

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration**

[Docket No. NHTSA 2006–26280; Notice 2]

**The Braun Corporation, Grant 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 S6.4.9 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 Reports." Notice of receipt of a petition was published, with a 30-day comment period, on December 13, 2006, in the **Federal Register** (71 FR 74993). 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–2006–26280.

Affected are a total of approximately 15,992 model NL, NCL, and NVL wheelchair lifts produced between April 1, 2005 and July 19, 2006. S6.4.9.7 of FMVSS No. 403 requires:

When tested in accordance with S7.12.1, each handrail must withstand 445 N (100 pounds force) applied at any point and in any direction on the handrail without more than 25 mm (1 inch) of displacement relative to the platform surface. After removal of the load, the handrail must exhibit no permanent deformation.

In addition, S6.4.9.9 of FMVSS No. 403 requires:

When tested in accordance with S7.12.2, each handrail must withstand 1,112 N (250 lbf) applied at any point and in any direction on the handrail without sustaining any failure, such as cracking, separation, fracture, or more than 100 mm (4 inches) of displacement of any point on the handrails relative to the platform surface.

The noncompliant lifts do not meet the displacement requirements of S6.4.9.7 and S6.4.9.9.

Braun described its noncompliance as follows:

Following compliance tests conducted by the National Highway Traffic Safety Administration at MGA Research Corporation in Burlington, Wisconsin, The Braun Corporation has confirmed through its investigation that it manufactured and distributed approximately 15,992 wheelchair

lifts (from April 1, 2005 to July 19, 2006) whose handrails are unable to meet the requirements for displacement as defined in S6.4.9.7 and S6.4.9.9 of the standard.

Braun has corrected the problem that caused these errors so that they will not be repeated in future production.

Braun believes that this noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Braun stated that:

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."

When NHTSA proposed handrail requirements in July 2000, it stated that the 445 N (100 lb) force applied at any point and in any direction on the handrail is to ensure that handrails are stable and have adequate clearance around them. The 445 N (100 lb) force is a test that represents normal use and the resulting deflections should not cause the passenger to become unstable or allow his hands which are grasping the handrails to interact with any portion of the vehicle. Such results would be a safety concern. The 1,112 N (250 lb) force is a test that assures that handrails are sufficiently strong to prevent catastrophic failure. If a handrail is overloaded, it is allowed to deflect further, however, it would be undesirable for the handrail to fracture which could cause it to collapse. The July 27, 2000 supplemental notice of proposed rulemaking (SNPRM) (65 FR 46228) and the December 2002 final rule (67 FR 79416) have the same handrail requirements and test procedures. In addition to these functional requirements, maximum displacement limits are specified. In NHTSA's compliance test on the Braun lift, the 445 N (100 lb) force was applied downward on the handrail and the deflection of 51 mm exceeded the requirement's limit of 25 mm. The 1,112 N (250 lb) force was applied downward and the deflection of 124 mm exceeded the requirement's limit of 100 mm. During application of the 1,112 N (250 lb) force, however, the handrail did not exhibit cracking, separation or fracture. Although the Braun lift handrail, when

tested with a downward force, exceeded the displacement limits by 26 mm at 445 N (100 lb) and 24 mm at 1,112 N (250 lb), the handrail gradually deflected downward and did not fail catastrophically. This type of failure would not cause the passenger to become unstable, adversely interact with the vehicle, or pose a safety concerns that the handrail requirements were intended to address. NHTSA is reviewing its laboratory test procedure as applicable to the handrail protocols to assess compliance with S6.4.9. It is anticipated that future tests will specify placement and direction of forces that will be more focused to address worst-case handrail displacement and real-world safety problems.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Braun's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliances.

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

Issued on: April 12, 2007.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

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**BILLING CODE 4910–59–P**

**DEPARTMENT OF TRANSPORTATION****Pipeline and Hazardous Materials Safety Administration****Office of Hazardous Materials Safety; Notice of Application for Special Permits**

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** List of Applications for Special Permits.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel,

4—Cargo aircraft only, 5—Passenger-carrying aircraft.

**DATES:** Comments must be received on or before May 21, 2007.

**Address Comments to:** Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of

comments is desired, include a self-addressed stamped postcard showing the special permit number.

**FOR FURTHER INFORMATION CONTACT:**

Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW., Washington, DC or at <http://dms.dot.gov>.

This notice of receipt of applications for special permit is published in

accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on April 12, 2007.

**Delmer Billings,**

*Director, Special Permits & Approvals Programs, Office of Hazardous Materials, Special Permits & Approvals.*

### NEW SPECIAL PERMITS

Application number	Docket number	Applicant	Regulation(s) affected	Nature of special permits thereof
14487-N	.....	Osmose Inc. Millington, TN.	49 CFR 173.212 .....	To authorize the one-way transportation in commerce of Arsenic trioxide, Division 6.1, PG II in non-DOT specification drums. (mode 1)
14492-N	.....	Tankbouw Rootselaar B.V. The Netherlands.	49 CFR 178.276(a)(1) and (a)(2).	To authorize the manufacture, mark, sale and use of non-DOT specifications portable tanks conforming with the 2004 edition (+2005 Addenda) of Section VIII, Division 1 of the ASME Code for the transportation in commerce of certain Division 2.1 and 2.2 hazardous materials. (modes 1, 2, 3)
14493-N	.....	Thermacore, Inc. Lancaster, PA.	49 CFR 173.306(e) .....	To authorize the transportation in commerce of non-DOT specification containers (heat pipes) containing anhydrous ammonia for use in specialty cooling applications (modes 1, 2, 3, 4)
14494-N	.....	Airgas, Inc. Cheyenne, WY.	49 CFR 172.202, 172.301(a), and 172.301(c).	To authorize the transportation in commerce of cylinders that are marked with obsolete proper shipping descriptions to allow for their return. (modes 1, 2, 3, 4, 5)
14495-N	.....	GE Healthcare Arlington Heights, IL.	49 CFR 173.302(a), 175.3.	To authorize the transportation in commerce of a Division 2.2 gas in a non-DOT specification cylinder (modes 1, 4)
14496-N	.....	Oilphase Division, Schlumberger Eval. & Production (UK) Ltd Dyce, Aberdeen, UK.	49 CFR 173.201(c), 173.202(c), 173.203(c), 172.301(f), 173.302(a), 173.304(d), 173.304(d), 175.3.	To authorize the manufacture, marking, sale and use of non-DOT specifications cylinders similar to a DOT 3A for the transportation of Division 2.1 and 2.3 gases. (modes 1, 2, 3, 4)
14499-N	.....	Optimus International.	49 CFR 173.304a(d)(3)(ii) AB.	To authorize the manufacture, marking, sale and use of non-DOT specification, nonrefillable inside containers similar to DOT-2P for certain Division 2.1 flammable gases. (modes 1, 2, 3, 4)
14500-N	.....	Northwest Respiratory Services St. Paul, MN.	49 CFR 172.203(a); 177.834(h).	To authorize the loading and unloading of DOT 4L cylinders without unloading them from a vehicle. (mode 1)
14504-N	.....	Medis Technologies Ltd. New York, NY.	49 CFR 175.10(a) .....	To authorize passengers and crewmembers on aircraft to carry on baggage containing micro fuel cell systems with a small quantity of sodium/potassium borohydride solution, a Class 8, PG II liquid and a small quantity of potassium hydroxide electrolyte solution, a Class 8, PG II liquid. (mode 5)

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## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### Office of Hazardous Materials Safety; Notice of Delays in Processing of Special Permits Applications

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** List of Applications Delayed more than 180 days.

**SUMMARY:** In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

**FOR FURTHER INFORMATION CONTACT:**

Delmer Billings, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001, (202) 366-4535.

### Key to "Reason for Delay"

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.
4. Staff review delayed by other priority issues or volume of special permit applications.

### Meaning of Application Number Suffixes

- N—New application.  
M—Modification request.