

United States Senate
WASHINGTON, DC 20510

December 6, 2023

Alexander Hoehn-Saric
Chair
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Chair Hoehn-Saric:

We write to express our concern regarding the U.S. Consumer Product Safety Commission's (CPSC) proposed rule to prevent debris penetration into off-highway vehicles, including recreational off-highway vehicles (ROVs) and utility task/terrain vehicles (UTVs), published as a notice of proposed rulemaking (NPRM) in the Federal Register on July 21, 2022 (CPSC Docket No. CPSC-2021-0014).

As you know, off-highway vehicles are a staple of American life. They are used for recreation, agriculture, law enforcement, emergency services, and more. They are also an important economic driver, especially in rural America. Powersports is a \$50.1 billion industry that includes more than 8,000 retailers, more than 73,000 employees and generates an estimated \$3.4 billion in total annual payroll.

While we understand and appreciate CPSC's mission to protect consumer safety, we have serious concerns regarding the rulemaking process and the substance of the proposed debris penetration rule. Moreover, we are concerned about the effect the rule would have on the availability of off-highway vehicles and on the economic footprint of the powersports industry.

The proposed rule was informed by CPSC's preliminary determination that there is an unreasonable risk of injury and death associated with debris penetration in off-highway vehicles. However, debris penetration incidents are rare, and injuries or fatalities resulting from debris penetration are even rarer. Between 2009 and 2021, the NPRM identified only 107 incidents of debris penetration which resulted in 6 fatalities and 22 injuries ranging from mostly minor cuts and bruises to broken bones. This is despite the fact that off-highway vehicles are actually *intended* to be driven in environments in which a vehicle is expected to encounter sticks or branches. Even so, in the 12-year period identified by the NPRM, tens of millions of off-highway vehicles were driven, and many hundreds of millions of miles were traveled. Based on CPSC's own data, therefore, it is unclear whether the current risk of injury and death associated with debris penetration is unreasonable.

Despite the absence of evidence to demonstrate unreasonable risk of injury and death, the powersports industry issued new voluntary safety standards to address debris penetration. Working with CPSC and other stakeholders in a consensus-based process governed by the American National Standards Institute, we understand that the industry already undertook a

multi-year effort to revise safety standards to address these rare occurrences and that the standards produced field performance data demonstrating empirical, real-world validation that adequately addressed the rare debris penetration hazard, but that CPSC nevertheless intends to finalize its rulemaking. The powersports industry's voluntary safety standards ought to be considered a win for consumers and for the CPSC, as virtually every new off-highway vehicle sold in the U.S. will certify compliance with and meet the powersports industry's revised safety standards. In fact, given the adequacy and effectiveness of these voluntary safety standards, it would not only be inappropriate for CPSC to finalize its rulemaking, it would also exceed CPSC's rulemaking authority to ignore such consensus-based voluntary standards that would eliminate or adequately reduce risk for debris penetration.

Lastly, because off-highway vehicles are highly complex and require an extended product development lifecycle of two years or more, the proposed rule would create serious challenges to the availability of off-highway vehicles. It would also disrupt the production of new Model Year vehicles as it would require manufacturers to re-engineer and design those vehicles in order to comply. This would harm first responders, government agencies, and others who rely on off-highway vehicles, as well as retailers and their employees, who may face closures.

Given our concerns, we respectfully request that CPSC withdraw the rulemaking package. We appreciate your time and attention to this matter and look forward to receiving your response.

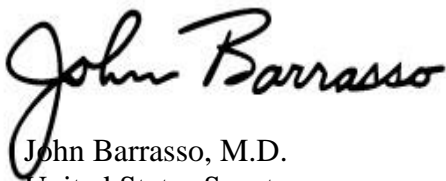
Sincerely,



Joe Manchin III
United States Senator



Deb Fischer
United States Senator



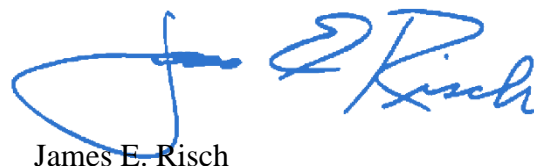
John Barrasso, M.D.
United States Senator



Cynthia M. Lummis
United States Senator



Ted Budd
United States Senator



James E. Risch
United States Senator