



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0036; Notice 2]

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

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

ACTION: Denial of petition.

SUMMARY: Graco Children's Products, Inc., (Graco) has determined that certain Graco child restraints do not fully comply with paragraph S5.5.2(g)(1)(iii) of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems*. Graco filed a report dated March 13, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Graco then submitted a petition 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.

ADDRESSES: For further information on the decision contact Zachary Fraser, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5754, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Graco submitted a petition 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.

Notice of receipt of the Graco's petition was published, with a 30-day public comment period, on June 4, 2015 in the Federal Register (80 FR 31968). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management Systems (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2015-0036."

II. Child Restraints Involved: Affected are approximately 31,838 Graco ComfortSport, Graco Classic Ride, and Graco Ready Ride child restraints manufactured between March 1, 2014 and February 28, 2015.

III. Noncompliance: Graco explains that the noncompliance is due to a labeling issue. The labels on the subject child restraints do not contain the instructional statement required by paragraph S5.5.2(g)(1)(iii) of FMVSS No. 213.

IV. Rule Text: Paragraph S5.5.2(g)(1)(iii) of FMVSS No. 213 requires, in pertinent part:

S5.5.2 The information specified in paragraphs (a) through (m) of this section shall be stated in the English language

and lettered in letters and numbers that are not smaller than 10 point type. ...

(g) The statements specified in paragraphs (1) and (2)

(1) A heading as specified in S5.5.2(k)(3)(i), with the statement "WARNING! DEATH or SERIOUS INJURY can occur," capitalized as written and followed by bulleted statements in the following order ...

(iii) Follow all instructions on this child restraint and in the written instructions located (insert storage location on the restraint for the manufacturer's installation instruction booklet or sheet).

V. Summary of Graco's Analyses: Graco stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

A) Graco observed that many child seats are sold with their instruction manual placed in an appropriate long-term storage location. Graco believes that in such cases the statement required by paragraph S5.5.2(g)(1)(iii) of FMVSS No. 213 is intended to remind consumers that the child restraint was sold with instructions and to inform them where to find those instructions. Graco believes that, because the subject child restraints are sold with the instruction manual in a plastic pouch on the child restraint's harness strap, the original consumer must initially interact with the instructions in order to properly install the child seat. Therefore, Graco believes the

same result intended by the subject label statement is achieved, i.e., the consumer is made aware of the instructions without the statement required by S5.5.2(g) (1) (iii). Graco believes that, being thereby made aware of the instructions, the consumer can then place the instructions directly into the storage location for future access.

- B) In a case of subsequent users, Graco believes the location of a properly stored manual, near the top of the seat back, is readily visible and obvious due to the size, shape and color contrast between the instruction manual and the seat back.
- C) Graco considers the risk that a consumer does not place the instruction manual into the proper storage location to be no different from the risk where that a user does not replace the instructions into the storage location after use.
- D) Graco further notes that installation instructions are also readily available on Graco's website or by calling its customer hotline.

For the reasons given above, Graco believes that the described noncompliance of the subject child restraints is inconsequential to motor vehicle safety, and that its petition, to exempt Graco from providing recall notification of

noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA's Decision:

NHTSA's Analysis: The label text required by S5.5.2(g)(1)(iii) of FMVSS No. 213 that Graco omitted is intended to instruct a person using the child seat to follow all instructions mounted on the child restraint as well as additional written instructions provided with the restraint. The text also describes the instruction's storage location on the restraint. The text is required to be placed under a larger label heading stating, "WARNING! DEATH or SERIOUS INJURY can occur." The importance of the statement omitted by Graco is underscored by the requirement that it be located under this warning heading on the label.

The agency does not concur with Graco's contention that the missing statement is inconsequential. Even though the subject child restraints are sold new with the owner's manual in a plastic pouch on the child restraint's harness strap, the original consumer may not necessarily know that the manual has important installation instructions and other safety information. In addition, without the label, the owner is not informed about the existence of a storage location for the instructions. NHTSA required a storage location to better ensure

that the manual is stored with the child seat so that the document will be easily available for reference and will be passed on to subsequent owners of the restraint.¹ Thus, the same result intended by the subject label statement (making consumers aware--and reminding them through the lifetime use of the child seat--that there is a manual with important operational information that should be followed, that there is a storage location for the manual on the child seat for storage of the manual) would not be achieved.

Graco also maintains that the risk of the original consumer not placing the instruction manual into the proper storage location to be no different from the risk where a user does not replace the instructions into the storage location after use. We do not agree with this argument. With the required statement, the consumer understands there is a place to store the instruction manual. The statement increases the likelihood that the user will store the manual with the restraint. Without the statement, the consumer is made to find the storage location on his or her own and has to surmise that the manual should be kept there.

The agency is concerned about how subsequent owners could be affected by the missing label. Child safety seats are often used secondhand. Without the label, these owners would not be

¹ 44 FR 72131, 72137 (December 13, 1979).

informed to locate and review the instruction manual for important information. The agency is especially concerned that subsequent owners of the affected child restraints will not even be aware of the existence of an owner's instruction manual, especially if the owner's instruction manual is missing when subsequent owners obtain the child restraint.

Graco further contends that installation instructions are also readily available on Graco's website or by calling its customer hotline. The agency believes that omitting the statement directing the user to the instruction manual may result in the original owner forgetting there is a manual and/or subsequent owners not even being aware of the existence of an instruction manual. Thus, the owner would not know to check Graco's website or call its customer hotline. With the statement, consumers will be alerted that a manual exists and can contact Graco if the manual is missing.

For the above reasons, the agency disagrees with Graco that the noncompliance is inconsequential to motor vehicle safety because the subject noncompliance can negatively impact the operational safety of the child restraints.

NHTSA's Decision: In consideration of the foregoing, NHTSA determined that Graco has not met its burden of persuasion that the FMVSS No. 213 noncompliance is inconsequential to motor vehicle safety. Accordingly, Graco's petition is hereby denied

and Graco is obligated to provide notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

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

Frank S. Borris,
Acting Associate Administrator
for Enforcement.

Billing Code: 4910-59-P

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