments be incorporated into the first phase of the voluntary standard. This is what we discussed just prior to going to lunch.

CHAIRMAN SCANLON: But, given the lack of progress today, what you articulated this morning, how much confidence should we have that this progress can be made in a timely fashion?

MR. MARCHICA: The issue here is the fact that the staff believes they have gone as far as they can go in the first phase of the voluntary standard, and we do have a procedure, whereby once we get as far as we think we can go and if we think there is more that is needed, we bring it to the attention of the Commission, and, as such, perhaps a Commission document sent to the industry may have more weight than a staff document that has been sent to the industry. There may well be other ways for intervention and
we can explore those with Doug.

CHAIRMAN SCANLON: You have nothing to offer now, do you, Doug?

MR. NOBLE: I would just agree with Nick, in that when we go into these meetings, we always say these are comments from the staff. I think if we had a unanimous vote of the Commission that you were behind these comments, that would be something that the industry could not easily discount.

CHAIRMAN SCANLON: Commissioner Graham, do you have any questions?

COMMISSIONER GRAHAM: No.

CHAIRMAN SCANLON: Commissioner Dawson?

COMMISSIONER DAWSON: I would just like to observe that under our plan that we adopted last year, we were supposed to be monitoring this voluntary standard. It may be time for us to consider active participation, I'm not sure, but that is probably one of the handicaps that you have.

MR. MARCHICA: Sure. That is the next recommendation, to fully participate in the development of the performance characteristics standard for the second phase of the voluntary standard. I guess it is our opinion
that whether it is monitoring or participation in the first phase, I think we have done all we can do and it is time to raise it up to the next level.

COMMISSIONER DAWSON: Do you have any resource estimates at this point for that kind of participation level in phase two?

MR. MARCHICA: When we develop the resource estimates for the 1987 operating plan, our baseline assumption was that we would be doing voluntary standards work. So, in my opinion, there are sufficient resources available.--

COMMISSIONER DAWSON: We have already budgeted it.

MR. MARCHICA: -- in the operating plan to do that, again, similar to the level of effort we have gone for the last two years.

CHAIRMAN SCANLON: Commissioner Graham, any questions?

COMMISSIONER GRAHAM: No.

CHAIRMAN SCANLON: Number 9?

MR. MARCHICA: Direct the Commission's staff to develop a strong information and education campaign in Fiscal Year 1987. The I&E campaign would focus on the facts that children should only operate ATVs intended for them and
not adult-sized ATVs; ATV operator training is a necessity; ATVs are to be ridden by one person only; and, wearing a helmet while riding an ATV saves lives.

I think this is consistent with the information that you have heard over the last two days and it is also consistent with the recommendations we have just discussed.

CHAIRMAN SCANLON: And we have what, $25,000 in the '87 operating plan, don't we, for ATVs?

MR. MARCHICA: I think that if the Commission desires the staff to come back with a resource estimate for a strong information and education campaign, we can do that. Let me just tell you that last year, we were figuring on $50,000 for an information and education campaign. We were off by $50,000.

So, I would assume, if the Commission does go for a strong I&E campaign, we are probably talking $100,000.

CHAIRMAN SCANLON: Would you come back with --

MR. MARCHICA: Sure.

CHAIRMAN SCANLON: Talk to Barbara Coleman in Public Affairs and see what it would cost.

MR. MARCHICA: My recollection is that I may already have it. I just apologize for not bringing it. I
may have that in my office, where Ken Giles has already
worked things up for me. I just did not bring it.

CHAIRMAN SCANLON: Can we get that in about a week
or so?

MR. MARCHICA: I think we can do it in less than a
week.

CHAIRMAN SCANLON: Thank you. Any questions on
No. 9?

(No response.)

CHAIRMAN SCANLON: No. 10?

MR. MARCHICA: Again, direct the Commission's
staff to develop point of sale information in cooperation
with the ATV industry. Topics included in this information
would be minimum ATV operator age recommendations; the need
for training; the need to wear helmets; the unique handling
qualities of ATVs; and the differences between the risks
associated with ATVs used for recreation and those for
utility purposes.

The idea here was that these are important things
that a potential buyer needs to know about at the point of
sale and, as such, what we are saying is we would like the
Commission to direct us to work with the industry to try and
do something like this.

CHAIRMAN SCANLON: Commissioner Dawson?

COMMISSIONER DAWSON: Wouldn't this be similar to Recommendation No. 9? I mean, it seems to me that that is almost the same thing as information and education.

MR. MARCHICA: It is I&E, it's just that I think the marketing plan would be different for the I&E campaign, as opposed to the point of sale.

COMMISSIONER DAWSON: Well, you would need to have industry cooperation in a point of sale type of thing.

MR. MARCHICA: Yes.

COMMISSIONER DAWSON: I would expect and hope that if we decided to go with the Recommendation No. 9, we would have the same kind of cooperation, as well.

CHAIRMAN SCANLON: Any other questions on No. 10?

(No response.)

CHAIRMAN SCANLON: No. 11?

MR. MARCHICA: Direct the Commission's staff to work with the states and other federal agencies to encourage the development of practical, technically sound and uniform state legislation and appropriate federal regulations for operations of ATVs on public lands. Then there is a list of

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the various topics that would be included, as well as the kind of sanctions that are needed to go along with that legislation.

CHAIRMAN SCANLON: Do you think what Ross Koeser was suggesting this morning on the model legislation is the way to go?

MR. MARCHICA: Yes, I do.

CHAIRMAN SCANLON: How long do you think that would take to get organized?

MR. MARCHICA: I think it could be done in a relatively short period of time if we act as a resource. I think if, for some reason, the Commission would want to have their stamp of approval on it as far as, "This is a Commission document that we would like to see implemented at the State level", much like what was done in the past with many Consumer Product Safety Acts or many Federal Hazardous Substances Act. It is going to take a lot longer to do that.

I am comfortable with the information we have developed and we can give that information to the states and provide them with whatever additional information they would need to develop legislation. The idea of having a core group of people is a very enticing one.
CHAIRMAN SCANLON: A core group of people from within the Commission?

MR. MARCHICA: Using state people and industry people and CPSC staff as resource people.

CHAIRMAN SCANLON: Are there any questions on No. 11?

(No response.)

CHAIRMAN SCANLON: Greg, I have a question on cost benefit analysis. Can you give a brief cost benefit on each of these recommendations?

MR. RODGERS: Each of them?

CHAIRMAN SCANLON: Have you done that?

MR. RODGERS: I think that in the cost benefit analysis that was in the package, many of them were talked about, so I could try to go through them.

CHAIRMAN SCANLON: Would you, just briefly?

MR. RODGERS: Well, with Recommendation No. 1, the -- either the ban or the voluntary cease marketing of ATVs intended for kids under 12, the benefits, if all children stopped riding those, all children who are now riding those ATVs stopped riding ATVs, period. -- excuse me.

The benefit of getting kids -- oh, let's see.
The problem with banning all the ATVs for kids under 12 is that if those children started using adult-sized ATVs, the risk of injury is higher than it is for those children-sized ATVs and, as I mentioned earlier today, the increase in the risk of injury for moving from, say, a 60 CC to a 110 CC ATV is an increase of about 35%, so if as many as 75% of the children who were riding 50 and 60 CC ATVs began riding the small adult-sized models, if 75% of them rode the small adult-sized models, you could have an equal number of injuries, as if you were having all the kids riding the smaller ones continuing to ride those small ones.

So, in a sense, it would be counter-productive if 70% or more of those children started riding large-sized ATVs and those proportions are based, basically, on the regression analysis.

CHAIRMAN SCANLON: It is your thinking that 70% would not move up to the larger size?

MR. RODGERS: Well, it is really quite hard to say. It is not out of the question, given that already about two-thirds of the children under 12 already ride adult-sized ATVs. I would suspect it is probably unlikely, but it may well not be. It is just hard to say.
If children between 12 and 15 began riding only the children's sized ATVs, we would be addressing about $80 million worth of injury costs that are now occurring to 12 to 15 year olds. In other words, if you could get all the kids off -- 12 to 15 year old children -- off adult-sized ATVs and onto the 70 and 80 CC ATVs, you would -- I'm sorry. I guess as I am going through this, it is kind of hard to keep everything straight here.

The children under the age of 14 who are riding -- I'm sorry. I'm starting to get confused.

CHAIRMAN SCANLON: Could Paul help? Paul, can you?

MR. RUBIN: I am not sure.

Aside from the technical work, I think it is important to point out that in doing these cost benefit analyses for the first three recommendations, which would get some children off ATVs altogether and get other children on to smaller-sized ATVs, the costs are really the same as the costs discussed in my tab in here, the fact that whatever gain, benefit, happiness these children get are being lost. Now, that is not something that we can quantify at this point and it is not something that we have calculated, by any means.
Of course, as a philosophical matter, as we were saying before, we may feel that the Commission has more right to dictate to children. I mean, that seems to be a reasonable approach. But, at any rate, the major costs are not addressed here. What we really can address are the benefits. The benefits are in the form of various sorts of reduced injury costs to children. The benefits of -- the numbers here that are in the text, the benefits of getting children under 12 off of ATVs, in general, are about $80 million, for example. That would be the first recommendation. Those are the injury costs to children under 12, so if all children under 12 were off ATVs, the benefits would be $80 million.

Now, how effective this program is going to be, as Greg said, we do not know. We do not know whether some children would switch. We do not know whether children who now ride ATVs would continue to do so. Presumably, the theory behind the task force's recommendation is that if the small ones were not sold, that would be a signal to parents not to put their children on large ones and, to the extent that that signal operated, it would be, again, a benefit in reduced injuries. But, how big that is, I do not know and I
do not know that we could very easily quantify it. That would be the nature of that benefit.

Similarly, as we move through -- can you get the numbers?

MR. RODGERS: Yes. As I confusingly stated earlier, if you could get all the 12 to 15 year old kids who are now riding mostly adult-sized models and if you could get all of them onto the 70 and 80 CCs, we could potentially reduce injuries to children 12 to 15 years of age by about $58 million.

So, if the warning were ten percent effective, it could reduce injury costs to children 12 to 15 years of age by about $5.8 million.

MR. RUBIN: The fourth recommendation deals with the warning label for training. As Greg said this morning, the training looks like it would pay. To the extent that such a label does get people to take training, then it would be cost justified. Labeling itself is really inexpensive, so since training does pay, in terms of our analysis, or it looks like it does, making the assumption that training substitutes for experience, then the warning label -- getting people to take training would also be cost justified.
MR. RODGERS: The comparative safety issue I think the Directorate for Economics would support because we want consumers to have information. Informed consumers can make informed judgments and I think that we would be in favor of that.

MR. RUBIN: Again, it is hard to quantify any costs or benefits. It would simply be the fact that --

CHAIRMAN SCANLON: Oh, very low cost.

MR. RUBIN: Very low cost and the belief is that the choices consumers make if they are informed are in their own interests.

Question 6, Greg has evaluated performance requirements and has indicated that some performance requirements would be cost justified, since we do observe such substantial differences in injury costs between different models. So, to the extent that Question 6 would be getting a standard written to implement performance standards, which are themselves cost justified, then the recommendation would also pass a cost benefit test.

Question 7, I think we would, by and large, pay. We had some questions in the voluntary standard discussion. Certain of the recommendations have attached to them a cross
caveat, particularly the one dealing with standardization of
gear shift placement. But, assuming we can show that that is
cost justified, which I do not think we have quite done yet,
assuming we could show that, then the intervention would
seem to be justified. I guess No. 8 is similar to No. 6.

No. 9 is, again, an I&E campaign. We do not know
how effective such a campaign would be. In general, we have
trouble quantifying the benefits of I&E campaigns. We do
know that the things in the campaign are themselves informa-
tion that is worth consumers having, so that since it was
mainly Commission resources involved, it would probably
be cost justified. Again, we would have trouble quantifying
those benefits, but we know that wearing a helmet and so forth
is worthwhile, so to the extent that it would get people to
do it, it would pass the cost benefit test.

No. 10 is also an information -- an information
sort of thing. Here, we would be working with the industry
but, again, the information being developed is valuable
information and so to the extent that it had an effect,
which we might, depending on our Commission's involvement, we
might want to hire some market research firms to find out how
effective it would be, but failing that, the information
itself is worth getting out if people do act on it. The only question would be whether they act on it.

Again, No. 11 just deals with trying to implement the same things through working with the States.

CHAIRMAN SCANLON: That is very useful, thank you. Any questions on the cost benefit?

(No response.)

CHAIRMAN SCANLON: Thanks, Paul, very much. Those are all the questions I have. Do you have any questions on any aspect of this, Commissioner Dawson?

COMMISSIONER DAWSON: On this whole briefing?

CHAIRMAN SCANLON: The two days of briefing.

COMMISSIONER DAWSON: I think we have had an excellent briefing.

CHAIRMAN SCANLON: I agree.

Commissioner Graham, do you have any questions at all?

COMMISSIONER GRAHAM: It has been an excellent briefing. I would like to have an opportunity to hear from our AED for Compliance before we close the session.

CHAIRMAN SCANLON: David Schmeltzer?

MR. SCHMELTZER: Yes.
CHAIRMAN SCANLON: Before you begin, David, I want to associate myself with Commissioner Dawson. To each and every one of you, even those that are upstairs watching on television, I commend you all for your excellent staff work. Nick, also express our gratitude to those that are not here that may be out in Bethesda, those that worked part-time on this effort, we thank them.

MR. MARCHICA: There were many people who worked late nights and weekends and holidays and on vacations to get this thing done on time, so there is a lot of staff work that was done and there are a lot of people who should be commended.

COMMISSIONER DAWSON: Since we may not have another opportunity, I would like to tell them personally that I do appreciate all the extra time they put in. The material that was produced was excellent.

MR. MARCHICA: I will.

CHAIRMAN SCANLON: David Schmeltzer?

MR. SCHMELTZER: I really was not prepared to say anything here. Slide 1, please?

(Laughter)

CHAIRMAN SCANLON: Go ahead.
MR. SCHMELTZER: I want to emphasize, if it needs emphasizing, that I am not part of the task force. What I am saying here are particularly my own views and not of the staff in general and not of the Executive Director.

First, I want to thank you for asking me up here and I want to compliment what was done all day today and yesterday. I think it is a testimony to the Commission's structure which is criticized of late, that we can get up here and discuss our views, though they may differ from that of the general staff views.

The ATV Task Force distributed its draft recommendations and findings. When I saw them, I disagreed strenuously with them. We had a meeting, an AED meeting, and I expressed my dissenting views and the Executive Director, I think to his credit, said, "While the general staff does not agree, if you would like to submit a dissenting view, you can do so." I did that and I did that in a memo of October 14, 1986.

That memo is publicly available. It is not, however, part of the -- It was not, however, due to an oversight, not part of the general information distributed to the public when it requested information as to the
briefing package, probably because of the timing. I understand now it will be distributed.

The essence of that memo is twofold: One, that the briefing package and the recommendations over emphasizes the responsibility of the user and under emphasizes the responsibility of the manufacturer.

The other main thing set forth in that memorandum is that the recommendations made by the staff in the task force report are -- may not be effective and timely and may not do what our Act tells us to do and that is to reduce the risk of unreasonable injuries. That is my concern.

The package tells us that the following people are, to mention a few, at a greater risk: men, the young, the untrained, those with poor judgments, the risk takers, the people who drive with or as passengers, notwithstanding the fact there is a seat that is designed for passengers, the people who drive at twilight, the people who drive on paved roads, the people who drive on unsuitable terrain, the people who drive too fast, those who may have had a drink -- not delineating how much to drink. You have to ask yourself who can drive. I suppose the answer is: women who have the reflexes of test pilots and have sound judgment.
My concern is that the responsibility and this problem that you are faced with is really that of the manufacturers. It was the responsibility of the manufacturers in 1980 when they started designing this product. It was the manufacturers' responsibility in 1981 and 1982 and it is a basic proposition that manufacturers -- particularly manufacturers of products that are being sold to vulnerable populations, have to consider what can go wrong with that vehicle when they make the vehicle.

They are not supposed to wait until five years later, until close to 600 deaths and close to 80,000 injuries. They are supposed to look at the problem before they put it on the market. And, had they looked at the problem and had they anticipated some of the problems, they would have recognized that this is not a typical vehicle. It is not a vehicle that is licensed by the states, that judgment is something the states will question. Those are things they should have anticipated -- that it will be used by children under 16 because it is not licensed; that there will be no training required.

And what did they do? What did they do in 1983 and 1984? and 1985? They did not deal with the problem, but...
instead, they pandered to the risk takers; they pandered to
the young; they promoted the fact that this is an all terrain
vehicle; you could have fun on it; that it was safe. What
happened? It boomed to the point where it now is in terms
of sale, where I understand, based on the briefing package,
it is half of the revenues of motorcycle type vehicles.

Now, we are faced with the problem of 2.3 million
vehicles out there, close to 600 deaths, an estimated 86,000
related injuries treated in hospitals and one thing we are
not able to find and one thing that has been discussed and
questions were asked, and I think they were very relevant
and poignant questions, is that we do not know the number of
quadriplegics, paraplegics, brain damages. Those are the
kind of things in addition to the deaths we should be
concerned about, and we do not really have a solid figure
for that. We know they are up there. We know when these
vehicles land on people, it is a serious problem.

So, that was the past and that was what was going
on in 1981 and 1982 when these vehicles were made. Now, we
have to look into the future. The package, while it deals
with the present and it attempts to deal with the future, it
is very clear to me, at least, and I think it is clear from
some of the statements that were made, that if there are 2.3 million out there now and a certain number are going to be made in '87 and '88 and in '90 and '91 and '92, by the year 1992, there will be many, many vehicles out there. Many of the older vehicles that were made in '84 and '85, during supposedly the peak years, will be sold as used vehicles.

Who is going to buy the ATV that is out there when it is down to $400 and $500? I have just been following The Washington Post. This is, by far, a statistically valid survey, but I follow The Washington Post, and I see 1981 ATVs 125 CCs for four or five hundred dollars. I see 200 CC ATVs for $800.

Now, it is pretty logical, I think, to conclude that in the out years, these used vehicles are going to be sold at prices so that young children will be able to buy them, and not through dealers, but just as used vehicles. So, we have a real problem and if we are going to reduce the risk of injury and deaths, then we had better do something about it and we had better do something about it fairly fast.

The briefing package refers to lack of knowledge and poor judgment. Those are all foreseeable things. That is not misuse in the pure sense. That is foreseeable misuse.
It is easily anticipated that, as stated by everyone on the
task force very realistically and very vividly, that young
children have poor judgment; that if you are untrained, you
are going to get injured much more readily.

These vehicles are used for their intended
purposes and the death and the carnage will continue unless
we do something about it. Now, I can go through all of the
recommendations of the task force, but I won't.

My conclusion is that many of them, while they are
well intended, will only work if you get the full cooperation
of the industry. To date, your history is such that you have
had very little cooperation in many areas. This is an
industry that has not done the right thing in 1982, in 1983,
in 1984 and it appears to me, based upon the comments and
the reaction and the efforts of the voluntary standards, it
will not do the right thing.

So, many of the recommendations will not, unless
you get the total cooperation of the industry, will not be
effective. Even if they are effective, they will take an
awfully long time to issue them if they are proposed rule-
making, and we are talking about years and years, if our
history is any example. The efforts at state legislation
and model Acts—we have a history at that. We know the efforts. Ross mentioned them. It is enormously difficult getting states to focus on these issues. Unless you have a handle to go to the states with, that recommendation, I think, is going to have a minimum impact on reducing the risks of death and injury, as are many of the recommendations the staff has made, particularly the one on age labeling, which you have heard the differences in the staff's own opinion, as to whether that will drive the younger children to older vehicles — bigger and more powerful vehicles, or just result in their not riding ATVs. I think it will drive them to larger, more dangerous vehicles.

That, in conclusion, was the essence of my memorandum to you of October 14th and I appreciate the opportunity to restate them and expand upon them slightly.

CHAIRMAN SCANLON: Thank you, David. Any questions of David from the Commission?

(No response.)

CHAIRMAN SCANLON: We want our guests to know that we follow the fairness doctrine at the CPSC. Are there any other AEDs that wish to express their thoughts?

(No response.)
CHAIRMAN SCANLON: Commissioner Dawson, comments?

COMMISSIONER DAWSON: No. Thank you, very much, David.

CHAIRMAN SCANLON: Again, Nick, our appreciation to you and to every member of the task force.

This concludes the two-day ATV Briefing. Thank you very much.

(Whereupon, the ATV Briefing was adjourned.)