UNITED STATES DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
1200 New Jersey Avenue SE
Washington, DC 20590

In re:	)
AQ24-002 Nuna Baby Essentials, Inc. PIPA lite & PIPA lite r	)

SPECIAL ORDER DIRECTED TO NUNA BABY ESSENTIALS, INC.

Mr. Daniel Mee
Legal Director – Americas
Nuna Baby Essentials, Inc.
70 Thousand Oaks Blvd
Morgantown, PA 19543

This Special Order is issued by the National Highway Traffic Safety Administration ("NHTSA"), an Operating Administration of the United States Department of Transportation, pursuant to 49 U.S.C. § 30166(g)(1)(A) and 49 C.F.R. §§ 510.7-510.8.[1]

Pursuant to the National Traffic and Motor Vehicle Safety Act, 49 U.S.C. Chapter 301, in general, "a person may not manufacture for sale, sell, offer for sale, introduce or deliver for introduction in interstate commerce, or import into the United States, any . . . motor vehicle equipment . . . unless the . . . equipment . . . complies with [all applicable FMVSS] and is covered by a certification issued under section 30115 of this title." 49 U.S.C. § 30112. "A person may not issue" that self-certification of compliance with the FMVSS "if, in exercising reasonable care, the person has reason to know the certificate is false or misleading in a material respect." *Id.* § 30115.

On February 12, 2024, NHTSA opened an Audit Query investigation, AQ24-002, to examine Nuna Baby Essentials, Inc.'s ("Nuna") certification of its Nuna PIPA lite and Nuna PIPA lite

[1] *See* 49 C.F.R. §§ 1.95, 501.8(d)(3) (delegations of authority).

r products (hereinafter "PIPA lite" and "PIPA lite r," respectively) to FMVSS No. 213. As described in the opening resume for the investigation and as documented in each product's test report (copies enclosed), the PIPA lite and PIPA lite r appear not to comply with a number of FMVSS No. 213 requirements, including but not limited to the means of installation in S5.3.2, and labeling requirements in S5.5.[2] This Special Order requires information related to Nuna's basis for certification that the PIPA lite and PIPA lite r, and similar products, comply with all applicable FMVSS.

Nuna's response to this Special Order must be provided to NHTSA's Office of the Chief Counsel by August 26, 2024. The response should be sent to Stephen Hench, Office of the Chief Counsel, at stephen.hench@dot.gov or, for large submissions, through the DOT Secure Large File Transfer Solution ("SLFTS") system. To utilize SLFTS, please send an email to stephen.hench@dot.gov.

Nuna's response must be signed under oath, *i.e.*, accompanied by a declaration, signed by a responsible officer of Nuna, stating that he/she has undertaken and directed an inquiry reasonably calculated to ensure that the answers and production of documents are complete and correct, that he/she has caused the documents of Nuna 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. 28 U.S.C. § 1746; 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 Nuna to civil penalties of up to $27,168 per day, up to a maximum penalty of $135,828,178 for a related series of daily violations. 49 U.S.C. §§ 30163(a)(1), 30165(a)(3); 49 C.F.R. § 578.6(a)(3). Falsifying or withholding information in response to this Special Order may lead to criminal

[2] These test reports are not a determination that a noncompliance exists under 49 U.S.C. § 30118.

penalties of a fine or imprisonment of up to 15 years, or both. 49 U.S.C. § 30170(a)(1).

DEFINITIONS

Unless otherwise stated in the text, the following definitions apply to the information requests set forth below:

- **Nuna:** "Nuna" or "you" means Nuna Baby Essentials, Inc., and all other aliases, and all of its/their past and present officers and employees, and representatives that have safety-related or compliance information, whether assigned to its/their principal offices or any of its/their field or other locations, including all of its/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 Nuna, who are or were, involved in any way with any of the following related to the compliance of the Nuna PIPA lite or Nuna PIPA lite r and identical or substantially similar products with all applicable Federal Motor Vehicle Safety Standards ("FMVSS") and/or Nuna's certification thereof:

    (a) design, analysis, modification or production;
    (b) testing, assessment, or evaluation; or
    (c) regulatory certification and/or compliance determination with any FMVSS.

- **Subject Nuna products**: "Subject Nuna products" means the products with the brand and model names "Nuna PIPA lite" and "Nuna PIPA lite r," manufactured, imported, delivered, offered for sale, or sold in the United States.

- **Consumer complaint:** A "consumer complaint" is defined as a communication of any kind made by a consumer (or other person) to or with a manufacturer addressed to the company, an officer thereof, or an entity thereof that handles consumer matters, a manufacturer website that receives consumer complaints, a manufacturer electronic mail system that receives such information at the corporate level, or that are otherwise received by a unit within the manufacturer that receives consumer inquiries or complaints, including telephonic complaints, expressing dissatisfaction with a product, or relating the unsatisfactory performance of a product, or any actual or potential defect in a product, or any event that allegedly was caused by any actual or potential defect in a product.

- **Document(s):** "Document(s)" is used in the broadest sense of the word and means 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, communications, electronic mail (e-mail) messages (existing in hard copy and/or in electronic storage), faxes, mailgrams, telegrams, cables, telex messages, notes, annotations, working papers, drafts, minutes, records, audio and video recordings, data, databases, other information bases, summaries, charts, tables, graphics, other visual displays, photographs, statements, interviews, opinions, reports, newspaper articles, studies, analyses, evaluations, interpretations, contracts, agreements, jottings, agendas, bulletins, notices, announcements, instructions, blueprints, drawings, as-builts, changes, manuals, publications, work schedules, journals, statistical data, desk, portable and

computer calendars, appointment books, diaries, travel reports, lists, tabulations, computer printouts, data processing program libraries, data processing inputs and outputs, microfilms, microfiches, statements for services, resolutions, financial statements, governmental records, business records, personnel records, work orders, documents generated through litigation, arbitration, or mediation, pleadings, mediation statements, discovery in any form, affidavits, motions, responses to discovery, all transcripts, administrative filings and all mechanical, magnetic, photographic and electronic records or recordings of any kind, including any storage media associated with computers, including, but not limited to, information on hard drives, floppy disks, backup tapes, and zip drives, electronic communications, including but not limited to, the Internet and shall include any drafts or revisions pertaining to any of the foregoing, all other things similar to any of the foregoing, however denominated by Nuna, any other data compilations from which information can be obtained, translated if necessary, into a usable form and any other documents. For purposes of this request, any document that contains any note, comment, addition, deletion, insertion, annotation, or otherwise comprises a non-identical copy of another document shall be treated as a separate document subject to production. In all cases where original and any non-identical copies are not available, "document(s)" also means any identical copies of the original and all non-identical copies thereof. Any document, record, graph, chart, film or photograph originally produced in color must be provided in color. Furnish all documents whether verified by Nuna or not. If a document is not in the English language, provide both the original document and an English translation of the document.

- **Identical or Substantially Similar Product:** "Identical or substantially similar product" means any product that has only a rear-facing use mode and a detachable base, certified as complying with FMVSS No. 213 and manufactured, imported, delivered, offered for sale, or sold in the United States by you that is identical, modified, or similar in design or construction to the subject Nuna products.

- **Identify:** "Identify" when used with respect to a document means to state (1) the type of document (e.g., letter, memorandum, hand-written note, facsimile, e-mail); (2) its date of origin or creation; (3) its author and addressee(s); (4) a brief description of its subject matter and size; and (5) any unique number, mark, or other designation (e.g., Bates number).

- **Pre-production:** "Pre-production" means developed or created prior to the beginning of serial production, which encompasses all variations of design including, but not limited to, prototype, developmental, pilot, and/or other pre-volume production.

- **Type 1 seat belt assembly: "**Type 1 seat belt assembly" has the meaning as defined in 49 C.F.R. § 571.209, S3 ("*Type 1 seat belt assembly* is a lap belt for pelvic restraint.").

INSTRUCTIONS

Please follow the instructions below when providing responses to the numbered information requests in the next section.

1. Your response to the Special Order shall be sent to Office of the Chief Counsel

(NCC-100), National Highway Traffic Safety Administration, by email to Stephen Hench at stephen.hench@dot.gov, or through the DOT Secure Large File Transfer Solution system.[3]

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, explain what information is needed, and provide a response based on the information that is available. If, on the basis of attorney-client privilege, attorney work product protection, 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 whom, 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. After your response to each request, state whether you previously had any responsive documents that are no longer within your possession, custody, or control, including but not limited to because the documents were lost or destroyed. If such documents ever existed:

[3] To use the File Transfer System, please email stephen.hench@dot.gov.

describe the documents; identify the reason that the documents are no longer in your possession, custody, or control; identify the date that you last had the documents; and identify who may have copies of such documents.

6. 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 the Chief Counsel (NCC-100), National Highway Traffic Safety Administration as instructed below.

7. NHTSA is treating electronic submission as an acceptable method for submitting confidential business information (CBI) to the agency under 49 C.F.R. Part 512. Since Part 512 submissions are handled by NHTSA's Office of the Chief Counsel, any Part 512 submission should be sent to the Office of the Chief Counsel electronically. Specifically, any CBI submissions sent via email should be sent to Stephen Hench at stephen.hench@dot.gov. For CBI submissions via a secure file transfer application, Stephen Hench (stephen.hench@dot.gov) must be notified when files are submitted and have access to retrieve the submitted files. Please refer to AQ24-002 in your response to this Special Order and in the subject line of any confidentiality request submitted to the Office of the Chief Counsel.

At this time, regulated entities should not send a duplicate hardcopy of their electronic CBI submissions to DOT headquarters. For questions about CBI issues, please contact Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov or (202) 366-8534.

8. All documents shall be produced electronically, as described below, in a common format (*e.g.*, Word, PDF, Microsoft Access) or other electronic formats commonly used by Nuna and discernable to NHTSA.

a. Hard copy documents shall be imaged in PDF format. They shall be provided as multi-page PDFs with document level optical character recognition (OCR).

b. Electronically Stored Information (ESI) shall be converted to multi-page PDFs and produced along with document level OCR/extracted text.

c. You shall organize the documents as instructed in the request to which it responds or, if no instruction is given in a request, in chronological order by project, report, or other similar categorization responsive to that numbered request.

d. After the documents are so organized, and in sequential order to the request to which each responds, you shall apply Bates Numbers to the entire production.

e. You shall produce an index that lists the title of each document produced, the Bates Numbers on the document, and the request to which it corresponds.

9. When a request calls for a detailed narrative response, do not identify business records or other documents in lieu of providing a written narrative. A response to a request for a written narrative that solely directs NHTSA to documents will be considered non-responsive and may result in civil penalties. 49 U.S.C. §§ 30163(a)(1), 30165(a)(3); 49 C.F.R. § 578.6(a)(3). A response to a request for a detailed, narrative response that includes references to specific Bates Number(s) in addition to a written narrative will not be considered a violation of this Instruction.

10. 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 request all responses which might otherwise be construed to be outside its scope.

11. Nuna's response to this Special Order must be under oath, *i.e.,* accompanied by a declaration, signed by a responsible officer of Nuna, stating that he/she has undertaken and directed an inquiry reasonably calculated to ensure that the answers and production of documents are complete and correct, that he/she has caused the documents of Nuna 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.

12. The requests in this Special Order are deemed to be continuing in nature so as to require additional or amended responses from you should you obtain or become aware of any new, additional, or differing responsive information or documents.

REQUESTS

1. Separately, for the PIPA lite and PIPA lite r, state the dates that production began and, if applicable, ended.

2. Labeling on the "infant car seat"[4] of the PIPA lite, model number CF08500CVR, and of the PIPA lite r, model number CF08508600CVR, states: "NEVER install child restraint without base." Separately, for the PIPA lite and PIPA lite r:

   a. Explain what device constitutes the "child restraint" as used in this statement.

   b. State the reason(s) for this statement.

   c. State whether Nuna performed any tests, computer simulations or analysis, or other analyses of the PIPA lite and PIPA lite r without the use of the detachable base.

   d. Provide the results and any conclusions made by Nuna relating to all means

[4] As referred to in the "PIPA lite Series" printed instructions.

of evaluating the tests, computer simulations or analysis, or other analyses stated in 2c, regardless of the outcome or conclusions drawn.

e. State whether any identical or substantially similar products contain any statement(s) advising against use "without base." If answering in the affirmative, provide the information in Requests 2a–d separately for each product, and also list each and every date on which any labeling was revised since the product's initial production.

3. Provide the name, model number (or other designation used to describe the product), and a complete description of any product certified as complying with FMVSS No. 213 and manufactured, imported, delivered, offered for sale, or sold in the United States by you that has only a rear-facing use mode and a detachable base, including but not limited to the Nuna PIPA lite and Nuna PIPA lite r.

4. Of the products identified in Request 3, state which products rely on a detachable base for vehicle installation using a Type 1 seat belt assembly.

5. Separately by model designation or other designation used by you, for each and every product identified in Request 4:

a. State each and every basis, including but not limited to each and every test and analysis, and identify all other relevant materials, that you or any other company considered or relied upon in certifying each product to the requirements of FMVSS No. 213.

b. For each test or analysis identified in response to Request 5a, provide a copy of such test and analysis, the name and address of the testing facility, a full description of the product tested, and a summary of the test results. Also identify at what phase of development or production each test was performed, including but not limited to pre-production, first article, production, or certification.

c. Identify which test(s) and analyses provided in response to Request 5b served as your basis for certification to each of the following requirements of FMVSS No. 213:

i. S5.1 Dynamic Performance

ii. S5.3 Installation

iii. S5.4 Belts, belt buckles, and belt webbing

iv. S5.5 Labeling

v. S5.6 Printed Instructions for Proper Use

vi. S5.7 Flammability

vii. S5.8 Information requirements – attached registration form and electronic registration form

viii. S5.9 Attachment to child restraint anchorage system

6. For all products identified in Request 4, explain in detail the factors that led to Nuna's decision to rely on a detachable base for vehicle installation using a Type 1 seat belt assembly. From the factors identified:

a. Explain how each factor influenced the Type 1 seat belt assembly means for vehicle installation and use designed on the product.

b. Produce a copy of each and every written and transcribed communication Nuna had regarding the certification, specifications, and requirements of the product including, but not limited to, the design, labeling, and printed instructions for use.

7. Separately, by model designation or other designation (as identified in Request 3), for each and every product identified in Request 3 other than the PIPA lite and PIPA lite r, state the date that production began and, if applicable, ended.

8. Identify any field incidents Nuna is aware of where the "infant car seat" of a subject Nuna product or any identical or substantially similar product separated from the detachable base in

a crash or other scenario. For each incident identified, provide a copy of any incident report (if there is none, so state), complaint, claim, or other documentation related to the incident. Your response should also specify the source of the report (owner, internet comment, etc.) to the extent not evident from the documentation provided.

9. Identify any consumer complaints relating to the subject Nuna products or any identical or substantially similar product pertaining to the installation of the product in a vehicle without its detachable base, or pertaining to the product's available means for vehicle installation.

10. State by brand and model designation all identical or substantially similar products you plan to introduce in the six months following the date of this Special Order.

Dated: June 27, 2024

ADAM RAVIV
Digitally signed by ADAM RAVIV
Date: 2024.06.27 14:18:22 -04'00'

Adam Raviv
Chief Counsel

cc via email
Erika Jones, ejones@mayerbrown.com

Enclosure 1, October 10, 2023, Test Report – PIPA lite
Enclosure 2, October 10, 2023, Test Report – PIPA lite r