

that will be further detailed in the Final EIS.

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Acting Regional Administrator, Federal Transit Administration, TRO III.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2003-14880]

Initial Decision That Certain NexL Sports Products Motorcycle Helmets Fail To Comply With Federal Motor Vehicle Safety Standard 218; Public Proceeding Scheduled To Hear Arguments and To Determine Adequacy of Remedy by NexL Sports Products

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of public meeting.

SUMMARY: NHTSA will hold a public meeting, beginning at 10 a.m. on May 14, 2003 regarding its Initial Decision that NexL Sports Products (NexL) "Beanie DOT Motorcycle Helmets" (model 02) fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 218, *Motorcycle Helmets*. At the same time, NHTSA will conduct a hearing to determine if NexL's remedy for the noncompliance of its model 01 helmets with FMVSS No. 218 was adequate.

FOR FURTHER INFORMATION CONTACT:

Andrew J. DiMarsico, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; (202) 366-5263. NHTSA's Initial Decision, and the information on which it is based, is available at NHTSA's Technical Information Services, Room 5111, 400 Seventh Street, SW., Washington, DC 20590; Telephone: 202-366-2588. When visiting Technical Information Services or contacting it via the telephone, refer to Investigation File CI-218-020612.

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 30118(a), NHTSA's Associate Administrator for Enforcement made an Initial Decision that NexL model 02 motorcycle helmets do not comply with the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 218, *Motorcycle Helmets*, 49 CFR 571.218. These requirements include: Impact attenuation tests,

penetration tests, retention system tests and labeling.

In an impact attenuation test pursuant to S7.1 of 49 CFR 571.218, a guided free fall anvil impacts the helmet at specified locations. The height and speed of the guided free fall anvil are set forth in the Standard. To pass, all of the following requirements must be met: (a) Peak accelerations must not exceed 400g; (b) accelerations in excess of 200g must not exceed a cumulative duration of 2.0 milliseconds; and (c) accelerations in excess of 150g must not exceed a cumulative duration of 4.0 milliseconds.

In a penetration test pursuant to S7.2, a guided free fall test striker impacts the outer surface of the complete helmet. To pass, the metal striker must not come into contact with the surface of the specified test headform inside the helmet.

A retention system test, in accordance with S7.3, addresses the retention system of a helmet on a DOT headform by adding specified force to the retention system. The retention system or its components cannot separate or the test device move more than 1 inch (2.5 cm) when measured between preliminary and test load positions.

For labeling purposes, S5.6.1 requires that each helmet be permanently and legibly labeled with the manufacturer's identification and a label that the helmet meets all applicable FMVSS. The label must also include specific language that is set forth in S5.6.

In 2000, NexL began manufacturing and selling model 01 motorcycle helmets. NHTSA's Office of Vehicle Safety Compliance (OVSC) tested several model 01 helmets on May 18, 2001. Those tests indicated numerous apparent failures to comply with several requirements of FMVSS No. 218. NexL subsequently advised NHTSA in a Noncompliance Information Report, dated March 8, 2002, of its decision that the model 01 helmets did not comply with FMVSS No. 218. NexL therefore conducted a recall campaign (NHTSA No. 02E-008) in which its designated remedy for the noncompliance was to replace each model 01 helmet with a NexL model 02 helmet.

The model 02 motorcycle helmet is a redesigned version of the recalled model 01 helmet. In addition to being NexL's designated remedy for the earlier noncompliance, model 02 helmets have been sold to the public.

As part of its annual compliance testing program, OVSC conducted compliance tests of NexL model 02 helmets at two independent test laboratories. On June 12, 2002, Head Protection Research Laboratory (HPR)

located in Paramount, California tested four NexL model 02 helmets to the performance requirements of FMVSS No. 218. Subsequently, on July 29, 2002, SGS U.S. Testing Company, Inc. (UST), located in Fairfield, New Jersey, tested four other NexL model 02 helmets. Again, on February 28, 2003, HPR conducted more tests on NexL model 02 helmets. Each series of test results indicated failures of NexL's model 02 helmets to comply with many of the requirements set forth in FMVSS No. 218.

Following initial test failures, OVSC opened an investigation into the compliance of the model 02 helmets with FMVSS No. 218 (CI-218-020612). As part of that investigation, OVSC sent an Information Request (IR) letter to NexL in which it requested information concerning the number of model 02 helmets manufactured by NexL, all tests performed by NexL to support its certification that the model 02 helmets met all applicable FMVSS, consumer complaints, and any engineering analysis regarding the test failures identified by OVSC. NexL responded to that IR on September 4, 2002. Among other things, NexL asserted that the results of tests conducted by Sacramento Test Laboratory (STL), dated August 23, 2002, demonstrated that the model 02 helmets comply with FMVSS No. 218. However, contrary to NexL's assertion, the STL tests also indicate numerous failures to meet the performance requirements of the standard.

OVSC's Report of Investigation, which contains a full description of the compliance investigation, is attached as an Appendix to this notice. The complete public file for the investigation is available at Technical Information Services, Room 5111, 400 Seventh Street, SW., Washington, DC 20590; Telephone: 202-366-2588.

Based upon all of the available information, NHTSA's Associate Administrator for Enforcement has made an Initial Decision, pursuant to 49 U.S.C. 30118(a) and 49 CFR 554.10, that NexL model 02 motorcycle helmets fail to comply with FMVSS No. 218. Pursuant to 49 U.S.C. 30118(b)(1) and 49 CFR 554.10(b), NHTSA will conduct a public meeting, beginning at 10 a.m. on May 14, 2003 in Room 6332, Department of Transportation Building, 400 Seventh Street, SW., Washington, DC, at which time the manufacturer and all other interested persons will be afforded an opportunity to present information, views, and arguments on the issues of whether NexL's model 02 helmets covered by NHTSA's Initial