

interfere with identifying a recalled helmet. Accordingly, no change in the proposal is needed in this regard.

Comment: Certification label content—date of manufacture, serial number, and test date. One firm wants to provide the date of manufacture, serial number, and test date on the helmet, rather than a production lot.

Response: The proposed regulation requires the production lot and the month and year of manufacture to be identifiable from the label, but does not require or prohibit the serial number or test date. Both the production lot and the time of manufacture may be in code. The test date would not add any information for the consumer. The serial number, however, may serve as a code to identify the production lot and, if so, may be used in its place.

Accordingly, the proposed rule has been revised to state that a serial number may be used in place of a production lot identification if it can serve as a code to identify the production lot.

Comment: Certification label content—telephone number. A commenter contends that the telephone number of the responsible firm should be on the certification label.

Response: A telephone number is not required. This might place a burden on small firms with insufficient staff to handle a large number of calls. The consumer can contact the responsible firm in writing if the need arises.

Other change: Compliance labels. Section 14(a) of the CPSA requires that certifying firms issue a certificate certifying that the product conforms to all applicable consumer product safety standards. 15 U.S.C. 2063(a). Accordingly, the original proposal would have required the label statement "Complies with CPSC Safety Standard for Bicycle Helmets (16 CFR part 1203)".

The Commission wants to guard against the possibility that small adult helmets will be purchased for children. Therefore, the revised proposed standard requires that helmets that do not comply with the requirements for young children's helmets be labeled "Complies with CPSC Safety Standard for Bicycle Helmets for Adults and Children Age 5 and Older (16 CFR 1203)". Helmets intended for children 4 years of age and younger would bear a label stating "Complies with CPSC Safety Standard for Bicycle Helmets for Children Under 5 Years (16 CFR 1203)". Helmets that comply with both standards could be labeled "Complies with the CPSC Safety Standard for Bicycle Helmets for Persons of All Ages", or equivalent language.

E. Recordkeeping

Section 16(b) of the CPSA requires that: [e]very person who is a manufacturer, private labeler, or distributor of a consumer product shall establish and maintain such records, make such reports, and provide such information as the Commission may reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act.

15 U.S.C. 2065(b).

The rule as originally proposed would have required every entity issuing certificates of compliance for bicycle helmets to maintain written records that show the certificates are based on a reasonable testing program. As explained below, the Commission proposes to relax the requirement that the records be kept in written form.

These records were proposed to be maintained for a period of at least 3 years from the date of certification of the last bicycle helmet in each production lot and shall be available to any designated officer or employee of the Commission upon request in accordance with § 16(b) of the CPSA, 15 U.S.C. 2065(b).

Comment: Location of test records. The original proposal required that records be kept by the importer in the U.S. to allow inspection by CPSC staff within 48 hours of a request by an employee of the Commission. A commenter inquired whether test records must be kept in the U.S. in the case of a Canadian firm that is owned by a U.S. firm, if the records are available to the U.S. company upon request.

Response: The situation described by the commenter would achieve the result desired by the Commission. Accordingly, the Commission has revised the proposed regulation to state that if the importer can provide the records to the CPSC staff within the 48-hour time period, the records will be considered kept in the U.S.

Comment: Records on disk. The proposed regulation stated that every person issuing a certificate of compliance for bicycle helmets shall maintain written records that show certificates are based on a reasonable testing program. A commenter requested that the certification test records be allowed to be kept on disk instead of paper.

Response: The Commission agrees with the commenter that firms should be allowed to keep the records on disk, if the records can be made available upon request in an appropriate format. Accordingly, the Commission has

amended the proposal to state that certification test record results may be kept on paper, microfiche, computer disk, or other retrievable media. Where records are kept on computer disk or other retrievable media, the records shall be made available to the Commission upon request on paper copies, or via electronic mail in the same format as paper copies.

F. Regulatory Flexibility Act Certification

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., generally requires the agency to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities.

The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 602 note), is to require agencies, consistent with their objectives, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulations. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Commission's Directorate for Economics has prepared a preliminary economic assessment of the safety standard for bicycle helmets. The proposed rule would establish performance requirements for bicycle helmets. The vast majority of helmets now sold conform to one (or more) of three existing voluntary standards. The one-time costs associated with the redesign and testing of helmets to the new performance standards are not known. On a per-unit basis, however, costs associated with redesign and testing are expected to be small. The Commission solicits comment on the costs of the redesign and testing of bicycle helmets that would be required by the proposed standard.

The vast majority of manufacturers now use third party testing and monitoring for product liability reasons, and are likely to continue to do so in the future. The proposed standard allows for self certification and monitoring, however, which is substantially less costly than third party testing and monitoring.

The proposed labeling requirement is unlikely to have a significant impact on small firms, since virtually all bicycle helmets now bear a permanent label on their inside surface. Industry sources