

Mr. Peter V. Colan
Vice President
SportCrafters
P.O. Box 452
Granger, IN 46530

Dear Mr. Colan:

We have received your letter of March 10, 1996, asking several questions about the relationship of your "rear- mounted receiver hitch bicycle rack" to the Federal motor vehicle safety standards.

Your product is clearly intended as aftermarket equipment, to be attached to motor vehicles in use. No safety standard applies to your device as an item of motor vehicle equipment. Therefore, the sole Federal restriction on such an item of equipment is that it must not "make inoperative" any device or element of design installed on or in a motor vehicle in compliance with an applicable Federal motor vehicle safety standard, if the product is added to the vehicle by a manufacturer, distributor, dealer or motor vehicle repair business. This is a statutory prohibition imposed by 49 U.S.C. 30122. Thus, if the rack prevented any rear lamp from complying with Federal photometric or visibility requirements, we would regard that as making the device inoperative within the meaning of the prohibition.

Under the law, however, the "make inoperative" prohibition does not extend to modifications made by the vehicle owner. If the rack is intended to be installed by the owner, there is no violation of a Federal law even if the installation causes a noncompliance with Federal lighting requirements. In this event, the acceptability of the rack as installed is governed by the laws of the state in which it is used. For this reason, the first four concerns you expressed are all answerable through reference to state law. We are unable to advise you on state

laws, and suggest that you contact the Department of Motor Vehicles of each state in which the equipment will be marketed and used.

If the rack is intended to be installed by a manufacturer, distributor, dealer, or motor vehicle repair business, you should take steps to ensure that the installation will not result in "making inoperative" any requirements of Standard No. 108, which is to say, in creating a noncompliance with visibility or photometric requirements. This relates to your Concerns 1b (reflectors and/or marker lamps) and 2 (taillamps) where you express an intention to supply some additional lamps and reflectors. Paragraph S5.3.1.1 of Standard No. 108 allows the installation of optional equipment that would otherwise create a noncompliance provided that auxiliary lighting or marking equipment is also installed that meets the requirements of Standard No. 108. If this is your intent, it is also relevant to any interpretation you may seek from state motor vehicle officials. There are no Federal safety standards covering your Concerns 1a (regulations on hitch or bumper-mounted accessories), and 3 (licensing or registration). With respect to your Concern 4, visibility of the license plate is also subject to state jurisdiction. However, Standard No. 108 does specify requirements for lighting of the plate which could be affected by installation of the rack. The Federal requirements are identical to those of SAE Standard J587 OCT81 (which have been incorporated by reference).

Your final concern is the "safety tests (or analytical equivalent)" which may be recommended. You have used the term "DOT-approved" equipment which reflects a common misconception that the agency approves equipment. The agency has no authority to approve or disapprove any vehicle or equipment item. A manufacturer must satisfy itself that its equipment item or vehicle complies with all applicable Federal motor vehicle safety standards, and then certify that it does so before delivering it

for sale. If you wish to ensure that installation of your rack by a manufacturer, distributor, dealer, or motor vehicle repair business does not create a noncompliance with the photometric or visibility requirements of Standard No. 108 (many of which are in SAE standards incorporated by reference), you must review these requirements in light of your design.

Finally, I would like to note that the rack is an accessory to a motor vehicle, and, as such, is an item of motor vehicle equipment as defined by 49 U.S.C. 30102(a)(7)(B). Should either you or this agency determine that a defect related to motor vehicle safety exists in the rack, you (the manufacturer) will be required to notify consumers and dealers, as specified in 49 U.S.C. 30108, and remedy the safety related defect at no expense to these consumers and dealers, as specified in 49 U.S.C. 30120.

I have enclosed a copy of a paper that provides information for new manufacturers of motor vehicles and motor vehicle equipment. If you have further questions, you may refer them to Taylor Vinson of this Office (202-366-5263).

Sincerely,

Samuel J. Dubbin Chief Counsel

Enclosure ref:VSA#108 d:5/9/96