



U.S. Department  
of Transportation

**National Highway  
Traffic Safety  
Administration**

1200 New Jersey Avenue SE,  
Washington, DC 20590

MAR - 6 2014

**VIA E-MAIL and OVERNIGHT MAIL**

Jacqueline Glassman  
Hogan Lovells US, LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington D.C. 20004

**Re: Special Order Including Request for Documents Regarding  
Graco Children's Products, Inc., EA 13-001/ Recall 14C-001**

Dear Ms. Glassman:

NHTSA hereby serves the attached Special Order pursuant to 49 U.S.C. 30166(g)(1), requesting that Graco Children's Products Inc. ("Graco") respond to the following requests for information and requests for production of documents. This Special Order is issued by the Secretary of Transportation pursuant to 49 U.S.C. § 30166(g)(1)(A) and 49 C.F.R. 510.7 and 510.8 and pursuant to a delegation of authority to the Chief Counsel of the National Highway Traffic Safety Administration ("NHTSA"), an operating Administration of the United States Department of Transportation.

Failure to answer or answering untruthfully may subject Graco to civil penalties pursuant to 49 U.S.C. § 30165.

If you have any questions regarding the Special Order, please contact Christie Iannetta of my staff at (202) 366-2239.

Sincerely,

O. Kevin Vincent  
Chief Counsel

Enclosure

**UNITED STATES DEPARTMENT OF TRANSPORTATION  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

1200 New Jersey Avenue, SE  
West Building, W41-326  
Washington D.C. 20590

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**In re:** )  
 )  
**Graco Children's Products, Inc.** )  
**EA 13-001** )  
**NHTSA Recall No. 14C-001** )  
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**SPECIAL ORDER DIRECTED TO GRACO CHILDREN'S PRODUCTS, INC.**

To:

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

c/o Jacqueline Glassman  
Hogan Lovells US, LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington D.C. 20004

This Special Order is issued by the Secretary of Transportation pursuant to 49 U.S.C. § 30166(g)(1)(A) and 49 C.F.R. 510.7 and 510.8 and pursuant to a delegation of authority to the Chief Counsel of the National Highway Traffic Safety Administration ("NHTSA"), an operating Administration of the United States Department of Transportation.

NHTSA's Office of Defects Investigation ("ODI") has an ongoing open investigation involving allegations of a safety related defect in the harness buckles of certain car seats manufactured by Graco Children's Products, Inc. ("Graco"), a division of Newell Rubbermaid. The investigation involves allegations of harness buckles that stick or become stuck in a latched position. This matter was initiated on October 15, 2012 as Preliminary Evaluation (PE) 12-031. The matter was upgraded to Engineering Analysis (EA) 13-001 on February 21, 2013. On

January 14, 2014, the Agency sent a recall request letter to Graco, demanding the recall of more than 5.6 million rear facing infant, convertible and booster seats. On February 7, 2014, Graco recalled approximately 3.8 million convertible and booster seats in Recall 14C-001. Graco declined to recall an additional at least 1.8 million rear facing infant seats.

Graco's response to this Special Order must be received by March 20, 2014. Graco's response must be signed under oath, i.e., accompanied by an affidavit, signed by a responsible officer of Graco, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of Graco to be searched diligently for information and documents responsive to this Special Order and produced them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this Special Order. 49 U.S.C. § 30166(g)(1)(A); 49 C.F.R. § 510.7. Failure to respond fully or truthfully to this Special Order may result in a referral to the United States Department of Justice for a civil action to compel responses, and may subject Graco to civil penalties of up to \$7,000 per day, up to a maximum penalty of \$35,000,000 for a related series of daily violations. 49 U.S.C. §§ 30163(a)(1), 30165(a)(3). Falsifying or withholding information in response to this Special Order may also lead to criminal penalties of a fine or imprisonment of up to 15 years, or both. 49 U.S.C. § 30170(a)(1).

## DEFINITIONS

For the purpose of this Special Order, the following definitions apply:

1. **“Graco”** means Graco Children’s Products, Inc., all of its past and present officers and employees, whether assigned to their principal offices or any of their field or other locations, including all of their divisions, subsidiaries (whether or not incorporated) and affiliated enterprises and all of their headquarters, regional, zone and other offices and their employees, and all agents, contractors, consultants, attorneys and law firms and other persons engaged directly or indirectly (e.g., employee of a consultant) by or under the control of Graco (including all business units and persons previously referred to), who are or, in or after 2005, were involved in any way with any of the following related to the alleged defect in the Subject Infant Seats:

- a. Design, engineering, analysis, modification or production (e.g. quality control);
- b. Testing, assessment or evaluation;
- c. Consideration, or recognition of potential or actual defects, reporting, record-keeping and information management, (e.g., complaints, field reports, warranty information, part sales), analysis, claims, or lawsuits; or
- d. Communication to, from or intended for sellers of Graco child seats, distributors, retailers, or other field locations, including but not limited to people who have the capacity to obtain information from these parties.

2. **“Alleged Defect”** means any failure of the Subject Component(s) that impedes the ability of, or otherwise prevents, a person other than the child from removing the child from the Subject Infant Seat.

3. **“Subject Infant Seats”** means all rear facing infant child car seats that are equipped with the Subject Components, manufactured for sale by Graco in the United States.

4. **“Subject Components”** means all “Signature”, “QT” and “QT3” harness buckles used in the production of any Graco brand child seat, including, but not limited to the Subject Infant Seats.

5. **“Recall”** means recall number 14C-001.

6. **“AmSafe”** means AmSafe, Inc., or any affiliate thereof.

7. **“IMMI”** means Indiana Mills and Manufacturing, Inc., or any affiliate thereof.

8. **“IMMI Buckle”** means the harness buckle produced or manufactured by Indiana Mills Manufacturing, Inc., or any affiliate thereof.

9. **“Affiliates”** means a corporation that is related to another corporation (such as a subsidiary, parent, or sibling corporation) by shareholdings or other means of control.

10. **“Agent”** means an individual, such as a representative, who is authorized to act for or in place of another.

11. **“Describe”** means to provide, with respect to any act, occurrence, transaction, event, statement, communication, or conduct (hereinafter, collectively, “act”), all facts concerning any such act, including, but not limited to, a description of each act, and the date, the location, and the names and addresses of all persons involved.

12. **“Document(s)”** is used in the broadest sense of the word under Rule 34 of the Federal Rules of Civil Procedure, and includes all original written, printed, typed, recorded, or graphic matter whatsoever, however produced or reproduced, of every kind, nature, and description, and all non-identical copies of both sides thereof, including, but not limited to, papers, letters, memoranda, correspondence, electronic communications (existing in hard copy and/or in electronic storage), invoices, contracts, agreements, manuals, publications, photographs of all types, and all mechanical, magnetic, and electronic records or recordings of any kind. Any

document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by the manufacturer or not. If a document is not in the English language, provide both the original document and an English translation of the document.

13. **“Identify”, “identity” or “identification,”** with respect to a person, means to provide that person’s name, title or position, employer, and last known business address and telephone number. With respect to a document, means the date (or time period covered if not dated), nature of document, author, and recipient(s). With respect to a business, means to provide the corporate address, name of its principals, telephone number, and name and address of the agent for service. With respect to a website, means the url of the site, the name and address of the owner of the site and the name and address of administrator of the website.

14. To the extent that they are used in these information requests, the terms “claim,” “consumer complaint,” “dealer field report,” “field report,” “fire,” “fleet,” “good will,” “make,” “model,” “model year,” “notice,” “property damage,” “property damage claim,” “rollover,” “type,” “warranty,” “warranty adjustment,” and “warranty claim,” whether used in singular or in plural form, have the same meaning as found in 49 CFR 579.4.

### **INSTRUCTIONS**

1. Your response to the Special Order shall be sent to Office of the Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590.

2. Please repeat the applicable request verbatim above your response. After your response to each request, identify the source of the information and indicate the last date the information was gathered.

3. When documents are produced and the documents would not, standing alone, be self-explanatory, the production of documents shall be supplemented and accompanied by explanation. Please also be reminded that where a document responsive to a request is not in the English language, both the original document and an English translation of the document must be produced.

4. You are required to respond to every request listed in this Special Order. If you cannot respond to any specific request or subpart(s) thereof, please state the reason why you are unable to do so. If you are unable to respond because you do not have all or any of the precise information needed to respond, provide an estimate. If, on the basis of attorney-client, attorney work product, or other privilege, you do not submit one or more requested documents or items of information in response to this Special Order, you must provide a privilege log identifying each document or item withheld, and stating the date, subject or title, name and position of the person(s) from, and the person(s) to whom it was sent, and the name and position of any other recipient (to include all carbon copies or blind carbon copies), the nature of that information or material, and the basis for the claim of privilege and why that privilege applies.

5. The response to this Special Order, including the document requests, must be submitted in duplicate, together with a copy of any confidentiality request, to this office by the deadline stated above.

6. Where the number of consumer complaints is requested, provide a tally which identifies the manner in which the consumer extricated the child from the Subject Infant Seat. For example, provide the number of consumers who reported cutting the harness straps on the Subject Infant Seat, removing the car seat from the vehicle with the child inside, or loosening the harness straps and removing the child through the still locked harness buckle.

7. Where the number of consumer complaints, field reports and/or reports involving a fire, crash, injury or fatality is requested, state the total number of each item separately. Multiple incidents involving the same consumer or piece of equipment are to be counted separately. Multiple reports of the same incident are also to be counted separately (i.e., a consumer complaint and a field report involving the same incident in which a crash occurred are to be counted as a crash report, a field report and a consumer complaint).

8. For reports involving a fire, crash, injury or fatality, provide a summary description of the alleged problem and causal and contributing factors and Graco's assessment of the problem, with a summary of the significant underlying facts and evidence.

9. If you claim that any of the information or documents provided in response to this Special Order constitutes confidential commercial material within the meaning of 5 U.S.C. § 552(b)(4), or is protected from disclosure pursuant to 18 U.S.C. § 1905, you must submit supporting information together with the materials that are the subject of the confidentiality request, in accordance with 49 C.F.R. Part 512, to the Office of Chief Counsel (NCC-111), National Highway Traffic Safety Administration, West Building, W41-326, 1200 New Jersey Avenue, SE, Washington, DC 20590. You are required to submit two copies of the documents containing allegedly confidential information and one copy of the documents from which information claimed to be confidential has been deleted. Failure to adhere to the requirements of 49 C.F.R. Part 512 will result in a rejection of your request for confidential treatment.

10. All documents shall be produced electronically, as described below, and accompanied by a Concordance-format load file.

a. Hard copy documents shall be imaged in TIFF format. They shall be provided as multi-page TIFFs with document level OCR. The following metadata fields

shall be provided for each document:

- i. Custodian—Name of person or division (if the document is from a file shared by multiple employees) from which the file is being produced;
- ii. Bates Begin—Beginning Production Number;
- iii. Bates End—Ending Production Number;
- iv. Attach Begin—Beginning Attachment Range Number;
- v. Attach End—Ending Attachment Range Number (i.e. parentage is maintained);
- vi. Page Count; and
- vii. Marginalia.

b. Electronically Stored Information (ESI) shall be converted to multi-page TIFF images and produced along with document level OCR/extracted text. The following metadata fields will be provided for non-email ESI:

- i. Custodian (name of custodian from which file is being produced);
- ii. Other Custodian(s) (name of other custodian(s) who had a copy of the file);
- iii. Doc Title (title of file from properties);
- iv. Doc Subject (subject of file from properties);
- v. Created Date (date the file was created);
- vi. Created Time (time the file was created);
- vii. Last Modified Date (date the file was last modified);
- viii. Last Modified Time (time the file was last modified);
- ix. Last Saved By (name of user who last saved the file);
- x. Doc Type (attachment or loose file);
- xi. File Type (Microsoft Word, Microsoft Excel, etc.);
- xii. File Name (names of the file);
- xiii. Full Path (full path location to where the file resided);
- xiv. File Ext (extension for the file);
- xv. MD5 Hash (or equivalent);
- xvi. Bates Begin (beginning production number);
- xvii. Bates End (ending production number);
- xviii. Attach Begin (beginning attachment range number);
- xix. Attach End—Ending Attachment Range Number (i.e. parentage is maintained);
- xx. Page Count; and
- xxi. Native link (path to the native file as included in the production, e.g., d\PROD001\Natives\ABC00015.xls).

The following metadata fields will be provided for electronic mail:

- i. Custodian (name of custodian from which file is being produced);
- ii. Other Custodian(s) (name of other custodian(s) who had a copy of the file prior to de-duplication);
- iii. Author (FROM filed);
- iv. CC;
- v. BCC;
- vi. Recipient (TO field);
- vii. MD5 Hash Value (or equivalent);
- viii. Date Sent (date the email was sent);
- ix. Date Received (date the email was received);
- x. Time Sent (time the email was sent);
- xi. Time Received (time the email was received);
- xii. File Ext (extension for the file);
- xiii. Email Folder (the folder within the mailbox where the message resided);
- xiv. Body Text (extracted text);
- xv. Bates Begin (beginning production number);
- xvi. Bates End (ending production number);
- xvii. Attach Begin (beginning attachment range number);
- xviii. Attach End—Ending Attachment Range Number (i.e. parentage is maintained);
- xix. Page Count;
- xx. Subject; and
- xxi. Native link (path to the native file as included in the production, e.g., d\PROD001\Natives\ABC00015.xls).

For all date fields, please produce them in either YYYYMMDD or MM/DD/YYYY format. Do not include the time in any date fields. Electronic mail shall be produced along with attachments to the extent the message or any attachment is responsive, relevant, and not privileged. As a general matter, subject to specific review, a message and its attachments shall not be withheld from production based on the fact that one or more attachments are privileged, irrelevant, or non-responsive.

c. Excel spreadsheets, PowerPoint files (or like presentations), photographs, and brochures shall be produced both in native and TIFF formats. For Excel documents or any documents with embedded links to other files or documents, any linked files

should be sequentially numbered and produced after the source file and the Attach Beg/Attach End fields be used to denote the parent/child relationship.

d. If a particular file is not provided in a common format (e.g. Word or PDF) and requires the use of special software that is not readily available, you must provide a copy of that software with its submission.

11. The singular includes the plural; the plural includes the singular. The masculine gender includes the feminine and neuter genders; and the neuter gender includes the masculine and feminine genders. “And” as well as “or” shall be construed either disjunctively or conjunctively, to bring within the scope of this Special Order all responses that might otherwise be construed to be outside its scope. “Each” shall be construed to include “every” and “every” shall be construed to include “each.” “Any” shall be construed to include “all” and “all” shall be construed to include “any.” The use of a verb in any tense shall be construed as the use of the verb in a past or present tense, whenever necessary to bring within the scope of the document requests all responses which might otherwise be construed to be outside its scope.

12. Graco’s response to this Special Order must be under oath, i.e., accompanied by an affidavit, signed by a responsible officer of Graco, stating that he/she has undertaken and directed an inquiry reasonably calculated to assure that the answers and production of documents are complete and correct, that he/she has caused the documents of Graco to be searched diligently for information and documents responsive to this Special Order and produced them to NHTSA, and that the answers to the inquiries provided to NHTSA respond completely and correctly to this Special Order.

## INTERROGATORIES

1. Explain, in detail, Graco's reasoning and rationale for excluding the Subject Infant Seats from Recall 14C-001.

2. Provide the dates (month and year) in which Graco began exclusively using IMMI buckles on the Subject Infant Seats, broken down by platform model and model year.

3. Provide the dates (month and year) where Graco had any overlapping or mixed use of buckle types in the production of the Subject Infant Seats (i.e. month(s) where the QT3 and the IMMI buckle were used), broken down by platform model and model year.

4. State the number of each of the following, received by Graco, or of which Graco is otherwise aware, which relate to, or may relate to, the alleged defect in the Subject Infant Seats not included in response to NHTSA's Information Request (IR) in EA 13-001:

- a) Consumer complaints;
- b) Field reports, including retailer field reports; and,
- c) Reports involving a fire, crash, injury, or fatality, based on claims against the manufacturer involving a death or injury alleging or proving that a death or injury contributed to or was caused by the alleged defect in a Subject Infant Seat;

5. State the number of each of the following, received by Graco, or of which Graco is otherwise aware, which relate to, or may relate to, the alleged defect in the Subject Infant Seats or any model of Graco car seat. **Provide this information regardless of whether it has been included in response to NHTSA's Information Requests (IRs) in PE 12-031 and EA 13-001, or by some other form (i.e. verbal communication, presentation) through which Graco believes it has already made the Agency aware of the matter:**

- a) Third-party arbitration proceedings where Graco is or was a party to the arbitration; and,

- b) Lawsuits, both pending and closed, in which Graco is or was a defendant or codefendant.

For items “a” and “b,” identify the parties to the action, the caption, court, docket number, date on which the complaint or other document initiating the action was filed, the allegation(s) against Graco and the current procedural posture of the case. If the matter has been settled, state the terms of the settlement and the date on which the settlement was reached.

6. Since 2009, identify the exact date on which each of the following events occurred:

- a) Graco placed its first order for IMMI buckles to be used in any model of Graco car seat, including, but not limited to, the Subject Infant Seats;
- b) The first shipment of IMMI buckles arrived in the warehouse or other facility for use in the production or manufacture of any Graco car seat, including but not limited to the Subject Infant Seats;
- c) Graco first used IMMI buckles in the production of any model of Graco car seat;
- d) Graco first used IMMI buckles in the production of any model of Subject Infant Seat; and,
- e) Graco first began issuing IMMI buckles to consumers as replacement buckles for any model of Graco car seat.

7. Identify all studies and testing conducted by or commissioned by Graco regarding or related to sticking or stuck harness buckles in the Subject Infant Seats. Provide the date on which the study or testing began; the date on which the study or testing ended; the name of the study or testing; the Graco official or employee requesting the study or testing; the laboratory or entity conducting the study or testing; the objective of the study or testing; and, the result of the study or testing.

## **REQUESTS FOR PRODUCTION OF DOCUMENTS**

1. All documents related to Graco's reasoning and rationale for excluding the Subject Infant Seats from Recall 14C-001.
2. All documents and communications (internal and external), related to or leading to Graco's decision to stop purchasing and/or using any model of buckle produced, supplied or manufactured by AmSafe including, but not limited to the Subject Components, in any car seat manufactured by Graco, including, but not limited to the Subject Infant Seats.
3. All documents and communications (internal and external) related to or leading to Graco's decision to change production from the Signature buckle to the QT buckle in any Graco car seat, including, but not limited to the Subject Infant Seats.
4. All documents and communications (internal and external) related to or leading to Graco's decision to change production from the QT buckle to the QT3 buckle in any Graco car seat, including, but not limited to the Subject Infant Seats.
5. All documents and communications (internal and external) related to or leading to Graco's decision to change production from the QT3 buckle to the IMMI buckle in any Graco car seat, including, but not limited to the Subject Infant Seats.
6. All documents and communications (internal and external) related to or concerning any testing of the Signature, QT and QT3 buckles by Graco and/or AmSafe, Inc. related to or potentially related to the *Alleged Defect* in any Graco car seat, including, but not limited to the Subject Infant Seats.
7. Since 2009, all documents and communications (internal and external) related to or leading to Graco's decision to begin sourcing buckles for any Graco car seat from IMMI, including, but not limited to the Subject Infant Seats.

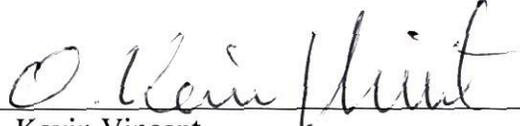
8. All documents and communications (internal and external) related to or concerning Graco's review, evaluation, analysis, decision making or reporting of complaints, allegations or reports of "consumer dissatisfaction", "consumer frustration" or "consumer perception" issues concerning the Alleged Defect, in any Graco car seat, including, but not limited to the Subject Infant Seats.

9. All documents and communications (internal and external) related to or concerning Graco's instructions, directions or information to or from Wonderland Nursery Goods Hong Kong Company, Ltd. regarding the Subject Components.

10. All documents and communications (internal and external) related to Graco's decision to introduce buckle cleaning instructions and multi-step unbuckling procedures, both online and in owner manuals.

11. All documents and communications (internal and external) related to Graco's decision to extend the warranty on the Subject Components from a 1 year warranty to an unlimited warranty.

Dated: March 6, 2014

  
\_\_\_\_\_  
O. Kevin Vincent  
Chief Counsel  
National Highway Traffic Safety Administration