

motor vehicle safety and that no corrective action is warranted. Braun states the following:

The non-complying wheelchair lifts continue to meet the requirements set forth in the Americans with Disabilities Act (ADA). In other words, they are able to withstand "a force of 100 pounds concentrated at any point on the handrail without permanent deformation of the rail or its supporting structure." \* \* \* The Braun Corporation has never received a claim or complaint of handrail failure resulting in an injury. \* \* \* [T]he handrails have been utilized hundreds of millions, if not billions of times without incident. \* \* \* [A]ny modifications, or upgrades imposed to ensure compliance with FMVSS 403 would appear to provide a statistically insignificant enhancement."

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL-401, 400 Seventh Street, SW., Washington, DC, 20590-0001. Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help" to obtain instructions for filing the document electronically. Comments may be faxed to 1-202-493-2251, or may be submitted to the Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

*Comment closing date:* January 12, 2007.

**Authority:** 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8

Dated: December 7, 2006.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2006-26281; Notice 1]

#### The Braun Corporation, Receipt of Petition for Decision of Inconsequential Noncompliance

The Braun Corporation (Braun) has determined that certain wheelchair lifts it produced in 2005 through 2006 do not comply with S6.1.3 of 49 CFR 571.403, Federal Motor Vehicle Safety Standard (FMVSS) No. 403, "Platform lift systems for motor vehicles." Braun has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Braun has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Braun's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Affected are a total of approximately 12,940 model NL, NCL, and NVL wheelchair lifts produced between July 6, 2005 and July 19, 2006. S6.1.3 of FMVSS No. 403 requires:

A visual and audible warning must activate if the platform is more than 25 mm (1 inch) below the platform threshold area and portions of a passenger's body or mobility aid is on the platform threshold area defined in S4 when tested in accordance with S7.4.

The threshold warning systems of the noncompliant lifts are unable to detect occupancy throughout the entire platform threshold area defined in S4. Braun has corrected the problem that caused these errors so that they will not be repeated in future production.

Braun believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Braun explains that "the sensitivity of the system used to detect occupancy has been found to be diminished through the center of the threshold area." Braun states:

[I]t is virtually impossible for a wheelchair to transit the entire depth of the threshold

warning area without triggering the warning. \* \* \* [A] rolling wheelchair cannot conceivably get to an area of attenuated threshold sensitivity without first triggering the warning. In addition, the rolling wheelchair cannot conceivably roll off the outer end of the threshold warning area without again triggering the warning.

Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL-401, 400 Seventh Street, SW., Washington, DC, 20590-0001. Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help" to obtain instructions for filing the document electronically. Comments may be faxed to 1-202-493-2251, or may be submitted to the Federal eRulemaking Portal: go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

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Dated: December 7, 2006.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

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