



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0044; Notice 1]

Ricon Corporation and Navistar, Inc., Receipt of Petitions for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petitions.

SUMMARY: Ricon Corporation (Ricon) has determined that certain Ricon S-Series and K-Series platform lifts do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 403, *Platform Lift Systems for Motor Vehicles*. Based on Ricon’s determination, Navistar, Inc., on behalf of IC Bus, LLC (Navistar), who installed the S-Series and K-Series platform lifts in their school and commercial buses, determined that model year (MY) 2013–2022 IC buses do not comply with FMVSS No. 404, *Platform Lift Installation in Motor Vehicles*. Ricon and Navistar, collectively referred to as the “the petitioners,” filed the appropriate noncompliance reports and subsequently petitioned NHTSA for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the receipt of the petitioner’s petitions.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on the petitions. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petitions are granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also

be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the docket. The docket ID number for these petitions is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Ahmad Barnes, Safety Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-7236.

SUPPLEMENTARY INFORMATION:

I. Overview:

Ricon has determined that certain Ricon S-Series and K-Series platform lifts do not fully comply with the requirements of paragraphs S6.7.4, S6.7.8.2, S6.13.4.1, and S6.4.4.2 of FMVSS No. 403, *Platform Lift Systems for Motor Vehicles* (49 CFR 571.403). Ricon filed a noncompliance report dated April 30, 2021, and amended it on May 21, 2021, and July 16, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Ricon petitioned NHTSA on May 21, 2021, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that these noncompliances are inconsequential as they relate to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Based on Ricon's determination, Navistar, who installed the S-Series and K-Series Classic wheelchair lifts in their school and commercial buses, determined that certain model year (MY) 2013–2022 IC buses do not comply with paragraph S4.1.4 of FMVSS No. 404, *Platform Lift Installation in Motor Vehicles* (49 CFR 571.404). Navistar filed two noncompliance reports, both dated June 16, 2021, and amended the reports on July 15, 2021, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Navistar subsequently petitioned NHTSA on July 12, 2021,¹ for an exemption from the notification and remedy requirements of

¹Navistar's petition is dated July 12, 2019, but was submitted on July 12, 2021.

49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Ricon and Navistar's petitions 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 petitions.

II. Equipment and Vehicles Involved:

Ricon submitted that approximately 35,652 Ricon S-Series and K-Series Platform Lifts, manufactured between October 2, 2012, and April 23, 2021, are potentially involved.

Navistar submitted that the noncompliant lifts were installed in approximately 2,908 school buses and 29 commercial buses. The following school buses are potentially involved:

- MY 2013–2019 IC CE
- MY 2022 IC CE
- MY 2013-2015 IC AE
- MY 2013-2015 IC BE
- MY 2013-2014 IC RE
- MY 2016-2017 IC RE
- MY 2019 IC RE

III. Noncompliances:

Ricon explains that the noncompliances are that the subject wheelchair lifts demonstrate the following:

- The command system for the S&K Lifts allows simultaneous performance of more than one function and therefore does not fully meet the requirements in paragraph S6.7.4 of FMVSS No. 403. Specifically, when commanded to move up from ground to vehicle floor level by pressing the “UP” button, the simultaneous actuation of the “DOWN” and “UP” buttons will cause the lift platform to stop its

upward motion and begin a normal downward motion. Additionally, while the unoccupied lift platform is commanded to stow from a vehicle floor level by pressing the “STOW” button, the simultaneous actuation of the “DEPLOY” and “STOW” buttons will cause the lift platform to revert to a normal deploy motion.

- The text on the Operating Instructions label that is affixed to the lifts near the controls, as required in paragraph S6.7.8, measures 0.08 inches instead of 0.1 inches, and, therefore, does not comply with the character height requirements stipulated in paragraph S6.7.8.2.
- Ricon’s installation instructions for public use lifts do not include verbatim the statement required: “Public use vehicle manufacturers are responsible for complying with the lift lighting requirements in Federal Motor Vehicle Safety Standard No. 404, Platform Lift Installations in Motor Vehicles (49 CFR 571.404)”, and, therefore, do not comply with paragraph S6.13.4.1.
- When the platform is at the ground level loading position, the outer barrier slope for the portion of rise between 13 mm (0.5 in) and 75 mm (3 in) exceeds the 1:8 ratio (7.13°) specified in FMVSS No. 403 paragraph S6.4.4.2. The slope measured on the test lift is 1:6.5 (8.7°) when loaded, which exceeds the required slope by 1.57 degrees, and, therefore, does not comply with paragraph S6.4.4.2.

Navistar explains that due to the noncompliance with FMVSS No. 403 affecting the subject lifts, the subject buses are noncompliant with paragraph S4.1.4 of FMVSS No. 404.

IV. Rule Requirements:

Paragraph S4.1.4 of FMVSS No. 404 and paragraphs S6.7.4, S6.7.8.2, S6.13.4.1, and S6.4.4.2 of FMVSS No. 403 include the requirements relevant to these petitions. S4.1.4 of FMVSS No. 404 requires that the platform lift, as installed, must continue to comply with all of the applicable requirements of FMVSS No. 403.

The relevant paragraphs of FMVSS No. 403 are described as follows:

- S6.7.4 requires that, except for the POWER function described in S6.7.2.1, the control system specified in S6.7.2, must prevent the simultaneous performance of more than one function. If an initial function is actuated, then one or more other functions are actuated while the initial function remains actuated, the platform must either continue in the direction dictated by the initial function or stop. Verification of this requirement is made throughout the lift operations specified in S7.9.3 through S7.9.8.
- S6.7.8.2 requires that simple instructions regarding the platform lift operating procedures, including backup operations as specified by S6.9, must have characters with a minimum height of 2.5 mm (0.1 in) and be written in English.”
- S6.13.4.1 requires that, in addition to meeting the requirements of S6.13.1 through S6.13.3, the installation instructions for public use lifts must include, on the front cover of the instructions, the statement “DOT-Public Use Lift.”
- S6.4.4.2 requires that when the platform lift is at the ground or vehicle level loading position, the slope of any surface over which a passenger may traverse to enter or exit the platform must have a rise to run not greater than 1:2 on the portion of the rise between 6.5 mm (0.25 in) and 13 mm (0.5 in), and 1:8 on the portion of the rise between 13 mm (0.5 in) and 75 mm (3 in). The rise of any sloped surface may not be greater than 75 mm (3 inches). When the lift is at the ground level loading position, measurements are made perpendicular to the ground. When the lift is at the vehicle level loading position, measurements are made perpendicular to the platform threshold area.”

V. Summary of the Petitioners’ Petitions:

The following views and arguments presented in this section, “V. Summary of the Petitioners’ Petitions,” are the views and arguments provided by the petitioners. They have not been evaluated by the Agency and do not reflect the views of the Agency. The petitioners

describe the subject noncompliance and contend that the noncompliance is inconsequential as it relates to motor vehicle safety.

Ricon says that it has produced the subject lifts for over a decade and “has never received a claim or any information that suggests an incident or injury” as a result of the subject noncompliances. Although Ricon has found no indication of the subject noncompliances being consequential to motor vehicle safety, Ricon is working to ensure that future production is fully compliant with FMVSS No. 403.

Specifically, Ricon contends that “due to the geometry” of the pendant and buttons it is highly unlikely to simultaneously press the UP and DOWN buttons or the STOW and DEPLOY buttons. Ricon describes the spacing between the pendant and buttons, its composition, and measurements and explains that due to these characteristics, it would be difficult and unlikely for the user to activate multiple buttons simultaneously. Further, Ricon says that “the pendants use four individual push style buttons that utilize a momentary switch to cause the lift to move up/down or stow/deploy” and “a separate button must be pressed downwards for each function.” Overall, Ricon argues the function will not be activated merely by making contact with the button surface; force must be deliberately applied to the button to engage it.

In the event that the up/down or stow/deploy buttons were to be activated simultaneously, Ricon explains that “because of the momentary switch design, the lift can only be activated for as long as the operator holds down the button,” therefore, “[a]s soon as the two buttons are released, the lift immediately stops movement.” Additionally, according to Ricon, if the operator were to continue to simultaneously press the UP and DOWN “the lift would change direction from the upwards movement and instead begin a normal downwards motion” at a speed that falls within the maximum platform velocity, as required by paragraph S.6.2.1 of FMVSS No. 403. Further, Ricon states all occupants “must be secured in the platform by a safety belt which is a redundant safety feature.”

Ricon also goes on to explain that the “STOW” and “DEPLOY” functions can only be activated simultaneously “when the lift is located at vehicle floor left is being commanded to stow.” Ricon states that this does not impact safety “because the lift must be unoccupied” to stow.

Ricon then contends there is a minimal difference in the ratio of the slope in the subject lifts and the ratio required by FMVSS No. 403. Ricon states that the concern this requirement addresses “is not present” in the subject lifts because the outer barrier “to reach the platform is only 4.45 inches long.” Therefore, according to Ricon, the user would not notice the increase in slope. Ricon notes that it “is not aware of any complaints or reports from the field where a user has expressed difficulty or inability to access the platform portion of the lift when using a mobility aid (motorized or manually operated) or when unassisted” and suggests that the lack of reports supports their assertions that the noncompliant slope does not cause the user any difficulty when using the lift.

Ricon also found that the height of certain lowercase letters found on the Operating Instructions label affixed to the lift are 0.08 inches (2.0mm) when they are required to be at least 0.1 inches (2.5mm). Additionally, the installation instructions do not include the exact phrase required by S6.13.4.1 of FMVSS No 403, but rather a paraphrased statement that Ricon believes “conceptually delivers the same message to manufacturers of public use vehicles,” that it is the manufacturer’s responsibility to ensure “the lift lighting meets the requirements of the associated safety standard.” Ricon contends that the paraphrased statement would not cause any confusion because the vehicle manufacturer is required by paragraph S4.1.5 of FMVSS No. 404 to certify compliance with the lift lighting requirements described by the required statement found in S6.13.4.1 of FMVSS No. 403.

According to Ricon, NHTSA has previously granted petitions regarding noncompliances that are similar to the subject noncompliance. Ricon cites one petition from The Braun

Corporation “where the lift handrails did not meet the values for deflection force.”² Ricon explains that although “the handrails collapsed when exposed to forces above the threshold requirement, the handrails did not collapse or fail catastrophically,” and summarizes that NHTSA’s concern in “instituting the deflection force requirement was the possibility of a catastrophic failure of the handrails which would expose the occupant to a risk of injury.” Therefore, Ricon says, NHTSA “recognized” that the noncompliance in that case was not a safety concern that was intended to be addressed by handrail requirements.

Ricon says that, like the noncompliance found in the Braun Corporation’s petition, “there is little to no risk of harm or injury” caused by the subject noncompliances. Ricon then reiterates that it is unlikely an operator would simultaneously activate the buttons that control the lift functions and if simultaneous activation of the “STOW”/“DEPLOY” buttons or the “UP”/“DOWN,” did occur, the lift does not respond in a way that would compromise the safety of the occupant. Likewise, Ricon claims, the noncompliant slope of the outer barrier “is not sufficiently different” from the required slope ratio that it would cause “a noticeable change to the user.”

Last, Ricon states that “[i]t is not aware of any claims or injury involving the performance of the control pendant, outer barrier slope, or operator manual or label wording.”

In its petition, Navistar explains that due to the FMVSS No. 403 noncompliances found in the subject lifts, the subject school and commercial buses manufactured by Navistar are noncompliant with paragraph S4.1.4 of FMVSS No. 404. Navistar says that the subject buses meet all other requirements found in FMVSS No. 404.

Navistar states that it “incorporates and adopts the information from Ricon’s Petition” and also says it has not received any complaints or other notices nor is it aware of any accidents, injuries, or warranty claims related to the noncompliances occurring in the subject lifts.

² See *The Braun Corporation, Grant of Petition for Decision of Inconsequential Noncompliance*, 72 FR 19754 (April 19, 2007).

Ricon and Navistar conclude their petitions by stating that the subject noncompliances are inconsequential as they relate to motor vehicle safety and that their petitions to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on these petitions only applies to the subject equipment and vehicles that the petitioners no longer controlled at the time they determined that the noncompliance existed. However, any decision on these petitions does not relieve equipment and vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant equipment and vehicles under their control after Ricon and Navistar notified them that the subject noncompliance existed.

(**Authority:** 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8.)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

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