



Hisun Motors Corp., U.S.A.  
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March 9, 2012

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Division of Compliance  
Office of the General Counsel  
U.S. Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, MD 20814

## **Hisun Motors Corp., U.S.A. ATV Action Plan**

Hisun Motors Corp., U.S.A. is fully committed to the goal of reducing ATV-related accidents. We have implemented new policies in accordance with the rules set forth by Section 232 of the Consumer Product Safety Improvement Act of 2008. The actions outlined below are part of our continuing effort to promote safe and responsible use of our ATVs. In order to provide our consumers the safest ATVs, Hisun Motors Corp., U.S.A. is committed to execute the following terms and conditions:

### **A. Age Recommendations:**

Hisun Motors Corp., U.S.A. ("Hisun USA") will only recommend, market, advertise, and sell ATVs for use under the age category/speed guidelines specified at Section 6 of the ANSI/SVIA 1-2007 Standard and any successor standards adopted by the CPSC for ATVs ("the ATV Standard"). In addition, Hisun USA will not recommend, market, advertise, or sell adult-sized ATVs for the use of persons less than 16 years of age. Hisun USA will use its best efforts, including monitoring dealers as outlined in the next section, to assure that Hisun USA dealers comply with these requirements.

### **B. Dealer Monitoring:**

#### **1. Scope and Components of the Monitoring Program**

Hisun U.S.A. requires that its dealers verify the intended ATV rider's age prior to selling that rider or his/her parent or guardian an ATV. Hisun U.S.A. warranty registration cards require the submission of the intended rider's name and date of birth to ensure that

MR. PRYLER NOTIFIED 4/17/12  
COMMENTS: \_\_ YES NO R  
\_\_ OVERRULED; \_\_ ATTACHED  
\_\_ EXCISIONS/FOIA Hxs. \_\_;  
X DO NOT RE-NOTIFY \_\_ RE-NOTIFY



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dealers do not sell Hisun U.S.A. ATVs to under-aged riders.

Hisun U.S.A. will use its “best efforts”<sup>1</sup> to ensure that its dealers comply with:

- the user age recommendation requirements of the ATV Standard;
- the requirements related to notifying ATV purchasers about the availability and importance of free, hands-on ATV training and the monetary incentive for taking such training; and
- the requirements relating to providing the ATV Hang Tag, the ATV Owner’s Manual, the ATV Safety Video, and the ATV Safety Alert to ATV purchasers at the point of purchase.

Hisun U.S.A. will conduct on-site inspections of each of its authorized ATV dealers at least twice a year, with a minimum of 50 on-site inspections per year, by means of independent, undercover investigators (also known as “secret shoppers”) to ensure that these dealers comply with the above-listed requirements and other safety-related practices during sales or promotional functions. Hisun U.S.A. will also implement the visitation criteria of its field personnel so that inspections for dealer compliance to the above-listed requirements are reoccurring functions.

## **2. Notice and Training Program**

Within fifteen (15) days of learning about a dealer’s non-compliance with the above-listed requirements from the CPSC staff or by one of Hisun U.S.A. independent investigators,<sup>2</sup>

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<sup>1</sup> “Best Efforts” shall include, among other things, an obligation to require, to the extent permissible under federal and state law, compliance by Hisun U.S.A. dealers, agents, or representatives with the terms of this ATV Action Plan in future contracts entered into with dealers, agents, or representatives, and, where possible and within a reasonable time, modification of existing contracts with dealers, agents, or representatives to impose this duty.

<sup>2</sup> Within fifteen (15) days of learning of a dealer’s non-compliance with the above-listed requirements from a third party (such as another dealer), Hisun U.S.A. will notify the dealer of the reported non-compliance and arrange an undercover, on-site inspection of the dealer to determine whether the dealer is complying with the above-listed requirements. If Hisun U.S.A. discovers a violation during this inspection, Hisun U.S.A. will initiate



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Hisun U.S.A. will:

- notify the dealer of its non-compliance;
- inform the dealer of the operative facts reported by the CPSC staff or the independent investigator (such as the name of the salesperson and the model(s) of the ATV(s) allegedly recommended during the inspection); and
- demand a modification in their activity regarding the reported violation(s) to bring them into compliance with Hisun’s requirements.

In addition, within thirty (30) days after notifying the dealer of its non-compliance, Hisun U.S.A. will provide on-site training to all dealership personnel who are involved in the sale of ATVs. The training will include, but not be limited to, information concerning the above-listed requirements, the need for compliance with them, and the potential enforcement actions (including termination and non-renewal of the dealership agreement) that the dealer may incur if non-compliance continues. A record of the training effort will be made by Hisun U.S.A. and provided to CPSC staff during bi-annual reporting (as described in the “Reporting” section below).

### **3. Follow-up Monitoring and Enforcement for Repeated Non-Compliance**

Within sixty (60) days after completing the above-referenced training for a non-compliant dealer, Hisun U.S.A. will conduct an undercover, on-site, follow-up inspection of the dealer to determine whether the dealer is complying with the above-listed requirements. If this follow-up inspection reveals evidence of continuing violations, Hisun U.S.A. will take remedial action against the dealer, up to and including possible termination or non-renewal of the dealership agreement with Hisun U.S.A.<sup>3</sup> If Hisun U.S.A. elects not to terminate the

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the notice and training procedures outlined in this section.

<sup>3</sup> The nature of the enforcement action will be determined on a case-by-case basis, and Hisun U.S.A. will consider factors such as the applicable state and local laws, the circumstances of the reported violations, the length of time between reported violations, any intervening inspections in which the dealer was reported to be in compliance with the above-listed requirements, and the strength of the evidence supporting the enforcement that may include termination of business with the dealer.



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dealer's contract, remedial actions will at a minimum include additional undercover on-site inspections of the dealer. If these additional inspections reveal an additional violation, Hisun U.S.A. will terminate or decline to renew the dealer's contract. In each instance, Hisun U.S.A. will inform the CPSC Office of Compliance and Field Operations in advance of any remedial action or disposition, and it will provide the CPSC staff a reasonable opportunity to comment on such action or disposition before it occurs.

#### **4. Reporting**

Hisun U.S.A. will report the results of its dealer monitoring program to the CPSC staff on a bi-annual basis, with reports due to the CPSC's Office of Compliance and Field Operations on February 1 and August 1 of each year. These reports should include a list of non-complying dealerships, the date of inspection, and all training or enforcement actions taken by Hisun U.S.A., along with dates of all follow up activities and remedial actions. Hisun U.S.A. will maintain a list of all dealerships inspected each year in spreadsheet format, and this spreadsheet shall be provided promptly to the CPSC staff upon its request. The CPSC staff agrees to maintain the confidentiality of these reports in accordance with applicable laws. The CPSC staff will have the right to request additional information from Hisun U.S.A. regarding the results of Hisun U.S.A. dealer monitoring program.

#### **5. Notice to Dealers**

Hisun U.S.A. will notify its dealers in writing of its dealer monitoring program within fifteen (15) days of the effective date of this Action Plan. The notice will remind dealers of their ongoing obligations to comply with the above-listed requirements and the consequences of non-compliance, including, but not limited to, the assessment of administrative costs for Hisun U.S.A. monitoring of the dealer and possible termination or non-renewal of the dealership agreement. Hisun U.S.A. will provide the CPSC's Office of Compliance and Field Operations an advance copy of the notice.

#### **C. Training**

1. Hisun USA is a participating member of the ATV Safety Institute's ("ASI's") Safety Program for non-ASI members. Hisun USA will offer free, hands-on, interactive



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training to all Hisun ATV purchasers and age appropriate members of their immediate family. Through Hisun USA's participation in the ASI Safety Program, Hisun USA dealers will have the capability to register purchasers and age appropriate members of their immediate families for the ASI training course at the time of purchase.

2. After completion of the ASI course, the rider will qualify for an incentive worth \$100. The \$100 incentive for training will include at least \$50 in cash, with the balance offered (at the customer choice) as a rebate for already purchased safety equipment or a credit towards the purchase of new safety equipment.
3. Hisun USA will require that its dealers inform ATV purchasers at the time of purchase how to register and be reimbursed for free ASI hands-on training and how to receive the \$100 incentive. Within two weeks of purchase, Hisun USA will ensure that the purchaser is reminded of the availability of the training and the incentive for taking the training, by means of a telephone call, mail, or e-mail.
4. If at any time Hisun USA is no longer a participating member of ASI's Safety Program, Hisun USA will cease to import or distribute ATVs in commerce until such time that Hisun USA is able to enact its own Training program that complies with Appendix N of the United States v. American Honda Motor Co., et.al., Civ. No. 87-3525 (D.D.C. April 28, 1988) ("the 1988 ATV Consent Decree") and is approved by the Office of the General Counsel of the CPSC.

**D. Point-of-Sales Communications:**

1. Point-of-Sales Oral Communication:
  - Hisun USA will use its best efforts to ensure all our dealers who sell Hisun USA ATVs will provide accurate information that is consistent with all safety-related requirements of this action plan.
  - Hisun USA agrees to provide safety information that is consistent with this action plan in written, oral, and video materials that relate to the promotions and sales of Hisun USA by our dealer.
2. Point-of-Sales Mandatory Safety Materials:
  - **ATV Hang Tags:** Hisun USA will provide to all our dealers hang tags that are attached to all Hisun USA ATVs. The hang tags will comply with Section 4.24



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of the ATV Standard and will include information about free, hands-on ATV training availability. The tags will only be removed by the first purchaser of the ATV. The tags will be replaced by Hisun USA if lost or damaged.

- **Owner's Manuals:** Hisun USA Owner Manuals will conform to Section 4.21 of the ATV Standard.
- **Labels:** Hisun will use all required Labels, which will conform to Section 4.23 of the ATV Standard.
- **ATV Safety Video:** Hisun USA will provide a Safety Video to its dealers for dissemination to all retail purchasers of Hisun USA ATVs. The video shall comply with all requirements described at Section H.3.b(4)(b) and paragraphs II.A and II.C of Appendix I of the 1988 ATV Consent Decree.
- **ATV Safety Alert:** Hisun USA will provide to its dealers, for dissemination to all retail purchasers, an ATV Safety Alert that conveys all of the safety messages specified at Section H.3.b.(4)(c) and Appendix J of the 1988 ATV Consent Decree. The information will include injury and death statistics for ATVs, safety rules, age recommendations, and information about the availability of the ATV training course.
- **ATV Safety Poster:** Hisun USA will supply all our dealers with ATV Safety Posters. Hisun USA will use its best efforts to ensure our dealers will distribute this ATV Safety Poster to all actual and prospective ATV customers. The content of the ATV Safety Poster will include the safety messages for Hisun U.S.A. dealers to display.

**E. 24 Hour Toll-Free Hotline:**

Hisun USA will provide a 24 hour toll-free consumer hotline that meets all requirements of Section H.4 of the 1988 ATV Consent Decree. The hotline will serve to provide safety and training information, including age recommendations. The hotline is administered by the Specialty Vehicle Institute of America ("SVIA"). The hotline number will be included in Hisun USA's brochures and print advertisements. If at any time Hisun USA is no longer a member of SVIA, Hisun USA will cease to import or distribute ATVs in commerce until such time that Hisun USA is able to enact its own consumer hotline that complies with Section H.4 of the 1988 ATV Consent Decree and is approved by the Office



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of the General Counsel of the CPSC.

**F. Advertising -- Media and Marketing:**

1. All advertising and marketing of Hisun USA ATVs shall include the substance of the safety messages that are described at Section J.1 and Appendix K of the 1988 ATV Consent Decree and must depict ATVs in a manner consistent with safe and responsible use of the product.
2. All ATV riders that appear in commercials and advertisements must wear helmets, goggles, and full-body protective equipment.
3. There will be age recommendation on every model of Hisun USA ATVs. No commercials or advertisements should imply directly or indirectly that teenagers or children may ride adult size ATVs.
4. All Commercials and advertisements must emphasize the importance of training. No commercials and advertisements should express directly or indirectly that it is acceptable to neglect proper training.
5. All Commercials and advertisements must emphasize all Hisun USA ATVs are for off-road use only. No Hisun USA ATVs should be used for on-road purposes. Commercials and advertisements must not show any street, road or highway driving of ATVs.
6. Weight recommendations and weight limits should be emphasized in all commercials and advertisements. It is not acceptable to exceed the weight limits of the ATV.
7. Hisun USA will use its best efforts to promote distributor/dealer compliance with all rules and guidelines in this action plan, including the advertising requirements.

**G. Information and Education Program:**

Hisun USA is currently participating in information and education efforts designed to promote a safe and responsible use of our ATVs through the SVIA. These efforts include video distribution; school related campaigns; and partnerships with state safety programs and organizations such as 4H, NOHVCC, and Tread Lightly. The messages included in these campaigns will provide safety information and warn children under the



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age of sixteen of the risks and dangers of operating adult-sized ATVs. This program is suited to reaching individuals most likely to use the ATV products that Hisun USA will be selling. The elements of the program include the following:

- **DVD Videos:** Hisun USA will provide DVD Videos with every ATV sold. These DVDs will feature the safety themes and messages in compliance with the 1988 ATV Consent Decree. The DVD Videos will also promote participation in the hand-on training course offered through ASI.
- **Safety Reminders:** Hisun USA will distribute safety reminders by direct mail or email within a few weeks of retail purchases. These reminders will incorporate the safety messages and information about the free ATV training and incentives for completing that training.
- **ATV Safety Poster:** Hisun USA will supply all our dealers with ATV Safety Posters. Hisun USA will use its best efforts to ensure our dealers will distribute this ATV Safety Poster to all actual and prospective ATV customers. The content of the ATV Safety Poster will include the safety messages for Hisun U.S.A. dealers to display.
- **Website:** Hisun USA will expand its company website to provide on-line access to the DVD video and other safety information.
- **Print Ad:** For the next 10 years, Hisun USA will advertise the availability of its new safety program and ATV safety messages through monthly advertising in various ATV magazines (e.g., ATV Magazine and Dirt Bike Magazine).
- **Program Budget Estimate:** Hisun USA will set aside a fund of \$20,000 per year for the next ten years on its Information and Education Program.

If at any time Hisun USA is no longer a participating member of ASI's Safety Program, Hisun USA will cease to import ATVs in commerce until such time that Hisun USA is able to enact its own Information and Education program that complies with Appendix N of the 1988 ATV Consent Decree and is approved by the Office of the General Counsel of the CPSC.

**H. Amendment and Termination Procedures:**

If Commission staff determines that Hisun USA's approved ATV Action



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Plan is no longer effective or adequate, Commission staff may take certain action, including but not limited to notifying Hisun USA that the ATV Action Plan must be amended to address the effectiveness or adequacy of the plan. With that notification, Commission staff shall provide Hisun USA with the text of any proposed amendment. Hisun USA and Commission staff must reach agreement on the proposed amendment within 30 calendar days of the notification, unless Commission staff grants an extension for good cause. If Hisun USA and Commission staff fail to reach an agreement within the designated timeframe, then Commission staff may recommend termination of the Action Plan.

Additionally, (i) if Hisun USA fails to comply with the obligations of this ATV action plan, or (ii) if Commission staff determines that Hisun USA can no longer comply with the obligations of this ATV Action Plan, or (iii) if Hisun USA fails to adopt a requested amendment within the timeframe specified by staff, Commission staff, after providing Hisun USA with notice and an opportunity to respond, may recommend termination of the ATV Action Plan. Hisun USA may not manufacture, import, or distribute in United States commerce any ATV under this Action Plan after receiving notice of termination. Failure to cease manufacture, importation, or distribution in United States commerce of any ATV under this ATV Action Plan after receipt of notice of termination is a prohibited act under Section 19(a)(1) of the Consumer Product Safety Act, 15 U.S.C. § 2068(a)(1).



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I. **Notice of Termination or Modification of Action Plan:**

Unless otherwise indicated, Hisun USA will maintain the above-specified actions indefinitely. Hisun USA will provide information and documents about the above-specified activities upon reasonable request from the CPSC. Hisun USA will give the CPSC at least sixty (60) days advance notice of its intentions to terminate or change any commitment under the ATV Action Plan, and any change must be approved by the Commission staff.

Sincerely,

Date 03-09-2012

Zhe Sun

CEO

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