

an EIRP of – 10 dBm or, alternatively, a power density of 90 pW/cm² at a distance of 3 meters. If a power density measurement is performed and 3 meters is not within the far field, the measurements shall be performed at whatever greater distance is necessary to result in the measurement being in the far field and the results shall be extrapolated to a distance of 3 meters as specified in section 15.31(f)(1) of this part.

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(e) Except as specified below, the total peak transmitter output power shall not exceed 500 mW. Depending on the gain of the antenna, it may be necessary to operate the intentional radiator using a lower peak transmitter output power in order to comply with the power density limits or EIRP limits specified in paragraph (b) of this section.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. 2007–28746]

RIN 2105–AD71

Standard Time Zone Boundary in Southwest Indiana

AGENCY: Office of the Secretary (OST), the Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: DOT proposes to relocate the time zone boundary in Indiana to move Knox, Daviess, Martin, Pike, and Dubois Counties from the Central Time Zone to the Eastern Time Zone. This action is taken at the request of the Boards of Commissioners of each of the counties. DOT requests comment on whether this change would serve the convenience of commerce, the statutory standard for a time zone change and whether the time zone boundary should be changed for other contiguous counties in southwestern Indiana. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal. The final rule will be based on all of the information received during the entire rulemaking proceeding and whether the statutory standard has been met.

DATES: Comments should be received by August 20, 2007 to be assured of

consideration. Comments received after that date will be considered to the extent practicable. If the time zone boundary is changed as a result of this rulemaking, the effective date would be November 4, 2007.

ADDRESSES: You may submit comments by any of the following methods:

- **Web site:** <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- **Fax:** 1–202–493–2251.

- **Mail:** Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590–0001.

- **Hand Delivery:** Room W12–140 on the plaza level of the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

General Instructions: All submissions must include the agency name and docket number (OST Docket Number 2007–28746) or Regulatory Identification Number (RIN 2105–AD71) for this rulemaking. Note that all comments received will be posted without change (including any personal information provided) to <http://dms.dot.gov>. Please refer to the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room W12–140 on the plaza level of the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Judith S. Kaleta, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, indianatime@dot.gov, (202) 493–0992.

SUPPLEMENTARY INFORMATION:

Current Indiana Time Observance

Indiana is divided into 92 counties. Under Federal law, 75 counties are in the Eastern Time Zone and 17 are in the Central Time Zone. There are six Central Time Zone counties in the northwest (Lake, Porter, La Porte, Starke, Newton, and Jasper) and eleven in the southwest (Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, Spencer, and Perry). Neighboring states differ as to whether they observe Eastern or Central

Time. Illinois and western Kentucky observe Central Time, while eastern Kentucky, Ohio, and the portion of Michigan adjoining Indiana observe Eastern Time.

Federal law provides that an individual State can decide whether or not to observe daylight saving time. In 2005, the Indiana General Assembly adopted legislation (Pub. L. 243–005 or the Indiana Act) that provides that the entire State of Indiana would observe daylight saving time beginning in 2006. In addition, the Indiana Act addressed the issue of changing the Eastern and Central Time Zone boundaries.

In January 2006 (71 FR 3228) and February 2007 (72 FR 6170), DOT completed rulemaking proceedings establishing new time zone boundaries that resulted in the current time zone observance. Knox, Daviess, Martin, Pike, and Dubois Counties (the Petitioning Counties), which were moved to the Central Time Zone in January 2006, have now filed a Joint Petition requesting a time zone change back to the Eastern Time Zone.

Statutory Requirements

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard to modify a boundary contained in the statute for such decisions is “regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce.” 15 U.S.C. 261.

DOT Procedures To Change a Time Zone Boundary

DOT has typically used a set of procedures to address time zone issues. Under these procedures, DOT will generally begin a rulemaking proceeding to change a time zone boundary if the highest elected officials in the area submit a petition requesting a time zone change and provide adequate data supporting the proposed change. We ask that the petition include, or be accompanied by, detailed information supporting the requesting party’s contention that the requested change would serve the convenience of commerce. The principle for deciding whether to change a time zone is defined very broadly to include consideration of all impacts of such a change on a community. We also ask that the supporting documentation address, at a minimum, each of the

following questions in as much detail as possible:

1. From where do businesses in the community get their supplies, and to where do they ship their goods or products?
2. From where does the community receive television and radio broadcasts?
3. Where are the newspapers published that serve the community?
4. From where does the community get its bus and passenger rail services; if there is no scheduled bus or passenger rail service in the community, to where must residents go to obtain these services?
5. Where is the nearest airport; if it is a local service airport, to what major airport does it carry passengers?
6. What percentage of residents of the community work outside the community; where do these residents work?
7. What are the major elements of the community's economy; is the community's economy improving or declining; what Federal, State, or local plans, if any, are there for economic development in the community?
8. If residents leave the community for schooling, recreation, health care, or religious worship, what standard of time is observed in the places where they go for these purposes?

In addition, we consider any other information that the county or local officials believe to be relevant to the proceeding. We consider the effect on economic, cultural, social, and civic activities, and how a change in time zone would affect businesses, communication, transportation, and education.

2005–2006 Indiana Time Zone Rulemaking Proceedings Involving the Petitioning Counties

On August 17, 2005, DOT published a notice in the **Federal Register** inviting county and local officials in Indiana that wished to change their current time zone in response to the Indiana Act to notify DOT of their request for a change by September 16, 2005, and to provide data in response to the questions identified in the previous section on DOT Procedures to Change a Time Zone Boundary. DOT received 19 petitions from counties asking to be changed from the Eastern Time Zone to the Central Time Zone, including the five Petitioning Counties.

The Petitioning Counties are located between Evansville and Indianapolis, near the geographic center of North America and the median center of the U.S. population. The Petitioning Counties are bordered to the north and east by counties in Indiana that are

currently located in the Eastern Time Zone. The Petitioning Counties are bordered to the west by Illinois and to the south by counties in Indiana that are currently located in the Central Time Zone. According to data from STATS Indiana (an information service of the Indiana Business Research Center at Indiana University's Kelly School of Business), the Petitioning Counties had a total population of 132,842 in 2005. The Petitioning Counties were five of the eight counties that moved from the Eastern Time Zone to the Central Time Zone under DOT's January 2006 final rule.

In the original 2005 rulemaking proceeding, the Petitioning Counties submitted their petitions individually. In their 2005 petitions, they enumerated reasons for a move to the Central Time Zone based in large part on comments made during open, local public meetings in the respective counties. The Daviess County petition emphasized Evansville (in the Central Time Zone) as the place with the closest airport and the place where its residents shop, conduct business, and receive television broadcasts, with "numerous citizens" employed in Gibson County (in the Central Time Zone). The Dubois County petition pointed out that while many services are obtained within-county, the decision to move to the Central Time Zone was supported by "60 to 70% of the general public, by representatives of three local school districts, and by approximately 50% of local business and industry." The Knox County petition stated that many of its residents work in the Central Time Zone, creating "time zone issues during substantial portions of the year" and those residents who leave for schooling, recreation, healthcare and religious worship go to areas in the Central Time Zone. The Martin County petition stated that "inclusion in the Central Time Zone is preferred by a majority of those responding," that 40% of its residents work outside of the County (mainly in the Central Time Zone), and that the primary providers of goods and recipients of products to and from the County are already located in or are petitioning to be in the Central Time Zone. The Pike County petition cited television and radio broadcasting, the interests of its mining industry and an increasing number of employees commuting to counties in the Central Time Zone.

Based on these petitions and comments that were submitted to the docket and made at the public hearings, as well as an analysis of Indiana economic, workforce, transportation, and education regions as well as media/

commerce data, DOT concluded that the Petitioning Counties have stronger ties to each other and to other counties to their south in the Central Time Zone than to the counties on their northern and eastern borders in the Eastern Time Zone. DOT, therefore, granted the petitions and changed the time zone boundaries for the Petitioning Counties from the Eastern Time Zone to the Central Time Zone. The change to the Central Time Zone became effective on April 2, 2006.

Only a few months later, on August 18, 2006, the Boards of Commissioners of the Petitioning Counties jointly submitted a petition (Joint Petition) in which they enumerated the reasons that the Petitioning Counties, as a unit, should be changed back to the Eastern Time Zone. As compared to the original petitions from the Petitioning Counties, the Joint Petition includes updated answers to the questions DOT considers in making time zone determinations as well as exhibits in support of these answers. The Joint Petition provides more detailed responses to DOT's questions related to community imports and exports, television and radio broadcasts, newspapers, bus and passenger rail services, airports/airline services, worker commuting patterns, the community's economy/economic development, and schooling, recreation, health care, or religious worship.

The Joint Petition requests a change that is contrary to the Petitioning Counties' positions in their original individual petitions. The Joint Petition claims the original petitions "were incomplete and conclusory, and the information they contained was limited and largely based on opinion and not backed by substantial and verifiable evidence." The Joint Petition states that, since the January 2006 ruling, there has been "a groundswell of support for returning to the Eastern Time Zone, which has been a product of residents and businesses having been inconvenienced in ways that they could not have fully anticipated until the switch occurred." Accordingly, the Joint Petition claims "to contain more extensive and thorough research on this issue."

The Joint Petition was accompanied by letters from Indiana Governor Mitchell Daniels, the Indiana Economic Development Corporation, and the Indiana Department of Workforce Development. The Governor wrote in support of the Joint Petition, stating that putting more of the State in the same time zone will provide clarity on the time questions and advance economic growth. The two organizations addressed regional connectivity. They

noted that they established their respective State regions based on their ability to deliver services. They did not establish regions based on time zones or “convenience of commerce.”

After reviewing the Joint Petition and its accompanying exhibits and letters of support, on September 28, 2006, DOT sent a letter to the Petitioning Counties requesting that certain procedural concerns be addressed. Specifically, DOT requested the submission of amended signature pages for each county, certifying that the request was the result of official action by the Board of County Commissioners, the vote of the Board members concerning the submission of the Joint Petition, the date of the vote, and the signature for each Board member. The Petitioning Counties complied with this request on November 13, 2006 (First Supplemental Response).

On November 14, 2006, the DOT sent a second letter seeking clarification and additional information from the Petitioning Counties before making any determination on whether to propose a time zone boundary change for the Petitioning Counties. In turn, on December 6, 2006, the Petitioning Counties submitted to DOT a supplemental response (Second Supplemental Response) and appendix to DOT's request for this additional substantive information.

Upon reviewing the Second Supplemental Response, DOT determined that while the Petitioning Counties provided answers to most of DOT's inquiries, in some instances gaps remained, and there were inconsistencies in the responses. Information provided by the Petitioning Counties needed to be corrected or clarified. On April 2, 2007, therefore, DOT sent another letter to the Petitioning Counties requesting additional information and verification of the data submitted. This request was necessary in light of the lack of complete and accurate information previously provided to DOT by the Petitioning Counties. DOT noted, “While the clarification of particular facts may not be dispositive to DOT's determination that a time zone change would serve the convenience of commerce standard, we want to ensure the integrity of the data we rely upon.” On May 29, 2007, the Petitioning Counties responded by letter (Third Supplemental Response), accompanied by numerous exhibits.

Comments to the Docket

There are currently nearly 300 entries to the docket addressing the request of the Petitioning Counties to be changed

back to the Eastern Time Zone and the information submitted by the Petitioning Counties. These comments express the preferences of the residents of the Petitioning Counties and the views of businesses and individuals on how a particular time zone has impacted or would impact the Petitioning Counties. The focus of this Notice of Proposed Rulemaking is on the Joint Petition and Supplemental Responses. Before making a final determination on whether to change the time zone boundaries for the Petitioning Counties, we will carefully review the Joint Petition and Supplemental Responses in conjunction with any additional comments received and data gathered during the rulemaking process.

DOT Determination

Based on the Joint Petition and the three Supplemental Responses, DOT finds that the Petitioning Counties have provided enough information to justify proposing to change their boundary from the Central Time Zone to the Eastern Time Zone. As set forth below, the Petitioning Counties addressed all of the factors that we consider in these proceedings and overall made a reasonable case that changing back the Petitioning Counties to the Eastern Time Zone would serve “the convenience of commerce.”

Community Imports and Exports

The 2005 individual petitions from each Petitioning County to move from the Eastern Time Zone to the Central Time Zone did not include very detailed analyses of community imports and exports. On the other hand, in the Joint Petition and the Second and Third Supplemental Responses, the Petitioning Counties provide additional evidence in support of the contention that, when considered as a single unit, the balance of the evidence supports placement in the Eastern Time Zone.

The original Daviess County petition stated that the largest metropolitan area where its residents transact business is Evansville. In contrast, the Joint Petition quotes the Executive Director of the Daviess County Economic Development Corporation as stating that businesses in Daviess County “uniformly desire to be on Eastern Time” and that the top businesses and industries there ship most of their products into the Eastern Time Zone. The original Dubois County petition stated that its businesses “acquire and ship supplies and products nationally and internationally, and probably as to purchase and sales no time zone would have priority over any other zone.” On the other hand, citing the Directors of the Jasper and

Huntingburg Chambers of Commerce, the Joint Petition states that the major employers in Dubois County ship their products to major metropolitan areas up and down the East Coast and that “the dollar volume of commerce in the county is driven by customers and suppliers in the Eastern Time Zone.” The original Knox County petition stated that its businesses “obtain supplies and ship goods and products from and to locations in various time zones” and to “all parts of the United States and the Northern Hemisphere.” The Joint Petition makes a similar assertion, stating specifically that Futaba Indiana of America manufactures door frames for Toyota's Princeton, Indiana plant in the Central Time Zone and also ships products to Toyota's Georgetown, Indiana plant in the Eastern Time Zone. The Joint Petition adds that another large employer in Dubois County, Gemtron/Schott, ships products all over the United States. The original Martin County petition declared that the primary providers and recipients of its products were counties petitioning for placement or currently in the Central Time Zone. On the other hand, the Joint Petition refers to a business manager for EG&G Crane Operations located at the Naval Surface Warfare Center Crane Division (NSWC Crane) and identifies NSWC Crane as the largest employer in the County, and claims that although NSWC Crane ships its products throughout the United States, its two largest customers are located in the Eastern Time Zone. (We note that this information comes from the Joint Petition, not directly from NSWC Crane or its officials.) Finally, while the original Pike County petition made no mention of its community imports and exports, it noted that Pike County has a significant coal mining industry. The Joint Petition reiterates the importance of the coal mining industry in Pike County and that the bulk of coal mined in the County is used by two of the County's largest employers (Indiana Power & Light and Hoosier Energy), which maintain headquarters and generating plants in the Eastern Time Zone.

In addition to focusing on the imports and exports in each of the Petitioning Counties, the Joint Petition takes a broader perspective. Citing statistics compiled by the Indiana Chamber of Commerce (Chamber), it notes that over one-third of all Indiana's exports are sent to the Eastern Time Zone, whereas only one-fourth of all Indiana's exports had a final destination in the Central Time Zone. The Chamber's statistics

also indicate that over one-half of Indiana's imports come from a "point of origin" in the Eastern Time Zone, whereas less than one-half of all Indiana imports had a point of origin in the Central Time Zone. However, DOT questioned the Petitioning Counties on whether these facts support a move to the Eastern Time Zone, noting that these statistics also reveal that two-thirds of products are exported to locations other than the Eastern Time Zone and that just less than one-half come from a point of origin other than the Eastern Time Zone. In their Second Supplemental Response, the Petitioning Counties nonetheless contend that, although the total import/export data may not support a change to the Eastern Time Zone, they wanted to ensure that they addressed all the criteria considered by DOT and asserted that the balance of the evidence presented in the Joint Petition supports a move from the Central Time Zone to the Eastern Time Zone.

The Joint Petition also points out that "if the Petitioning Counties are put on Eastern Time, all of the nearest Wal-Marts for residents in the Petitioning Counties would be on Eastern Time." The Joint Petition claims that, although the majority of these stores are open 24 hours a day, the Jasper location in Dubois closes during the night and has a different schedule than its distribution center (located in Jackson County, in the Eastern Time Zone), thereby adversely affecting its shipping schedule. The Joint Petition contends this is important for the counties because many "[i]ndividuals and small businesses * * * depend on Wal-Mart Stores and Supercenters for their goods and supplies." Thus, the Joint Petition concludes that the convenience of commerce would be best served if all stores and distribution centers were located in the same zone, in order to reduce confusion for just-in-time delivery systems and to accommodate work schedules.

In the Third Supplemental Response, the Petitioning Counties clarify that the Jasper Wal-Mart is open 24 hours a day. Nevertheless, the Third Supplemental Response notes that, because the pharmacy and automotive department operate under limited hours, it might better serve the convenience of commerce if the store was located in the Eastern Time Zone.

The Joint Petition also states that product manufacturers (the major employers in Dubois County) ship their products mainly to "major metropolitan areas up and down the East Coast," while the "majority of suppliers are likewise located in, or are in areas

petitioning to be in, the Eastern Time Zone." In fact, "over 50% of the dollar volume of commerce is driven by customers in the Eastern Time Zone" for those companies. In response to DOT's inquiry regarding the fact that Dubois County has historically been on a different time than its suppliers and customers during seven months of the year (before Indiana began to observe daylight saving time in 2006), the Second Supplemental Response notes that the convenience of commerce would nonetheless be even better served if businesses could communicate in "real time" (communicating at the same hour in both places) with their customers during the course of an entire year. They claim that this move would shift resources away from coping mechanisms and toward more productive business activities.

In the Second Supplemental Response, the Petitioning Counties address DOT's questions about commerce in Knox County arising from the Joint Petition. The Second Supplemental Response claims that a move to the Eastern Time Zone would put Futaba Indiana of America (FIA), identified as a major Knox County automobile parts producer, in the same time zone as its two important customers in the Eastern Time Zone. Although FIA also ships its products to locations in the Central Time Zone (including Chicago and Texas), the Second Supplemental Response asserts that harmonizing the manufacturing plant with at least two of its customers located in the Eastern Time Zone would positively advance the convenience of commerce. DOT requested support for these assertions and, in the Third Supplemental Response, the Petitioning Counties cite to an FIA receptionist, newspaper articles, and the Director of the Knox County Development Corporation in support of their position on this issue.

While DOT remains unconvinced by the assertions of the Petitioning Counties as they relate to FIA and the Knox County economy, the Petitioning Counties have submitted sufficient information to show that many businesses and industries located in the Petitioning Counties have substantial business connections in the Eastern Time Zone that would justify proposing to move the time zone boundary for the Petitioning Counties to the Eastern Time Zone. In addition, the Petitioning Counties have submitted sufficient information to justify proposing to move the time zone boundary based on their claims that the convenience of commerce would better be served if businesses did not have to adjust for

time zone differences. DOT solicits further information concerning community imports and exports that would aid in determining whether a change in the time zone for the Petitioning Counties would serve the convenience of commerce.

Television and Radio Broadcasts

With regard to television and radio broadcasts, the original petitions submitted by each Petitioning County made general statements about transmissions that each Petitioning County receives. The original Daviess County petition stated that it receives its television broadcasts from both Evansville and Terre Haute. The original Dubois County petition stated that it receives radio transmissions from within the county and television broadcasts from Evansville, Louisville, Terre Haute, and Indianapolis. The original Knox County petition pointed out that it is the second-largest television audience for Terre Haute and the fourth-largest for Evansville. The original Martin County petition noted that it is served by television stations located in Evansville in Vanderburgh County and Vincennes in Knox County. Finally, the original Pike County petition stated that the majority of its broadcasts originate out of Evansville.

The Joint Petition and Second and Third Supplemental Responses provide more detailed information regarding television and radio broadcasting in the Petitioning Counties. The Joint Petition states that the majority of the Petitioning Counties (Knox, Daviess, and Martin) are in the Terre Haute Designated Market Area (DMA), in the Eastern Time Zone. The remaining Petitioning Counties (Pike and Dubois) are part of the Evansville DMA, in the Central Time Zone.

The Joint Petition claims that every radio station with the strongest signal in the Petitioning Counties is currently located, or petitioning to be, in the Eastern Time Zone. In support of this statement, the Joint Petition includes two charts that list the stations (both FM and AM) with the three strongest signals that reach each of the five petitioning counties. These charts also indicate the city and county where the station is currently located, as well as the time zone of the station's location if the petition were granted. DOT questioned the decision to include only the signals with the three strongest frequencies, whether these were the strongest frequencies, and the choice to include certain frequencies themselves in the chart.

In the Second Supplemental Response, the Petitioning Counties

again claim that the chart in the Joint Petition “demonstrates that the Petitioning Counties are oriented toward the Eastern Time Zone.” In order to supplement that claim, the Petitioning Counties submitted a second set of charts in Appendix C to the Second Supplemental Response (not “Appendix B” as referenced in the Second Supplemental Response). Rather than including the three strongest signals available in each of the respective counties, these charts provide more specific information, including all radio stations (both FM and AM) and the major city of the listening audience of each petitioning county: Washington in Davies, Jasper in Dubois, Vincennes in Knox, Loogootee in Martin, and Petersburg in Pike. Based on classifications by <http://www.radio-locator.com>, the chart arranges the stations in order of strength of signal to the listening area, with the strongest signals listed first. The chart also includes the current time zone of the radio signal’s origin and the time zone if the petition were granted. The only difference between the chart in the Joint Petition and the chart in the Second Supplemental Response is the differing time zone origin. Stations (both FM and AM) that originated in the Petitioning Counties would move from the Central Time Zone to the Eastern Time Zone. With such a uniform shift, it is not clear that a change in time zone would serve the convenience of commerce. Furthermore, DOT questions whether signal strength is sufficient evidence to support the conclusion that the particular time zone matters for radio broadcasting. The Petitioning Counties have not shown how having a strong signal translates into an increased audience nor have they accounted for the type of radio programming that is being offered.

With regard to television broadcasting, the Joint Petition includes a chart listing the TV stations for the Petitioning Counties, the city and county where each station is located, and the time zone of the station if the petition were granted. In addition, the Joint Petition indicates that the National Weather Service Center serving four of the Petitioning Counties (Davies, Knox, Martin, and Dubois) is in the Eastern Time Zone, while only one county (Pike) has the National Weather Service Center in the Central Time Zone. The Petitioning Counties claim that because “most of the radio and television stations that cover local news and weather in the Petitioning Counties is either located within the Petitioning Counties themselves or are in counties

in the Eastern Time Zone, the convenience of commerce is best served by moving the Petitioning Counties to Eastern Time.”

Because the Joint Petition’s claims that “these counties are served by various cable systems and a variety of satellite systems,” DOT requested that the Petitioning Counties list the channels offered by any cable providers in each county that are locally generated and the location and time zone of those broadcasts. In the Second Supplemental Response, the Petitioning Counties provide a chart indicating the Designated Market Area and the significantly viewed channels for each County with the city and county where the station is located as well as the current time zone and the projected time zone if the Joint Petition were granted. The only significant change in time zone involves stations located within the Petitioning Counties themselves, which move from the Central Time Zone to the Eastern Time Zone.

In further support of a change to the Eastern Time Zone, in the Second Supplemental Response, the Petitioning Counties state that, under the status quo, “viewers in the Petitioning Counties may miss their news because it comes on at 5 a.m. in the morning and at 4 p.m. in the evening.” On the other hand, if the Joint Petition were granted, the Petitioning Counties simply argue that “the majority of viewers in the Petitioning Counties who work 8 a.m. to 5 p.m. (and currently receive their programming from a station operating on Eastern Time) will receive their local news before going to work in the morning and after they return from work in the evening.” Seeking clarification of this argument and additional justification, DOT wrote to the Petitioning Counties and noted that each of the Petitioning Counties receives a signal that originates in the Central Time Zone. In the Third Supplemental Response, the Petitioning Counties assert, “Convenience of commerce is served by providing viewers with better access to the market designated to provide them coverage” and refer to significantly viewed stations, which are the most viewed stations. The significantly reviewed stations in the three Petitioning Counties that are in the Terre Haute Designated Market Area are in the Eastern Time Zone.

The Petitioning Counties have not provided sufficient information concerning the television/radio broadcasting aspect of the convenience for commerce standard to justify proposing to change the time zone boundary. DOT questions whether radio

signal strength is enough evidence to support proposing a change in time zone. In addition, the majority of television signals become aligned with the Eastern Time Zone because the Counties have petitioned to move as a single unit. DOT seeks comments on the information submitted by the Petitioning Counties and requests any additional information on television and radio broadcasting, including audience size in the Petitioning Counties, that would aid in determining whether a time zone change for these Counties would serve the convenience of commerce.

Newspapers

Only three out of the five original individual petitions, Dubois, Knox, and Martin Counties, discussed newspaper distribution numbers within their counties. These three petitions emphasized that the primary newspapers delivered are local daily newspapers. Nevertheless, the original Dubois County petition acknowledged receipt of newspapers from Evansville in the Central Time Zone and Louisville in the Eastern Time Zone. The original Knox County petition also noted that there is a “substantial circulation” of the *Evansville Courier*, and that residents also receive newspapers from Terre Haute and Indianapolis, both in the Eastern Time Zone.

The Joint Petition expounds on the idea that the Petitioning Counties are largely served by their local newspapers. The Joint Petition states that residents of the Petitioning Counties rely on other newspapers published in or adjacent to their own counties, “all of which are already in or are petitioning to be in the Eastern Time Zone” and thereby “likely serve the advertising needs of local businesses.” The Joint Petition acknowledges that the Petitioning Counties are served by both the *Indianapolis Star* (with a total circulation of 4,251) and the *Evansville Courier & Press* (with a total circulation of 12,740). However, the Joint Petition claims that these papers focus almost exclusively on national news and the local news particular to their cities, Indianapolis and Evansville. The Second Supplemental Response supports this claim by stating that “[t]here is very little if any advertising by companies doing business in the Petitioning Counties.” The Second Supplemental Response also notes that the “vast majority” of businesses advertising in the *Courier and Press* are located in Evansville or Henderson, Kentucky (both in the Central Time Zone) to support the claim that those newspapers primarily serve the

communities in the immediate vicinity of the city. (The Second Supplemental Response also corrected the Joint Petition and acknowledged that the *Courier and Press* is distributed in Martin County.)

The Joint Petition includes a chart that lists the names and circulation numbers of the local newspapers serving each of the Petitioning Counties, as well as the County and the time zone of publication if the petition is granted. For example, for Daviess County, the chart indicates that the *Washington Times-Herald*, with a weekly circulation of 6,459, is published in Daviess, which will be moved to the Eastern Time Zone if the petition is granted. In addition, the *Washington Extra*, another local newspaper identified in the chart, is published in Daviess County and (like the *Washington Times-Herald*) has a significantly higher weekly circulation in Daviess County than either the *Indianapolis Star* (496) or the *Evansville Courier & Press* (92). In total, all four local newspapers serving Daviess County are published within the Petitioning Counties. This pattern is consistent with the circulation patterns in the other Petitioning Counties as well, where the total circulation for the main local newspaper published in each county far outweighs the circulation for either the *Indianapolis Star* or the *Evansville Courier & Press*.

There are only two local newspapers shown in the chart that are published outside of the Petitioning Counties: the *Paoli News Republican*, which is published in Orange and has a weekly circulation of 400 in Dubois County; and the *Bedford Times-Mail*, which is published in Lawrence County and has a negligible weekly circulation in both Dubois and Martin Counties. Both of these newspapers are published in the Eastern Time Zone and would continue to be published in the Eastern Time Zone if the Joint Petition were granted. The remaining local newspapers are all published in one of the five Petitioning Counties. According to the Joint Petition and reiterated in the Second Supplemental Response, these counties are served by a number of papers published locally, which “likely serve the advertising needs of local businesses.” The Second Supplemental Response claims, “the lack of advertising by companies located in the Petitioning Counties suggests a lack of connection to the Evansville area.” (Emphasis added.) The Second Supplemental Response concludes that, with regard to newspaper circulation, “[t]his factors in favor of treating the Petitioning Counties as a unit and moving them all to Eastern Time as a

block.” Because the overwhelming majority of local newspapers in circulation within the Petitioning Counties are currently on Central Time, moving them as a “block” would simply represent a universal shift of local newspapers to Eastern Time if the petition were granted.

In the Third Supplemental Response, the Petitioning Counties responded to DOT’s question on whether the residents of the Petitioning Counties might shop or use the services of businesses that advertise in the *Indianapolis Star* or the *Courier and Press*. The Petitioning Counties admitted that discussions with individuals in the Petitioning Counties “yielded different responses.” There were no overwhelming preferences for either the Eastern or Central Time Zone shops or businesses advertising in these papers.

The Petitioning Counties have not submitted sufficient information concerning the newspaper aspect of the convenience for commerce standard to justify proposing to change the time zone boundary based. DOT seeks comments on the information submitted by the Petitioning Counties and requests any additional information on newspaper circulation in the Petitioning Counties that would aid in determining whether a time zone change for these Counties would serve the convenience of commerce.

Bus and Passenger Rail Service

Only three out of the five original individual petitions, from Dubois, Knox, and Pike Counties, discussed bus and rail service within their Counties. The original Dubois County petition stated that Dubois County is not served by passenger bus or rail service; however, such service is available out of Louisville, Indianapolis or Evansville. The original Knox County petition stated that its citizens can obtain bus service from Evansville and Terre Haute, and that passenger rail service is available in Effingham, Illinois and Indianapolis. The original Pike County petition stated that the closest major passenger rail and bus service is generally located in Evansville.

With regard to bus service, the Joint Petition points out that three of the four Greyhound bus stations that are closest to the Petitioning Counties are on Eastern Time. It states that these stations are located in Indianapolis, Terre Haute, and Louisville in the Eastern Time Zone, and in Evansville in the Central Time Zone. The Joint Petition also claims that, although the Evansville station is relatively close to many residents of the Petitioning Counties, “it

only offers transportation to western and southern routes.” On the other hand, the stations located in the Eastern Time Zone offer much broader service to the Petitioning Counties. For example, the Terre Haute station offers connections both to southwest destinations and to Indianapolis, which in turn provides service to all destinations. In addition, the Louisville station offers transportation to north, northeast, and southern destinations. Accordingly, the Joint Petition uses these bus service routes as support to change back to the Eastern Time Zone.

With regard to rail service, the Joint Petition focuses on commercial rail carriers. The Joint Petition points out that, because most of the existing major junction and division points for common carriers are located in the Eastern Time Zone, it would best serve the convenience of commerce to place all of the Petitioning Counties on Eastern Time. Answering DOT’s inquiry concerning the availability of passenger rail service to its residents and how changing to Eastern Time would impact such services, the Second Supplemental Response states that “[n]one of the railroad companies that run through southwest Indiana provides passenger service in the area.” Moreover, it states that Amtrak, the only passenger rail company in Indiana, runs on commercial lines only through northern and central Indiana (in the Eastern Time Zone), far from the Petitioning Counties. As such, the Petitioning Counties assert that “[p]assenger rail schedules are not a factor here.”

The Petitioning Counties have submitted sufficient information based on the bus service aspect of the convenience of commerce standard to justify proposing to change the time zone boundary. The Petitioning Counties have provided information on the broader bus service available in locations in the Eastern Time Zone. According to the Petitioning Counties, passenger rail service is not at issue. DOT seeks comment on the information submitted by the Petitioning Counties and requests any additional information on bus and rail services in the Petitioning Counties that would aid in determining whether a change in the time zone for the Petitioning Counties would serve the convenience of commerce.

Airports/Airline Services

The original petitions for Daviess, Knox and Pike Counties stated that the closest airport providing passenger service to their respective counties is located in Evansville. The original petition for Dubois County stated that

the airport in the County serves primarily private business planes and lists Louisville, Evansville, and Indianapolis as “major airports providing service” to its residents. The original petition for Martin County noted that the nearest general airport is in Vanderburgh County in the Central Time Zone, and also noted that Martin County residents are served by local airports in Daviess and Dubois Counties.

The Joint Petition discusses the three major airports that could potentially serve residents of the Petitioning Counties for commercial passenger service: one in the Central Time Zone in Evansville and two in the Eastern Time Zone in Indianapolis and Louisville. The Joint Petition acknowledges that the Evansville Regional Airport is the closest geographically for many residents in some parts of the Petitioning Counties. However, despite this proximity, the Joint Petition claims that, according to “travel agents who serve residents in the Petitioning Counties,” it is more expensive to fly out of Evansville and that the Evansville airport offers “very few direct connections.” The Joint Petition also states that Evansville offers direct flights to only six destinations: Chicago (O’Hare), Cincinnati, Atlanta, Memphis, Detroit, and Dallas. In contrast, the Joint Petition notes that the Indianapolis International Airport in the Eastern Time Zone services 34 destinations, while the Louisville International Airport, also in the Eastern Time Zone, services 28 destinations. The Joint Petition declares that “Indianapolis is one of the top jumping-off points for air travelers from the Petitioning Counties.” To support this claim, the Joint Petition again relies on travel agents who serve residents in the Petitioning Counties and have reported that “70 to 75% of their customers fly out of Indianapolis or Louisville for reasons of cost or convenience.” The Joint Petition does not offer any specific information regarding whether these are business or leisure travelers, the destination of these travelers, or whether the location, and therefore, the relevant time zone of the airport affected their choice. In addition, the Joint Petition, citing information obtained from an employee of NSWC Crane, points out that 80% of the employee travelers from Crane military base (located in Martin County) use the Indianapolis airport.

The Joint Petition also provides detailed information regarding local service airports that are situated within or near the Petitioning Counties, and states that such “airports provide county-based business with direct air travel access.” The Joint Petition

maintains that nearly all of these Indiana-based local airports would be in the Eastern Time Zone if the Petition were granted. However, the Second Supplemental Response clarifies that, although they are the “nearest airports” in terms of geographic location, none of the local airports situated in the Petitioning Counties provides commercial passenger service.

The Joint Petition also notes that the two closest hubs of the largest private express package carriers serving the Petitioning Counties, United Parcel Service and Federal Express, are situated in the Eastern Time Zone, in Indianapolis and in Louisville, and that air travel for cargo is thus oriented toward counties that are already in the Eastern Time Zone.

The Petitioning Counties have not submitted sufficient information concerning the airports/airline services aspect of the convenience of commerce standard to justify proposing to change the time zone boundary. DOT seeks comment on the information submitted by the Petitioning Counties and requests any additional information on airport and airlines services in the Petitioning Counties that would aid in determining whether changing the time zone for the Petitioning Counties would serve the convenience of commerce.

Worker Commuting Patterns

The Joint Petition claims that the majority of workers in the Petitioning Counties live and work in their home counties. For those who work outside of their home counties, the Joint Petition states, “Of those migrating to a Petitioning County for work, the majority come from locations in the Eastern Time Zone. Of those leaving a Petitioning County for work, the majority go to locations in the Eastern Time Zone.” The Joint Petition relies on commuting patterns data from the Indiana Department of Revenue. In the Third Supplemental Response, the Petitioning Counties explained that the basis of their statement was their consideration that the Petitioning Counties were in the Eastern Time Zone, “as Eastern Time is the Petitioning Counties’ desired time zone.” The Third Supplemental goes on to say that the commuting patterns demonstrate the strong connection among the Petitioning Counties and recognizes that the commuters do not have a large impact on the overall workforce in most of the Petitioning Counties, with the exception of Martin County where commuters make up 46.9% of the Martin County workforce.

The Petitioning Counties have not submitted sufficient information

concerning the worker commuting patterns aspect of the convenience of commerce standard to justify proposing to change in the time zone boundary. DOT seeks comment on the information submitted by the Petitioning Counties and requests any additional information on worker commuting patterns in the Petitioning Counties that would aid in determining whether changing their time zone boundaries.

The Community’s Economy/Economic Development

While the original Daviess County petition did not mention anything about the elements of the Daviess County economy, each of the other original petitions discussed each County’s individual economy and economic development as one of the matters to consider as part of the convenience of commerce standard. The original Dubois County petition stated that the principle element of its economy is wood furniture manufacturing, followed by agriculture. The original Knox County petition mentioned healthcare and education as the major elements of its economy. The original Pike County petition stated that its economy is largely dependent on the local mining industry. The original Martin County petition noted that the major elements of its economy are “agriculture, timber, and technology connected to” NSWC Crane. In addition, the original Martin petition mentioned that the local economy is expected to improve with the continued operation of NSWC Crane, and that Martin County is working along with Daviess and Greene Counties to develop a technology park adjacent to NSWC Crane.

The Joint Petition provides additional information about the major elements of each County’s economy, the state of the economy, and economic development. The Joint Petition states that manufacturing and agriculture are two of the leading industries in the local economies of several of the Petitioning Counties. Consequently, in order to increase their competitive edge over international competitors, Dubois County seeks placement in the same time zone as a significant number of its companies’ suppliers and customers. Dubois County employers have reported that 60–90% of their business relationships remain in the Eastern Time Zone. Moreover, the Joint Petition refers to the President of the Knox County Development Corporation who anticipates that manufacturing growth experienced in that county should continue and does not foresee a shift to the Eastern Time Zone as having a negative impact. On the other hand, in

Pike County, local business and industry have been tied to coal mining and power generation and “the industries that support them,” including “fabricating, welding, and shipping.” One of the main coal mine operators in Pike County, Solar Sources, Inc., has its headquarters in Indianapolis and several mines in the Petitioning Counties. As such, the Joint Petition states that shifting Pike County to the Eastern Time Zone would serve the convenience of commerce by helping to prevent the scheduling and shipping problems that have coincided with the placement of the Petitioning Counties in the Central Time Zone.

The Joint Petition also focuses on the economy of the Petitioning Counties as a block, and states that the Petitioning Counties have stronger economic and cultural connections to each other, and the Indiana counties currently in the Eastern Time Zone, than they do with other southern Indiana counties and the Evansville-based economy in the Central Time Zone. The Petitioning Counties assert that one major economic development project potentially shared by all of the Petitioning Counties is the proposed extension of Interstate 69 (I-69) through central and southwestern Indiana. The Petitioning Counties point out that the expansion of I-69 will provide more economical and efficient access to Indianapolis, although they cannot “precisely quantify the economic impact to the region of the planned highway expansion.” Nonetheless, because traffic will be able to flow north from southwest Indiana to the larger network of highways that go through Indianapolis, the highway will provide “a crucial link to central Indiana and beyond.” As such, the Petitioning Counties contend that they should be placed in the Eastern Time Zone in order to stay associated with the infrastructure and markets that will be made more accessible through the extension of I-69. The Second Supplemental Response notes that updated information on the project “has yet to be completed.”

The Joint Petition also emphasizes the economic impact in both Daviess and Martin Counties of the NSWC Crane, which it asserts serves as a large regional employer and has entrances that currently span two time zones and three counties. The Joint Petition notes that Daviess County has partnered with the local and county redevelopment commissions of Martin County and Greene County, which is located in the Eastern Time Zone, to create a major technology park called “The West Gate @ Crane,” which is “expected to become Indiana’s showcase technology facility

for intelligent and environmentally balanced development.” Moreover, the Joint Petition states that a shift to the Eastern Time Zone would “greatly simplify communications and improve the support” of NSWC Crane’s primary customers, which are located in the Eastern Time Zone. The Joint Petition notes that 67% of Crane’s employees commute from the Eastern to the Central Time Zone for work, causing business efficiency and productivity to drop as a consequence of irregular business hours and meetings, relying on information provided by leaders of six employee organizations on NSWC Crane. Moreover, the Second Supplemental Response points out that this situation has gotten worse with the implementation of daylight savings time in Indiana, which “has moved 76% of NSWC Crane’s workforce to the Eastern Time Zone while the plant has remained on Central Time.” The Second Supplemental Response quotes the President of Crane Technology, Inc. as stating that this has created a “nightmare for scheduling and employee productivity” because “the plant must operate two sets of clocks to complete its business” and “virtually all employees strongly desire a move that would bring all workers on the same time.” The Third Supplemental Response says that EG&G Technical Services, Crane, is “a major contractor supporting” NSWC Crane and states that, according to this contractor, “core business hours have been reduced” and this change “adversely impacts workload execution and delays meetings and decisions.” No information was provided by officials from NSWC Crane.

The Petitioning Counties have submitted sufficient information concerning the community’s economy/economic development aspect of the convenience of commerce standard to justify proposing to change in the time zone boundary. DOT solicits further information and data supporting or rebutting the information supplied by the Petitioning Counties and how it supports a change in the time zone for the convenience of commerce.

Schools, Recreation, Health Care, or Religious Worship

With regard to schools, the original Daviess County petition stated that the closest State college is the University of Southern Indiana (USI) in Evansville in the Central Time Zone. The original Dubois County petition stated that the majority of students leaving the community for post-high school education attend universities in the Eastern Time Zone, although “a

number” attend schools in Evansville. The original Knox County petition pointed out that residents who leave the community for school go to Illinois, or Gibson or Vanderburgh Counties, all in the Central Time Zone. The original Martin County petition stated that the primary local outlets for higher education were in the Central Time Zone and include USI, IVY Tech, and the University of Evansville, in Vanderburgh County; Vincennes University with campuses in Knox and Dubois Counties; and Oakland City University in Gibson County. The original Pike petition did not mention where its citizens go for higher education.

Unlike the original petitions which focused on higher education, the Joint Petition focuses on primary and secondary education, including sporting events, and also on vocational students. The Joint Petition notes that there are 15 school districts covering the five Petitioning Counties. No school district in the Petitioning Counties is in more than one time zone. The Joint Petition points out, however, that schools in these districts compete in athletic events against schools that are located in other time zones. Consequently, “many away games have to be played in counties that are already in the Eastern Time Zone,” which causes “time-related confusion of both students and parents.” To support this claim, the Joint Petition cites to the football schedule for North Daviess High School in Daviess County, which includes 6 games in the Eastern Time Zone (or 67% of its games). In the Second Supplemental Response, the Petitioning Counties provide their high school basketball schedules stating, “If the Petitioning Counties are shifted to the Eastern Time Zone, there will be a reduction in the number of games played in differing time zones from 27 to 18.” The Second Supplemental Response explained that this would “reduce the games played in different time zones to between 6% and 17%,” depending on the school. The Second Supplemental Response also points out that only one high school, Pike Central, would play more games in a time zone different from their own, if the Joint Petition were granted. The Second Supplemental Response concludes, “Based on the significant reduction of games played outside the school’s time zone in four out of the five Petitioning Counties, a move to Eastern Time best serves the convenience of commerce by easing time-related confusion of both students and parents.”

The Joint Petition states that students in the Petitioning Counties who attend

vocational schools would also benefit from their counties being switched to the Eastern Time Zone and provided statistics for vocational students in Martin County. The Exhibit to the Joint Petition indicates that 15 students must travel back and forth across time zones in the Shoals Community School Corporation in Martin County. The Second Supplemental Response provides information on vocational students in Pike and Dubois Counties, but not for Daviess and Knox Counties, noting an inability to obtain statistics for these Counties. The Second Supplemental Response mentions Twin Rivers Vocational School (a cooperative between school corporations in Knox County, and Greene and Sullivan Counties, which are already in the Eastern Time Zone) as a school that currently has scheduling difficulties related to the different time zones. In summary, approximately 67 vocational students are affected by the time zone differences.

With regard to recreation, the original Daviess County petition stated that the largest metropolitan area where its citizens transact business is Evansville. The original Dubois County petition noted that "major recreational events" would be in either the Eastern or Central Time Zones. The original Knox County petition pointed out that residents who leave the community for recreation go to Illinois, or Gibson or Vanderburgh Counties, all in the Central Time Zone. The original Martin County petition listed Daviess, Dubois, Knox, and Vanderburgh Counties as the primary recreational outlets for its citizens. The original Pike County petition states that "by far the majority of any entertainment available to the citizens of Pike is located in Evansville."

The Joint Petition notes, "Recreational facilities are distributed fairly evenly throughout the Petitioning Counties," and that "residents therefore typically do not have to cross time zones to participate in a sporting activity." The Joint Petition specifically refers to a variety of sporting events and opportunities for golfers, boaters, tennis players, and fishers. On the other hand, the Joint Petition states that if residents want to go to a college athletic event at one of the State's three major universities, they must cross into the Eastern Time Zone.

DOT requested comments from the Petitioning Counties on time zone change as it relates to recreation and tourism surrounding the Holiday World & Splashin' Safari amusement park in Spencer County because of strong economic ties between several of the Petitioning Counties and Spencer and

Perry Counties, with its 1450 seasonal employees many who come from the Petitioning Counties, and its nearly 900,000 visitors a year. In the Second Supplemental Response, the Petitioning Counties state that, "Due to its lengthy hours of operation, Holiday World will not be negatively impacted if the Petitioning Counties move to Eastern Time." Rather, Holiday World stands to benefit, "as visitors from Petitioning Counties might arrive earlier in the day due to their being an hour ahead." The Second Supplemental Response did not provide a source for these assertions.

In the Second Supplemental Response, the Petitioning Counties identify the two other attractions in the region: the French Lick Casino and Resort, located in Orange County, in the Eastern Time Zone, and Patoka Lakes located in Dubois, Orange, and Crawford Counties, in both the Eastern and Central Time Zones. In the Third Supplemental Response, the Petitioning Counties provide more detailed information about these attractions. The French Lick Casino re-opened at the end of October, 2006 and employs 1400 workers. From its opening through March 2007, there had been 520,367 visitors. The fishing tournaments at Patoka Lakes attract between 750,000 and 1,000,000 visitors. The Third Supplemental Response adds an attraction not mentioned in the Joint Petition or the Second Supplemental Response, Paoli Peaks, a ski resort in Orange County that attracts 100,000 visitors annually.

With regard to health care, the original individual petitions for Dubois County stated that the citizens of their counties receive ordinary medical care within their respective county. For more specialized medical care, the original Dubois County petition stated that its citizens go to Evansville, Indianapolis, and Louisville. The original Knox County petition pointed out that residents who leave the community for health care go to Illinois, or Gibson or Vanderburgh Counties, all in the Central Time Zone. The original Martin County petition stated that a vast majority of its residents utilize hospitals in Daviess, Dubois, and Knox Counties. The original Martin County petition cites Evansville as the closest location with a major medical center. The original petitions for Daviess and Pike Counties did not mention where its citizens receive medical care.

The Joint Petition includes a chart indicating that, with the exception of Lawrence County Memorial in Lawrence County, Indiana, all of the hospitals located closest to the Petitioning Counties are currently

located in the Central Time Zone. The Joint Petition also states that the best and closest specialty hospitals are located in Indianapolis and Louisville, both in the Eastern Time Zone, and that "there are no comparable hospitals with world-renowned specialists and facilities located in the Petitioning Counties." In the Second Supplemental Response, the Petitioning Counties correct the location of the Lawrence County Memorial Hospital, which is located in Lawrence, Illinois, in the Central Time Zone. In the Third Supplemental Response, the Petitioning Counties attempt to provide some justification for its assertions that patients from the Petitioning Counties seek treatment in Indianapolis or Louisville. The Third Supplemental Response refers to a report from the Daviess County Hospital that indicates that the majority of patients were transferred to another Petitioning County and more to a Central Time Zone hospital than to a hospital in the Eastern Time Zone. The Third Supplemental Response states, "For many of the Petitioning Counties (Daviess, Knox, and Martin) the majority of transfers outside of the Petitioning Counties went to hospitals on Eastern Time;" however, it does not provide a reference to support this assertion.

The Joint Petition does not mention any specific information regarding religious worship, but concludes that, based on the numerous places of worship in each Petitioning County, the majority of people worship in or near the same county in which they live.

The Petitioning Counties have submitted sufficient information concerning the recreation aspect of the convenience of commerce standard to justify proposing to change in the time zone boundary based on sporting activities and area attractions. The Petitioning Counties have also submitted sufficient information concerning the education aspect of the convenience of commerce standard to justify proposing to change the time zone boundary based on after school activities and higher education. The Petitioning Counties have not submitted sufficient information concerning the religious observance or health care aspect of the convenience of commerce standard to justify proposing to change the time zone boundary. DOT questions the number of residents of the Petitioning Counties that go to the more specialized hospitals located in the Eastern Time Zone, especially in light of the fact that, if the petition were granted, there would be more local hospitals in a different time zone than the current alignment. DOT seeks

comment on the information submitted by the Petitioning Counties and requests any additional information that would aid in determining whether a change in the time zone for the Petitioning Counties would serve the convenience of commerce.

Regional Connections

In the original rulemaking proceeding to change time zone boundaries from the Eastern Time Zone to the Central Time Zone, the Petitioning Counties and commenters advocated for a move by referring to their ties to other Indiana counties currently in the Central Time Zone. Many referred to data from STATS Indiana, including the Indiana Annual Commuting Trends Profile, based on Indiana IT 40 returns. Commenters who supported the change to Central Time also referred to data from the Indiana Economic Development Corporation, the Indiana Department of Workforce Development, the Indiana Department of Transportation, the Indiana Department of Education, and Designated Market Areas as defined by Nielsen Media Research for use in television ratings.

DOT carefully reviewed and used this data when it reached its prior decision to change the time zone boundaries of the Petitioning Counties to the Central Time Zone. Recognizing the importance of regional connections, the benefits of similar time zones, and regional ties among counties, DOT stated in the January 2006 final rule, "While Daviess, Dubois, Knox, Martin, and Perry border other Indiana counties in the Eastern Time Zone, their ties to those counties are not as strong as they are to each other and to other counties to their south, which are currently in the Central Time Zone. Along with Pike, these counties are located in the same workforce, commerce, transportation, and education regions designated by Indiana." DOT also noted that, in general, remaining in the same time zone and maintaining their regional ties better position counties to realize advantages in economic, cultural, social, and civic activities, thereby serving the convenience of commerce.

Contrary to the original statements about ties to the Central Time Zone and DOT's determination, the Joint Petition now asserts ties to the Eastern Time Zone. The Joint Petition concludes, "The Petitioning Counties are on the periphery of the regional, Evansville-based economy and have stronger economic and cultural connections to each other and the interior counties currently on Eastern Time than they do with the relatively few counties at the

southern tip of Indiana on Central Time."

While the Joint Petition refers to ties to the Eastern Time Zone, the Joint Petition also mentions the United States Bureau of Economic Analysis (BEA) in its discussion of Martin County. It uses the BEA information to explain the major elements of the community's economy.

According to BEA's Web site, "BEA produces economic account statistics that enable government and business decision-makers, researchers, and the American public to follow and understand the performance of the Nation's economy * * * BEA's economic areas define the relevant regional markets surrounding metropolitan or micropolitan statistical areas. They consist of one or more economic nodes—metropolitan or micropolitan statistical areas that serve as regional centers of economic activity—and the surrounding counties that are economically related to the nodes." (Emphasis added.). The economic areas are based on commuting patterns, statistical areas, and on newspaper circulation data. With the exception of Knox County, the Petitioning Counties are in BEA economic area 54 (the Evansville, KY area), along with other counties that are in the Central Time Zone. Knox County, on the other hand, is in a BEA economic area with counties in both the Central and Eastern Time Zones.

DOT asked the Petitioning Counties to address these differences in the Joint Petition's assertions of connections to the Eastern Time Zone and the BEA data. Despite the BEA classification, in their Second Supplemental Response, the Petitioning Counties now insist that their strongest economic connections are among themselves and the surrounding counties on Eastern Time rather than to the other counties in BEA economic area 54. The Second Supplemental Response states, "A better assessment of regional connectivity can be seen on the State and local level." The Second Supplemental Response notes that State and local economic development agencies may consider commuter patterns and also "look to the types of businesses in the area upon which communities rely to sustain growth" as well as funding, and transportation opportunities. More specifically, the Second Supplemental response refers to the Indiana Association of Regional Councils (IARC), an organization that supports regional planning efforts that prioritize and categorize local community and economic development needs and projects as well as the transportation

and special needs of the communities. Under IARC, none of the Petitioning Counties considered to be within the Evansville region and are connected with other Petitioning Counties and counties.

The Second Supplemental Response also refers to other connections to counties already on Eastern Time. Under Region 15 Economic Area, Dubois and Pike Counties are paired with Orange and Crawford Counties in the Eastern Time Zone. The Second Supplemental Response also notes that Daviess, Knox, and Martin Counties are served by the Southern Indiana Development Commission (SIDC) along with two other counties currently in the Eastern Time Zone. According to the Second Supplemental Response, SIDC counties have collaborated on Federal and State grant applications. As an example of these collaborative efforts, the Second Supplemental Response refers to a demand-based rural transit system funded by a Federal grant. The Second Supplemental Response asserts that placing all participating counties in the same time zone will preserve the cohesiveness and viability of the system.

Another regional economic development project referenced in the Second Supplemental Response is Crane Diversification, which is composed of six counties, including Daviess and Martin Counties and four others counties which are on Eastern Time. According to the Second Supplemental Response, the goal of Crane Diversification "is to develop an economic diversification plan that will result in an orderly transition of this block of counties * * * from economic dependence on national defense spending to a more balanced local economy with a mix of private and public sector employment opportunities for the area's citizens." The Petitioning Counties believe that projects such as Crane Diversification would be negatively impacted by the current time zone disparity, affecting planning, integration, and strategic development. The Second Supplemental Response also mentions other projects that it says define the economic region in terms of counties tied to each other through potential business development. These include the Indiana Uplands Growth Partnership, developed under a gaming statute; Economic Growth Region 8; and West Gate @ Crane Technology Park. The Third Supplemental Response explains these in greater detail.

According to the Third Supplemental Response, the Indiana Upland Growth Partnership concerns the French Lick Casino and arose under State legislation.

The Third Supplemental Response states that “a portion of the admission taxes at the casino will go towards supporting regional economic activity for Orange County (Eastern) and the five counties surrounding Orange.” While the Third Supplemental response refers to five counties, it only lists four and states, “These counties have worked together to develop a strategic plan for the economic development of the six county region.” With regard to West Gate @ Crane Technology Park, the Third Supplemental Response notes that it was certified by the Indiana Economic Development Corporation and developed by county and economic development commissions from Daviess (Central), Martin (Central), and Greene (Eastern) counties. The Third Supplemental Response states, “The state-of-the-art facilities in development are expected to serve major commercial technology companies associated with the \$2 billion NSWC Crane military technical center. Facilities are also being designed for academic and training operations.” As for Economic Growth Region 8, the Third Supplemental Response explains that the region was designated by the Indiana Department of Workforce Development “to promote economic growth and serve as a means for implementing the State’s Strategic Plan Initiative.”

The Third Supplemental Response concludes that failing to change the time zone boundary to the Eastern Time Zone and “cement the connection between the Petitioning Counties and the State Capitol, and between a large portion of the business in the Petitioning Counties and their customer base, is likely to have a significantly negative impact on the already struggling economies of this region.”

The Petitioning Counties’ references to Region 15 Economic Area and Economic Growth Region 8 are also addressed in letters from the Indiana Economic Development Corporation and the Indiana Department of Workforce Development. As noted above, these organizations explained that they established their respective State regions based on their ability to deliver services. They did not establish regions based on time zones or “convenience of commerce.” Nevertheless, the Petitioning Counties have submitted sufficient information concerning the regional connections and ties to the Eastern Time Zone to justify proposing to change the time zone. DOT seeks comment on the information submitted by the Petitioning Counties and requests any additional information concerning regional connections that would aid in determining whether

changing the time zone for these counties would serve the convenience of commerce.

Request for Comments

To aid us in our consideration of whether a time zone change would be “for the convenience of commerce,” we ask for comments on the impact on commerce of a change in the time zone and whether a new time zone would improve the convenience of commerce. The comments should address the impact on such things as economic, cultural, social, and civic activities and how time zone changes affect businesses, communication, transportation, and education. The comments should be as detailed as possible, providing the basis of the information including factual data or surveys. For example, with regard to major bus, rail, and air transportation, information such as the average time it takes for a county resident to travel to a transportation terminal or the average distance to the terminal for a county resident would be useful. With regard to the impact of the time zone on education, if a school district crosses county lines, the number of students in each county in that district would be helpful. Information on school activities such as sporting events or academic competitions that take place in other counties or locations that are not on the same time zone as the school district would also be useful. Similar information on community colleges could also be beneficial. Finally, we would appreciate information on how the different time zones affect the students and the schools.

We specifically invite comment from neighboring Indiana counties and counties in other States that may also be impacted by changing the Petitioning Counties’ time zone boundary.

Although the Petitioning Counties have submitted sufficient information to begin the rulemaking process, the decision whether actually to make the change will also consider information submitted in writing to the docket. Persons supporting or opposing the change should not assume that the change will be made merely because DOT is making the proposal. DOT here issues no opinion on the ultimate merits of the Petitioning Counties’ request. We note that the Petitioning Counties and their residents have had only a short time to experience the effects of changing from Eastern to Central Time and now the Petitioning Counties request to change back again. We also understand that this proposal may have an impact on surrounding Counties, particularly Perry County which

changed time zone boundaries at the same time as the Petitioning Counties. This may result in many comments to the docket. Our decision in the final rule will be made on the basis of information and comments developed during the entire rulemaking proceeding. In our experience, time zone boundary changes can be extremely disruptive to a community and, therefore, should not be made without careful consideration. At the close of the comment period, we will analyze the comments submitted and decide whether to withdraw the proposal (and deny the Joint Petition) or issue a final rule.

Comment Period

We are providing 30 days for public comments in this proceeding. Although we normally provide 60 days for public comments on proposed rules, we believe that 30 days is an adequate public comment period in this instance. It is important to resolve this rulemaking expeditiously so that we can provide ample notice if a change to the Petitioning Counties’ time zone boundaries is adopted. Since the introduction and passage of the Indiana Act in 2005 and through DOT’s time zone regulatory proceeding and review of three Supplemental Responses, the time zone boundary issue has been actively discussed and analyzed. In this regard, we expect that 30 days is adequate time to submit the necessary data, which is based on currently available information.

Regulatory Analysis and Notices

This proposed rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not “significant” under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The rule primarily affects the convenience of individuals in scheduling activities. By itself, it imposes no direct costs. Its impact is localized in nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a

substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This proposal, if adopted, would primarily affect individuals and their scheduling of activities. Although it would affect some small businesses, not-for-profits and, perhaps, a number of small governmental jurisdictions, it would not be a substantial number. In addition, the change should have little, if any, economic impact.

Therefore, I certify under 5 U.S.C. 605(b) that this proposed rule would not, if adopted, have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Judith Kaleta at (202) 366-9315.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

We have analyzed this proposed rule under E.O. 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) and E.O.

12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that impose unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not result in a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

This rulemaking is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act and, therefore, an environmental impact statement is not required.

Privacy Act

Anyone is able to search the electronic form of all comments 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>.

List of Subjects in 49 CFR Part 71

Time zones.

For the reasons discussed above, the Office of the Secretary proposes to amend Title 49 part 71 as follows:

1. The authority citation for part 71 continues to read as follows:

Authority: Secs. 1-4, 40 Stat. 450, as amended; sec. 1, 41 Stat. 1446, as amended; secs. 2-7, 80 Stat. 107, as amended; 100 Stat. 764; Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 and Pub. L. 97-449, 15 U.S.C. 260-267; Pub. L. 99-359; Pub. L. 106-564, 15 U.S.C. 263, 114 Stat. 2811; 49 CFR 1.59(a).

2. Paragraph (b) of § 71.5 is revised to read as follows:

§ 71.5 Boundary line between eastern and central zones.

* * * * *

(b) *Indiana-Illinois.* From the junction of the western boundary of the State of Michigan with the northern boundary of the State of Indiana easterly along the northern boundary of the State of Indiana to the east line of LaPorte County; thence southerly along the east line of LaPorte County to the north line of Starke County; thence east along the north line of Starke County to the west line of Marshall County; thence south along the west line of Marshall County; thence west along the north line of Pulaski County to the east line of Jasper County; thence south along the east line of Jasper County to the south line of Jasper County; thence west along the south lines of Jasper and Newton Counties to the western boundary of the State of Indiana; thence south along the western boundary of the State of Indiana to the north line of Gibson County; thence easterly and northerly along the north line of Gibson County to the west line of Pike County; thence south along the west line of Pike County to the north line of Warrick County; thence east along the north line of Warrick and Spencer Counties to the west line of Perry County; thence easterly and southerly along the north and east line of Perry County to the Indiana-Kentucky boundary.

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Issued in Washington, DC on July 16, 2007.

D.J. Gribbin,

General Counsel.

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