

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 572****Docket No. NHTSA-2004-25441****RIN 2127-A189****Anthropomorphic Test Devices; ES-2re Side Impact Crash Test Dummy 50th Percentile Adult Male****AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).**ACTION:** Final rule.

**SUMMARY:** This final rule amends the agency's regulation on anthropomorphic test devices to add specifications and qualification requirements for a new mid-size adult male crash test dummy, called the "ES-2re" test dummy. The ES-2re dummy has enhanced injury assessment capabilities compared to devices existing today, which allows for a fuller assessment of the types and magnitudes of the injuries occurring in side impacts and of the efficacy of countermeasures in improving occupant protection. The agency plans to use the ES-2re dummy in an upgraded Federal Motor Vehicle Safety Standard on side impact protection.

**DATES:** This final rule is effective June 12, 2007. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 12, 2007. If you wish to petition for reconsideration of this rule, your petition must be received by January 29, 2007.

**ADDRESSES:** If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

The petition will be placed in the docket. Anyone is able to search the electronic form of all documents received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Stan

Backaitis, NHTSA Office of Crashworthiness Standards (telephone 202-366-4912). For legal issues, you may call Deirdre Fujita, NHTSA Office of Chief Counsel (telephone 202-366-2992) (fax 202-366-3820). You may send mail to these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

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NHTSA published a notice of proposed rulemaking (NPRM) that proposed to upgrade Federal Motor Vehicle Safety Standard (FMVSS) No. 214, "Side Impact Protection" (49 CFR 571.214) by, among other things, adopting a dynamic pole test into the standard (May 17, 2004; 69 FR 27990; Docket 17694; reopening of comment period, January 12, 2005, 70 FR 2105). The proposed pole test is similar to, but more demanding than, the one currently used optionally in FMVSS No. 201, "Occupant Protection in Interior Impact" (49 CFR 571.201). In the proposed pole test, a vehicle is propelled sideways into a rigid pole at an angle of 75 degrees, at any speed up to 32 km/h (20 mph). The NPRM proposed that compliance with the pole test would be determined in two test configurations, one using a test dummy representing mid-size adult males and the other using a test dummy representing small adult females. The NPRM proposed to require vehicles to protect against head, thoracic and other injuries as measured by the two test dummies. The agency also proposed using the dummies in FMVSS No. 214's existing moving deformable barrier (MDB) test, which simulates a vehicle-to-vehicle "T-bone" type intersection crash.<sup>1</sup>

<sup>1</sup> On August 10, 2005, the President signed the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users," (SAFETEA-LU), Pub. L. 109-59 (Aug. 10, 2005; 119 Stat. 1144), to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes. Section 10302(a) of SAFETEA-LU provides:

Sec. 10302. Side-Impact Crash Protection Rulemaking.

(a) Rulemaking.—The Secretary shall complete a rulemaking proceeding under chapter 301 of title 49, United States Code, to establish a standard designed to enhance passenger motor vehicle occupant protection, in all seating positions, in side impact crashes. The Secretary shall issue a final rule by July 1, 2008.

At the time of the enactment of § 10302(a), the agency's notice of proposed rulemaking to upgrade FMVSS No. 214 was pending. The final rule