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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0042; Notice 1]

Graco Children's Products Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

Graco Children's Products Inc. (Graco), has determined that certain warning labels attached to detachable accessory pillows that it sold with certain MyRide™ 65 line car seats produced between April, 2009, and October, 2009, failed to meet the flammability requirements of Federal Motor Vehicle Safety Standards (FMVSS) No. 213.¹ Graco estimates that about 90,000 car seats may be affected. Graco 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) (see implementing rule at 49 CFR part 556), Graco 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 Graco'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 all models of MyRide™ 65 convertible car seats manufactured between April, 2009, and October, 2009, in the Company's Mexico facility. The Company estimates that approximately 90,000 car seats may be affected, and of this total, 50,000 are potentially in use by its customers (consumers) and 40,000 are currently with retailers.²

¹ Graco describes the noncompliance as one with FMVSS No. 302. However, FMVSS No. 302 does not in itself apply to motor vehicle equipment. Paragraph S4 of FMVSS No. 302 is invoked by reference in FMVSS No. 213, therefore, this noncompliance is a noncompliance with FMVSS No. 213 not FMVSS No. 302.

² Graco's petition, which was filed under 49 CFR part 556, requests an agency decision to exempt Graco as manufacturer from the notification and recall responsibilities of 49 CFR part 573 for all 90,000 of the affected child seats. However, the agency cannot relieve Graco's distributors of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant child seats under their control after Graco recognized that the subject noncompliance existed. Those child seats must be brought into conformance, exported, or destroyed.

Graco describes the MyRide™ 65 car seat as being manufactured with a detachable accessory pillow, and this pillow includes a warning label (the "pillow label") regarding appropriate use of the pillow for children of a certain age range. The pillow label warns consumers not to use the pillow when the MyRide™ 65 seat is being used by children weighing more than 40 lbs (18.1 kg). The pillow, which is removable, is attached to the MyRide™ 65 seat by a hook and loop fastener material, one side of which is sewn onto a "tail" of the pillow and the other onto the top of the seat above the child's head.

Paragraph S5.7 of FMVSS No. 213 requires in pertinent part:

S5.7 Flammability. Each material used in a child restraint system shall conform to the requirements of S4 of FMVSS No. 302 (571.302). In the case of a built-in child restraint system, the requirements of S4 of FMVSS No. 302 shall be met in both the "in-use" and "stowed" positions.

Based on its internal investigation, Graco believes that the noncompliance is that a pillow label sewn onto the detachable head pillow of certain MyRide™ 65 car seats does not comply with paragraph S5.7 of FMVSS No. 213. After discovering that a recent lot of pillow labels delivered in late October 2009 to the Company's Mexico facility had not been properly treated for flame resistance, Graco's plant management began an investigation. They immediately started reviewing all pillow label lots previously delivered to its Mexico facility since April 2009, the production start date for the MyRide™ line car seats, to determine the extent of the noncompliance among its lots of pillow labels.

Graco found that its noncompliant pillow labels were manufactured by a sub-supplier to Graco's normal pillow label supplier. Graco has determined that the sub-supplier did not follow Graco's production specifications, and as a result, failed to meet the requirements of FMVSS No. 213. Graco also concluded that the sub-supplier was solely responsible for providing the noncompliant pillow labels.

Graco also found that all other labels and materials for its MyRide™ 65 car seats were provided by Graco's regular supplier itself and not the sub-supplier. In addition to its investigation, the Company's plant management also examined and verified through laboratory testing, that all other material components used in the MyRide™ 65 car seats comply with the standards of FMVSS No. 213. Graco added that new plant management at its Mexico plant has implemented more robust quality

controls to prevent such problems from happening in the future and that Graco has received no complaints, reports or any other information about adverse impacts from this noncompliance from consumers or any other outside source.

Since the discovery of the noncompliance, Graco indicated that it has taken steps to ensure that every MyRide™ 65 seat subsequently released for shipment has been manufactured with labels compliant with all applicable safety standards, including FMVSS No. 213. In addition, Graco stopped all shipments of the MyRide™ 65 car seats in its possession when the noncompliance was discovered and replaced the detachable accessory pillows with pillows manufactured with a pillow label compliant with the FMVSS No. 213 prior to delivery.

Graco believes that the noncompliance of the pillow label to meet the requirements of FMVSS No. 213 is inconsequential to overall motor vehicle safety for the following reasons:

When reviewing the accessory pillow at issue, including its size, location, function and overall design, the risk of injury resulting from the noncompliant Label on the detachable accessory pillow is inconsequential to the overall safety of the MyRide seat. Specifically, the Label is a physically small component of the child restraint system located in an area not likely to be exposed to open flame. In fact, the potential for the Label serving as an ignition point for a larger conflagration is near zero. This circumstance, along with the compliant status of all other fabric and label components of the MyRide seat, render the Label's noncompliance inconsequential to motor vehicle safety.

As noted above, the Label is a rectangular shaped tag measuring approximately 3 inches by 1¼ inches. The area of the Label is insignificant with respect to the over two yards of fabric that is used to make the pad and the "soft goods" for the MyRide seat. Proportionally, the percentage of material is less than ¼% of the total surface area of the seat. Moreover, all other fabric, including other warning labels for the MyRide seat, are flame resistant. The small size of affected material renders the likelihood of ignition of this one Label highly untenable.

In addition * * * the Label is also located in an area that makes it highly unlikely to be exposed to an open flame without the passenger compartment of the car being already engulfed in flame * * * When put in its proper place * * * the Label is surrounded by flame resistant material and in a location interior to the overall seat design * * *

Moreover * * * the owner's manual and instructions for the MyRide seat express state that the pillow is not to be used with any child over 18.1 kg (40 lbs) placed into the MyRide seat. Accordingly, a significant number of MyRide seats are not used with

the pillow, thereby further reducing an already low risk of flammability.

* * * the MyRide * * * child restraint is not designed to be easily removed from a motor vehicle once installed * * * the MyRide seat is tethered into the seat or is installed for use with the motor vehicle's type II lap and shoulder belt. Therefore, the only risk of exposure to an ignition source would be while installed in a motor vehicle where pinpoint open flame in the upper portion of the child restraint system on one particular side is highly unlikely.

Graco has considered the potential for variety of potential ignition sources that may be exposed to the tag. The Company believes that the likelihood of the Label coming accidentally in contact with any type of ignition device is extremely low. Graco's analysis also included potential ignition from cigarettes or other smoking materials * * *

Graco also mentioned that real world reports support the Company's belief that the noncompliant pillow labels are not a risk to safety. Graco said it has received no reports or complaints of a fire involving the MyRide™ 65 seat or any of its components. Graco added, "The insignificant opportunity of a fire hazard to a child from ignition of this small tag, located in the interior portion of the child seat contained inside a motor vehicle supports Graco's assertion regarding the inconsequential nature of this noncompliance."

In summation Graco restated its belief that based on the size of the pillow label, its location, compliance of all other labels and fabric with FMVSS No. 213, and the nearly impossible opportunities for direct ignition of the pillow label only, that the described noncompliance of the pillow label to meet the requirements of FMVSS No. 213 is inconsequential to motor vehicle safety. Thus, Graco requests that NHTSA grant its petition to exempt it from providing notification of noncompliance as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120.

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.

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:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

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 your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to http://www.regulations.gov, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at http://www.regulations.gov by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

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: May 10, 2010.

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

Issued on: April 7, 2010.

Claude H. Harris,
Director, Office of Vehicle Safety Compliance.
[FR Doc. 2010-8310 Filed 4-12-10; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8734

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8734, Support Schedule for Advance Ruling Period.

DATES: Written comments should be received on or before June 14, 2010 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Elaine Christophe, (202) 622-3179, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at Elaine.H.Christophe@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Support Schedule for Advance Ruling Period.

OMB Number: 1545-1836.

Form Number: 8734.

Abstract: Form 8734 is used by charities to furnish financial information that Exempt Organization Determinations of IRS can use to classify a charity as a public charity.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 16,000.

Estimated Time per Respondent: 34 hours, 19 minutes.

Estimated Total Annual Burden Hours: 549,120.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to