ppm; and vegetable, fruiting, group 8–10 at 1.0 ppm. Practical analytical methods for detecting and measuring levels of clethodim have been developed and validated in/on all appropriate agricultural commodities and respective processing fractions. The Limit of Quantitation (LOQ) of clethodim in the methods is 0.2 ppm, which will allow monitoring of food with residues at the levels proposed for the tolerances. Contact: RD.

Amended Tolerance Exemptions

1. *PP 6G8523.* (EPA–HQ–OPP–2014–0457). J.R. Simplot Company, 5369 W. Irving St., Boise, ID 83706, requests to amend an exemption from the requirement of a tolerance in 40 CFR 174.534 for residues of the plant-incorporated protectant (PIP) VNT1 protein in or on potato. The petitioner believes no analytical method is needed for enforcement purposes because the VNT1 protein concentration is lower than the detectable limit of 100 parts per billion (ppb) in tubers. As the expression levels of the VNT1 protein are below detection limits, it is impractical to demonstrate methods for detecting and measuring the levels of the pesticide residues. Contact: BPPD.

Authority: 21 U.S.C. 346a.

Dated: January 11, 2017.

Michael Goodis,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2017–05704 Filed 3–22–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350, 365, 385, 386, 387, and 395

[Docket No. FMCSA–2015–0001]

RIN 2126–AB11

Carrier Safety Fitness Determination

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of withdrawal.

SUMMARY: FMCSA withdraws its January 21, 2016, notice of proposed rulemaking (NPRM), which proposed a revised methodology for issuance of a safety fitness determination (SFD) for motor carriers. The new methodology would have determined when a motor carrier is not fit to operate commercial motor vehicles (CMVs) in or affecting interstate commerce based on the carrier's on-road safety data; an investigation; or a combination of on-road safety data and investigation information. FMCSA had recently announced that, rather than move to a final rule, a Supplemental Notice of Proposed Rulemaking (SNPRM) would be the next step in the rulemaking process. However, after reviewing the record in this matter, FMCSA withdraws the NPRM and cancels the plans to develop a Supplemental Notice of Proposed Rulemaking. The Agency must receive the Correlation Study from the National Academies of Science, as required by the Fixing America's Surface Transportation (FAST) Act, assess whether and, if so, what corrective actions are advisable, and complete additional analysis before determining whether further rulemaking action is necessary to revise the safety fitness determination process.

DATES: The NPRM ''Carrier Safety Fitness Determination,'' RIN 2126–AB11, published on January 21, 2016 (81 FR 3562), is withdrawn as of March 23, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Baker, (202) 366–3397, *barbara.baker@dot.gov.* FMCSA office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On January 21, 2016, FMCSA published an NPRM proposing revisions to the current methodology for issuance of a SFD for motor carriers as required by 49 U.S.C. 31144 (81 FR 3562).

The essential elements of the proposed rule included determining safety fitness from not only a comprehensive compliance investigation, but also considering roadside inspections data. Adding roadside inspections to the proposal included a minimum number of inspections and violations to be used for the SFD, as well as providing failure standards, and elimination of the current three-tier rating system (*i.e.,* satisfactory—conditional—unsatisfactory). Also, the NPRM proposed revising the SFD appeals process and establishing implementation and transition provisions for a final rule.

The Agency received 153 initial comment period submissions and 17 reply comment period submissions in response to the NPRM. After considering the comments, FMCSA announced that, rather than move to a final rule, a SNPRM would be the next step in the rulemaking process.[1]

NPRM Comments Generally

Elimination of Three Tier Rating System and Scope of FMCSA Rating Obligation

In the NPRM, FMCSA proposed to eliminate the current three ratings of satisfactory, conditional and unsatisfactory. Instead, the Agency proposed only one rating of ''unfit.'' Commenters including John Brannum, C.H. Robinson, Greyhound Lines, Advocates for Highway and Auto Safety (Advocates), Road Safe America, Truck Safety Coalition and the American Association for Justice supported the termination of the three-tier rating system. These commenters supported the fact that this change would not allow conditional carriers to operate without improving their operations and would make it much clearer for the shipping community to determine which carriers may or may not operate. Specifically, C. H. Robinson noted it has long recommended a two-tiered structure that more clearly signals to shippers, and other industry stakeholders, which carriers should not be hired due to safety concerns. It said all stakeholders seek clear direction from FMCSA, and FMCSA desires stakeholders to properly use data collected by FMCSA. David Gee, an owner of a motor carrier and a broker, commented that the Agency should use the rulemaking to affirm that the shipper and broker community can rely upon the agency's ultimate safety fitness determination in making carrier selections free from state law negligence suits. Greyhound stated it agrees that the change will do away with the misperception that a ''satisfactory'' rating is a sign of operational approval.

However, commenters including the National Motor Freight Traffic Association (NMFTA), Minnesota Trucking Association, School Bus, Inc., National School Transportation Association, and the American Trucking Associations, Inc. (ATA), opposed the proposed change. ATA wrote that the proposal to remove the term ''safety rating'' may have negative, perhaps unanticipated, consequences. Specifically, ATA explained that there will be no means to distinguish fleets whose safety management controls have been verified during compliance reviews (*i.e.* those labeled

[1] See ''FMCSA Sets Schedule for Safety Fitness Determination—Supplemental Notice of Proposed Rulemaking,'' January 12, 2017, at *https://www.fmcsa.dot.gov/newsroom/fmcsa-sets-schedule-safety-fitness-determination-supplemental-notice-proposed-rulemaking.*

''Satisfactory'') from fleets that have not been reviewed. Second, there will be no means to separate fleets with documented deficiencies (*i.e.* those labeled ''Conditional'') from all other fleets not labeled ''Unfit.'' In addition to the inequity this creates for fleets that have earned a ''Satisfactory'' rating, ATA believes it does a disservice to third parties and the general public who should be alerted to the fleets with documented problems. ATA also proposed that FMCSA should allow fleets that have been investigated to maintain their satisfactory ratings; this idea was echoed by NMFTA and the Intermodal Association of North America.

Further, ATA suggested that FMCSA consider three labels: Assessed—Unfit, Assessed—Not Unfit, and Not Assessed. ATA noted that a tiered naming convention such as this could help eliminate confusion and leave third parties better informed.

Some commenters also asserted that FMCSA, contrary to the position expressed in the NPRM, had a statutory duty to determine the fitness of all motor carriers, not just those that are unfit. These commenters claimed that the provisions of 49 U.S.C. 31144 require such actions.

Failure Standards

Advocates expressed concern that, as proposed, one of the assessment methods would only reach the worst 1 percent or 4 percent of carriers, depending on the various categories. Advocates believe that the failure standards were ''artificially selected'' based on the Agency's resources ''instead of making safety the highest priority.'' Advocates recommended that the SFD process should identify each and every motor carrier that is unsafe and needs to be determined ''Unfit.'' Contrarily, to support the Agency's proposal, the International Brotherhood of Teamsters offered that the Agency should only be expected to determine the safety fitness of as many carriers as possible, given existing resources.

Advocates further commented that if the agency plans to use the absolute performance measure based on a snapshot of data to establish the thresholds, there must be a plan to continually update this data to encourage improvements in safety on par with increases in on-road safety, both within the industry and on-road in general.

Knight Transportation agreed with the Agency's proposal that carrier fitness should not be based on relative peer performance. NMFTA added that the assignment of absolute failure standards for the individual categories would provide a carrier with a better method to track and assess its safety compliance based on the roadside inspections, and sooner identify an area which might require additional attention. The International Brotherhood of Teamsters noted that, under the proposed methodology, carriers will benefit from being judged solely on their own performance rather than other companies' safety performance. Intermodal Association of North America also believes that moving to an absolute measurement approach is an improved method over the existing, relative measurements of the Compliance, Safety, and Accountability program.

The American Bus Association questioned how FMCSA can issue a regulatory proposal to change the long standing safety fitness determination process for motor carriers, without providing the failure standards in the NPRM.

C.H. Robinson commended the decision to move away from a percentile ranking and establish firm, fixed safety data targets as represented by the ''absolute measure'' thresholds that began to be published in August 2014. C.H. Robinson found, however, that FMCSA has not educated stakeholders well about how absolute measures are formulated and specifically why absolute measures vary greatly across peer groups. C.H. Robinson suggests FMCSA fully explain absolute measures to shippers, brokers and other stakeholders, to reduce the risk that small business carriers will be adversely impacted. C.H. Robinson believes the potential adverse impact to small carriers regarding this confusion is significant.

In addition, the Alliance for Safe, Efficient and Competitive Truck Transportation (ASCETT) noted that, with declining inspection rates, continued evidence of enforcement anomalies, electronic logging devices (ELDs) and speed limiters, a new NPRM and opportunity for notice and comment is needed. ASCETT further commented that the Agency will have to recalibrate the failure measures through rulemaking to justify new enforcement thresholds. However, ASCETT questioned if the recalibrations would be worth the expense.

Criticism of Data Analysis Period (2011)

Some commenters noted that applying the methodologies to more current data would change the population of carriers that would be identified as proposed unfit. Commenters noted that the number of inspections has decreased since 2011. Additionally, some commenters pointed out that by the end of 2017, ELDs will be mandatory. This change will alter the violations in the Hours of Service category. Also, these commenters stated that if speed limiters become mandated for heavy vehicles this would result in changes to violations.

Comments on Costs

Some commenters alleged that some costs associated with declaring additional carriers ''unfit'' were not considered in the economic analysis. According to these commenters, other costs to consider in addition to those currently in the economic analysis include: Impacts to non-driver staff; costs for improving performance to come into compliance (*e.g.,* attorney, consultant, and employee training costs); costs for administrative appeals; damage to business reputation and creditworthiness; lost sales; opportunity costs of time away from the business; lost revenue to suppliers (such as fuel suppliers); lost capital utilization if vehicles are taken off the market unnecessarily; defaults on loans; repossession of equipment; and personal bankruptcy of owners.

Impacts on Small Businesses

Three commenters suggested that FMCSA should consider changes to the proposed rule for small entities, including retaining the ''corrective action plan'' provision in the current regulation. In addition, some commenters recommended that FMCSA allow for reduced reporting requirements and timetables for small carriers.

Letter to the Secretary of Transportation Urging Withdrawal

On February 15, 2017, a letter from 62 national and regional organizations of motor carriers urged Secretary of Transportation Elaine L. Chao to withdraw the NPRM; a copy of the letter has been added to the docket.

The organizations argued that the proposed rule utilizes SMS data and methodologies, which Congress directed the National Academies of Science to review in the Fixing America's Surface Transportation Act, Public Law 114–94 (FAST Act) (Dec. 4, 2015). The National Academies of Science final report is expected in June 2017. The organizations representing motor property and passenger carriers believe it is ill-advised to develop a new SFD system until the report is received and any necessary reforms are made through corrective actions to the foundational data and methodologies that support

safety fitness determinations. While the petitioners support the goal of an easily understandable, rational SFD system, they believe the NPRM should be withdrawn at this time.

FMCSA Decision To Withdraw the NPRM

Based on the current record, including comments received in response to the NPRM and the February 2017 correspondence to Secretary Chao, FMCSA has decided to withdraw the January 2016 NPRM and, accordingly, cancels the plans to develop a SNPRM as announced by the Agency on January 12, 2017. If FMCSA determines changes to the safety fitness determination process are still necessary and advisable in the future, a new rulemaking would be initiated that will incorporate any appropriate recommendations from the National Academies of Science and the comments received through this rulemaking. The NPRM concerning motor carrier safety fitness determinations is withdrawn.

Issued under the authority delegated in 49 CFR 1.87 on: March 17, 2017.

Daphne Y. Jefferson,

Deputy Administrator.

[FR Doc. 2017–05777 Filed 3–22–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 161128999–7248–01]

RIN 0648–BG47

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; 2017 Tribal Fishery for Pacific Whiting

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule for the 2017 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006, as amended. This proposed rule would allocate 17.5 percent of the U.S. Total Allowable Catch (TAC) of Pacific whiting for 2017 to Pacific Coast Indian tribes that have a treaty right to harvest groundfish.

DATES: Comments on this proposed rule must be received no later than April 24, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0005, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0005,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070, Attn: Miako Ushio.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Miako Ushio, phone: 206–526–4644, and email: *miako.ushio@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is accessible via the Internet at the Office of the Federal Register Web site at *https://www.federalregister.gov.* Background information and documents are available at the NMFS West Coast Region Web site at *http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting.html* and at the Pacific Fishery Management Council's Web site at *http://www.pcouncil.org/.*

Background

The regulations at 50 CFR 660.50(d) address the implementation of the treaty rights that Pacific Coast treaty Indian tribes have to harvest groundfish in their usual and accustomed fishing areas in U.S. waters. Section 660.50(d) provides that an allocation or regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe with treaty fishing rights in the area covered by the FMP at the beginning of the biennial harvest specifications and management measures process. The Secretary will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus. The procedures that NMFS employs in implementing tribal treaty rights under the FMP were designed to provide a framework process by which NMFS can accommodate tribal treaty rights by setting aside appropriate amounts of fish in conjunction with the Pacific Fishery Management Council process for determining harvest specifications and management measures.

Since the FMP has been in place, NMFS has been allocating a portion of the U.S. TAC (called Optimum Yield (OY) or Annual Catch Limit (ACL) prior to 2012) of Pacific whiting to the tribal fishery, following the process established in 50 CFR 660.50(d). The tribal allocation is subtracted from the U.S. Pacific whiting TAC before allocation to the non-tribal sectors.

There are four tribes that can participate in the tribal Pacific whiting fishery: The Hoh Tribe, the Makah Tribe, the Quileute Tribe and the Quinault Indian Nation (collectively, the ''Treaty Tribes''). The Hoh Tribe has not expressed an interest in participating to date. The Quileute Tribe and Quinault Indian Nation have expressed interest in commencing participation in the Pacific whiting fishery. However, to date, only the Makah Tribe has prosecuted a tribal fishery for Pacific whiting, having harvested Pacific whiting since 1996 using midwater trawl gear. Tribal allocations have been based on discussions with the Tribes regarding their intent for those fishing years. Table 1 below provides a history of U.S. TACs and annual tribal allocation in metric tons (mt).

TABLE 1—U.S. TOTAL ALLOWABLE CATCH (TAC) AND ANNUAL TRIBAL ALLOCATION IN METRIC TONS (mt)

Year	U.S. TAC [1] (mt)	Tribal allocation (mt)
2007	242,591	35,000
2008	269,545	35,000
2009	135,939	50,000
2010	193,935	49,939
2011	290,903	66,908
2012	186,037	48,556
2013	269,745	63,205
2014	316,206	55,336
2015	325,072	56,888