

EXPLANATORY STATEMENT

Consumer Goods (Quad Bikes) Safety Standard 2019

Overview

On 31 August 2017, the Australian Ministers for Consumer Affairs agreed to ‘support all steps necessary to expedite the regulatory impact assessment process and any other safety measures necessary to introduce a consumer safety quad bike rating system and a safety standard.’

The Commonwealth Assistant Treasurer (the Minister), has made a safety standard for quad bikes (safety standard) pursuant to section 104 of the Australian Consumer Law (ACL), which is Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (CCA).

The safety standard has been introduced to reduce the risk of fatality and injury associated with the use of quad bikes. There have been at least 128 fatalities during 2011–2018 and it is estimated that six people present to an emergency department each day, of which two are admitted to hospital with serious injuries. Quad bikes were not previously subject to any Australian consumer safety, design or performance standard, despite being responsible for more fatalities than motorcycles and more injuries than tractors on rural properties.

The estimated cost to the Australian economy of quad bike fatalities and injuries is at least \$204 million per year, not including intangible costs.

Based on the current evidence, the single highest cause of fatalities involves general use quad bikes rolling over laterally (sideways, to the left or right) and pinning the operator, causing crush injuries or asphyxiation.

Purpose

The purpose of the safety standard is to reduce the risk of injury or fatality to consumers including as a result of quad bikes rolling over and to provide consumers with information about the relative stability of different quad bike models.

Requirements

The safety standard includes requirements for all quad bikes and additional requirements for general use quad bikes. The safety standard does not apply to second-hand quad bikes other than to second-hand quad bikes that are imported into Australia.

The safety standard requires:

- **all new and imported second-hand quad bikes:**
 - meet the requirements specified in the US or the European standards for quad bikes
 - have a durable label that is clear and visible when being used that warns of the risk of rollover
 - have information on rollover risk in the owner’s manual or instruction handbook
 - be tested for lateral static stability and display the result on a hang tag
- **all new and imported second-hand general use quad bikes to also:**

- have an operator protection device integrated into their design, or fitted to them, to help protect operators from the risk of serious injury or fatality as a result of being crushed or pinned in a rollover
- meet minimum requirements for stability.

Definitions

The definitions used in the safety standard are set out in sections 4, 5 and Schedule 1 and include the following definitions:

European Standard means the European Standard *EN15997:2011: All terrain vehicles (ATVs—Quads)—Safety requirements and test methods*, published by the European Committee for Standardization.

US Standard means the American National Standard *ANSI/SVIA 1–2017: American National Standard for Four Wheel All-Terrain Vehicles – Equipment, Configuration, and Performance Requirements*, published by the American National Standard Institute Inc.

Quad bike means an off-road vehicle propelled by mechanical energy designed to travel on 4 wheels, with a seat designed to be straddled by the operator and handlebars for steering control. The types and categories of quad bikes are defined in the table in section 5.

The definition of quad bike includes ‘All Terrain Vehicle’ or ‘ATV’ in referenced standards, but supplants these definitions.

Access to Australian and international standards

Where practical, product safety legislative instruments only reference extrinsic material that is readily accessible for free by the public. However, as in the current case, many product safety legislative instruments need to incorporate extrinsic technical standards over which certain bodies have copyright, which means the standards must be purchased.

The US Standard is available for purchase from the Speciality Vehicle Institute of America (<https://svia.org/order-the-ansi-standard/>). The European Standard, the US Military standard *MIL-S-13192* and the Australian standard *AS 1019-2000* referenced in the standard are available for purchase at SAI Global’s website (<https://www.saiglobal.com>). The United States Department of Agriculture Forest Service Standard is available for access free of charge at the Forest Service’s website (<https://www.fs.fed.us/t-d/programs/fire>).

The Australian Competition and Consumer Commission (ACCC) can also make a copy of these standards available for viewing at one of its offices, subject to licensing conditions.

Consultation

Section 131E of the CCA provides that a safety standard made under section 104 of the ACL is a legislative instrument for the purposes of the *Legislation Act 2003*. Section 17 of the *Legislation Act* requires that the rule maker should consult prior to making a legislative instrument.

The ACCC released an Issues Paper on 13 November 2017 and received 56 stakeholder responses to questions about quad bike use in Australia, perceived safety risks, regulatory environment, international standards, consumer information and vehicle design.

The ACCC released a Consultation Regulatory Impact Statement on 22 March 2018, inviting stakeholder feedback on policy options to improve the safety of quad bikes. The ACCC received 63 submissions in response.

In addition to the two formal consultation periods, the ACCC met individually with 23 key stakeholders.

The Commonwealth Government released the Exposure Draft *Consumer Goods (Quad Bikes) Safety Standard 2019* for comment on 6 April 2019. Seventy-nine responses were received.

The ACCC also notified the World Trade Organization (WTO) of the draft safety standard on 17 July 2019 under the WTO Agreement on Technical Barriers to Trade. No submissions were received from Member nations. One submission was received from an industry association.

Disallowance

This legislative instrument is not subject to disallowance due to section 44 of the *Legislation Act 2003*.

Commencement

This legislative instrument commences on the day after it is registered on the Federal Register of Legislation.

Transitional arrangements

This instrument provides a transitional period of 12 months, beginning on the day this instrument commences, for all new and imported second-hand quad bikes.

This instrument also provides a transitional period of 24 months, beginning on the day this instrument commences, for the additional requirements for new and imported second-hand general use quad bikes.

Sunsetting

This legislative instrument is not subject to sunsetting due to section 54 of the *Legislation Act 2003*.

Regulation impact assessment

The ACCC has self-certified that a process equivalent to that of a Regulation Impact Assessment has been undertaken. Office of Best Practice Regulation Ref. 22969

Report

A report which includes an assessment of the impact of the safety standard is attached.

Details of the *Consumer Goods (Quad Bike) Safety Standard 2019*

Part 1 - Preliminary

Section 1 – Name

This section provides the title of the legislative instrument is the *Consumer Goods (Quad Bikes) Safety Standard 2019*.

Section 2 – Commencement

This section provides that the instrument commences on the day after it is registered.

Section 3 – Authority

This section provides that the safety standard is made under section 104 of the ACL.

Section 4 – Definitions



This section provides the definitions of terms used in the safety standard.

Section 5 – Meaning of quad bike

This section defines a quad bike as an off-road vehicle propelled by mechanical energy (which can be produced from combustible energy or electric energy), designed to travel on 4 wheels, with a seat designed to be straddled by the operator and handlebars for steering control.

The different types and categories of quad bike to which the safety standard applies are described in the table of this section.

Below are pictorial examples of different types and categories of quad bikes described in this safety standard:

General use model Type I (one seat)	General use model Type II (two seats)	Sports model	Youth model
			

The standard does not apply to side-by-side vehicles.

Section 6 – Second-hand quad bikes

This section provides that the safety standard does not apply to second-hand quad bikes other than to second-hand quad bikes that are imported into Australia.

The purpose of the provision is to allow the existing quad bike fleet to gradually upgrade to quad bikes that meet the safety standard over time. However, the exclusion does not extend to second-hand quad bikes which have been imported into Australia after the commencement of this safety standard. The purpose of excluding imported second-hand quad bikes is to ensure suppliers do not import these vehicles to avoid the requirement to meet the safety standard.

Section 7 – Incorporated material

This section provides that any material incorporated by the safety standard is applied, adopted or incorporated as in force or existing at the time the safety standard commences. For example, the US Standard applied by section 9, the European Standard applied by section 10 and the Standards mentioned in paragraphs 9(a) and 10(b).

Part 2 - Requirements for all quad bikes

Section 8 – Scope

This section identifies the requirements that all types and categories of quad bikes must comply with. Those requirements are covered by:

- (a) section 9 or section 10;
- (b) sections 11, 12 and 13.

The regulator can request the supplier to nominate the applicable safety standard under paragraph (a) (the US Standard or the European Standard) that the supplier intends to comply with to meet the requirements of the safety standard.

This Part applies 12 months after the date this instrument commences.

Sections 9 and 10 – Compliance with the US Standard or the European Standard

Section 9 covers the requirements in sections 4 to 8 of the US Standard, subject to specified modifications.

Section 10 covers the requirements in sections 5 to 7 of the European Standard subject to specified modifications.

The incorporated requirements for both the US Standard and the European Standard are substantively the same, with only minor differences.

Section 11 – Rollover warning label

This section provides for the form and content of the rollover warning label required for all quad bikes. It requires the rollover warning label to be affixed to a quad bike and be clearly visible and legible when the quad bike is in operation.

Section 12 – Lateral roll stability testing

This section requires the lateral stability of each type and category of quad bike to be tested in accordance with Schedule 1 to the safety standard.

Section 13 – Lateral roll stability tag

This section provides for the form and content of the lateral roll stability tag that must be attached to a quad bike so that it is clearly visible and legible. It must record the minimum angle at which the quad bike tipped over laterally onto 2 wheels as recorded when tested under section 12.

The minimum angle is the lower of the two results achieved from testing the model in both directions (left and right). The purpose of testing in both directions is because a quad bike's weight distribution is usually asymmetrical, offsetting the centre of gravity.

Lateral stability is a significant factor in creating safer quad bikes. The purpose of the lateral roll stability tag is to provide objective information to consumers about the lateral stability of different quad bike models so that they are able to compare models of the same category prior to purchase.

When developing the tag, the following information is required to be inserted:

- XX.X° = the minimum angle the quad bike tipped sideways onto 2 wheels
- XYZ Pty Ltd = the manufacturer of the quad bike model tested
- Model(s) X, ##### = the model of quad bike tested.

Part 3 - Requirements for general use quad bikes

Section 14 – Scope

This section identifies the requirements that general use quad bikes must comply with. Those requirements are in sections 15 and 16 of the safety standard.

This Part applies 24 months after the date this instrument commences.

Section 15 – Operator protection devices

This section requires general use quad bikes to have an operator protection device fitted or integrated into its design that is one of the following:

- (a) an ATV Lifeguard, manufactured by Ag-Tech Industries Ltd (New Zealand)
- (b) a Quadbar, manufactured by QB Industries Pty Ltd
- (c) a device that offers the same or better level of protection to operators as a device mentioned in (a) or (b).

The purpose of an operator protection device is to help protect riders from the risk of serious injury or fatality, as a result of being crushed or pinned in the event of a rollover.

The model of the ATV Lifeguard and Quadbar referred to in this section are those that were available for supply as at 6 April 2019 when an exposure draft of this safety standard was released for comment.

The ATV Lifeguard and the Quadbar were two commercially available operator protection devices that were independently tested. This research is outlined in the attached report. However, the section is intended to allow for innovation and flexibility in meeting the requirement, and alternative operator protection device designs may be integrated or fitted, provided the level of protection offered meets or exceeds the level of protection offered by ATV Lifeguard and the Quadbar as at 6 April 2019. This section also allows the manufacturers of ATV Lifeguard and Quadbar to upgrade their models.

Product safety legislative instruments may be based on relevant voluntary standards, where one exists, published by approved standards making bodies such as Standards Australia. However, at the time this instrument commenced there was no published voluntary Australian standard for operator protection devices for quad bikes.

This instrument currently provides three options for operator protection devices, which will begin 2 years after the standard commences. The ACCC is able to consider alternative requirements from any voluntary Australian standard to establish if they offer the same or better protection to the requirements already set out in this section. Prior to the commencement date of this section the ACCC will consider the merits of any voluntary standard relating to operator protection devices for quad bikes published by Standards Australia at that time.

Section 16 – Minimum lateral roll, forward pitch and rearward pitch requirements

This section provides minimum tilt table ratio requirements for lateral roll, forward pitch and rearward pitch when general use quad bikes are tested in accordance with Schedule 1 to the safety standard:

Tilt Table Ratio	Lateral stability	0.55
	Forward pitch	0.8
	Rearward pitch	0.8

A general use quad bike must record a tilt table ratio at or above the specified requirements when tested in accordance with Schedule 1 of the safety standard.