

§ 1203.34

16 CFR Ch. II (1-1-03 Edition)

(b) *Reasonable testing program.* This paragraph provides guidance for establishing a reasonable testing program.

(1) Within the requirements set forth in this paragraph (b), manufacturers and importers may define their own reasonable testing programs. Reasonable testing programs may, at the option of manufacturers and importers, be conducted by an independent third party qualified to perform such testing programs. However, manufacturers and importers are responsible for ensuring compliance with all requirements of the standard in subpart A of this part.

(2) As part of the reasonable testing program, the bicycle helmets shall be divided into production lots, and sample bicycle helmets from each production lot shall be tested. Whenever there is a change in parts, suppliers of parts, or production methods, and the change could affect the ability of the bicycle helmet to comply with the requirements of the standard, the manufacturer shall establish a new production lot for testing.

(3) The Commission will test for compliance with the standard by using the standard's test procedures. However, a reasonable testing program need not be identical to the tests prescribed in the standard.

(4) If the reasonable testing program shows that a bicycle helmet may not comply with one or more requirements of the standard, no bicycle helmet in the production lot can be certified as complying until sufficient actions are taken that it is reasonably likely that no noncomplying bicycle helmets remain in the production lot. All identified noncomplying helmets in the lot must be destroyed or altered by repair, redesign, or use of a different material or component, to the extent necessary to make them conform to the standard.

(5) The sale or offering for sale of a bicycle helmet that does not comply with the standard is a prohibited act and a violation of section 19(a) of the CPSA (15 U.S.C. 2068(a)), regardless of whether the bicycle helmet has been validly certified.

**§ 1203.34 Product certification and labeling by manufacturers (including importers).**

(a) *Form of permanent label of certification.* Manufacturers, as defined in §1203.32(a), shall issue certificates of compliance for bicycle helmets manufactured after March 11, 1999, in the form of a durable, legible, and readily visible label meeting the requirements of this section. This label is the helmet's certificate of compliance, as that term is used in section 14 of the CPSA, 15 U.S.C. 2063.

(b) *Contents of certification label.* The certification labels required by this section shall contain the following:

(1) The statement "Complies with U.S. CPSC Safety Standard for Bicycle Helmets for Persons Age 5 and Older" or "Complies with U.S. CPSC Safety Standard for Bicycle Helmets for Persons Age 1 and Older (Extended Head Coverage)", as appropriate; this label may spell out "U.S. Consumer Product Safety Commission" instead of "U.S. CPSC";

(2) The name of the U.S. manufacturer or importer responsible for issuing the certificate or the name of a private labeler;

(3) The address of the U.S. manufacturer or importer responsible for issuing the certificate or, if the name of a private labeler is on the label, the address of the private labeler;

(4) The name and address of the foreign manufacturer, if the helmet was manufactured outside the United States;

(5) The telephone number of the U.S. manufacturer or importer responsible for issuing the certificate or, if the name of a private labeler is on the label, the telephone number of the private labeler;

(6) An identification of the production lot; and

(7) The uncoded month and year the product was manufactured.

(c) *Coding.* (1) The information required by paragraphs (b)(4) and (b)(6) of this section, and the information referred to in paragraph (c)(2) of this section, may be in code, provided:

(i) The person or firm issuing the certificate maintains a written record of

the meaning of each symbol used in the code, and

(ii) The record shall be made available to the distributor, retailer, consumer, and Commission upon request.

(2) A serial number may be used in place of a production lot identification on the helmet if it can serve as a code to identify the production lot. If a bicycle helmet is manufactured for sale by a private labeler, and if the name of the private labeler is on the certification label, the name of the manufacturer or importer issuing the certificate, and the name and address of any foreign manufacturer, may also be in code.

(d) *Placement of the label(s)*. The information required by paragraphs (b)(2), (b)(3), and (b)(5) of this section must be on one label. The other required information may be on separate labels. The label(s) required by this section must be affixed to the bicycle helmet. If the label(s) are not immediately visible to the ultimate purchaser of the bicycle helmet prior to purchase because of packaging or other marketing practices, a second label is required. That label shall state, as appropriate, “Complies with U.S. CPSC Safety Standard for Bicycle Helmets for Persons Age 5 and Older”, or “Complies with U.S. CPSC Safety Standard for Bicycle Helmets for Persons Age 1 and Older (Extended Head Coverage)”. The label shall be legible, readily visible, and placed on the main display panel of the packaging or, if the packaging is not visible before purchase (e.g., catalog sales), on the promotional material used with the sale of the bicycle helmet. This label may spell out “U.S. Consumer Product Safety Commission” instead of “U.S. CPSC.”

(e) *Additional provisions for importers*.

(1) *General*. The importer of any bicycle helmet subject to the standard in subpart A of this part 1203 must issue the certificate of compliance required by section 14(a) of the CPSA and this section. If a reasonable testing program meeting the requirements of this subpart has been performed by or for the foreign manufacturer of the product, the importer may rely in good faith on such tests to support the certificate of compliance, provided:

(i) The importer is a resident of the United States or has a resident agent in the United States,

(ii) There are records of such tests required by §1203.41 of subpart C of this part, and

(iii) Such records are available to the Commission within 48 hours of a request to the importer.

(2) *Responsibility of importers*. Importers that rely on tests by the foreign manufacturer to support the certificate of compliance shall—in addition to complying with paragraph (e)(1) of this section—examine the records supplied by the manufacturer to determine that they comply with §1203.41 of subpart C of this part.

### Subpart C—Recordkeeping

#### § 1203.40 Effective date.

This subpart is effective March 10, 1999, and applies to bicycle helmets manufactured after that date.

#### § 1203.41 Recordkeeping requirements.

(a) *General*. Every person issuing certificates of compliance for bicycle helmets subject to the standard in subpart A of this part shall maintain records which show that the certificates are based on a reasonable testing program. The records shall be maintained for a period of at least 3 years from the date of certification of the last bicycle helmet in each production lot. These records shall be available, upon request, to any designated officer or employee of the Commission, in accordance with section 16(b) of the CPSA, 15 U.S.C. 2065(b). If the records are not physically available during the inspection because they are maintained at another location, the firm must provide them to the staff within 48 hours.

(b) *Records of helmet tests*. Complete test records shall be maintained. These records shall contain the following information.

(1) An identification of the bicycle helmets tested;

(2) An identification of the production lot;

(3) The results of the tests, including the precise nature of any failures;

(4) A description of the specific actions taken to address any failures;