



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

OFFICE OF THE GENERAL COUNSEL

Cheryl A. Falvey
General Counsel
Tel: 301-504-7628

E-Mail:
cfalvey@cpsc.gov

June 5, 2011

Mary Martha McNamara, Esq.
McNamara & L'Heureux, PC
6094B Franconia Road
Alexandria, VA 22310-4433

Dear Ms. McNamara:

We have received your letter of April 12, 2012, requesting an advisory opinion from CPSC staff regarding whether jack stands are consumer products that fall under the jurisdiction of the CPSC. In your letter, you point out that your client, SPX Service Solutions (SPX), intends their jack stands to be sold to professionals in the automotive repair industry and markets its products to independent automotive repair shops and professional automotive technicians. You acknowledge that a relatively small percentage of the products are sold to companies that operate retail outlets or sell to consumers online. Additionally, you question, based on these facts, whether the jack stands sold by SPX are a "consumer product" because SPX does not intend for the product to be sold or used by a consumer. You raise a secondary question whether jack stands would fall within the definition of "motor vehicle equipment," as defined by the National Traffic and Motor Vehicle Safety Act of 1966 (NTMVSA), and therefore, should be excepted from CPSC jurisdiction, pursuant to Section 3(a)(5)(C) of the Consumer Product Safety Act. Because a determination that jack stands are "motor vehicle equipment" would obviate the need to address the question of whether the product is intended for sale to, or use by, a consumer, we will address that issue first.

Section 102(a)(7) of the NTMVSA defines "motor vehicle equipment" as

- (A) any system, part, or component of a motor vehicle as originally manufactured;
- (B) any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or
- (C) any device or an article or apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk

of accident, injury, or death.

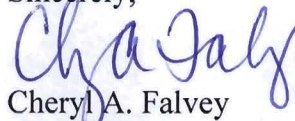
As noted in your letter, our Office of the General Counsel has previously opined that the CPSC lacks jurisdiction over jack stands because they are motor vehicle equipment subject to NHTSA jurisdiction. (OGC Advisory Opinion No. 155, November 18, 1974). The National Highway Traffic Safety Administration (NHTSA) has consistently taken an identical position on this issue. In a memo dated September 6, 1974, the acting chief counsel of NHTSA opined that "a jack stand is an item of motor vehicle equipment, in that the words 'accessory or addition to the motor vehicle' include a device, such as a jack stand, that is intended to be purchased by ordinary users of motor vehicles, and thus is in the nature of an 'accessory.'" The acting chief counsel concluded that "even a narrow interpretation of 'accessory' or 'addition' would include items of equipment, designed for use by an ordinary vehicle purchaser or owner, which have no other purpose than use with the purchaser's vehicle." A review of Internet websites that offer jack stands for sale or provide guidance for the use of the product, found no websites where a jack stand was offered for sale for any purpose other than supporting a motor vehicle during service or repair, or was presented as having any purpose other than supporting a motor vehicle during service and repair.

Subsequently, in a January 17, 1978, letter to the CPSC, the NHTSA chief counsel reiterated the agency's position that "jack stands are considered to be motor vehicle equipment and subject to the authority of the National Traffic and Motor Vehicle Safety Act." In response to a recent inquiry, a NHTSA senior litigation and enforcement attorney stated that NHTSA continues to view jack stands as falling under its jurisdiction, and we are aware of no current authority that contradicts NHTSA's position that a jack stand is motor vehicle equipment.

Accordingly, the characterization of a jack stand as motor vehicle equipment excepts this product from the CPSC's jurisdiction under Section (3)(a)(5)(C) of the CPSA, which states that the term "consumer product" does not include "motor vehicle equipment." Regardless of whether a jack stand is intended for use by consumers or professional automotive mechanics, it is motor vehicle equipment, and therefore, it rests within the jurisdiction of NHTSA and not the CPSC. Therefore, any reports or data you have concerning jack stands may be directed to NHTSA.

While the views in this letter are based upon the facts as summarized above and the most current interpretation of the law by this office, they have not been reviewed or approved by the Commission. They may be superseded at any time by the Commission or by operation of law.

Sincerely,



Cheryl A. Falvey
General Counsel