FCC Reference Center (Room 239), 1919 M Street, NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, D.C. 20037.

Additionally, Channel 289A can be allotted to Tell City, Indiana, in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.0 kilometers (7.5 miles) south in order to avoid short-spacings Station WASE(FM), Channel 288A, Fort Knox, Kentucky, and to the licensed and application sites of Station WQNF(FM), Channel 290A, Valley Station, Kentucky. The coordinates for Channel 289A at Tell City are North Latitude 37–51–12 and West Longitude 86–43–14.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94–32274 Filed 12–30–94; 8:45 am]

BILLING CODE 6712–01–F

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47 CFR Part 73

[MM Docket No. 94–143]

Television Broadcasting Services: Albion, Nebraska

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to allot television Channel 24 to Albion, Nebraska, in order to permit Citadel Communications Co., Inc. to amend its pending application (File No. BPCT-930726KH) for Channel 18 in Albion to specify Channel 24 without loss of cut-off protection. This would enable the FCC to grant both this application and the mutually exclusive application for Channel 18 filed by Fant Broadcasting of Nebraska, Inc. (File No.BPCT–931115KF). In the event any party expresses an interest in applying for a UHF channel in Albion, the FCC is prepared to allot Channel 40 to accommodate this interest. The reference coordinates for Channel 24 at Albion, Nebraska, are 41–55–48 and 98–17–23.

DATES: Comments must be filed on or before February 13, 1995, and reply comments filed on or before February 28, 1995.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making* in MM Docket No. 94–143, adopted December 1, 1994, and released December 5, 1994. The full text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 m Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C., 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

John A. Karousos,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 94–32275 Filed 12–30–94; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 390, 391, 392, and 396

[FHWA Docket No. MC–89–5]

RIN 2125–AC27

Weight Threshold Adjustment for Commercial Motor Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking; closing of public docket.

SUMMARY: The FHWA is withdrawing its advance notice of proposed rulemaking (ANPRM) addressing the commercial motor vehicle weight threshold for the applicability of the Federal Motor Carrier Safety Regulations (FMCSRs). The comments received in response to the ANPRM provided no significant evidence to support amending the current regulations. The definition of ''commercial motor vehicle'' will remain unchanged.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey J. Van Ness, Office of Motor Carrier Standards, (202) 366–2981, or Mr. David Sett, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: On February 17, 1989, the FHWA published an ANPRM in which comments were requested on whether the FHWA should continue to use its current gross vehicle weight rating (GVWR) criterion in the definition of ''commercial motor vehicle'' found in 49 CFR 390.5 of the FMCSRs. 54 FR 7224. The FMCSRs apply to vehicles in interstate commerce having a GVWR or a gross combination weight rating (GCWR) of greater than 10,000 pounds (as well as certain vehicles transporting passengers and hazardous materials not addressed in the ANPRM). Comment was also sought on weight thresholds under State law. The ANPRM was issued expressly in response to a petition from the Delaware Department of Public Safety asking that State laws and regulations which apply only to commercial motor vehicles (CMVs) having a GVWR or a GCWR in excess of 26,000 pounds be considered compatible with the FMCSRs for purposes of the Motor Carrier Safety Assistance Program (MCSAP). Federal grant funds under MCSAP may be withheld from States with incompatible laws affecting either interstate or intrastate commerce.

The FHWA posed various questions in the ANPRM in regard to changing the weight criterion, including whether the threshold should be raised and whether factors other than the GVWR should be included in the definition of commercial motor vehicles as found in 49 CFR 390.5. Noting the higher accident rate for vehicles with a GVWR above 26,000 pounds than for those below, the FHWA further stated it was particularly interested in receiving accident and enforcement data from the various States and local governments, some of which apply the higher threshold. The FHWA also requested that commenters submit any other information available concerning the

safety ramifications of a change in the weight threshold.

In the time since the ANPRM was published, the FHWA published a separate rulemaking which settled the weight threshold issue for purposes of intrastate commerce. 57 FR 40946 (codified at 49 CFR Part 350 appendix C). State motor carrier safety laws which apply in intrastate commerce only to vehicles with a GVWR or GCWR greater than 26,000 pounds are deemed compatible with the FMCSRs. States with such laws may remain eligible participants in the MCSAP.

The weight threshold issue as it applies to interstate commerce, and the rulemaking docket on this issue, however, have remained open. The FHWA received 164 comments to the ANPRM. Eight additional comments on the issue were received in response to a notice published on February 7, 1992, requesting comments on Department regulations which impede economic growth, or are obsolete, redundant, or burdensome. 57 FR 4744, FHWA Docket No. 93–32. Of the 172 comments received, 158 supported raising the weight threshold to 26,001 pounds. Fourteen commenters opposed changing the definition of CMV as contained in the FMCSRs. Virtually none of the commenters provided substantive responses to the questions posed in the ANPRM. Except in the most general terms, there were no discussions of potential impacts on highway safety which could result from increasing the weight threshold.

For example, many commenters stated, without empirical evidence, that the threshold should be higher because the lower threshold imposes an undue economic burden with a minimal safety benefit. Two commenters did state that vehicles with a GVWR of 26,000 pounds or less are involved in less than one-sixth of the highway fatalities involving CMVs. Beyond this, the comments contained very little of the type of accident and enforcement data sought in the ANPRM. Some commenters noted anecdotally that smaller vehicle operations are usually relatively limited and secondary to another commercial purpose.

The FHWA believes that the data submitted to FHWA Docket No. MC–89–5 are insufficient at this time to support a change in the weight threshold criterion in the definition of CMV. Therefore, a CMV will continue to be defined in the FMCSRs as a vehicle with a GVWR or a GCWR of greater than 10,000 pounds. Though no rulemaking action is contemplated at this time in regard to the weight threshold, the FHWA will nevertheless incorporate the comments to the February 17, 1989, ANPRM in the agency's comprehensive zero-base research effort, intended to develop a performance-based regulatory system that will best enhance commercial motor vehicle safety.

In a related notice published elsewhere in today's **Federal Register**, the FHWA grants the States three years to adopt and enforce motor carrier safety laws and regulations having the same effect as the FMCSRs, at the 10,001 pound threshold for vehicles in interstate commerce, or be subject to the loss of MCSAP funding.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The issues raised in the 1989 ANPRM were identified as significant under the DOT regulatory policies and procedures in the Department's semiannual regulatory agenda because of their potential impact on the motor carrier industry. This notice withdrawing the ANPRM has been reviewed by the Office of Management and Budget under Executive Order 12866.

In withdrawing the ANPRM, the FHWA has concluded that the benefits of complying with the current definition of ''commercial motor vehicle'' found in 49 CFR 390.5 continue to outweigh the costs of compliance, so the weight threshold in this definition remains unchanged. Therefore, this action will have little, if any, economic impact on the motor carrier industry because it does not alter any existing regulations. As a result, a full regulatory evaluation has not been prepared.

The FHWA recognizes, however, that one consequence of retaining the current weight threshold is that the FMCSRs are applicable to more motor carriers than if the FHWA had gone forward with a rulemaking to raise the weight threshold in the definition of CMV found in 49 CFR 390.5. Currently, a number of States do not regulate commercial motor vehicles having a gross vehicle weight rating of less than 26,001 pounds. These States must therefore enact legislation or adopt regulations necessary to ensure that their rules are compatible with the FMCSRs in order to remain in compliance with the requirements of MCSAP. Therefore, in a notice published elsewhere in today's **Federal Register**, the FHWA provides States three years in which to adopt and enforce motor carrier safety regulations that have the same effect as the FMCSRs and that apply to all CMVs used in interstate commerce with a gross vehicle weight rating of 10,001 or more pounds.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the agency evaluated the effects of this action on small entities. The result of withdrawing the 1989 ANPRM is that the CMV weight threshold provision, included in the FMCSRs since 1988, remains unchanged; thus the scope of the FMCSRs is unchanged by this action. The FHWA estimates that interstate motor carrier laws in eight States remain incompatible with this Federal weight threshold definition. Therefore, these eight States risk the loss of funding under the Motor Carrier Safety Assistance Program. States, however, are not included within the definition of ''small entity'' set forth in 5 U.S.C. 601. Therefore, under the criteria of the Regulatory Flexibility Act, the FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this withdrawal of the ANPRM does not have sufficient federalism implications to warrant the preparation of a separate Federalism Assessment.

Nothing in this document preempts any State law or regulation, and no new regulatory requirements are imposed by this action. Thus, this withdrawal raises no additional federalism issues.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980. 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this document for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not

have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Parts 390, 391, 392, and 396

Highway Safety, Highways and Roads, Motor carriers, Reporting and recordkeeping requirements.

(49 U.S.C. app. 2505; 49 U.S.C. 3102; 23 U.S.C. 315; 49 CFR 1.48)

Issued on: December 22, 1994.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 94–32311 Filed 12–30–94; 8:45 am]

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