



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue SE
Washington, DC 20590

February 11, 2014

BY E-MAIL AND CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Sean Beckstrom
Vice President-Legal Affairs
Graco Children's Products, Inc.
3 Glenlake Parkway
Atlanta, Georgia 30328

NVS-215jt
14C-001

Dear Mr. Beckstrom:

This letter serves to acknowledge the amended Defect Information Report submitted by Graco Children's Products, Inc. ("Graco") on February 10, 2014 (the "Part 573 Report") to the National Highway Traffic Safety Administration ("NHTSA" or the "agency"). This letter also acknowledges a Defect Information Report submitted by Graco to the agency on February 7, 2014. This Defect Information Report notifies NHTSA of a safety recall, which Graco will conduct pursuant to 49 C.F.R. part 573 for the product(s) listed below. Please review the information provided below to ensure that it conforms to your records as this information is being made available to the public.

Graco has indicated that it will perform a safety recall of the following models of toddler and booster child restraints for model years 2009-2013 (the "Subject Seats") which use the Signature, QT or QT3 model buckles (the "Subject Buckles").

Models:

- Cozy Cline
- Comfort Sport
- Classic Ride 50
- My Ride 65
- My Ride with Safety Surround
- My Ride 70
- Size 4 Me 70
- Smart Seat

- Nautilus
- Nautilus Elite
- Argos 70

Manufacturer's Report Date(s): February 7, 2014; February 10, 2014.

NHTSA Campaign Number: 14C-001

Components:

CHILD SEAT: HARNESS BUCKLE

Potential Number of Units Affected: 3,773,379

Problem Description:

Graco Children's Products, Inc. (Graco) is recalling model year 2009 through 2013 toddler and booster child restraints, models Cozy Cline, Comfort Sport, Classic Ride 50, My Ride 65, My Ride w/Safety Surround, My Ride 70, Size 4 Me 70, Smartseat, Nautilus, Nautilus Elite, and Argos 70. The defect involves difficulty in unlatching the harness buckle. In some cases, the buckle becomes stuck in a latched condition so that it cannot be opened by depressing the buckle's release button.

Consequence:

It may be difficult to remove the child from the restraint, increasing the risk of injury in the event of a vehicle crash, fire, or other emergency, in which a prompt exit from the vehicle is required.

Remedy:

The manufacturer has not yet provided the agency with a remedy or notification schedule. Owners may contact Graco at 1-800-345-4109 (toll free) or 1-330-869-7225, or online at www.consumerservices@gracobaby.com.

Notes: Owners may also contact the National Highway Traffic Safety Administration Vehicle Safety Hotline at 1-888-327-7417 (TTY 1-800-424-9153) or go to www.safercar.gov.

This recall was the subject of an engineering analysis, EA13-001, conducted by the Office of Defects Investigation.

You are required to submit a draft owner notification letter to this office pursuant to 49 C.F.R. § 577.5, no less than five days prior to mailing it to the customers. The owner notification letter is required by Federal law to contain specific language, including, but not limited to, the following:

(b) An Opening Statement: “This notice is sent to you in accordance with the National Traffic and Motor Vehicle Safety Act”;

(c)(1) “Graco Children’s Products, Inc. has decided that a defect which relates to motor vehicle safety exists in (INSERT MODELS OF REPLACEMENT EQUIPMENT)

(e) a clear description of the defect which shall include –

(1) An identification of the...particular item(s) of motor vehicle equipment affected.

(2) A description of the malfunction that may occur as a result of the defect.

(3) A statement of any operating or other conditions that may cause the malfunction to occur; and

(4) A statement of the precautions, if any, that the owners should take to reduce the chance that the malfunction will occur before the defect...is remedied.

(f) An evaluation of the risk to motor vehicle safety reasonably related to the defect

(g) A statement of the measures to be taken to remedy the defect.

NHTSA will not accept or allow any deviations from the language required in the owner notification letters, nor will it permit any inference that a safety related defect does not exist in the Subject Seats which are being recalled. As discussed below, there are several statements in Graco’s Part 573 Report which imply that Graco continues to dispute that a safety defect exists. Federal law specifically prohibits the inclusion of a disclaimer in the owner notification letter. Specifically, the owner notification letter “shall not...contain any statement or implication that there is no defect, that the defect does not relate to motor vehicle safety, or that the defect is not present in the...item of replacement equipment.” *See* 49 C.F.R. § 577.8(a). Failure to submit a complete and accurate owner notification letter may subject Graco to civil penalties pursuant to 49 U.S.C. § 30165.

Also, copies of all notices, bulletins, dealer notifications, and other communications that relate to this recall, including a copy of the final owner notification letter and any subsequent owner follow-up notification letter(s), are required to be submitted to this office no later than five days after they are originally sent.

As stated in Part 573.7, submission of the first of six consecutive quarterly status reports is required within one month after the close of the calendar quarter in which notification to purchasers occurs. Therefore, the first quarterly report will be due on, or before, 30 days after the close of the calendar quarter.

On August 20, 2013, NHTSA announced new changes to the requirements governing safety recalls. Some of these requirements are already in effect. Please ensure your company will be in compliance with each requirement on, or before, its respective effective date.

Your contact for this recall will be Kelly Schuler who may be reached by phone at (202) 366-5227, or by email at kelly.schuler@dot.gov.

NHTSA's Response to the Part 573 Report

Graco's Part 573 Report is seriously deficient in numerous respects under 49 U.S.C. Chapter 301 and 49 C.F.R. Part 573. Moreover, NHTSA strongly disagrees with the language and content of Graco's Part 573 Report, which is incomplete and misleading, to both the agency and consumers. The language used in Graco's Part 573 Report is especially of concern to NHTSA because, as Graco is aware, many, perhaps a majority of owners, of Graco's car seats have not registered their car seats and will not receive a Part 577 Owner Notification Letter from Graco. Publicity relating to the filing of the Defect Information Report will therefore be the only means by which many owners will learn of this safety recall. Accordingly, Graco should delete from the Part 573 Report any statements that may lead the public to discount the seriousness of the safety risk presented by this defect. The agency is therefore requesting that Graco submit a further revised Part 573 Report which accurately and unmistakably describes the condition present in the Subject Seats as being a safety related defect.

As an initial matter, your most recently submitted report inaccurately states that Graco is submitting its Part 573 Report in connection with "NHTSA's determination of a potential safety-related defect in the buckles used on certain child restraints." NHTSA has requested that Graco conduct a recall. By filing a Defect Information Report pursuant to 49 CFR Part 573, Graco has confirmed that it has determined that a defect exists in its equipment and that the defect constitutes an "unreasonable risk to motor vehicle safety", as provided in 49 CFR 573.6(a). Graco's statements in its Part 573 Report do not and cannot modify, undermine or otherwise impact Graco's obligations under 49 U.S.C. Chapter 301 to undertake and satisfactorily complete your recall obligations.

Your initial Part 573 Report inappropriately stated that "[w]hile Graco and NHTSA have not reached an accord over the nature or severity of this issue, in an abundance of caution Graco has agreed to submit this 573 report and engage in a recall." These and any other qualifying statements in your report have no legal force or effect and NHTSA does not agree with those statements. Although you have recently submitted a revised Part 573 Report, please be clear, there is no "accord" to be reached between Graco and NHTSA on anything related to this recall. By filing a Part 573 Report, Graco admits that the defect in its products constitutes an "unreasonable risk to safety" under 49 U.S.C. Chapter 301. As a manufacturer of products regulated by Federal law, your obligation under 49 C.F.R. § 573 is to plainly inform the Agency

of items of motor vehicle equipment that contain a safety defect. Moreover, Graco did not file its Part 573 Report “in an abundance of caution” because it was compelled under 49 U.S.C. Chapter 301 to report this safety defect to the agency. Failure to timely and sufficiently report a safety defect subjects Graco to civil penalties.

49 C.F.R 573.6(c)(2): Items of Equipment

Graco’s Part 573 Report indicates that Graco will not perform a safety recall of, and specifically excludes, approximately 1.83 million rear facing infant car seats which also use the Subject Buckles. NHTSA and Graco are in receipt of reports from consumers with rear facing infant seats who have experienced sticking or stuck buckles which would not unlatch. Some of these consumers have had no choice but to resort to the extreme measure of cutting the harness straps to remove their child from the car seat.

Graco has provided no information to support its decision not to include these rear facing infant car seats in its Part 573 Report. The agency, in acknowledging the Part 573 Report, does not agree that the scope of the Graco recall population is sufficient or that the exclusion of infant car seats from the Subject Seats in the recall is supported by the facts or by the law. NHTSA’s defect investigation into rear facing infant seats which use the Subject Buckles remains open and active. On January 14, 2014, NHTSA issued a Recall Request Letter to Graco, demanding that it recall all rear facing infant seats which use the Subject Buckles. These include the following models: Snugride, Snugride 30, Snugride 32, Infant Safe Seat-Step 1, Snugride 35, Tuetonia 35, and Snugride Click Connect 40. At this time, the agency’s investigation remains open. Per our standard process, NHTSA intends to proceed to an Initial Determination as to these seven (7) models of rear facing infant seats. Based on the outcome of the Initial Determination, the agency will proceed to a public hearing and may require Graco to expand the recall to include rear facing infant seats.

Graco’s revised Defect Information Report also narrows the items of equipment covered to model years “2009 through mid-2013”. Graco has not provided an explanation of its reasons for limiting the scope of the recall population or the precise dates of production for each of the Subject Seats which use the Subject Buckles. The agency requests that Graco provide that explanation and supplemental information at this time.

49 C.F.R. 573.6(c)(3): Total Number

According to the revised Part 573 Report, the total number of items of equipment potentially containing the safety defect is 3,773,379 and the model years affected is reported to be “2009 through mid-2013” (discussed above). However, Graco relied upon this same figure in its

original submission when the scope of affected model years identified by Graco was broader and reported as “2009 through 2013”. NHTSA requests that Graco now identify the actual total number of Subject Seats potentially containing this safety defect and provide an explanation for its statement in light of the smaller scope of the population which it is now advancing.

49 C.F.R 573.6(c)(4): Percentage of Affected Equipment

The agency is investigating the accuracy of Graco’s statement and calculation regarding the percentage of equipment affected by the defect.

49 C.F.R 573.6(c)(5): Description

NHTSA rejects Graco’s description of the defect. It is inaccurate. Graco incorrectly implies that the defect exists only if the buckle is not properly “maintained.” Instead, the defect appears to occur through normal and foreseeable use of the car seat. Furthermore, Graco inadequately describes the defect as “difficulty unlatching the buckle.” However, the information available to Graco clearly indicates that the actual defect is that users may be unable to unlatch the buckle at all. This condition prevents a parent or caregiver from removing a child from the car seat in certain circumstances, including, and most significantly, in circumstances following a crash or other emergency situation when time is of the essence. Moreover, Graco’s characterization of the condition leading to the Subject Buckles sticking or becoming stuck in the latched position as being a “maintenance” issue, or resulting from a lack of cleaning, is both inaccurate and misleading to consumers.

49 C.F.R 573.6(c)(6): Chronology

Graco’s Part 573 Report is also deficient because it does not address all of the items which are required, by regulation, to be included in its Defect Information Report. Graco is required to submit “a chronology of all principal events that were the basis for the determination for the defect...including a summary of all warranty claims, field or service reports and other information.” Among other events, Graco needs to identify the date it determined that a defect exists in Subject Seats.

49 C.F.R 573.6(c)(8): Manufacturer’s Program for Remedy

Graco’s Part 573 Report is deficient because it does not address Graco’s program for remedying the defect, as required pursuant to 49 U.S.C. Chapter 301 and 49 CFR Part 573.

Conclusion

As stated above, NHTSA’s investigation into the safety related defects in the Subject Buckles used in Graco’s rear facing infant seats remains open and active. At this time, NHTSA intends to proceed with the agency’s normal process, including an Initial Determination and public

hearing, to compel Graco to recall the appropriate population of rear facing infant car seats which use the Subject Buckles.

As Graco initiates the recall of the car seats identified in its 573 Report NHTSA intends to ensure that Graco's recall remedies and owner notification letters are adequate and meet the necessary requirements under 49 U.S.C. Chapter 301. As stated above, NHTSA is requesting that Graco submit a further revised Part 573 Report which accurately describes the condition that is present in the Subject Seats as being a safety defect and respond to the agency's questions and requests for further information posed within this letter. Graco's failure to adhere to Federal regulations on any of the above referenced matters may subject it to the imposition of civil penalties under applicable law.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Timian". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jennifer Timian
Chief, Recall Management Division
Office of Defects Investigation
Enforcement

cc: NHTSA Chief Counsel, O. Kevin Vincent
NHTSA Senior Associate Administrator for Vehicle Safety, Daniel Smith
NHTSA Associate Administrator for Enforcement, Nancy Lewis
Director, Office of Defects Investigation, Frank Borris