

and that the original evidence or copies, as appropriate, are turned over to the appropriate law enforcement authorities.

#### Information Created Pursuant to an Investigation

##### § 270.340 Information created by investigation participants who are not NIST employees.

Unless requested sooner by the Lead Investigator, at the conclusion of an investigation, each investigation participant who is not a NIST employee shall transfer any original information they created pursuant to the investigation to NIST. An investigation participant may retain a copy of the information for their records but may not use the information for purposes other than the investigation, nor may they release, reproduce, distribute, or publish any information first developed pursuant to the investigation, nor authorize others to do so, without the written permission of the Director or their designee. Pursuant to 15 U.S.C. 281a, no such information may be admitted or used as evidence in any suit or action for damages arising out of any matter related to the investigation.

#### Protection of Information

##### § 270.350 Freedom of Information Act.

As permitted by section 7(b) of the Act, the following information will not be released:

(a) Information described by section 552(b) of Title 5, United States Code, or protected from disclosure by any other law of the United States; and

(b) Copies of evidence collected, information created, or other investigation documents submitted or received by NIST, a Team, or any other investigation participant, until the final investigation report is issued.

##### § 270.351 Protection of voluntarily submitted information.

Notwithstanding any other provision of law, a Team, NIST, any investigation participant, and any agency receiving information from a Team, NIST, or any other investigation participant, will not disclose voluntarily provided safety-related information if that information is not directly related to the building failure being investigated and the Director finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

##### § 270.352 Public safety information.

A Team, NIST, and any other investigation participant will not publicly release any information it receives in the course of an investigation under the Act if the

Director finds that the disclosure might jeopardize public safety.

[FR Doc. 03-2084 Filed 1-29-03; 8:45 am]

BILLING CODE 3510-13-P

## CONSUMER PRODUCT SAFETY COMMISSION

### 16 CFR Part 1500

#### Exemptions From Classification as Banned Hazardous Substances; Exemption for Certain Model Rocket Propellant Devices for Use With Rocket-Powered Model Cars

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is issuing a rule to exempt from the Federal Hazardous Substances Act ("FHSA") certain model rocket propellant devices for vehicles that travel on the ground. The Commission's current regulations exempt motors used for flyable model rockets. The rule exempts certain propellant devices for rocket-powered model cars if they meet requirements similar to those required for flyable model rockets and additional requirements to avoid possible injuries if the cars are operated off of their tether.

**DATES:** The rule becomes effective on January 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** James G. Joholske, Office of Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0608 ext. 1419.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 2(q)(1)(A) of the FHSA bans toys that are or contain hazardous substances that are accessible to a child. 15 U.S.C. 1261(q)(1)(A). However, the FHSA authorizes the Commission, by regulation, to grant exemptions from classifications as banned hazardous substances for:

articles, such as chemistry sets, which by reason of their functional purpose require the inclusion of the hazardous substance involved, or necessarily present an electrical, mechanical, or thermal hazard, and which bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected to read and heed such directions and warnings.

15 U.S.C. 1261(q)(1)(A). Thus, the Commission may issue an exemption if it finds that the product requires inclusion of a hazardous substance in

order for it to function, has sufficient directions and warnings, and is intended for children who are old enough to read and follow the directions and warnings. *Id.* The Food and Drug Administration, which administered the FHSA before the Commission was established, issued a rule under this authority that exempted from the definition of banned hazardous substances model rocket propellant devices (motors) designed for use in light-weight, recoverable, and reflyable model rockets, if they meet certain requirements. 16 CFR 1500.85(a)(8).

##### B. The Petition

The Commission received a petition from Centuri Corporation ("Centuri") requesting that the Commission issue a rule exempting certain model rocket propellant devices to be used for model cars that travel on the ground along a tethered line and are propelled in a manner similar to flyable rockets. The petitioner requested an exemption that would allow the sale of both of its two prototype rocket-powered model cars. The smaller car, named "Blurzz," uses an "A" motor, and is shaped like a "rail," a type of custom-made vehicle used in competitive drag racing. The larger prototype, named "Screamin' Eagle," uses a "D" motor, and is shaped like a "Bonneville Speed Record" custom vehicle. The Commission decided to grant the petition in part and propose an exemption for model rocket propellant devices to be used for rocket-powered model cars like the smaller "Blurzz" car only.<sup>1</sup>

##### C. The Proposed Exemption

On January 30, 2002, the Commission published a notice of proposed rulemaking ("NPR") proposing to exempt model rocket propellant devices for use with smaller rocket-powered model cars like the "Blurzz." 67 FR 4373. As explained in the NPR, the Commission concluded that due to the weight, speed and the height it can reach, the larger "Screamin' Eagle" posed a significant risk of injury to any person downrange from it when it is used in the absence of the tether. The Commission, therefore, denied the petition insofar as it requested an exemption from the FHSA for model rocket propellant devices for cars like the "Screamin' Eagle." However, the Commission concluded that when the smaller "Blurzz" car was ignited

<sup>1</sup> The Commission voted 2-1 to grant the petition with regard to the smaller vehicles and deny it regarding the larger ones. Commissioners Thomas Moore and Mary Sheila Gall voted to take this action. Then-Chairman Ann Brown voted to deny the entire petition.