true, would establish a *prima facie* case of such presumption. Under such a framework, any complainant would be able to shift the burden of proof merely by alleging that a retransmission consent proposal demonstrates the exercise of market power by the broadcaster or another MVPD in the market. We do not see such a result intended in either the language or the legislative history of the statute, and despite petitioner's argument to the contrary, we fail to perceive a sensible way to interpret Congress' silence on this issue as a reason to shift the burden of proof to the broadcaster in such cases. Nor do we believe that our procedures will allow a broadcaster to be other than vigorous in its defense. As the Commission noted in the First Report and Order, placing the burden of proof on the complainant:

> * * * should not be interpreted as permitting a broadcaster to remain mute in the face of allegations of a [good faith] violation. After service of a complaint, a broadcaster must file an answer as required by Section 76.7 [of the Commission's rules], which advises the parties and the Commission fully and completely of any and all defenses, responds specifically to all material allegations of the complaint, and admits or denies the averments on which the party relies. In addition, where necessary the Commission has discretion to impose discovery requests on a defendant to a [good faith] complaint. However, in the end, the complainant must bear the burden of proving that a violation occurred.

Petitioners have failed to demonstrate that the burden of proof of establishing a good faith violation should rest elsewhere. Accordingly, US WEST and WCA's request for reconsideration on this issue is denied.

Limitations Period

In the First Report and Order, the Commission established a one year limitations period within which a complainant must bring any complaint related to a violation of the good faith retransmission consent negotiation requirement, holding, in part, that a good faith:

> complaint filed pursuant to section 325(b)(3)(C) must be filed within one year of the date any of the following occur * * * (b) a broadcaster engages in retransmission consent negotiations with a complainant MVPD that the complainant MVPD alleges violate one or more of the rules adopted herein, *and such negotiation is unrelated to any existing contract between the complainant MVPD and the broadcaster* * * *.

US WEST and WCA are concerned that, in certain circumstances, this provision of the limitations period could be applied to retransmission consent renewal negotiations thereby barring claims for good faith violations occurring during any renewal negotiations. Petitioners request that the Commission clarify that negotiations between an MVPD and a broadcaster to renew an existing retransmission consent agreement are not related to the parties' existing contract for purposes of the one-year limitations period, and that such negotiations trigger a new one-year filing period.

We grant US WEST and WCA's request for clarification. Section 325(b)(3)(C) imposes an affirmative duty on broadcasters to negotiate retransmission consent in good faith until 2006. This duty applies to all retransmission consent negotiations during this period, including renewal negotiations. The intent in adopting § 76.65(e)(2) of the Commission's rules was to ensure that complainants do not sit on grievances and that they bring good faith complaints in a timely manner. For example, if a broadcaster and MVPD negotiate a five-year retransmission consent agreement in Year 1 and subsequently encounter a dispute regarding the proper interpretation of a provision of such agreement in Year 3, § 76.65(e)(2) would bar a good faith complaint based upon the negotiations and contract executed in Year 1. On the other hand, if a broadcaster and MVPD negotiate and execute a five-year retransmission consent agreement in Year 1 and subsequently commence negotiations to renew or extend such consent in Year 4, any alleged violations of the good faith requirement stemming from such Year 4 negotiations are subject to complaint for a one-year period. An MVPD may not, however, use the commencement of such renewal or extension negotiations to raise good faith allegations solely related to the negotiations and contract executed in Year 1.

Effect of the Good Faith Rules on Pre-Existing Negotiations

US WEST asks the Commission to clarify that a broadcaster's obligation to negotiate after the effective date of the rules established in the First Report and Order attaches regardless of any negotiations that took place between the broadcaster and MVPD prior thereto. We grant US WEST's request for clarification. A broadcaster's duty to negotiate retransmission consent in good faith commenced upon the effective date of our good faith rules regardless of any prior course of negotiations.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–23267 Filed 9–18–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–01–10636]

RIN 2127–AH24

Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Correction

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

ACTION: Correcting amendments.

SUMMARY: This rule corrects an error in the neck injury criteria that are specified for the alternative unbelted sled test included in our occupant protection standard. We revised certain of the neck injury criteria in a final rule; correcting amendment published in the **Federal Register** (63 FR 71390) on December 28, 1998. However, we have become aware that, as a result of that final rule; correcting amendment, portions of the neck injury criteria that were not revised were inadvertently deleted from the standard as published in the Code of Federal Regulations. This document reinstates the inadvertently deleted criteria.

DATES: This final rule is effective September 19, 2001.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Dr. Roger A. Saul, Director, Office of Crashworthiness Standards, NPS–10. Telephone: (202) 366–1740. Fax: (202) 493–2739. E-mail: *Roger.Saul@NHTSA.dot.gov.*

For legal issues, you may contact Edward Glancy or Rebecca MacPherson, Office of Chief Counsel, NCC–20. 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.

SUPPLEMENTARY INFORMATION: Standard No. 208, *Occupant Crash Protection,* includes among its requirements certain neck injury criteria for the unbelted sled test. On December 28, 1998, we published in the **Federal Register** (63 FR 71390) a final rule; correcting

amendment that, among other things, clarified that two of the neck injury criteria, flexion bending moment and extension bending moment, are calculated at the occipital condyle. We have become aware that, as a result of that final rule; correcting amendment, the three other neck injury criteria, axial tension, axial compression, and fore-and-aft shear, were inadvertently deleted from the standard as published in the Code of Federal Regulations. This document reinstates the inadvertently deleted criteria.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising S13.2 to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S13.2 *Neck injury criteria.* A vehicle certified to this alternative test requirement shall, in addition to meeting the criteria specified in S13.1, meet the following injury criteria for the neck, measured with the six axis load cell (ref. Denton drawing C–1709) that is mounted between the bottom of the skull and the top of the neck as shown in Drawing 78051–218, in the unbelted sled test:

(a) Flexion Bending Moment (calculated at the occipital condyle)—190 Nm. SAE Class 600.

(b) Extension Bending Moment (calculated at the occipital condyle)—57 Nm. SAE Class 600.

(c) Axial Tension—3300 peak N. SAE Class 1000.

(d) Axial Compression—4000 peak N. SAE Class 1000.

(e) Fore-and-Aft Shear—3100 peak N. SAE Class 1000.

* * * * *

Issued on: September 14, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–23342 Filed 9–18–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 091201C]

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Harpoon category closure; General category adjustment of daily retention limit.

SUMMARY: NMFS has determined that the Atlantic bluefin tuna (BFT) Harpoon category annual quota for the 2001 fishing year will be attained by September 16, 2001. Therefore, the 2001 Harpoon category fishery will be closed effective at 11:30 p.m. on September 16, 2001. This action is being taken to prevent overharvest of the Harpoon category quota. NMFS has also determined that the BFT General category restricted fishing day (RFD) schedule should be adjusted; i.e., certain RFDs should be waived in order to allow for maximum utilization of the General category subquota for the September fishing period.

DATES: The Harpoon category closure is effective 11:30 p.m. local time on September 16, 2001, through May 31, 2002. The General category retention limit adjustment is effective September 16, 2001, through September 30, 2001.

FOR FURTHER INFORMATION CONTACT: Pat Scida or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 et seq.) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories, and General category effort controls (including time-period subquotas and RFDs) are specified annually under 50 CFR 635.23(a) and 635.27(a). The 2001 initial category quotas and General category effort controls were specified on July 13, 2000 (66 FR 37421, July 18, 2001).

Harpoon Category Closure

NMFS is required, under § 635.28 (a)(1), to file with the Office of the Federal Register for publication notification of closure when a BFT fishing category quota is reached, or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year, or for a specified period as indicated in the notice, fishing for, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

The final initial 2001 BFT quota specifications issued pursuant to § 635.27 set a quota of 55 mt of large medium and giant BFT to be harvested from the regulatory area by vessels permitted in the Harpoon category during the 2001 fishing year (66 FR 37421, July 18, 2001). The Harpoon category quota was adjusted on August 29, 2001, when 15 mt were transferred from the Reserve to the Harpoon category for an adjusted Harpoon category quota of 70 mt. Based on reported landings and effort, NMFS projects that this quota will be reached by September 16, 2001. Therefore, fishing for, retaining, possessing, or landing large medium or giant BFT by vessels in the Harpoon category must cease at 11:30 p.m. local time, Sunday, September 16, 2001.

The intent of this closure is to prevent overharvest of the quota proposed for the Harpoon category. In the event the final Harpoon category landings amount to less than the final Harpoon category quota, NMFS may consider reopening the fishery.

General Category Effort Controls

Under 50 CFR 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of three per vessel to allow for maximum utilization of the quota for BFT. Based on a review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds, NMFS has determined that adjustment to the General category RFD schedule, and, therefore, an increase of the daily retention limit for certain previously designated RFDs, is necessary. Therefore, NMFS adjusts the General category daily retention limit for September 16, 17, 19, 23, 24, 26, and 30, 2001, to one large medium or giant BFT per vessel. NMFS has selected these days in order to give adequate advance notice to fishery participants and NMFS enforcement.