

U. S. CONSUMER PRODUCT SAFETY COMMISSION

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Thursday, November 20, 1986

Logan Building
Washington, D. C.

- VOLUME II -

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

TERRENCE SCANLON, Chairman

CAROL G. DAWSON, Commissioner

ANNE GRAHAM, Commissioner

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1 Also Present:

2 Ann Alexander, Deere, Inc.

3 John Walsh, Suzuki

4 T. Naritomi, Suzuki

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6 K. Bush, Suzuki

7 Roy Janson, American ATV Association

8 Mike Schmitt, Yamaha

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10 Toni Harrington, Honda

11 Ed Glynn, American Honda

12 Glenn Parkison, Yamaha

13 Roger Hagie, Kawasaki

14 Margaret Freeston, Schmeltzer, Aptaker & Sheppard

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16 Paul Laurenza, Petit, Martin

17 Richard Pain, Essex Corp.

18 Stephen Calabrese, Heiden Assoc.

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20 Farren Williams, Cycle News Inc.

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P R O C E E D I N G S

(10:10 a.m.)

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

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1 have four wheels. Last year, only 61% had four wheels. By
2 the end of this year, also, about 35 to forty percent of the
3 ATVs in use will have four wheels. So, there is a trend
4 toward four wheels, both in the marketplace and, consequently,
5 in the numbers in use.

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

12 There may be about 2.3 to 2.4 million ATVs in use
13 by the end of the year. That would represent about a ten
14 percent increase in the number in use since the beginning of
15 1986 and compares to about a thirty percent increase in the
16 numbers in use that occurred during 1985.

17 Now, I would like to explain just what we did in
18 our economic analysis of the ATV project. We calculated
19 injury costs and tried to determine some of the factors
20 involved in injuries. We then combined this information to
21 carry out a preliminary cost benefit analysis of the task
22 force recommendations. First, we estimated the annual cost of

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1 ATV related injuries and deaths. Based on our injury cost
2 model, emergency room treated injuries cost consumers about
3 \$421 million in 1985 and about 65% of that figure is an
4 imputed cost for pain and suffering.

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

15 Since there were about 1.9 million ATVs in use
16 during 1985, the death and injury costs range from about
17 \$350 to \$525 in 1985 for every ATV in use.

18 This information for 1985 enables us to estimate
19 the expected costs of deaths and injuries over the expected
20 product life of an ATV. We know, based on information from
21 the SVAI, that an ATV has an average product life of about
22 seven years. If we multiply the yearly death and injury

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1 costs by the number of years in use, the expected costs of
2 deaths and injuries over the product life of an ATV range
3 from about \$2,000 to \$3,000. This \$2,000 to \$3,000 injury
4 cost figure enables us to determine what safety costs can be
5 economically justified.

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

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

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

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1 injury from the relationship between riding time and the risk
2 of injury.

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

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

14 We also found, as I mentioned, that if a major
15 modification was made on the ATV, and this would include such
16 things as changing tires or modifying the suspension system
17 or making some sort of major engine modification, that the
18 risk of injury declined. The reason for that is probably
19 one of two things. First, this variable could kind of give
20 us the effect of expertise. In other words, if someone makes
21 a major modification to their ATV, that may be an indication
22 that they are more of an expert rider and that may be one of

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1 the reasons the injury risk declines. The other possibility
2 is that some modifications may actually make ATVs safer.
3 For example, changing the tires on an ATV in order to drive
4 it under certain conditions might tend to reduce the risk of
5 injury.

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

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

16 For example, if we assume that all other ATV and
17 driver characteristics remain constant, the risk of injury for
18 a male driver is about the twice the risk for a female driver;
19 the risk for a 15-year-old driver is roughly twice the risk
20 for a 45-year-old driver; the risk for an inexperienced
21 driver, which we defined as a driver with less than a year of
22 experience, is about three times the risk of injury for an

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1 experienced driver; the risk of injury on a three-wheeled
2 ATV is roughly twice the risk on a four-wheeled ATV, all else
3 constant; the risk on a 250 CCA TV is roughly twice the risk
4 on a 110 CCA TV; and, finally, the risk of injury for a
5 purely recreational driver is about twice the risk of a
6 driver who spends about thirty percent of his or her time on
7 nonrecreational activities.

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

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

17 Injuries and deaths involving drivers under 16
18 years of age cost the public about \$225 to \$300 million in
19 1985 or roughly about one-third of the total ATV injury
20 costs. We do not know precisely how effective product labels
21 and warnings would be in reducing the exposure of children to
22 injuries, but if they were, for example, on the order of

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1 about five to ten percent effective, the potential reduction
2 in the costs of injuries and deaths to children might be
3 about \$15 to \$30 million.

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

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

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

20 Another engineering finding was that the
21 suspension systems strongly influenced an ATV's handling
22 performance. Neither the regression nor the hazard analysis

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1 were able to show that the presence of mechanical suspension
2 systems reduced the risk of injury, possibly because the
3 suspension systems are highly correlated with engine size.

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

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

20 We cannot estimate from existing data how effective
21 training would be, but if, for example, training could reduce
22 by about one third the time necessary to become experienced,

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1 it might reduce injuries to new drivers by about 22 percent.
2 This reduction would reduce the expected injury costs to a new
3 driver by about \$50 to \$120 depending on whether they were
4 driving a three or four-wheeled ATV and would justify, from
5 an economic perspective, a training program costing a similar
6 amount.

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

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

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

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

20 For example, when we were just getting started
21 with the project, there were a lot of comments about whether
22 age was a factor in the injury risk or whether, for example,

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1 young children tended to drive a lot more than older drivers
2 and consequently, it was not age so much that was a factor,
3 but rather, riding time.

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

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

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

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

21 CHAIRMAN SCANLON: Sure. I forgot to answer what
22 logit analysis was, and then I will go on to the next question.

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1 The logit analysis is a specific type of multiple
2 regression analysis in which technically, the dependent
3 variable is either a one or a zero. In this case, the
4 dependent variable, which was the risk of injury -- well, if
5 the information came from the injury survey, we gave the
6 dependent variable, which is to be a function of a number of
7 independent variables, a value of one.

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

13 But your next question?

14 CHAIRMAN SCANLON: Do you want me to repeat it?

15 MR. RODGERS: I think I can remember it, basically.
16 From the regression analysis, we found that both
17 ATV and driver characteristics affected the risk of injury.
18 As far as ATV characteristics, for example, as I have already
19 mentioned, regardless of who the driver is, if the driver is
20 on a three-wheeled ATV, the risk of injury is about twice the
21 risk on a four-wheeled ATV. But, on the other hand, we also
22 know that behavioral factors also affect the risk of injury.

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1 This is exemplified by the fact that, for example, males have
2 twice the risk as females. There is no reason for us to
3 believe that males are inherently -- pardon me. There is no
4 reason for us to believe that males are inherently less
5 capable drivers than women; consequently, the implication is
6 that there is some behavioral factor going on that leads to
7 a higher risk of injury for males compared to females.

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

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

14 CHAIRMAN SCANLON: Right.

15 MR. RODGERS: We cannot really do that. One of
16 the problems with the regression technique, as well as any
17 other statistical technique, is we do not really have a
18 variable that really is, you know, a risk variable. Now, we
19 can look at a particular variable -- say, the sex of the
20 driver -- and when we observe that males seem to have twice
21 the risk of injury as females, we can assume that there
22 probably is some behavioral factor going on, but it does not

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1 really allow us to estimate the magnitude of that risk factor,
2 so I am really not able to specify how much is due to
3 behavior and how much is due to the ATV.

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

7 CHAIRMAN SCANLON: Poor judgment, whatever.

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

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

21 CHAIRMAN SCANLON: What percent of owners are
22 aware of safety concerns?

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1 MR. RODGERS: We have some information from the
2 exposure survey. I think about -- we asked the respondents
3 to the survey whether they had received safety information
4 with an owners manual and about 85% said that they had.
5 Another 75% of the respondents indicated that they knew there
6 were some safety warnings on their ATV, and I believe about
7 60% of the respondents said that they had heard or read about
8 safety concerns from the -- ATV safety concerns from the
9 media. So, that is about all the information we have on
10 that, but it indicates that a lot of people realize that
11 there is some risk on an ATV.

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

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

20 As I mentioned from the regression analysis, a
21 driver who was inexperienced, which we define to be a driver
22 who had less than a year of experience, had about three times

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1 the risk of injury as an experienced driver.

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

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

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

19 Now, that \$50 to \$120 represents the benefits of
20 training and if training can be provided for that amount of
21 money, then it would be cost beneficial to do so. So, we
22 do not have a direct answer, but based upon the information

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1 we have and several assumptions, it looks like training would
2 be cost beneficial because it seems reasonable that it could
3 be provided for somewhere in that \$50 to \$120 range.

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

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

10 CHAIRMAN SCANLON: That is what I am getting to.
11 Give a cost benefit analysis of helmets.

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

19 Based on that information, the hazard analysis
20 information and a couple of assumptions, we can show that the
21 use of a properly fitting helmet could reduce the expected
22 costs of deaths and injuries by about \$100 to \$160 for a

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1 driver over the average product life of a helmet. Again, the
2 \$100 to \$160 would represent the benefits of helmet wearing.
3 So, if a helmet could be purchased for that amount of money--
4 and they can; you can buy a good helmet for \$100 to \$160 and
5 even less, I understand, from Roy Deppa, it is cost
6 beneficial -- it is clearly cost beneficial to have a helmet
7 and wear it.

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

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

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

17 MR. RODGERS: Well, from the regression analysis,
18 it did not appear that children driving children's ATVs
19 posed a particularly high risk of injury to children. That
20 is not to say that there were not injuries, but relative to
21 other drivers, there was not a particularly high risk of
22 injury for children driving children's models. Also, with

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1 respect to the ATVs that the Task Force recommended either
2 be -- that the manufacturers either voluntarily withdraw them
3 from production or be banned, there really were not very many
4 injuries that took place on those ATVs.

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

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

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

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

21 From the regression analysis, we calculated that
22 the risk of injury would increase by about one third if a

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1 child who was riding a child's ATV started driving a small,
2 adult sized ATV, about a 33 or 35% increase in the risk of
3 injury.

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

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

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

20 CHAIRMAN SCANLON: Do you think a person's size
21 relative to the engine size is more of a factor than the
22 age?

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1 MR. RODGERS: It is hard to sort out the relative
2 importance. Our analysis indicated that the less the driver
3 weighed, holding all else equal, and that is an important
4 assumption, if you held everything else equal and the weight
5 of the driver decreases, the risk of injury would tend to
6 increase and that is probably because the weight of the
7 driver would mean -- the less the weight of the driver, the
8 less control the child might have over the ATV's operation.

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

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

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

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

22 Commissioner Dawson?

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

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

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

17 So, as an example, if we throw in a suspension
18 variable into the regression analysis or, as Rae Newman did,
19 in the hazard analysis, there is a high correlation between
20 suspension -- mechanical suspension systems and the risk of
21 injury just looking at the correlation, but that does not
22 necessarily mean that -- I mean, if you just took that at face

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1 value, it would imply that the presence of mechanical
2 suspension systems caused the injuries. That is unlikely.
3 I mean, it is unlikely that that is the case.

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

6 MR. RODGERS: Right.

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

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

19 COMMISSIONER DAWSON: You say there are some you
20 feel comfortable with asserting that, indeed, you have got
21 some solid basis, one of which is that experience is probably
22 the single most important variable?

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1 MR. RODGERS: Yes, I think I would say that. The
2 experience variable -- I mean, if we can distinguish between
3 relative magnitudes of significance, was clearly the most
4 important variable in that sense. There was a very strong
5 relationship between experience and the risk of injury.

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

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

13 MR. RODGERS: Well, from the injury survey, we
14 knew how much experience the injured borrowers had had and
15 when we did include the injured borrowers in the regression
16 analysis, the experience variable even became more significant.
17 We decided to exclude those from our final analysis because we
18 did not have any comparison with the non-accident victims
19 who might have been borrowers, but it seemed logical to us
20 that one of the main differences between borrowers and
21 owners would be that the borrowers probably had much less
22 experience. So, I may be muddying that up, but --

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1 COMMISSIONER DAWSON: Am I correct in
2 interpreting from one of your statements that the risk of
3 injury increases as driving time increases?

4 MR. RODGERS: Yes.

5 COMMISSIONER DAWSON: Does that conflict with your
6 experience variable?

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

12 COMMISSIONER DAWSON: More likely, too.

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

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

22 MR. RODGERS: What did I mean by that?

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1 COMMISSIONER DAWSON: -- they were getting injuries
2 but the rate of injury was not abnormally high?

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

10 COMMISSIONER DAWSON: In other words, it was
11 gradual?

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

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

20 MR. RODGERS: That is right.

21 COMMISSIONER DAWSON: You also say that the
22 analysis did not indicate that children driving children's

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1 ATVs were at a significantly high risk?

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

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

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

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

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

21 MR. RODGERS: I guess I am just using the term
22 generally.

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1 COMMISSIONER DAWSON: Yes, I was, too, but I think
2 probably we ought to define it.

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

5 COMMISSIONER DAWSON: Under 12?

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

8 COMMISSIONER DAWSON: It could mean the 12 to
9 15 year old category as well?

10 MR. RODGERS: Yes.

11 COMMISSIONER DAWSON: I want to get into the
12 injured costs. We talked about in 1985, you mentioned
13 421 million as being an estimate of the --

14 MR. RODGERS: Emergency room treated.

15 COMMISSIONER DAWSON: The emergency room treated.
16 Then you would have to add to that the death estimates?

17 MR. RODGERS: Yes.

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

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

22 COMMISSIONER DAWSON: So, what would be the total,

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1 then, if you included the cost of the deaths and the injuries?
2 What would be the total cost to society, let's say, in 1985?

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

8 COMMISSIONER DAWSON: That are not in emergency
9 rooms.

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

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

17 MR. RODGERS: The answer is: Yes and no. Our
18 injury cost model assigns a certain -- I am probably not the
19 best one to explain how the injury cost model operates, but
20 basically, it will take an injury, say, a broken leg and
21 based on a large sample of accidents, it will say: Well, if
22 someone has a broken leg, there is going to be this amount of

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1 medical costs and they are going to miss five days of work
2 and that value is this, and they are going to add up all the
3 different costs associated with that accident and, including
4 the pain and suffering component, because that is a real cost
5 of injury. It is a private cost paid for by the person
6 injured, but it is a real cost.

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

9 MR. RODGERS: It is a real cost.

10 COMMISSIONER DAWSON: I am talking about those
11 that, say, maybe confined to wheelchairs.

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

19 COMMISSIONER DAWSON: Overall.

20 MR. RODGERS: Yes.

21 COMMISSIONER DAWSON: So, based on the injury cost
22 that you did use and the numbers for 1985, you came up with

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1 an average cost per vehicle projected over the life of that
2 vehicle?

3 MR. RODGERS: Yes.

4 COMMISSIONER DAWSON: That was what?

5 MR. RODGERS: I do not mean to add more than what
6 you are asking for, but for 1985, the average injury cost and
7 death cost for each ATV in use amounted to about \$350 to
8 \$525.

9 COMMISSIONER DAWSON: For each ATV in use?

10 MR. RODGERS: Right, for 1985. Now, since the
11 average life is about seven years, if you multiply that
12 350 to 500 by seven and, of course, that does not take into
13 account the fact that we want to discount future costs, it
14 amounts to about \$2,000 to \$3,000.

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

20 COMMISSIONER DAWSON: It does include that?

21 MR. RODGERS: Yes.

22 COMMISSIONER DAWSON: Do you think that that is a

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1 high cost for a consumer to pay?

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

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

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

18 COMMISSIONER DAWSON: Yes.

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

21 COMMISSIONER DAWSON: If you want to refer back
22 to the memo, but I think, if my memory serves, the overall

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1 average cost per injury for the on-highway motorcycle
2 injury was considerably less.

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

6 The injury costs per ATV in use were about \$222
7 and the injury costs per on-highway motorcycle in use were
8 \$166, so the injury costs per vehicle in use tended to be
9 higher for ATVs.

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

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

19 COMMISSIONER DAWSON: I thought it was just the
20 opposite.

21 MR. RODGERS: Well, with an ATV, it might be -- I
22 forget what the actual number is, but, say, five accidents

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1 per hundred ATVs in use. With an on-highway motorcycle, it
2 might be about four accidents per hundred motorcycles in use
3 unless I am getting confused here.

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

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

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

21 COMMISSIONER DAWSON: Well, did you separate out
22 the cost of the injuries separate from the deaths?

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1 MR. RODGERS: I think in that table, I had one
2 column or one row that said injury costs per vehicle in use,
3 and then another row that said cost of deaths per vehicle in
4 use. On-highway motorcycles, there are a lot of deaths
5 involved with them and that is why the deaths per vehicle in
6 use is higher for on-highway motorcycles.

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

9 CHAIRMAN SCANLON: Thank you, Commissioner Dawson.
10 Commissioner Graham, any questions?

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

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

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1 survivability rates and shipment information that we have
2 gotten from the industry.

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

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

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

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

21 MR. RODGERS: I do not have it now, but I could
22 prepare that for you.

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1 COMMISSIONER GRAHAM: I would be interested in
2 seeing that.

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

5 COMMISSIONER GRAHAM: Age.

6 MR. RODGERS: Of the vehicle?

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

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

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

13 CHAIRMAN SCANLON: Thanks, Commissioner Graham.

14 I have a follow-up on one of Commissioner
15 Graham's questions. You are saying that the number of
16 riders is increasing even though the number of ATVs coming
17 into the country is decreasing; is that right?

18 MR. RODGERS: My calculations are based on the
19 number of drivers per household and the number of ATVs per
20 household, so my estimates would indicate that if the number
21 of ATVs in use is growing, that the number of drivers is
22 growing. So, yes, there are new drivers.

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1 CHAIRMAN SCANLON: In your briefing package,
2 Greg, you indicate that in a typical month, there are
3 approximately 70 million users and, I believe, 7,000
4 injuries; was that correct?

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

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

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

13 CHAIRMAN SCANLON: Would you? That would be
14 helpful.

15 MR. RODGERS: From the industry, we have two
16 important things that allow us to get a good fix on the
17 number of ATVs in use. We know the number of shipments of
18 ATVs precisely because they have told us the figures and
19 also, we know to the best that anyone can know, the product
20 life of an ATV, because the industry has published product
21 survivability rates in one of their publications, so we have
22 a good fix on the number of ATVs in use. Now, right now,

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1 that is probably on the order of about 2.3 million ATVs. So,
2 given the number of ATVs, from the exposure survey, we know
3 that there are 2.3 drivers per household and 1.25 ATVs per
4 household and that gives us something like -- you know,
5 fiddling around with those ratios, I think it is something
6 like about 1.8 drivers per ATV. So, 1.8 times the number of
7 ATVs in use would give us the number of drivers within ATV
8 owning households.

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

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

That's it.

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

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

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

12 CHAIRMAN SCANLON: Don't we have that?

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

18 We have some information from the industry, but it
19 is more of general sort of marketing information, how to
20 people react to different colors, do they want suspensions,
21 but there is not any stuff that we could really zero in on
22 to calculate the demand curve as of this point, anyway.

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1 CHAIRMAN SCANLON: Give us, in your opinion, the
2 major demographic characteristics of ATV users.

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

6 CHAIRMAN SCANLON: Sure.

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

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

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

22 CHAIRMAN SCANLON: The average cost being about
\$2,000?

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1 MR. RODGERS: Yes, roughly. Excluding the kids'
2 models, the range for adult models is probably on the order
3 of about 1300 for, say, a 110 CC ATV up to as high as
4 \$3,000 or even a little more than that for a 350 CC ATV.

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

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

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

14 MR. RODGERS: Well, I think that about fifty
15 percent of the households from the survey indicated that they
16 used the ATV for some nonrecreational purpose, whether
17 that be one percent of the time they use it for non-
18 recreational purposes or a hundred percent. But, about half
19 said that they use it for some nonrecreational activity.
20 Overall, then, about twenty percent of the usage might have
21 been for nonrecreational usage. Only a small percentage --
22 I think it was -- I should not even mention it. A small

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1 percentage used it for work purposes, but very small, for
2 only work purposes.

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

5 MR. RODGERS: For nonrecreational versus
6 recreational?

7 CHAIRMAN SCANLON: Right.

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

16 So, what I tried to do was kind of develop a
17 decision making set of rules to decide whether a particular
18 driver in a household drove nonrecreationally. I think that
19 we came up with a pretty reasonable method for determining
20 that. What I am saying is that this is not a perfect
21 calculation, but based on the information we have, it looks
22 like if you drive an ATV for nonrecreational purposes as much

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1 as thirty percent of the time, the risk of injury is about
2 twice as -- pardon me, about half as much as it is if you
3 use it only for recreational.

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

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

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

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

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

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1 that correct?

2 MR. RODGERS: Yes.

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

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

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

22 CHAIRMAN SCANLON: Could you discuss current

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1 market trends for both three and four wheelers? Are three
2 wheelers being phased out and to what degree? Are we going
3 to have three wheelers in two years, in your opinion?

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

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

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

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

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

22 MR. RODGERS: Well, I guess there are a number of

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1 motivations. My suspicions -- do you want me to tell you
2 what my suspicions are?

3 CHAIRMAN SCANLON: Yes.

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

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

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

16 MR. RODGERS: I guess I cannot answer that right
17 now. I suppose we could go back to the exposure data. Well,
18 actually, I have calculated some of the differences, because
19 when I was -- I calculated the average age, the average engine
20 size, for both -- the average age of the driver, the average
21 engine size, for each of the three and four-wheeled ATVs.
22 For all the other variables, I found the average, for example,

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1 well, the average sex, if you will, of the driver for four
2 versus three wheelers. Economists have no problem talking
3 about .7% male and things like that.

4 (Laughter)

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

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

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

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1 based on the engineering results, I think that four wheelers
2 are safer.

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

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

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

20 So, for example, if I could look at only 200 CC
21 ATVs and I could find some factor associated with the
22 suspension system when, clearly, there is no engine impact if

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1 we are only looking at one engine size, then maybe that would
2 give us an indication, but we were unable to do that. There
3 were just -- when you get up to the 200 CC ATV engine size,
4 almost all of them have front and rear suspension, so it was
5 just impossible to separate the differences out.

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

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

13 MR. RODGERS: Not in terms of numbers. We might
14 be able to do that based on a number of assumptions, but I
15 think it is fairly clear -- well, I won't say it is fairly
16 clear. But, again, I believe that given that the market is
17 shifting very strongly toward four-wheeled ATVs, which I have
18 found have about half the risk of injury of three wheelers
19 and as the market turns towards four wheelers, as I have
20 already said, 35 to 40 percent of the ATVs in use at the end
21 of this year may have four wheels, and the fact that the
22 experience, on average, is increasing in the ATV rider

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1 population, there probably will be a -- we probably will
2 witness a reduction in injuries. To some extent, that may
3 already be present in the data to some extent, because as
4 Rae Newman has indicated, the emergency room treated injury
5 estimate has stayed about the same for 1985 and 1986, but the
6 population of ATVs in use has increased somewhat and so the
7 risk on a per vehicle basis is probably down. I suspect
8 that that is because a larger proportion of the market is
9 four wheeled now, and maybe also the experience factor, that
10 on average, people tend to be more experienced now than they
11 were, say, a year ago, taking into account the new drivers
12 and so forth.

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

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

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

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

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

3 MR. RODGERS: I included some information along
4 those lines in the market sketch that I wrote in December
5 1985. I suspect the figures are about the same now. We have
6 more recent information from the industry and I could, you
7 know, I could update that data and I will, if you wish.

8 COMMISSIONER DAWSON: I would like to see that.

9 MR. RODGERS: Okay.

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

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

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

20 MR. RODGERS: Well, the value to the economy --
21 I mean, if people like riding ATVs, that is a value. If
22 ATVs create jobs, that is a value. Now, there are some

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1 manufacturing jobs in the U.S., because a couple of the
2 companies -- at least one company and maybe two, at this
3 point -- have some manufacturing facilities here.

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

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

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

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

21 COMMISSIONER DAWSON: With the dealerships?

22 MR. RODGERS: Yes.

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

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

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

17 Now, given the presence of three and four wheelers,
18 there may be a greater tendency for risk takers to buy the
19 three wheelers, but given the fact that up until a few years
20 ago, almost all ATVs were three wheelers, I do not think
21 that that is as big as it might be, say, for the engine
22 variable, where engine size may very easily facilitate risk
taking.

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1 COMMISSIONER DAWSON: Nick, you wanted to add
2 something to that? Go right ahead.

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

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

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

22 MR. MARCHICA: Exactly.

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

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

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

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

20 MR. RODGERS: All else constant, as long as people
21 keep riding them the same way that they have been, I would
22 say yes.

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1 COMMISSIONER DAWSON: So that overall, the numbers
2 or the rates for ATVs as a whole would go down, but the rate
3 for ATVs, for three wheelers, you would expect to remain
4 constant?

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

14 COMMISSIONER DAWSON: Thank you.

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

18 MR. RODGERS: Very simply, and I do not know how
19 simple it will sound, but the value of the dollar -- a dollar
20 today is worth more than a dollar tomorrow, and that is
21 basically reflected in the fact that you could take that
22 dollar and invest it now, and you might have a dollar and

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1 five cents a year from now, so in a sense, if you only had a
2 dollar a year from now, it would be worth less than a dollar
3 now. Anyway, I'm not saying this very well, but --

4 CHAIRMAN SCANLON: I understand what you are
5 saying.

6 Commissioner Graham, do you have any other
7 questions?

8 COMMISSIONER GRAHAM: No, I do not.

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

12 (A short recess was taken.)

13 CHAIRMAN SCANLON: We will resume the ATV Briefing
14 with Ross Koeser on State Cooperation and Legislation.
15 Ross, good morning.

16 Presentation by Ross Koeser

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

19 I would like to cover three things this morning
20 fairly briefly. I would like to give you an update on the
21 ATV Clearinghouse, which we were asked to set up to share
22 information with state, local and other officials. I would

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1 like to give you a summary of the state and local officials'
2 testimony at the six public hearings held throughout the
3 country and a review of the current state ATV legislation.

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

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

16 To date, we have made six major mailings and our
17 mailings not only include ATV information from the Commission
18 but also information provided to us from the states. A
19 couple of states have been very helpful in this area;
20 Alaska in particular, has been super in providing us
21 information such as ATV programs that are going on in Alaska,
22 educational materials and injury data, and we passed that on

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1 to everyone that is on the Clearinghouse. The Clearinghouse
2 is still operational. It continues to fulfill a need and
3 provide a service.

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

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

19 Other recommendations at the hearing included
20 the need for minimal age requirements, the need for uniform
21 model legislation, the need for designated riding areas,
22 local law enforcement, the need for a licensing program at

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1 the state level, and a need for warning labels. Final

2 Finally, the third thing I would like to do is
3 just give you a summarization of the ATV laws at the state
4 level. Basically, in the 1970s, off-road vehicle legislation
5 appeared at the state level, covering mostly environmental
6 issues. During the 1980s, states began introducing and
7 passing specific ATV legislation focusing on safety issues.

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

11 Sixteen states have laws, in part or in whole,
12 which apply specifically to ATVs. Of the remaining 34 states,
13 18 states have laws or regulations pertaining to off-road
14 vehicles, of which ATVs, by definition, are included.
15 Thirteen states require operator helmet protection; however,
16 the states' requirements are not consistent in relation to
17 age restrictions, land use, supervision, possession of a
18 safety certificate or regulations governing helmet protection
19 in competitive events.

20 Less than half the states, 21, set a minimal user
21 age for ATV operation, yet in 17 of these states, the
22 respective age --

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1 CHAIRMAN SCANLON: Ross, I hate to interrupt you.
2 When you say half, are we talking about half of the sixteen,
3 half of 18 or half of --

4 MR. KOESER: Half of all the states.

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

12 Twenty-two states prohibit on-road use of ATVs
13 except to cross public highways or for agricultural purposes.
14 Twenty-six states now require ATVs to be registered through
15 State Departments of Motor Vehicles or through recreation
16 management agencies. However, in various states, such regis-
17 tration applies only to the use of an ATV on public lands.
18 Eight states require a motor vehicle operators license as a
19 prerequisite for driving an ATV. Yet, even these states
20 require -- excuse me. Yet not even these states require a
21 license under all circumstances. Maryland, Ohio and Oregon
22 only require a license when riding on public lands.

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1 In reviewing state laws in terms of safety
2 education and training, we determined that safety education
3 certificates and/or training for ATV operators is mandated
4 in eleven states. In five other states, the mandate is less
5 specific and provides for a mandate under more general off-
6 road vehicle regulations or calls for a more general ATV
7 information and education program.

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

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

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1 Illinois, Maryland, Massachusetts, and Utah.

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

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

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

17 CHAIRMAN SCANLON: Thanks, Ross. Could you
18 describe briefly the -- you said 16 states have enacted
19 legislation in part or in whole. Tell us what is included.
20 Helmets, minimum age, -- do you have that?

21 MR. KOESER: Well, I don't -- I have a copy of
22 the summary of every single law that -- including the 16,

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1 which is the ATV specific, and the other 34, which relate to
2 the off-road vehicles. I can pick out some of the states,
3 but generally, it is the user requirements, user restriction
4 requirements, some environmental, licensing, registration,
5 education, training, certificates. That is basically what
6 we've got.

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

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

11 CHAIRMAN SCANLON: Would you provide that?

12 MR. KOESER: Yes, sure.

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

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

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

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1 of the minimum ages.

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

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

8 MR. KOESER: Two states?

9 CHAIRMAN SCANLON: I thought that is what you said.

10 MR. KOESER: No, I did not.

11 CHAIRMAN SCANLON: No? How many?

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

22 CHAIRMAN SCANLON: On the six states that have

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1 passed legislation, are they using the SVIA model or are they
2 so disparate that you cannot draw any conclusions?

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

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

12 MR. KOESER: Yes.

13 CHAIRMAN SCANLON: Which states?

14 MR. KOESER: Ten of those.

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

17 MR. KOESER: Mr. Chairman, I cannot tell you
18 specifically, but I can say this, in the little work I have
19 done in the legislative area. It is not a one-year process.
20 The first year is generally an education process and to get
21 the legislator to pass it the second or third year, I think
22 you are doing fine. So, in many cases, those states that I

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1 mentioned that were not passed, that is not to say it is not
2 going to pass. It is going to be reintroduced this year and,
3 through education of the legislators themselves and the users,
4 it very well could pass this year.

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

7 MR. KOESER: I do not know that answer.

8 CHAIRMAN SCANLON: You do not know?

9 MR. KOESER: I do not know.

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

12 MR. KOESER: In terms of --

13 CHAIRMAN SCANLON: Legislation?

14 MR. KOESER: -- legislation? Many, yes, by age
15 restrictions, yes, by training, yes, they do.

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

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

21 CHAIRMAN SCANLON: That is the question.

22 MR. MARCHICA: I think the answer is: No, I am not

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1 aware of any states that specifically prohibit operation of
2 an ATV, let's say, an adult-sized ATV by an operator under
3 16, for example, which is what we are recommending.

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

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

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

18 MR. KOESER: Well, I think it would be probably
19 most appropriate for experts in the field, state and local
20 officials, perhaps industry, as a consultant, by putting
21 together some kind of a committee that would have the best
22 minds together and that are willing to work fast. I think we

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1 are behind the eight ball already. State sessions are
2 already meeting the first two weeks in January. Pre-planning
3 sessions are going on right now and anything that happens in
4 this area should be happening pretty quick.

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

8 MR. KOESER: Yes.

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

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

18 MR. MARCHICA: That is correct. Mr. Chavez was
19 talking about the State Vehicular Recreation Areas, SVRAs.
20 The number of deaths that they have seen in those SVRAs over
21 the last two years has decreased. They have had only one
22 death in those designated riding areas and I think that is

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1 something that can be pointed to the presence of park rangers
2 who are on ATVs, riding on the dunes and other areas and
3 keeping a good watch on what is going on, and also the fact
4 that some of the all terrain vehicle associations are
5 conducting training courses to make people more aware of
6 what is happening.

7 Plus, the State of California has about a
8 \$12 million operating budget, which makes it very easy to do
9 those sorts of things.

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

13 MR. MARCHICA: Right.

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

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

21 CHAIRMAN SCANLON: Could it be done by Christmas?

22 MR. KOESER: Yes. The SVIA provides an excellent

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1 model. I think what we need to do is take the findings that
2 are coming out of this meeting and make the connection
3 between their model and what we determine would be best from
4 the Commission's standpoint.

5 CHAIRMAN SCANLON: Nick, do you agree with that?

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

15 But, as far as a Consumer Product Safety
16 Commission model state legislation, I am not convinced that
17 there is an actual need to do that. I think we can help, as
18 a resource, to do that, but I do not think it would serve
19 anybody's purposes for us to go through a long, drawn out
20 process to get a Commission-agreed-upon model legislation
21 that could be given to states. I think the resources are
22 here to provide the information and I think there is a

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1 willingness upon the state people, as evidenced in
2 Louisville, that they are ready to run and we can help them
3 by providing information to them and assisting them with
4 various aspects of the legislation. But, I do not think
5 there is a need to call it CPSC model legislation. We can
6 help, but it does not have to be ours.

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

9 CHAIRMAN SCANLON: Thank you both.

10 Commissioner Graham, do you have questions?

11 COMMISSIONER GRAHAM: I do not have any questions.

12 CHAIRMAN SCANLON: Commissioner Dawson?

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

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

22 COMMISSIONER DAWSON: I mean, we say that over
half the states have no legislation, but then there are

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1 certain states that do not have as much of a problem as other
2 states do, too.

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

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

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

14 MR. MARCHICA: The answer to that is yes.

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

16 MR. MARCHICA: California, New York, Wisconsin,
17 New Hampshire, yes.

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

20 MR. KOESER: Connecticut, Maine, Wyoming.

21 MR. MARCHICA: Roy just told me that the easiest
22 way to do it is to look at the compilation of deaths since

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1 1982 and you can see that when you are talking in terms of
2 the largest states -- California, 45; New York, 41;
3 Wisconsin, 30.

4 COMMISSIONER DAWSON: So it does tend --

5 MR. MARCHICA: Sure.

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

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

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

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

13 COMMISSIONER DAWSON: Right.

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

19 COMMISSIONER DAWSON: Did any of these states that
20 have recently adopted legislation, did they have our input?
21 Did they request to be provided it specifically? Do you
22 recall?

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1 MR. KOESER: Not through me. I mean, again --

2 MR. MARCHICA: I think in New York, I sent
3 information to the people in New York. My recollection is
4 that I did talk with a few staffers for state legislatures in
5 New York.

6 In Minnesota, I did send information to the
7 Department of Natural Resources and they are in the
8 Clearinghouse.

9 COMMISSIONER DAWSON: Ross, in the Clearinghouse,
10 how does that operate? Do all -- Are all the states
11 automatically getting this information or only the ones
12 that request it?

13 MR. KOESER: We put the state designee on the
14 Clearinghouse.

15 COMMISSIONER DAWSON: Okay, so the Commission's
16 state designee is getting it.

17 MR. KOESER: We asked our regional offices to give
18 us names of interested people. We asked headquarters to give
19 us names of interested people. Nick gave me a whole bunch of
20 names to start out with and that was our basis and it has
21 grown more than double, so people heard about it and wanted
22 to get on, and I think they thought they were getting, you

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1 know, information they would not get otherwise.

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

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

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

17 We have a mechanism in the Commission, also, if
18 for instance, a state is passing on -- Alaska is a good
19 example, because, as we all know, Ivan Archer up there does
20 just a tremendous job in the educational materials. He will
21 have a pamphlet, for instance, and we will send that
22 pamphlet to the state designees, which is kind of -- we don't

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1 need to send it at all; we may only have that, but we'll --
2 states among states, that type of a clearinghouse effect.

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

6 MR. KOESER: Yes.

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

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

16 There is no program, to my knowledge right now,
17 that is providing hands-on training and providing a certifi-
18 cate. There are states that are in different phases. SVIA
19 is working very closely with some of the states. There are
20 states that have education programs, but not hands-on
21 training leading to a certificate. Wisconsin, for instance,
22 is coming up with what seems to be a very good program, but

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1 it is not going to be operational until July 1st, 1987.

2 COMMISSIONER DAWSON: Do you mean in terms of
3 training?

4 MR. KOESER: Right.

5 COMMISSIONER DAWSON: What do they --

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

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

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

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

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

19 MR. KOESER: Well, all right, well, there is
20 legislation. Let me give you an example. I was involved
21 in the Hazardous Substances Act Uniform Legislation. Thirty
22 states have passed that legislation, but not all. In fact,

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1 in this case, probably only half the states have any kind of
2 actual implementation of the program. They have never been
3 funded and they have never been staffed. So, I think you are
4 going to find the same thing, if history is true, with ATV
5 legislation. Because ATV legislation says something does
6 not mean that the state is going to provide it with money
7 and staffing.

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

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

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

21 Out of that meeting, one of the regions made a
22 number of recommendations and one was a recommendation which

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1 turned out to be a resolution that CPSC be involved in model
2 legislation, not necessarily CPSC, but that model legislation
3 be developed.

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

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

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

13 MR. MARCHICA: Industry?

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

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

22 COMMISSIONER DAWSON: Did it make any provision

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1 for inclusion of voluntary groups?

2 MR. KOESER: Users, do you mean?

3 COMMISSIONER DAWSON: Users?

4 MR. KOESER: Yes.

5 COMMISSIONER DAWSON: Safety organizations?

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

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

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

20 COMMISSIONER DAWSON: Is it being implemented and
21 by whom?

22 MR. KOESER: It is not being implemented at all

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1 right now.

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

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

11 MR. KOESER: Yes.

12 COMMISSIONER DAWSON: Not necessarily today.

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

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

22 MR. MARCHICA: That is correct. I think the role

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1 of the CPSC in this particular effort is to identify areas
2 that need to be addressed, to provide the supporting
3 information to address those areas and then, through a
4 mechanism that Ross just described, have the model legislation
5 drawn up.

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

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

21 MR. MARCHICA: It is something where the format
22 could be discussed, but I would think that perhaps a decision

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1 by the Commission telling the whatever entity is running the
2 ATV project after the decision to implement this particular
3 recommendation, and in that recommendation, we do lay out a
4 number of items that we think should be in model legislation,
5 including penalties and fines, and we do have the data to
6 support all that information. So, from my perspective, by
7 merely voting to approve that particular recommendation, that
8 is enough to run with it.

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

12 MR. MARCHICA: Exactly.

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

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

20 MR. KOESER: I believe they are talking about
21 public lands, but my knowledge of that is from a brief
22 conversation with Jane Jenson, you know, in Louisville. What

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1 I would like to do is follow up on that, if I may, and get
2 you more information. I cannot elaborate in detail more than
3 what I have.

4 CHAIRMAN SCANLON: That would be helpful.

5 Commissioner Graham, do you have any questions?

6 COMMISSIONER GRAHAM: No, I do not.

7 CHAIRMAN SCANLON: That concludes the state
8 cooperation and legislation portion. Thank you, Ross.
9 We will proceed with the SVIA voluntary standard.

10 Presentation by Nick Marchica

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

18 The first draft of that voluntary standard, which
19 encompasses standardization of controls, labeling, information
20 and education, was sent out to the canvas list on August 16,
21 1985. There were a number of comments that were received on
22 that voluntary standard, including quite a few from the CPSC

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1 and, after a period of review, we did have monthly meetings
2 of the voluntary standards committee.

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

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

17 Along with that first phase of the voluntary
18 standard, there is a second phase that deals with the
19 performance characteristics, the dynamic stability of the
20 ATV. In late April and early May of this year, we went out
21 to California and were given a little demonstration of the
22 kinds of tests the voluntary standards committee would like to

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1 have in the voluntary standard. After some discussion, those
2 procedures were sent to Japan where a great deal of testing
3 was done to provide information to the Specialty Vehicle
4 Institute of America contractor. They came back in
5 September and provided us with a number of provisions for
6 dynamic stability provisions for the second phase of the
7 voluntary standards. It was not all of them. There were a
8 couple of uphill, downhill, cross hill tests, that were not
9 given to us.

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

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

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1 provisions of the ANSI people.

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

7 However, we do have some concerns with the first
8 phase of the voluntary standard. We also have concerns with
9 the second phase of the voluntary standard. Because of these
10 concerns, we have made recommendations to the Commission
11 concerning the first phase, where we are asking for inter-
12 vention, and, in the second phase, that we continue to do the
13 necessary technical work to proceed with the Notice of
14 Proposed Rulemaking.

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

22 CHAIRMAN SCANLON: I think it would be helpful for

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1 us if you give us what is to be included, whoever is going to
2 present this, in phase one, and then what you had hoped for
3 in phase two and then where you have the concerns, and then
4 maybe where you are happy, what is going well and what is not
5 going well.

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

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

14 CHAIRMAN SCANLON: Thank you.

15 Presentation by Terry Van Houten

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

19 With respect to labeling, the SVIA standard does
20 contain provisions for labeling messages to be placed on the
21 ATVs; however, as I indicated yesterday, there were no
22 specifications in the current standard beyond a general

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1 statement of the message content. We recommended that a
2 labeling format, such as contained in the voluntary labeling
3 standard, ANSI-Z535, be incorporated into the SVIA standard.
4 That standard prescribes a format and a criteria for ranking
5 the importance of messages, such as the danger, caution, and
6 so forth.

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

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

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

22 With respect to training, the only information in

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

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

9 MR. MARCHICA: When Roy finishes.

10 Presentation by Roy Deppa

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

16 We have made a number of comments in terms of
17 shift pattern, standardization, control location and
18 orientation, recommendations which we believe are based on
19 basic safety principles and are desirable elements to be
20 incorporated in the standard to help enhance the operator's
21 ability to know where the controls are, to be able to react
22 just intuitively to actuate them, to have some indication of

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1 what speed or what gear the vehicle is in, so these would be
2 basic principles in controls, location and operation.

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

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

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

19 Would you agree with that?

20 MR. MARCHICA: Yes, and the two opportunities that
21 we have had to submit written comments on the voluntary
22 standard, we have expressed that we would like to see

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1 training as part of the purchase price of the ATV. If the
2 Commission votes to intervene in the development of the
3 voluntary standard, that would be one of the items that
4 would be discussed in the letter to them or whatever mechanism
5 you choose.

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

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

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

22 CHAIRMAN SCANLON: And a hang tag won't minimize

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1 injuries or deaths, do you think?

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

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

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

12 CHAIRMAN SCANLON: I'm sorry, helmet and --

13 MR. VAN HOUTEN: Helmet and other safety equip-
14 ment.

15 CHAIRMAN SCANLON: The fourth one?

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

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

20 MR. VAN HOUTEN: In their age scheme right now,
21 12 to 14.

22 CHAIRMAN SCANLON: For vehicles designed for 12 to

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1 14 year olds?

2 MR. VAN HOUTEN: Yes, correct.

3 CHAIRMAN SCANLON: Where would the label be
4 placed?

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

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

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

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

17 MR. VAN HOUTEN: From this side, I cannot quite
18 see it, but it would probably be larger and it would have
19 varying types of print. For example, there would be a
20 signal word, "warning", which would be in very large letters.
21 There would be another one or two lines which would express
22 the consequences of not reading the following six items. It

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1 is essentially a blanket warning that says, "Failure to
2 follow the following could result in serious injury."

3 CHAIRMAN SCANLON: In your opinion, what is more
4 effective, six different labels or one?

5 MR. VAN HOUTEN: I have mixed feelings about that.
6 Depending on how each -- depending on how the one label is
7 worded, it can be very effective. With six labels, you have
8 somebody looking all over the vehicle, perhaps, and there
9 may not be space for six labels. So, you run the risk of
10 missing one or more messages.

11 CHAIRMAN SCANLON: The print on this one is very
12 small. I cannot read it from here and that is, what, three
13 to four feet away.

14 MR. VAN HOUTEN: Ideally, the label should be able
15 to be read by the driver in the driver's position, which
16 would put it towards the top of the gas tank or on a fender.

17 CHAIRMAN SCANLON: Commissioner Dawson, do you
18 have questions on the phase one?

19 COMMISSIONER DAWSON: On the labeling, still, I am
20 not really clear what you mean by lack of specification.

21 MR. VAN HOUTEN: The voluntary standard merely
22 says there will be a warning message on the vehicle which

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1 states: The rider shall not consume alcohol. That is the
2 full substance of the warning. It says nothing about how that
3 label is to be formatted, the colors, the signal word or even
4 what the word "warning" means, if it really does connote the
5 ANSI meaning of a warning.

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

8 MR. VAN HOUTEN: Yes.

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

11 MR. VAN HOUTEN: It says nothing.

12 COMMISSIONER DAWSON: Nothing?

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

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

17 MR. MARCHICA: Technically speaking, the
18 voluntary standard requirements merely state that the
19 manufacturer will provide a minimum recommended age. In the
20 discussion or part of the standard that goes with it, the
21 rationale, there is a discussion of current industry
22 practices. Again, on two occasions, we have written comments

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1 that state they should have these age recommendations as
2 part of the requirements of the voluntary standard.

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

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

7 MR. MARCHICA: That is correct.

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

10 MR. MARCHICA: That is correct.

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

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

17 COMMISSIONER DAWSON: That they are going to do
18 that?

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

21 COMMISSIONER DAWSON: Then why don't they put it in
22 the standard?

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1 MR. MARCHICA: The feeling on the part of the
2 voluntary standards committee was that perhaps in the future,
3 there would be other ATVs developed and they did not want to
4 be locked into any specific recommended minimum age for any
5 specific sized ATVs.

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

9 MR. MARCHICA: Sure.

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

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

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

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

20 COMMISSIONER DAWSON: Are we comfortable with the
21 controls standardization part?

22 MR. MARCHICA: Roy can talk about that. The answer

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1 is: We are not. Roy can talk about that.

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

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

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

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

17 MR. DEPPA: In general, of course, we are dealing
18 with two different types of vehicle, those which have a
19 manual clutch and those which have a manual clutch. We have
20 to talk about the gear shift pattern according to those two
21 categories, because they are different because of the type of
22 clutch. In addition, past practice has been a bit haphazard

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1 in that the actuation direction of the gear shifter has not
2 been consistent. On the orange vehicle, to go to higher
3 gears, you shift down; on the blue vehicle, to go to higher
4 gears, you shift up. In some vehicles that are utility
5 oriented, there are -- there is what traditionally is called
6 a grandma gear, a very low gear for very low speed operation
7 and sometimes, that is at the bottom of the shift pattern,
8 which may be at the top, and sometimes it is not, depending
9 on where the neutral is. So, if you are to get off one
10 vehicle and get onto another one, it takes a few moments to
11 figure out what the gear shift pattern is.

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

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

17 But, there has been no standardization particularly
18 in the past and I believe that has changed somewhat with more
19 recent model years. The vehicles which have an automatic
20 clutch generally now have the shift pattern such that neutral
21 is at the bottom. The gear shift is activated with the
22 operator's left foot. Neutral is at the bottom and you lift

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1 that situation as a basic safety matter. It is very
2 important to the control of the vehicle to bein a gear and
3 to have some idea of relatively what that gear is, and
4 without a visible actuator, such as you have on an auto-
5 mobile with an automatic transmission, even with an indicator.
6 The operator does not know necessarily what gear he is in or
7 where neutral is and can inadvertently shift into neutral in
8 a situation where that would be fairly undesirable.

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

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1 motorcycles and that is the practice on manual clutch all
2 terrain vehicles.

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

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

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

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

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

19 MR. DEPPA: There is a comment from CPSC expressing
20 a desire for that sort of standardization and there is a
21 disagreement from the committee with that request, and it has
22 been on the table for some time.

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1 There is a further -- what, the front brake issue,
2 which I think we have been discussing. Again, not all
3 vehicles have front brakes. We have expressed strong
4 concerns that that should be specified, simply the presence
5 of a front brake because, in operation on hills, even as
6 specified in the SVIA materials for controlling the vehicle
7 in a hill situation, the front brake is a necessity. We
8 agree that it is a necessity. We feel that it is necessary
9 to specify for adult-sized vehicles that they have that front
10 brake. We do not have an agreement on that issue, either, to
11 date.

12 COMMISSIONER DAWSON: Any other areas where we
13 disagree?

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

16 COMMISSIONER DAWSON: Thank you very much.

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

21 MR. MARCHICA: I think that the task force finding
22 is that the voluntary standard is inadequate.

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1 CHAIRMAN SCANLON: Are you finished with your
2 presentation?

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

5 CHAIRMAN SCANLON: Any other questions? No.

6 MR. MARCHICA: The second phase deals with
7 performance characteristics of the dynamic stability require-
8 ments and Roy is going to talk a little bit about that.

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

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

22 The second level is once you have accepted a

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1 procedure as being an appropriate procedure, is the pass/fail
2 criterion adequate to pass good vehicles and fail bad
3 vehicles?

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

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

17 I think we have some concerns whether the test
18 procedures that seemed to address those issues are
19 appropriate to discriminate between the vehicles in a way
20 which would agree with our belief as to what is an
21 appropriate level of performance and what is not. Then, of
22 course, is the issue of: Are the criteria that have been set

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1 up to pass or fail those vehicles really adequate to extend
2 the state of the art, improve the state of the art of the
3 vehicle's stability, or are they merely an extension of the
4 status quo?

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

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

19 I believe, from a preliminary look at the values,
20 which resulted from our examination of our test vehicles,
21 that either the procedures or the pass/fail criteria will not
22 discriminate between what we believe to be less than

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1 desirable and better handling vehicles. So, I think we are
2 dissatisfied at the current status of the development of that
3 test program.

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

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

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

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

22 COMMISSIONER DAWSON: Before you start that, I

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1 just wanted to follow up on one thing.

2 CHAIRMAN SCANLON: Sure. Commissioner Dawson.

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

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

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

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

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1 between those vehicles that would parallel our own
2 assumptions.

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

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

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

19 COMMISSIONER DAWSON: Thank you.

20 CHAIRMAN SCANLON: Doug, I have a question for
21 you. We have heard this morning that the ANSI process is
22 going slowly and with limited progress in some areas. With

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1 your broad experience in voluntary standards, is this
2 atypical or can this be overcome? How would you assess it?

3 MR. NOBLE: I have heard the allusions made to the
4 ANSI process and I would say that I do not consider that a
5 problem at all. In fact, I think that is very positive.
6 Now, there are reasons why you have to go and reballot and
7 those reasons may be you develop a new piece of information
8 you did not have before, but in order to incorporate it into
9 a standard, you have to go through the review process that
10 the ANCI procedures call for.

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

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

19 The real issue, I think, is: How effective is it
20 going to be? Timing, to me, is not an issue at this point.
21 If timing were an issue to the extent, let's say, that the
22 standard was holding back improvements, the development was

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1 holding back improvements, my first response would be very
2 much like what Nick has said. That standard in its draft
3 stage is not prohibiting any manufacturer from improving their
4 vehicle's safety based on whatever they feel is the correct
5 thing to do or even taking our recommendations.

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

12 What really is the essence of the issue here is:
13 What does the draft standard contain and how effective is it
14 going to be? Now, there has been a lot of discussion
15 between the staff and the industry and a lot of work on this.
16 I urge the industry to submit to the Commission a chronology
17 of events, starting with the first meeting all the way up to
18 today, to show you the degree of effort that went into this
19 activity, and it is considerable. I think they have done
20 that. I believe they have submitted a chronology of events
21 to you and it runs several pages. That in itself indicates
22 the degree of effort that has gone into it.

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1 So, yes, there has been 18 or 19 months of
2 activity from the time that the effort first began, but I
3 think there has been considerable progress made. The
4 question really comes back to, though, what does the
5 standard call for and how adequate is it to address the
6 Commission's concerns.

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

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

11 (Laughter)

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

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

19 MR. NOBLE: That is right.

20 CHAIRMAN SCANLON: Does that complete your
21 presentation, Nick?

22 MR. MARCHICA: Only to just say that attached to

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

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

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

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

20 (Whereupon, the luncheon recess was taken.)
21
22

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1 for questions on that one; if there are any, we would ask,
2 you would answer and we would go to the next one.

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

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

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

18 (Laughter)

19 CHAIRMAN SCANLON: You missed one.

20 MR. DEPPA: Let me just run down through them. It
21 should not take me long to destroy these ideas. The
22 differential axle -- as I described yesterday, I think the

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1 handling characteristics of the vehicles are highly dependent
2 on the solid rear axle, the whole discussion about the
3 steering response characteristics, the fluctuating response
4 characteristics. All of those are a function, to a large
5 extent, of the tire characteristic and the solid rear axle.
6 A differential rear axle, which is what is used in an auto-
7 mobile, allows the two wheels to rotate at different -- that
8 is where the term "differential" comes from -- differential
9 speeds. That is because, in going around a turn, one wheel
10 has farther to travel than the other wheel and there is a
11 magical box built into the axle, which allows power to be
12 applied through both wheels, but allow the two wheels to
13 travel a different distance in the same amount of time.

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

22 That, with an all terrain vehicle, is a hazardous

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1 situation, because if you are to operate the vehicle on
2 irregular terrain, which is irregular in its slipperiness,
3 one wheel will speed up in the slippery surface until the
4 vehicle crosses, so that it would be moving faster than the
5 other wheel and, as the vehicle then would come back on to
6 firm ground, that wheel spinning faster would cause the
7 vehicle to respond to that faster spinning wheel and it would
8 veer suddenly in the other direction.

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

12 Now, there is one caveat that I would throw into
13 that and that is that there is, I believe, one manufacturer
14 of a very limited production type of limited slip differential.
15 That operates in the same way, but it is controlled
16 mechanically, so that very little relative difference in
17 speed is allowed between the wheels -- some, but not a lot.
18 I suspect there may be some benefits from that type of device.
19 I think there may be some promise there. That has been used
20 in other types of off-road vehicles, to some extent, very
21 specialized vehicles. I have not seen it operated on this
22 sort of a vehicle, and so I really cannot comment upon

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1 possible limitations that it might have. But, I think it is
2 certainly something that would warrant some research by
3 someone.

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

6 CHAIRMAN SCANLON: Smaller seats?

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

11 The purpose of the large seat is to allow the
12 operator room to move around the vehicle but still be sitting
13 on a seat. That is the argument for having the big seat and
14 for the reason for not reducing the size of the seat.
15 In general, I agree with that point.

16 I am not convinced that a seat could not be
17 designed which would allow the operator still to move around
18 on the fenderwork, which currently happens, also, but the
19 seat itself would look more like a solo seat, but I really
20 could not comment on what design innovations might be made
21 there so that it would not look as though it is intended for
22 a second passenger.

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1 Obviously, related types of vehicles -- snowmobiles
2 and motorcycles -- have big seats and they are intended,
3 certainly motorcycles, definitely intended to have a
4 passenger on there, so the perception in looking at this
5 seat might be that a second person is perfectly appropriate.

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

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

17 These tires have a very high degree of traction,
18 so that frictional force capability is high and I think an
19 improvement in the vehicle, generally on relatively smoother
20 terrain, could result from a tire which had less friction in
21 the sidewise direction. We have talked a bit about our
22 interest in seeing what effect a ribbed type tire, for

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1 instance, that has traction to drive the vehicle or to brake,
2 but would not have as much lateral friction, what kind of
3 effect that might have on the stability relationship of the
4 vehicle.

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

12 CHAIRMAN SCANLON: The tread should be kept the
13 same?

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

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1 performance in the dynamic mode.

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

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

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

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

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1 go with that if it is a successful item.

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

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

11 MR. DEPPA: That is correct.

12 CHAIRMAN SCANLON: How does that affect the
13 vehicle?

14 MR. DEPPA: It is a key issue. As I said, the
15 vehicle is designed around the tires and these tires
16 generally -- there is some variation, but generally -- are
17 inflated to about two to two and a half PSI, which is an
18 extremely low pressure compared to other tires. That gives
19 it a footprint -- that is, the pressure of the point at which
20 it sits on the ground -- roughly equivalent to that of a
21 human foot. So, you can think of it in terms of being able
22 to ride these vehicles where you could walk. If it is firm

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1 enough snow to walk on it, you could drive an ATV, roughly,
2 as compared to, say, an automobile whose tire is ten times
3 that pressure. Obviously, tires on cars bog down in snow
4 quite readily.

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

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

20 CHAIRMAN SCANLON: Should there not be a label
21 indicating something relating to the correct amount of air for
22 the tire?

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1 MR. DEPPA: Yes, and I think maybe I should let
2 Terry answer that. I believe that is addressed in some
3 labels currently on some machines. Isn't that the case,
4 Terry? It's not in the six though, is it?

5 MR. VAN HOUTEN: No, it is not.

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

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

11 CHAIRMAN SCANLON: Could you talk a little louder?

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

18 Based on that, you can rank the messages that you
19 wish to get across to the rider and tire pressure did not
20 fall in those first six or seven. Now, the present practice
21 is yes, they are labelling them, for the most part, with tire
22 pressure on the tire itself.

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1 CHAIRMAN SCANLON: All of them are doing that?

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

4 CHAIRMAN SCANLON: The four major manufacturers
5 are?

6 MR. VAN HOUTEN: Yes.

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

8 CHAIRMAN SCANLON: Seat belts.

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

18 In addition, of course, if you were to roll the
19 vehicle over, and you were seatebelted to it, that would be
20 a bad situation. There has been some further discussion
21 about how you would, of course, couple the seat belt require-
22 ment with a rollbar requirement. That is done with

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1 agricultural tractors, at least in the show rooms; I do not
2 know how many farmers actually do that. But, the roll bar
3 would seriously, I think, reduce the -- certainly, the
4 utility of the vehicle. There are a lot of environments
5 where you could visualize a large roll bar being a problem
6 if you were to hit that against a tree branch or a tree trunk
7 or something, it would overturn the vehicle backwards. It is
8 comparable to the situation with motorcycles where seat
9 belts are entirely inappropriate.

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

17 Certainly, some of these vehicles and, especially,
18 a few very recent vehicles are capable of extremely high
19 speeds. I think our own experience, I think, in operating
20 the vehicles during our testing program is that we frequently
21 think that we are doing maybe 25 or 30 miles an hour under
22 some conditions, and because we have had instrumentation

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1 there to measure it, it turns out we were doing 14 or 15. I
2 have been surprised a number of times at how much slower I
3 was actually going than I thought I was. I think if you
4 started telling the average kid that he is only doing 14
5 when he thought he was doing 40, then he would have to try to
6 do 40. I do not think it is a good idea, generally.

7 CHAIRMAN SCANLON: It would just be an encourage-
8 ment to go faster?

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

14 Obviously, lowering the CG helps, but there are
15 other factors that could be done that would go along with
16 that to have the same effect that would be less -- would
17 have less of an effect. If you were to try to achieve a big
18 increase in stability simply by lowering the CG, you would
19 probably have to change the design of the vehicle, but you
20 could get some of that by changing wheel stance and some of
21 the other dimensions as well. So, that is part of the
22 overall stability issue that I talked about.

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1 CHAIRMAN SCANLON: In that general area, your
2 studies indicated that short, heavier riders are less likely
3 to have accidents. Is that too broad of an assumption?

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

7 CHAIRMAN SCANLON: That was certainly the
8 inference.

9 MR. DEPPA: Yes.

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

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

18 CHAIRMAN SCANLON: It is not necessary?

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

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1 improves the stability of the vehicle.

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

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

13 CHAIRMAN SCANLON: Do you agree with that, Nick?

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

20 CHAIRMAN SCANLON: That is very helpful.

21 I have got a question for Dr. Esch on the Franklin
22 Report. Could you come up? Dr. Esch, on Page 61, there was

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1 a table showing vehicle characteristics and accident
2 causation. Do you have it there?

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

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

7 MR. MARCHICA: We are talking about the --

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

11 DR. ESCH: Yes.

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

14 DR. ESCH: Which is the vehicle characteristics?

15 CHAIRMAN SCANLON: Relative to accident
16 causation.

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

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1 a disadvantage.

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

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

18 That type of accident that I have just described
19 would be an example where he would say: Yes, the vehicle
20 was involved in the causation. That would be a typical
21 example of it.

22 CHAIRMAN SCANLON: Are you in general agreement

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1 CHAIRMAN SCANLON: You agree.

2 DR. ESCH: Right.

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

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

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

13 MR. DEPPA: Yes. In general, I do not disagree
14 with it. That is correct. I think you have to keep in mind
15 we have several different blind men feeling an elephant here
16 and describing it. Dr. Esch's contractor looked at a
17 problem from one point of view with one particular type of
18 expertise. We have looked at the problem from a different
19 point of view and, while there are subtle differences in the
20 conclusions that we have reached and some of those occasion-
21 ally sound contradictory, you have to keep in mind that his
22 results and my results were produced at the same time. I

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1 think it would take a fair amount of work to mesh the areas
2 of agreement between the different areas. But, in general,
3 I do not disagree with the conclusions that he came to.

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

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

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

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

18 CHAIRMAN SCANLON: Yes, that would be helpful.

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

21 CHAIRMAN SCANLON: What did you refer to this
22 morning?

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1 COMMISSIONER DAWSON: On highway.

2 CHAIRMAN SCANLON: For highway.

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

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

11 MR. RODGERS: How many injuries?

12 CHAIRMAN SCANLON: Yes.

13 MR. RODGERS: Well, there were 200,400 emergency
14 room treated injuries for on highway motorcycles compared to
15 85,900 injuries for ATVs. If you want to talk about deaths,
16 for ATVs, of course, there were 238 deaths; for on highway
17 motorcycles, there were 4,798. So, on a per vehicle --

18 CHAIRMAN SCANLON: That is in one year?

19 MR. RODGERS: That is in one year. So, on a per
20 vehicle in use basis, the cost associated with death, if we
21 assign a cost of one million dollars for on highway motor-
22 cycles, the death costs per vehicle in use are \$857, and that

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1 compares with \$125 for ATVs. Once you get into an accident,
2 if you are on an on highway motorcycle, it is much more likely
3 to result in death.

4 CHAIRMAN SCANLON: More so than ATVs?

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

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

13 COMMISSIONER GRAHAM: No, I don't.

14 CHAIRMAN SCANLON: Commissioner Dawson?

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

20 MR. MARCHICA: If I understand the question from
21 Commissioner Dawson, she would just like a general discussion
22 concerning minimum recommended ages. I think it is best to

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1 start with children under 12 years of age and, as a result of
2 human factors work, the major finding was that typically,
3 children under 12 aren't able to operate any sized ATV safely
4 and this is based on a number of things -- lack of adequate
5 physical size and strength, cognitive abilities, motor skills
6 and perception.

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

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

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1 intended for use under the age of 12 and, coupled with that,
2 on adult sized ATVs, a label that they were not intended for
3 use by children under the age of 16.

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

7 MR. MARCHICA: Yes, there was.

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

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

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

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

22 (Laughter)

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1 A PARTICIPANT: But he's a good guy.

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

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

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

17 MR. MARCHICA: Sure, that's the reality. That is
18 the reality. The reality is that children under 12 or
19 children between 12 and 15 are not riding youth sized ATVs.
20 That is clear. They are riding adult-sized ATVs, and that
21 is why the package of recommendations that we have given you
22 attempts to address the whole issue. If we take any one

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1 recommendation in a vacuum, it does not look like it makes
2 sense, but if you take it together in a package, the whole
3 philosophy of getting children under 12 off of ATVs,
4 children 12 to 15 on youth sized ATVs and children 16 and
5 above on adult-sized ATVs, we think will reduce injuries and
6 deaths. That is why we have to look at it as a total
7 package of recommendations.

8 COMMISSIONER DAWSON: I understand that and with-
9 out indicating what my eventual decision is going to be on
10 this, but just for the sake of argument, what do you say,
11 then, to those atypical children under the age of 16 or even
12 under the age of 12 who have learned to ride ATVs safely,
13 many of whom compete or who find this their major sport?
14 What do we say?

15 MR. MARCHICA: The same thing I say to my five-
16 year-old who beats the heck out of eight-year-old children in
17 certain sports: He'll have to wait. That is all there is
18 to it. We all have situations where your 95 percentile
19 height and weight child who happens to have very good motor
20 skill development has to be held back a little bit, and that
21 is just the way it is. It is really philosophy now, that
22 you are getting into, and that is the problem.

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1 COMMISSIONER DAWSON: Really. The other problem
2 is how to substantiate this kind of an argument when we do not
3 see the rates of injuries with the smaller sized models.

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

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

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

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

22 MR. MARCHICA: It can be supported based on this

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1 information that has been developed in our report.

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

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

14 COMMISSIONER DAWSON: Which is a problem to try to
15 support a recommendation. I think we just need to acknow-
16 ledge that as a problem.

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

19 COMMISSIONER DAWSON: A concern.

20 MR. MARCHICA: It is not a problem. It can very
21 easily be explained. Dr. Esch would like to add a few
22 comments.

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1 COMMISSIONER DAWSON: Please.

2 MR. MARCHICA: And then Rae Newman.

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

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

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

19 I would like maybe just to reiterate some other
20 reasons because I think this is a very important point.
21 First of all, they do have accidents. The rates we have
22 said, are comparable. Second, you have the four points that

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1 have been delineated by human factors. Beyond that, I think
2 you have these other things that we have talked about --
3 maturity, judgment and so forth, which, to me, compound the
4 case for the 12-year-old, because in addition to the four
5 that human factors have pointed out, you also lack these.

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

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

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

22 COMMISSIONER DAWSON: Thank you, very much.

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1 CHAIRMAN SCANLON: Do you have any other questions,
2 Commissioner Dawson?

3 COMMISSIONER DAWSON: No.

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

11 Would you care to comment on that?

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

15 CHAIRMAN SCANLON: Well, last year, there were
16 25,000 hospital treated injuries.

17 MR. MARCHICA: I am not convinced that there is a
18 large percentage of those hospital emergency room treated
19 skateboard injuries that were hospitalized. We do know that
20 quite a few of these are. I think, given the opportunity,
21 we could go back and make quite a comparison to show that the
22 severity of those injuries are much higher, much greater, on

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1 an all terrain vehicle than they are with a skateboard.

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

4 MR. MARCHICA: It is a --

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

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

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

20 (No response.)

21 CHAIRMAN SCANLON: Do you want to read Finding
22 No. 2, Nick?

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1 MR. MARCHICA: Would you like to deal with the
2 findings or with the recommendations?

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

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

10 CHAIRMAN SCANLON: All right.

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

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

21 CHAIRMAN SCANLON: How receptive is the industry
22 to this labeling suggestion?

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1 MR. MARCHICA: I have not heard.

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

4 MR. MARCHICA: No, it has not.

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

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

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

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

20 As Terry stated, we are in the process of dis-
21 cussing the format of the warning notice and as part of that
22 discussion, it may well get into an age -- a minimum age

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1 change. But, I think I would just have to stick with the
2 adult-sized ATVs, 14 and above, and put 12 and 13 year olds
3 on 70 and 80 CCS and 6 to 11 year olds on 50 and 60 CC
4 machines.

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

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

13 CHAIRMAN SCANLON: Greg, do you want to comment?

14 MR. RODGERS: Yes. I just might mention as far
15 as age is concerned, that is absolutely correct. There is
16 a -- there seems to be a gradual rise in the risk of injury
17 as age declines. But also, we have to remember the engine
18 size of the ATV that is being used also affects the risk of
19 injury, so if you are talking about a ten-year-old child,
20 which has a somewhat higher risk of injury than, say, a
21 15-year-old child, it is going to have a big impact on the
22 actual risk whether that child is driving a 50 CC ATV or a

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1 200 CC ATV. If you put a ten-year-old on a 200 CC ATV, you
2 are going to have both their age and the engine size of the
3 ATV tending to push the risk of injury upward.

4 I might also say I think that one or two
5 manufacturers no longer are producing ATVs for kids under
6 12, I believe.

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

9 MR. MARCHICA: We are aware of one manufacturer
10 that is currently marketing a 1987 model all terrain
11 vehicle intended for us by children under 12. Another
12 manufacturer has a 1986 ATV model that is intended for us by
13 children under 12 and they are selling it along with their
14 1987 line, so there are, for all practical purposes, if you
15 were to go into two of these manufacturers' dealerships, you
16 would find these ATVs intended for use by kids under 12.

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

21 MR. RODGERS: Well, as I said earlier, I think
22 that a child on a child-sized ATV does not present a

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1 great risk of injury. If you are talking about a 12 or 13
2 year old on a very large-sized ATV, then the risk of injury
3 is higher. I cannot say precisely what it would be right
4 now, but also in there, if this 14-year-old driver is
5 inexperienced, that also tends to raise the risk; if he or
6 she would be more experienced, then that would reduce the
7 risk.

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

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

17 I can tell you clearly that there was a discussion
18 among the task force that perhaps no children under 16 should
19 be allowed to operate an ATV, so depending on how you look at
20 the information, you can cut it various ways. It was the
21 consensus of the task force that this was the best recommenda-
22 tion to make to the Commission.

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1 CHAIRMAN SCANLON: Any other questions on
2 Recommendation No. 2?

3 (No response.)

4 CHAIRMAN SCANLON: Number 3?

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

14 CHAIRMAN SCANLON: Questions?

15 (No response.)

16 CHAIRMAN SCANLON: Number 4?

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

22 I will point to Roy's work and Dr. Esch's work and

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1 the hazard analysis shows it and Terry Van Houten's analyses
2 show it. It is pretty straightforward, that there is a need
3 for hands-on training because this is a unique machine.

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

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

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

10 MR. MARCHICA: I will go on to the next one, then.
11 Disseminate to the public the comparative safety
12 information developed by the ATV task force. This informa-
13 tion would describe the relative safety among ATV models and
14 this is the basis of Roy's work. I think Roy can give you
15 some idea of what is going on with that comparative safety.
16 Roy?

17 MR. DEPPA: I think basically, this would be the
18 kind of information that I presented yesterday in some format
19 which will be appropriate for public use.-- I guess if I
20 could say a Consumer Reports on ATV handling qualities -- to
21 do the kind of tests or other tests along the same kind of
22 lines that we have been doing and to work with the public

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1 information people to develop that in a format that is
2 understandable and usable, to try to give guidance to people
3 as to what we think is a safer designed vehicle and why.

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

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

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

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

14 CHAIRMAN SCANLON: How would you update it?

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

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

20 MR. MARCHICA: We have to go back and give you a
21 resource estimate. Certainly, it is not going to be in the
22 range of \$2.2 million; that's for sure.

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1 MR. DEPPA: Bigger than a breadbox. It would
2 depend, of course, on whether we are talking about every model
3 or whether we are talking about types of model designs. In
4 other words, are we talking about unsuspended vehicles or
5 are we talking about testing and commenting upon each
6 unsuspended vehicle? It could be structured according to
7 the format of presentation of the information.

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

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

15 CHAIRMAN SCANLON: Legally, could we do that?

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

19 MR. MARCHICA: If I may here, we are, for purposes
20 of the ATV task force over the last year and a half, we are
21 in the midst of a rule making, as such. The ANPR is the
22 document that implemented the start of the rule making. We

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1 can release manufacturers' names. We have released
2 manufacturers' names. Every in-depth investigation that we
3 have conducted has gone out with manufacturers' names on it,
4 so for purposes of what we have done in this fiscal year, that
5 can be done.

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

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

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

19 Early on, Roy and I and Jim Bradley went out and
20 talked with the editors of Three-Wheelie Magazine and ATV
21 News and they were very excited about that sort of thing, so
22 it is possible that it is something that the federal

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1 government would not even have to do. It could be done by a
2 private party, but this would be the start. Plus, the
3 information could be sent generically -- tire only suspended,
4 front only suspended, front and rear suspended, three
5 wheelers, four wheelers, and maybe that would get around the
6 6(v) issue.

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

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

13 You say you have talked to some magazines that
14 were interested in doing this kind of thing. My question
15 was whether or not some standards organization or someone
16 like an independent organization, one that was not necessarily
17 affiliated with the industry or with the users might be
18 willing to undertake something like this with our cooperation,
19 of course.

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

22 COMMISSIONER DAWSON: An organization something

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1 like that, yes.

2 Have you ever looked at whether or not there is
3 any precedent for this in terms of federal activity, other
4 agencies? Have they done this type of an analysis and made
5 it available to the public?

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

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

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

17 COMMISSIONER DAWSON: That could be compared to
18 what you are proposing here in terms of just letting the
19 public know what is going on. Specifically, since one of
20 the findings that we have is that many people lack that kind
21 of information when approaching a purchase in terms of what
22 their ultimate use is, what use they have in mind, I think

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1 it is an interesting idea and I think it is one that we need
2 to develop, but I can see a lot of problems with it, too.

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

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

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

12 CHAIRMAN SCANLON: Recommendation No. 6?

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

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

20 CHAIRMAN SCANLON: Are these performance standards
21 the ones envisioned by you this morning that you mentioned
22 this morning?

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1 MR. DEPPA: I think from my standpoint, from the
2 engineering standpoint, I am less concerned with what the
3 format is than with developing the technical data, whether
4 that is to aid in participation in developing a voluntary
5 standard or whether it is used to lead to rule making. I
6 think from our standpoint as engineers, the important issue
7 is that the technical work be developed that supports what-
8 ever that action is.

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

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

17 CHAIRMAN SCANLON: How long will that take?

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

22 CHAIRMAN SCANLON: Well, just generally? I am

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1 trying to get an idea on resources if this were adopted for
2 the next two years. How many people would be involved and for
3 how long?

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

12 But, in either case, I think we are talking about
13 dynamic issues with a complex vehicle in a complex environ-
14 ment and it is a major program type of effort.

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

21 CHAIRMAN SCANLON: Any other questions?

22 COMMISSIONER DAWSON: No.

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1 CHAIRMAN SCANLON: Commissioner Graham, any other
2 questions on Recommendation No. 6?

3 COMMISSIONER GRAHAM: No.

4 CHAIRMAN SCANLON: Number 7?

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

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

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

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1 we can explore those with Doug.

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

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

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

12 COMMISSIONER GRAHAM: No.

13 CHAIRMAN SCANLON: Commissioner Dawson?

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

19 MR. MARCHICA: Sure. That is the next
20 recommendation, to fully participate in the development of
21 the performance characteristics standard for the second
22 phase of the voluntary standard. I guess it is our opinion

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1 that whether it is monitoring or participation in the first
2 phase, I think we have done all we can do and it is time to
3 raise it up to the next level.

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

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

11 COMMISSIONER DAWSON: We have already budgeted it.

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

15 CHAIRMAN SCANLON: Commissioner Graham, any
16 questions?

17 COMMISSIONER GRAHAM: No.

18 CHAIRMAN SCANLON: Number 9?

19 MR. MARCHICA: Direct the Commission's staff to
20 develop a strong information and education campaign in
21 Fiscal Year 1987. The I&E campaign would focus on the facts
22 that children should only operate ATVs intended for them and

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1 not adult-sized ATVs; ATV operator training is a necessity;
2 ATVs are to be ridden by one person only; and, wearing a
3 helmet while riding an ATV saves lives.

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

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

9 MR. MARCHICA: I think that if the Commission
10 desires the staff to come back with a resource estimate for a
11 strong information and education campaign, we can do that.
12 Let me just tell you that last year, we were figuring on
13 \$50,000 for an information and education campaign. We were
14 off by \$50,000.

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

17 CHAIRMAN SCANLON: Would you come back with --

18 MR. MARCHICA: Sure.

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

21 MR. MARCHICA: My recollection is that I may
22 already have it. I just apologize for not bringing it. I

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1 may have that in my office, where Ken Giles has already
2 worked things up for me. I just did not bring it.

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

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

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

9 (No response.)

10 CHAIRMAN SCANLON: No. 10?

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

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

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1 do something like this.

2 CHAIRMAN SCANLON: Commissioner Dawson?

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

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

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

11 MR. MARCHICA: Yes.

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

15 CHAIRMAN SCANLON: Any other questions on No. 10?

16 (No response.)

17 CHAIRMAN SCANLON: No. 11?

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

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

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

7 MR. MARCHICA: Yes, I do.

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

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

18 I am comfortable with the information we have
19 developed and we can give that information to the states
20 and provide them with whatever additional information they
21 would need to develop legislation. The idea of having a
22 core group of people is a very enticing one.

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1 CHAIRMAN SCANLON: A core group of people from
2 within the Commission?

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

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

7 (No response.)

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

11 MR. RODGERS: Each of them?

12 CHAIRMAN SCANLON: Have you done that?

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

16 CHAIRMAN SCANLON: Would you, just briefly?

17 MR. RODGERS: Well, with Recommendation No. 1,
18 the -- either the ban or the voluntary cease marketing of
19 ATVs intended for kids under 12, the benefits, if all
20 children stopped riding those, all children who are now
21 riding those ATVs stopped riding ATVs, period -- excuse me.
22 The benefit of getting kids -- oh, let's see.

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

12 So, in a sense, it would be counter-productive if
13 70% or more of those children started riding large-sized
14 ATVs and those proportions are based, basically, on the
15 regression analysis.

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

18 MR. RODGERS: Well, it is really quite hard to
19 say. It is not out of the question, given that already
20 about two-thirds of the children under 12 already ride
21 adult-sized ATVs. I would suspect it is probably unlikely,
22 but it may well not be. It is just hard to say.

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1 If children between 12 and 15 began riding only
2 the children's sized ATVs, we would be addressing about
3 \$80 million worth of injury costs that are now occurring to
4 12 to 15 year olds. In other words, if you could get all the
5 kids off -- 12 to 15 year old children -- off adult-sized
6 ATVs and onto the 70 and 80 CC ATVs, you would -- I'm sorry.
7 I guess as I am going through this, it is kind of hard to
8 keep everything straight here.

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

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

13 MR. RUBIN: I am not sure.

14 Aside from the technical work, I think it is
15 important to point out that in doing these cost benefit
16 analyses for the first three recommendations, which would
17 get some children off ATVs altogether and get other children
18 on to smaller-sized ATVs, the costs are really the same as
19 the costs discussed in my tab in here, the fact that whatever
20 gain, benefit, happiness these children get are being lost.
21 Now, that is not something that we can quantify at this point
22 and it is not something that we have calculated, by any means.

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1 Of course, as a philosophical matter, as we were
2 saying before, we may feel that the Commission has more right
3 to dictate to children. I mean, that seems to be a reason-
4 able approach. But, at any rate, the major costs are not
5 addressed here. What we really can address are the benefits.

6 The benefits are in the form of various sorts of
7 reduced injury costs to children. The benefits of -- the
8 numbers here that are in the text, the benefits of getting
9 children under 12 off of ATVs, in general, are about
10 \$80 million, for example. That would be the first recommenda-
11 tion. Those are the injury costs to children under 12, so
12 if all children under 12 were off ATVs, the benefits would
13 be \$80 million.

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

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1 do not know that we could very easily quantify it. That
2 would be the nature of that benefit.

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

5 MR. RODGERS: Yes. As I confusingly stated
6 earlier, if you could get all the 12 to 15 year old kids who
7 are now riding mostly adult-sized models and if you could
8 get all of them onto the 70 and 80 CCs, we could potentially
9 reduce injuries to children 12 to 15 years of age by about
10 \$58 million.

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

14 MR. RUBIN: The fourth recommendation deals with
15 the warning label for training. As Greg said this morning,
16 the training looks like it would pay. To the extent that
17 such a label does get people to take training, then it would
18 be cost justified. Labeling itself is really inexpensive, so
19 since training does pay, in terms of our analysis, or it
20 looks like it does, making the assumption that training
21 substitutes for experience, then the warning label -- getting
22 people to take training would also be cost justified.

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1 MR. RODGERS: The comparative safety issue I think
2 the Directorate for Economics would support because we want
3 consumers to have information. Informed consumers can make
4 informed judgments and I think that we would be in favor of
5 that.

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

8 CHAIRMAN SCANLON: Oh, very low cost.

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

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

20 Question 7, I think we would, by and large, pay.
21 We had some questions in the voluntary standard discussion.
22 Certain of the recommendations have attached to them a cross

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1 caveat, particularly the one dealing with standardization of
2 gear shift placement. But, assuming we can show that that is
3 cost justified, which I do not think we have quite done yet,
4 assuming we could show that, then the intervention would
5 seem to be justified. I guess No. 8 is similar to No. 6.

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

16 No. 10 is also an information -- an information
17 sort of thing. Here, we would be working with the industry
18 but, again, the information being developed is valuable
19 information and so to the extent that it had an effect,
20 which we might, depending on our Commission's involvement, we
21 might want to hire some market research firms to find out how
22 effective it would be, but failing that, the information

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1 itself is worth getting out if people do act on it. The
2 only question would be whether they act on it.

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

5 CHAIRMAN SCANLON: That is very useful, thank you.

6 Any questions on the cost benefit?

7 (No response.)

8 CHAIRMAN SCANLON: Thanks, Paul, very much.

9 Those are all the questions I have. Do you have
10 any questions on any aspect of this, Commissioner Dawson?

11 COMMISSIONER DAWSON: On this whole briefing?

12 CHAIRMAN SCANLON: The two days of briefing.

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

15 CHAIRMAN SCANLON: I agree.

16 Commissioner Graham, do you have any questions at
17 all?

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

21 CHAIRMAN SCANLON: David Schmeltzer?

22 MR. SCHMELTZER: Yes.

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

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

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

17 MR. MARCHICA: I will.

18 CHAIRMAN SCANLON: David Schmeltzer?

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

21 (Laughter)

22 CHAIRMAN SCANLON: Go ahead.

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

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

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

19 That memo is publicly available. It is not,
20 however, part of the -- It was not, however, due to an
21 oversight, not part of the general information distributed
22 to the public when it requested information as to the

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1 briefing package, probably because of the timing. I under-
2 stand now it will be distributed.

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

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

12 The package tells us that the following people
13 are, to mention a few, at a greater risk: men, the young,
14 the untrained, those with poor judgments, the risk takers,
15 the people who drive with or as passengers, notwithstanding
16 the fact there is a seat that is designed for passengers,
17 the people who drive at twilight, the people who drive on
18 paved roads, the people who drive on unsuitable terrain, the
19 people who drive too fast, those who may have had a drink --
20 not delineating how much to drink. You have to ask yourself
21 who can drive. I suppose the answer is: women who have
22 the reflexes of test pilots and have sound judgment.

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1 My concern is that the responsibility and this
2 problem that you are faced with is really that of the
3 manufacturers. It was the responsibility of the
4 manufacturers in 1980 when they started designing this
5 product. It was the manufacturers' responsibility in 1981
6 and 1982 and it is a basic proposition that manufacturers --
7 particularly manufacturers of products that are being sold to
8 vulnerable populations, have to consider what can go wrong
9 with that vehicle when they make the vehicle.

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

21 And what did they do? What did they do in 1983
22 and 1984 and 1985? They did not deal with the problem, but

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1 instead, they pandered to the risk takers; they pandered to
2 the young; they promoted the fact that this is an all terrain
3 vehicle; you could have fun on it; that it was safe. What
4 happened? It boomed to the point where it now is in terms
5 of sale, where I understand, based on the briefing package,
6 it is half of the revenues of motorcycle type vehicles.

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

18 So, that was the past and that was what was going
19 on in 1981 and 1982 when these vehicles were made. Now, we
20 have to look into the future. The package, while it deals
21 with the present and it attempts to deal with the future, it
22 is very clear to me, at least, and I think it is clear from

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1 some of the statements that were made, that if there are
2 2.3 million out there now and a certain number are going to
3 be made in '87 and '88 and in '90 and '91 and '92, by the
4 year 1992, there will be many, many vehicles out there. Many
5 of the older vehicles that were made in '84 and '85, during
6 supposedly the peak years, will be sold as used vehicles.

7 Who is going to buy the ATV that is out there
8 when it is down to \$400 and \$500? I have just been following
9 The Washington Post. This is, by far, a statistically valid
10 survey, but I follow The Washington Post, and I see 1981
11 ATVs 125 CCs for four or five hundred dollars. I see
12 200 CC ATVs for \$800.

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

20 The briefing package refers to lack of knowledge
21 and poor judgment. Those are all foreseeable things. That
22 is not misuse in the pure sense. That is foreseeable misuse.

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1 It is easily anticipated that, as stated by everyone on the
2 task force very realistically and very vividly, that young
3 children have poor judgment; that if you are untrained, you
4 are going to get injured much more readily.

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

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

17 So, many of the recommendations will not, unless
18 you get the total cooperation of the industry, will not be
19 effective. Even if they are effective, they will take an
20 awfully long time to issue them if they are proposed rule-
21 making, and we are talking about years and years, if our
22 history is any example. The efforts at state legislation

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1 and model Acts, we have a history at that. We know the
2 efforts. Ross mentioned them. It is enormously difficult
3 getting states to focus on these issues. Unless you have a
4 handle to go to the states with, that recommendation, I
5 think, is going to have a minimum impact on reducing the
6 risks of death and injury, as are many of the recommendations
7 the staff has made, particularly the one on age labeling,
8 which you have heard the differences in the staff's own
9 opinion, as to whether that will drive the younger children
10 to older vehicles -- bigger and more powerful vehicles, or
11 just result in their not riding ATVs. I think it will drive
12 them to larger, more dangerous vehicles.

13 That, in conclusion, was the essence of my memo-
14 randum to you of October 14th and I appreciate the opportunit-
15 ty to restate them and expand upon them slightly.

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

18 (No response.)

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

22 (No response.)

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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.)

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