4. Children's helmets—age range. The age break for special provisions for children's helmets was originally proposed for "children 4 years of age and under." The Commission has revised this language to "children under 5 years of age." This language clarifies the intent to include children until they reach their fifth birthday.

5. Older children and adults test line. The Commission is proposing a revised test line for adults' and older children's helmets, as shown in Figure 4. The portion of the test line that extends from the front of the headform and through its center portion is essentially the test line specified in the Snell B–90 standard. Compared to the test lines in other U.S. voluntary bike helmet standards to which bike helmets are currently certified, the Snell B–90 test line provides the greatest area of impact protection in the front and central portions of the head.

The rear step in the revised CPSC test line is derived by using a 20 mm clearance from the extent-of-protection boundary specified in the August 15, 1994, CPSC-proposed bike helmet standard. The revised test region provides an acceptable area of head protection while allowing for certain design flexibility.

6. Definition of Helmet Positioning Index ("HPI"). In the originally proposed standard, the HPI is defined as a distance that locates where the brow of the helmet should be positioned on the headform. In the revised proposal, the HPI is defined (§ 1203.4(f)) to be a specified distance from the reference plane (defined at § 1203.4(l) and Figure 3), rather than from the basic plane (defined at §1203.4(a) and Figures 1 and 2). This change is made because impact headforms are cut away (above the basic plane) at the front brow area, making it difficult to measure for the HPI from the basic plane.

## D. Certification Testing and Labeling

General. Section 14(a) of the CPSA, 15 U.S.C. 2063(a), requires that every manufacturer (including importers) and private labeler of a product that is subject to a consumer product safety standard issue a certificate that the product conforms to the applicable standard, and to base that certificate either on a test of each product or on a "reasonable testing program." Subpart B of the proposed Safety Standard for Bicycle Helmets contains these certification requirements.

The originally proposed certification rule. The proposed certification rule would require manufacturers of bicycle helmets that are manufactured 1 year after the issue date of the final standard to affix permanent labels to the helmets. These labels would be the "certificates of compliance," as that term is used in § 14(a) of the CPSA. In the rule as originally proposed, all helmets would have had a label stating "Complies with CPSC Safety Standard for Bicycle Helmets (16 CFR 1203)". As explained below, the Commission is proposing somewhat different language for this label.

In some instances, the label on the bicycle helmet may not be immediately visible to the ultimate purchaser of the helmet prior to purchase because of packaging or other marketing practices. In those cases, it is proposed to advise consumers that the helmet meets the CPSC standard by a second label that would be on the helmet's container or, if the container is not visible, on the promotional material used in connection with the sale of the bicycle helmet.

The proposed certification label also contains the name and address of the manufacturer or importer, and identifies the production lot and the month and year the product was manufactured. Some of the required information may be in code.

The proposed certification rule requires manufacturers and importers to conduct a reasonable testing program to demonstrate that their bicycle helmets comply with the requirements of the standard. This reasonable testing program may be defined by the manufacturers, but must include either the tests prescribed in the standard or any other reasonable test procedures that assure compliance with the standard.

The originally proposed certification rule provides that the required testing program will test bicycle helmets sampled from each production lot in such a manner that there is a reasonable assurance that, if the bicycle helmets selected for testing meet the standard, all bicycle helmets in the lot will meet the standard.

The rule as originally proposed provided that bicycle helmet importers may rely in good faith on the foreign manufacturer's certificate of compliance, provided that a reasonable testing program has been performed by or for the foreign manufacturer; the importer is a U.S. resident or has a resident agent in the U.S.; and the required test records are kept in the U.S. As explained in section E below, the Commission proposes an exception to the requirement that test records must be kept in the U.S.

Comments, responses, and other changes to the certification testing and labeling requirements.

Comment: Production lot. One commenter stated that the rule should use "frequency of production" rather than the originally proposed "manufacturing lot" method to define a lot. The commenter explained that a manufacturing lot may encompass well over a million helmets if there are no changes in the design and production of a helmet. The commenter further explained that using frequency of production as the basis of the required reasonable testing program would require a firm to test after a specified number of helmets are produced. The commenter believes this would catch any defects more readily.

Another commenter stated that the production lot should be based on a monthly or yearly period, as a production lot could include helmets made well after the qualification testing.

Another commenter stated that the proposed definition of a production lot is unmanageable and may be expensive if a large number of helmets is produced and if there are any variations in the materials or processes in the production of the helmets. The commenter recommends that the definition of production lot be changed to either "sequentially labeled helmets bonded and tested separately, or a continuous production of like models produced in accordance with a quality system ensuring traceability for all component parts." Comment CC94–2–25.

In addition, a commenter stated that CPSC should allow manufacturers flexibility to establish their own recognized quality assurance program, such as Mil Std 105D, ISO 9000, or ASQC.

*Response:* The proposed rule defines a "production lot" as "a quantity of bicycle helmets from which certain bicycle helmets are selected for testing before certifying the lot." In the proposed regulation, the helmets in a lot must be essentially identical in design. construction, and materials. This definition of a production lot does not require the lot to be a specified number of helmets or a set time interval of helmet production, such as weekly or monthly. However, the definition in the proposed regulation does not prohibit certification based on testing after a specified number of helmets or period of time, provided that changes in the design, construction, or materials of the helmet are not made in that production lot. Firms must define their production lots in such a fashion that samples collected for testing represent all the bicycle helmets in a particular lot.

The firms responsible for certification know their products and manufacturing processes. These firms are in the best