

that will be further detailed in the Final EIS.

Issued on: April 8, 2003.

**Herman C. Shipman,**

*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

Decision fail to comply with FMVSS No. 218.

In addition, in view of the fact that the model 02 helmet was the remedy designated by NexL to address the noncompliance of its model 01 helmet in Recall 02E-008, there is reason to believe that this remedy is inadequate to assure compliance with FMVSS No. 218, as required by 49 U.S.C. 30120(c). Therefore, in accordance with 49 U.S.C. 30120(e) and 49 CFR 557.6 and 557.7, NHTSA will conduct a public hearing to decide whether that remedy was adequate and whether to order NexL to provide a different remedy. Because of the similarity of the subject matter, this hearing will be combined with the public meeting on the Initial Decision.

Interested persons are invited to participate in this proceeding through written and/or oral presentations. Persons wishing to make oral presentations must notify Tilda Proctor, National Highway Safety Administration, Room 5321, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-4759, or by fax at (202) 366-8065, before the close of business on May 7, 2003. The notifications should specify the amount of time that the presentation is expected to last. The agency will prepare a schedule of presentations. Depending upon the number of persons who wish to make oral presentations, and the anticipated length of those presentations, the agency may add an additional day or days to the meeting/hearing and may limit the length of oral presentations.

Persons who wish to file written comments should submit them to the same address, preferably no later than the beginning of the meeting/hearing on May 14, 2003. However, the agency will accept written submissions until May 28, 2003.

**Authority:** 49 U.S.C. 30118(a), (b), and 49 U.S.C. 30120(c), (e); delegations of authority at 49 CFR 1.50(a) and 49 CFR 501.8.

Issued on: April 7, 2003.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*  
[FR Doc. 03-8941 Filed 4-10-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 34177 (Sub-No. 1)]**

#### **Iowa, Chicago & Eastern Railroad Corporation—Trackage Rights Exemption—Commuter Rail Division of Regional Transportation Authority of Northeast Illinois and Soo Line Railroad Company**

Soo Line Railroad Company, d/b/a Canadian Pacific Railway (CPR), will agree to grant overhead trackage rights<sup>1</sup> to Iowa, Chicago & Eastern Railroad Corporation (IC&E)<sup>2</sup> over: (1) A line of railroad owned by Metra, between milepost 40.3, near Pingree Grove, IL, and the connection with Belt Railway Company of Chicago (BRC) at milepost 6.6, at Cragin Junction, Chicago, IL, a distance of approximately 33.7 miles;<sup>3</sup> and (2) certain CPR-owned connecting track at Tower B-12 in Franklin Park, IL, as necessary to connect and interchange with the Indiana Harbor Belt Railroad Company at that location.

The transaction was scheduled to be consummated on April 1, 2003, the effective date of the exemption.

The purpose of the trackage rights is to allow IC&E to effectively and efficiently interchange traffic in the Chicago terminal on a permanent basis.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the

<sup>1</sup> On March 25, 2003, IC&E concurrently filed a motion for a protective order pursuant to 49 CFR 1104.14(b) for a draft Trackage Rights Agreement between IC&E and CPR. The draft Trackage Rights Agreement was submitted under seal, as Exhibit 2 to the notice of exemption. By decision served on April 4, 2003, the Board granted IC&E's motion for a protective order.

In its motion, IC&E explains that, pursuant to a separate contract between CPR and the Commuter Rail Division of the Regional Transportation Authority of Northeast Illinois, d/b/a Metra (Metra), CPR has certain rights to admit a third party to use of the subject line owned by Metra. IC&E states that CPR is admitting it to the Metra line as such a third-party user, and that the trackage rights agreement is solely between CPR and IC&E. IC&E advises that CPR's admittance of IC&E to the Metra line is with the consent of Metra.

<sup>2</sup> IC&E is a Class II rail carrier operating approximately 1400 miles of trackage in the states of Iowa, Illinois, Kansas, Missouri, Minnesota, and Wisconsin. IC&E began rail operations on July 30, 2002, after acquiring the rail lines of I&M Rail Link, LLC. See *Iowa, Chicago & Eastern Railroad Corporation—Acquisition and Operation Exemption—Lines of I&M Rail Link, LLC*, STB Finance Docket No. 34177 (STB served June 12, 2002, July 22, 2002, and Jan. 21, 2003).

<sup>3</sup> The proposed Metra trackage rights permit IC&E to connect and interchange with BRC at Cragin Junction (including the use of CPR's Galewood Yard at Cragin Junction in connection with movements to and from BRC), CPR at Bensenville Yard in Bensenville, IL, and Elgin, Joliet & Eastern Railway Company at Spaulding, IL.

conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34177 (Sub-No. 1), must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, Two Prudential Plaza, Suite 3125, 180 North Stetson Avenue, Chicago, IL 60601-6721.

Board decisions and notices are available on our website at <http://www.stb.dot.gov>.

Decided: April 4, 2003.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 03-8843 Filed 4-10-03; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### **Submission for OMB Review; Comment Request**

April 3, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before May 12, 2003, to be assured of consideration.

#### **Internal Revenue Service (IRS)**

*OMB Number:* 1545-0817.

*Regulation Project Number:* EE-28-78 Final.

*Type of Review:* Extension.

*Title:* Inspection of Applications for Tax Exemption and Applications for