

and September 20, 2007, 11 a.m. to 2 p.m., Eastern Daylight Time.

**PLACE:** These meetings will take place telephonically. Any interested person may call Mr. Avelino Gutierrez at (505) 827-4565 to receive the toll free numbers and pass codes needed to participate in these meetings by telephone.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

**FOR FURTHER INFORMATION CONTACT:** Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827-4565.

Dated: August 7, 2007.

**William A. Quade,**

*Associate Administrator for Enforcement and Program Delivery.*

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**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2006-26281; Notice 2]

#### The Braun Corporation; Denial 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 paragraph S6.1.3 of 49 CFR 571.403, Federal Motor Vehicle Safety Standard (FMVSS) No. 403, *Platform Lift Systems for Motor Vehicles*. Pursuant to 49 U.S.C. 30118(d) and 30120(h), Braun has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*. Notice of receipt of a petition was published, with a 30-day public comment period, on December 13, 2006, in the **Federal Register** (71 FR 74994). The National Highway Traffic Safety Administration (NHTSA) received no comments. To view the petition and all supporting documents, go to: <http://dms.dot.gov/search/searchFormSimple.cfm> and enter Docket No. NHTSA-2006-26281.

For further information on this decision, contact Ms. Theresa Lacuesta,

Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-2319, facsimile (202) 493-0073.

Affected are a total of approximately 12,940 model NL, NCL, and NVL platform lifts produced by Braun between July 6, 2005 and July 19, 2006. Specifically, paragraph 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<sup>1</sup>) 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 paragraph S4. Braun has corrected the problem that caused these errors so that they will not be repeated in future production.

Braun asserts 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 also 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.

#### NHTSA Decision

NHTSA initially detected this noncompliance. In NHTSA's tests, the wheelchair test device could be positioned in a significant portion of the platform threshold area without Braun's warning system recognizing its presence, i.e., a warning failed to activate under the conditions of paragraph S6.1.3. (The area in which the presence of the test device was not detected is characterized in this notice as a "dead zone" for clarity.)

Braun's petition is based on two incorrect premises, i.e., that only passengers in wheelchairs are protected by the standard, and that the "dead zone" in the threshold area does not present a safety risk.

The wheelchair test device specified in FMVSS No. 403 should not be interpreted as an indication that the

<sup>1</sup> S6.1.3 states that the warning must activate if the platform is more than 25 mm below the threshold warning area, but it may activate when the platform is at a lesser dimension (e.g., 20 mm below the platform threshold area).

threshold warning requirements are only intended to protect passengers in mobility aids fitting that description. The safety standard's Scope section states as follows:

This standard specifies requirements for platform lifts used to assist persons with limited mobility in entering or leaving a vehicle.

More important, the standard itself requires activation of a warning if portions of a passenger's body or mobility aid are on the threshold area (S6.1.3). Therefore, the relevant risks include those to persons whose body part and/or mobility device (e.g., a cane) may move directly to the "dead zone" of the threshold area without touching the perimeter of that area. When NHTSA published the standard at 65 FR 46238, it recognized that all types of mobility aids including all designs of manual and powered wheelchairs, scooters, and other devices are used as seats on motor vehicles. Furthermore, at 67 FR 79421, NHTSA indicated that it believes the threshold warning system should reasonably detect the weight of any occupant in a mobility device as well as unattended standing passengers. The standard specifies that the threshold warning system be tested by placing one front wheel of an unloaded wheelchair test device on any portion (including the center) of the threshold warning area without first transiting the perimeter of the threshold area. This weight of one front wheel is considered to be representative of the minimum force exerted by a wheelchair or half the weight of a small child using the lift unattended. Therefore, this test assures that a warning is provided to all standing passengers, including those who may be aided by canes and walkers, and who step into or are standing in the platform threshold area, as well as, persons seated in wheelchairs, scooters and other mobility aids that roll through the threshold area.

Braun suggests that it is virtually impossible for a wheelchair to transit the entire depth of the platform threshold area without triggering the required warning and supports that premise by stating that a rolling wheelchair cannot conceivably get to an area of attenuated threshold sensitivity without first triggering the warning. Braun indicates that, as a result, the noncompliance presents an inconsequential risk.

However, the standard requires that the alarm be activated when the test device is placed on "any portion" of the threshold area (S7.4.2), and there is good reason for that requirement. NHTSA's tests demonstrated that the warning would only be activated as the

unloaded wheelchair test device was at the inside and outside edges of the threshold warning area and would be deactivated when a wheelchair was in the "dead zone." If a wheelchair was passing through the threshold area, the warning would be activated for only a short period of time and such an intermittent warning could be confusing to a wheelchair user. Also, a passenger's wheelchair may be stopped with its front wheels within the "dead zone" of the threshold. If the wheelchair moves forward, it may be so close to the edge of the vehicle floor that the occupant will be unable to react in time to prevent the wheelchair from continuing off the edge of the vehicle floor. Likewise, for a standing passenger who may be aided by a cane or walker, the "dead zone" of Braun's threshold warning system could cause the warning to be intermittent and also reduce the timeliness of the warning alarm. Consequently, platform lift users may have inadequate time to stop the wheelchair or cease forward movement before reaching the edge of the vehicle floor when the platform lift is greater than 25 mm below the vehicle floor.

In conclusion, NHTSA believes there is an increased risk that users of the subject Braun lifts could fall from a vehicle and be seriously injured due to: (1) The large size of "dead zone" in the platform threshold area and consequent inadequate warning of a significant gap between the vehicle floor and the platform provided by the subject Braun lift; and (2) the short distance between the outside edge of the "dead zone" and the outside edge of the vehicle floor and the resultant short reaction time available to persons with limited mobility moving from a position within the threshold "dead zone."

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Braun's petition is hereby denied, and the petitioner must notify according to 49 U.S.C. 30118 and remedy according to 49 U.S.C. 30120.

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

Issued on: August 6, 2007.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*  
[FR Doc. E7-15611 Filed 8-9-07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2007-27437; Notice 2]

#### Grote Industries, LLC; Grant of Petition for Decision of Inconsequential Noncompliance

Grote Industries, LLC (Grote) has determined that the amber reflex reflectors on certain trucks manufactured between 2004 through 2007 do not comply with S5.1.5 of 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, reflective devices, and associated equipment." Grote has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Responsibility and Reports." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Grote also has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of a petition was published, with a 30-day public comment period, on April 9, 2007 in the **Federal Register** (72 FR 17608). The National Highway Traffic Safety Administration (NHTSA) received no comments. To view the petition and all supporting documents, go to: <http://dms.dot.gov/search/searchFormSimple.cfm> and enter Docket No. NHTSA-2007-27437.

For further information on this decision, contact Mr. Michael Cole, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366-2334 or facsimile (202) 366-7002.

Affected are approximately 137,050 reflex reflectors that have been sold for installation as original equipment on trucks and were manufactured between December 28, 2004 and January 22, 2007. S5.1.5 of FMVSS No. 108 requires:

The color in all lamps, reflective devices, and associated equipment to which this standard applies shall comply with SAE Standard J578c, Color Specification for Electric Signal Lighting Devices, February 1977.

The reflex reflectors do not contain the correct reflective material required to meet the requirements of S5.1.5. Grote claims that it has corrected the problem that caused this error so that it will not be repeated in future production. Grote believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted.

Grote stated that this noncompliance pertains solely to the failure of these reflex reflectors to meet the applicable color requirements. The subject reflex reflectors were manufactured for Grote

by a third-party supplier. The third-party supplier incorporated reflective tape that it purchased from a reflective material supplier. Based on the results of tests conducted for Grote, Grote believes the intermediate supplier had been using retroreflective tape that was manufactured to the specification for "selective yellow," instead of the correct specification for "amber," as set forth in the SAE J578c requirement. The intermediate supplier was operating under a certification letter from the reflective material supplier, which erroneously listed the material as compliant.

Grote believes the failure of these reflex reflectors to meet the color specification does not reduce their effectiveness in providing proper visibility to allow identification of the front and (where applicable) intermediate side points of a vehicle. Grote believes the difference between compliant amber reflex reflectors and the subject noncompliant selective yellow colored reflex reflectors is barely discernible to the naked eye when reflected with "Illuminant A" light under conditions of ambient darkness. Grote further stated that such conditions are intended to imitate nighttime driving conditions when reflex reflectors serve their primary purpose.

#### NHTSA Decision

The following explains our rationale.

NHTSA has found that reflex reflectors make the side of a vehicle visible to drivers of other vehicles at night and at other times when there is reduced ambient light including dawn and dusk. The advance warning provided by the reflex reflectors has the potential to enable drivers to avoid a collision when approaching one another at an angle. The purpose of making the front reflex reflector amber and the rear reflex reflector red is to reveal a vehicle's direction of travel.<sup>1</sup>

As part of its reasoning, Grote stated that while the reflex reflectors do not meet the applicable color provision, incorporated in FMVSS No. 108 by reference to SAE J578c, 1977, they do satisfy the color requirements of a later version of this SAE standard. While compliance with any version other than SAE J578c cannot be substituted as proof of conformity, NHTSA believes the subject reflex reflectors would be perceived to emit a yellow color light and would not cause confusion to motorists regarding the intended safety purposes for which amber reflex reflectors are required. In addition,

<sup>1</sup> An Evaluation of Side Marker Lamps for Cars, Trucks and Buses, July 1983, DOT HS-606-430.