this NPRM, including the IRFA, to the
Chief Counsel for Advocacy of the Small
Business Administration.
Federal Communications Commission.
Marlene H. Dortch,
Secretary.
[FR Doc. E7–9300 Filed 5–15–07; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION
National Highway Traffic Safety
Administration
49 CFR Part 571
[Docket No. NHTSA 2006–26339]
Federal Motor Vehicle Safety
Standards; Occupant Crash Protection
AGENCY: National Highway Traffic
Safety Administration (NHTSA), DOT.
ACTION: Denial of petition for
rulemaking.
SUMMARY: This document denies a
petition for rulemaking submitted by
Siemens VDO to amend Federal Motor
Vehicle Safety Standard (FMVSS) No.
208, “Occupant Crash Protection.” The
petition requests that the agency add a
dynamic automatic suppression option
under the advanced air bag options for
the 12-month CRABI infant test dummy
analogous to that for the 3-year and 6-
year-old dummies.
FOR FURTHER INFORMATION CONTACT: For
non-legal issues: David Sutula, Office of
Crashworthiness Standards, at (202)
For legal issues: Edward Glancy,
Office of Chief Counsel, at (202) 366–
2992.
Fax: (202) 366–3820.
You may send mail to these officials
at the National Highway Traffic Safety
Administration, 400 Seventh Street,
SW., Washington, DC 20590.
SUPPLEMENTARY INFORMATION:

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I. Background
Federal Motor Vehicle Safety
Standard (FMVSS) No. 208, “Occupant
crash protection,” specifies performance
requirements for the protection of
vehicle occupants in crashes (49 CFR
571.208). On May 12, 2000, we
published an interim final rule that
amended FMVSS No. 208 to require
advanced air bags (65 FR 30680;
[Advanced Air Bag Rule]. Among other
things, the rule addressed the risk of
serious air bag-induced injuries,
particularly for small women and young
children, and amended FMVSS No. 208
to require that future air bags be
designed to minimize such risk. The
Advanced Air Bag Rule established a
rigid barrier crash test with a 5th
percentile adult female test dummy,
as well as several low risk deployment
and static suppression tests using a range
of dummy sizes and a number of specified
child restraint systems (CRSS).

The Advanced Air Bag Rule allows for
passenger side compliance through any
of three options. The first option, Low
Risk Deployment (LRD), defines a
reduced deployment strength for
occupants in close proximity to the air
bag. The second option suppresses the
air bag when a child is present. The
third option, Dynamic Automatic
Suppression (DASS), senses the location
of an occupant with respect to the air
bag, interprets the occupant characteristics and movement, and
determines whether or not to allow the
air bag to deploy. Performance tests for
determining compliance with the LRD
and suppression options were specified
in the Advanced Air Bag Rule. A
performance test for determining
compliance with the DASS option was
not specified in the rule because at that
time it was not known what
technologies would be used to attempt
to meet the DASS option.

The agency received multiple
petitions for reconsideration to the
Advanced Air Bag Rule. Petitioners
raised a large number of concerns about
the various test procedures in their
written submissions. The agency then
addressed each petition in a Federal
Register notice published on December
18, 2001, and made a number of
refinements to the test dummy
positioning procedures in the barrier
tests and the low risk deployment tests
used in the Advanced Air Bag Rule (66
FR 65376).

The December 18, 2001 response to
petitions for reconsiderations (66 FR
65383) stated that:

To address the risks posed by passenger air
bags, the rule requires vehicles to either (1)
have a passenger air bag that deploys in a
low-risk manner to out-of-position
occupants, (2) have a feature that
suppresses the air bag when a young child is
present in a variety of positions, or (3) to
have a feature that suppresses the air bag
when a passenger is out-of-position
(including in dynamic events). The risk
minimization requirements must be met
separately for 1-year-old, 3-year-old and 6-
year-old children, and manufacturers may
choose different options for these three
classes of occupants [emphasis added].”

In making this statement, the agency
clarified that for each dummy type, the
selected “risk minimization” strategy
had to be met in full for each dummy.
That is, it was not acceptable to comply
with only the suppression strategy for
an infant in a rear facing child restraint
system (RFCRS) and the low risk
deployment strategy for an infant in a
forward facing child restraint system
(FCCRS). This was further emphasized in
letters responding to request for
interpretation from TRW Automotive
(TRW) and International Electronics
and Engineering (IEE) in July and
October of 2003, respectively. The IEE
interpretation also indicated that
d [manufacturers] may not use
suppression technology to ensure that
there will be no air bag deployment in the
indicant test if they are certifying to the
low risk deployment test.”

In both regulatory and non-regulatory
environments the agency has discussed
extensively its concern about the danger
of air bag deployment in the presence of
an infant in a RFCRS. It was for this
reason that the infant low risk
deployment certification option
effectively requires a broader range of
crash severities for which the air bag
must deploy in a low risk manner.

II. The Petition

On August 20, 2003, Siemens VDO
(Siemens) petitioned the agency to
amend FMVSS No. 208 to add a DASS
option under the advanced air bag
options for the 12-month-old CRABI
infant test dummy. This would be an
option analogous to that provided for
the 3-year-old and 6-year-old dummies
in S21.3 and S23.3, respectively.
Siemens stated that “including the
DASS option with the 1-year-old (12-
month-old) dummy could have a
positive impact on motor vehicle safety
by enabling the development and
certification of advanced air bag
suppression systems.” The
petition stated that the lack of a
DASS option (for infants) is limiting
advanced air bag technologies for the
following reasons:

1. Using a vision-based DASS system it is
do not possible, under all circumstances,
[emphasis added] to distinguish between a
12-month-old child in a FFCSR with a
sunshield or blanket and a 5th percentile
female. The system would suppress the
air bag and eliminate potential benefits to
children older than 1-year and small adults.

1 Docket Management System NHTSA–2003–
15650.
2 Docket Management System NHTSA–2003–
16296.
Siemens made a presentation reiterating their petition. During the meeting, Siemens and vehicle manufacturers, Volkswagen and Audi, met with NHTSA to discuss the Siemens petition. During the meeting, Siemens made a presentation reiterating the petition material. No new supporting data was provided, but the following additional justifications for granting the petition were presented:

- Maximizes the number of occupants that benefit from air bag protection.
- Minimizes the risk of air bag-induced fatalities.
- Avoids weight-based classification grey zones through a position-dependent deployment decision.

### B. Ex Parte Meeting With Siemens, Volkswagen and Audi

On June 17, 2004, representatives from Siemens and vehicle manufacturers, Volkswagen and Audi, met with NHTSA to discuss the Siemens petition. During the meeting, Siemens made a presentation reiterating the petition material. No new supporting data was provided, but the following additional justifications for granting the petition were presented:

1. The risk of injury from air bag deployment for infants and children in FFCRS; and
2. If there is any benefit to air bag deployment for small children.

The petitioner’s test matrix consisted mostly of sled testing using the 3-year-old dummy. Tests were conducted with the dummy unrestrained and also restrained using two different CRSs. The tests were done in three positions of vehicle seat adjustment: Forward track/highest height (for/up), middle track/middle height (mid/mid), and rearward track/lowest height (rear/low). The sled speeds were reported as 16, 22, and 35 mph. Siemens also reported that a 10 mph out-of-position test was performed, but no data was provided for this test. Finally, Siemens also reported static air bag deployments using a 12-month-old dummy and four different CRSs. The complete test matrix is shown below in Table 1.

### TABLE 1.—TEST DATA SUBMITTED IN SUPPORT OF PETITION

<table>
<thead>
<tr>
<th>Air bag status</th>
<th>w/out air bag</th>
<th>w/air bag</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dummy</td>
<td>mid/mid</td>
<td>for/up misuse</td>
</tr>
<tr>
<td>3-year-old × 2</td>
<td>35 mph .......</td>
<td>16 † and 35 mph.</td>
</tr>
<tr>
<td>CRSs, 3-year-old</td>
<td>22 mph .......</td>
<td>10 mph OOP ..</td>
</tr>
<tr>
<td>unbelted, 12-month-old × 4</td>
<td>..................</td>
<td>22 mph.</td>
</tr>
<tr>
<td>CRSs</td>
<td></td>
<td>rear/low</td>
</tr>
<tr>
<td></td>
<td></td>
<td>mid/mid</td>
</tr>
</tbody>
</table>

† One child restraint.
‡ Both stages of a dual stage air bag.
§ Current production single stage air bag.

### C. NHTSA Analysis

The petition requested that the agency allow a DASS option for the 12-month-old infant dummy. However, the dynamic test data submitted in support of the petition attempted to show the protective effect of the air bag for a belted 3-year-old dummy in two different CRSs and also unbelted, sitting in the vehicle seat. The agency does not consider this to be directly supportive of the petition in that a DASS option for the 3-year-old already exists.

The data submitted using the 12-month-old dummy were static first-stage air bag deployments. The dummy was placed in four different FFCRSS. In one set of data the CRS was in-position and in another it was leaning forward. The space between the instrument panel and dummy head was not provided with the petition. However, in the June 17, 2004 meeting with the petitioners, they stated that the distance was approximately 100–200 mm (4–8 inches). None of the dummy IARVs were exceeded, but for at least one CRS tested, the injury measures were within 80 percent of the head, neck and chest criteria limits.

The data showed that at some dummy distance from the air bag, a first-stage air bag deployment might not exceed the injury threshold for the 12-month-old dummy. However, it does not demonstrate that air bags have a potential protective effect for a 12-month-old occupant dummy in a dynamic environment as claimed in the petition.

### IV. Conclusion

The DASS option is intended to provide manufacturers the flexibility of deploying an air bag when such a deployment would not be harmful, and potentially beneficial, as opposed to suppressing the air bag or relying on a low risk deployment. However, central to the DASS option is that when an air

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2. Test data Siemens submitted with the petition show that a 12-month-old properly positioned in a FFCRS is not at risk from a statically deploying air bag. In out-of-position (OOP) situations, the infant in the FFCRS does not have injury measures in excess of the required FMVSS No. 208 criteria.

3. A DASS option for the 12-month-old dummy would deactivate the air bag when the infant enters the air bag suppression zone. An infant in a rear facing child restraint system (RFRCS) would always be in this suppression zone.

Siemens believes that the agency has never expressed its reasoning for not allowing the DASS option for the 12-month-old dummy. The petitioner stated that if its petition were granted and the standard amended accordingly, it would submit a petition for a DASS test procedure in accordance with S27.1(a).

The petitioner’s claimed need for the relief is predicated on the contention that their vision system cannot tell the difference between a 12-month-old in a FFCRS covered by a blanket or sunshield (a test required in the suppression option for the 12-month-old dummy) and a 5th percentile female sitting in the passenger seat. Since the air bag must not be suppressed for the 5th percentile female, their vision system alone could not be used for a compliance strategy that suppresses for the 12-month-old and uses DASS for all other occupants.

### III. Data Submission and NHTSA Analysis

#### A. Data Submission

Siemens provided sled and static testing data in support of their petition. The petitioner’s stated goal of the testing was to determine:

1. The risk of injury from air bag deployment for infants and children in FFCRS; and

#### B. Test Data

<table>
<thead>
<tr>
<th>Seat position</th>
<th>Air bag status</th>
</tr>
</thead>
<tbody>
<tr>
<td>mid/mid</td>
<td>w/out air bag</td>
</tr>
<tr>
<td>for/up misuse</td>
<td>35 mph .......</td>
</tr>
<tr>
<td>for/up</td>
<td>35 mph .......</td>
</tr>
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<td>35 mph .......</td>
</tr>
<tr>
<td>rear/low</td>
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3 Test Requirements for 1 YO Dummy in Standard No. 208. Information supporting the Siemens VDO petition for rulemaking, Washington DC, June 17, 2004. See the docket for this notice for a copy of the meeting materials.

bag is deployed, the risk of harm to an occupant is minimized. The petitioner has not provided such data, and instead presented dynamic test data using a 3-year-old test dummy. The agency’s Special Crash Investigation data\(^5\) indicate that the only fatalities for children younger than 2-years old in FFCRSs were in pre-advanced air bag systems without suppression and when they were improperly used. However, the Special Crash Investigation data does not prove that an air bag deployment for a properly restrained child in a FFCRS is not injurious. Although these fatalities might have been avoided through air bag suppression, it is not clear that a DASS system would provide comparable benefit to static suppression for a 12-month-old child.

Further, we believe that manufacturers will be able to, if they have not already done so, design DASS systems that can distinguish between the 5th percentile female test dummy and the 12-month-old test dummy in all positions required by the suppression option. Therefore, the requested relief is not necessary to implement a DASS compliance strategy for 3-year-old and 6-year-old test dummies and suppression for the 12-month-old dummy.

In accordance with 49 CFR part 552, this completes the agency’s review of the petition.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30162; delegation of authority at 49 CFR 1.50.


Stephen R. Kratzke,
Associate Administrator for Rulemaking.

[FR Doc. E7–9382 Filed 5–15–07; 8:45 am]

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