

base, by a carrier to another carrier, is a sale of assets and shall be treated as an assignment, which requires prior Commission approval under this section.

(c) *Transfers of control.* For purposes of this section, a transfer of control is a transaction in which the authorization remains held by the same entity, but there is a change in the entity or entities that control the authorization holder. A change from less than 50 percent ownership to 50 percent or more ownership shall always be considered a transfer of control. A change from 50 percent or more ownership to less than 50 percent ownership shall always be considered a transfer of control. In all other situations, whether the interest being transferred is controlling must be determined on a case-by-case basis with reference to the factors listed in Note to paragraph (c).

\* \* \* \* \*

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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:** Final rule.

**SUMMARY:** DOT is relocating 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 and this change serves the convenience of commerce, the statutory standard for a time zone change. DOT is denying a petition from Perry County to change its time zone boundary. Perry County will remain in the Central Time Zone.

**DATES:** The effective time and date is 2 a.m. CDT, November 4, 2007.

**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](mailto: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.

Knox, Daviess, Martin, Pike, and Dubois Counties (the Petitioning Counties) and Perry County were moved to the Central Time Zone in January 2006. (71 FR 3228). On August 18, 2006, the Boards of Commissioners of the Petitioning Counties filed a Joint Petition requesting a time zone change back to the Eastern Time Zone. In addition, on June 1, 2007, Perry County filed a petition requesting a time zone change back to the Eastern Time Zone, if the Petitioning Counties were changed.

### 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 typically uses 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 elected 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 and Perry County

In the summer of 2005, a new Indiana state law adopted Daylight Saving Time for the entire State and further provided that the State supported the county executives of any county that sought to change time zones. 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 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 Petitioning Counties and Perry County.

In 2005, the Petitioning Counties submitted their petitions individually. In these 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 their 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. The Perry County petition provided detailed information to illustrate how a change to the Central Time Zone would serve the convenience of commerce. It discussed how the television broadcasts, newspapers, and work patterns favor Perry County being located 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, and media/commerce data, DOT concluded that the Petitioning Counties and Perry County 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 and Perry County from the Eastern Time Zone to the Central Time Zone. The change to the Central Time Zone became effective on April 2, 2006.

#### **The Petitioning Counties Joint Petition**

Only a few months after the Petitioning Counties began to observe Central Time, on August 18, 2006, the Boards of Commissioners of the Petitioning Counties jointly submitted a new 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 2005 petitions from the Petitioning Counties, the Joint Petition included more detailed information in answer to the questions DOT considers in making time zone determinations as well as exhibits in support of these answers.

The Joint Petition requested a change contrary to the Petitioning Counties’ positions in their 2005 individual petitions. The Joint Petition claimed the 2005 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 stated 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 claimed “to contain more extensive and thorough research on this issue.”

The Joint Petition was accompanied by letters from Indiana Governor 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 on the same time zone will provide clarity on the time questions and advance economic growth. The two Indiana 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 a supplemental response and appendix (Second Supplemental Response) to DOT’s request for this additional substantive information. In response to an additional request from DOT, on May 29, 2007, the Petitioning Counties sent another letter accompanied by numerous exhibits (Third Supplemental Response).

#### **2007 Notice of Proposed Rulemaking Concerning the Petitioning Counties**

Based on the Joint Petition and the three Supplemental Responses, on July 19, 2007, DOT published a Notice of Proposed Rulemaking in the **Federal Register** finding that the Petitioning Counties provided enough information to justify proposing to change their boundary from the Central Time Zone to the Eastern Time Zone. The Petitioning Counties addressed all of the factors that DOT considers in these proceedings.

The Petitioning Counties sufficiently justified proposing a change to the Eastern Time Zone based on information submitted concerning community imports and exports, bus service, the community’s economy and economic development, schooling, recreation, and regional connections. With regard to community imports and exports, the Petitioning Counties submitted sufficient information to show that many businesses and industries located in the Petitioning Counties have substantial business connections in the Eastern Time Zone. In addition, the Petitioning Counties submitted sufficient information to show that the convenience of commerce would better be served if businesses did not have to adjust for time zone differences. With regard to bus service, the Petitioning Counties provided information on the broader bus service available in locations in the Eastern Time Zone. The Petitioning Counties provided sufficient information to justify proposing a change back to the Eastern Time Zone under the

community's economy/economic development and regional connections factors based upon a proposed extension of Interstate 69 (I-69) through central and southwestern Indiana and the economic impact of the Naval Surface Warfare Center in Crane (NSWC Crane). The Petitioning Counties pointed out that the expansion of I-69 would provide more economical and efficient access to Indianapolis because traffic will be able to flow north from southwest Indiana to the larger network of highways that go through Indianapolis. The Petitioning Counties submitted sufficient information concerning the recreation aspect of the convenience of commerce standard based on sporting activities and area attractions. The Petitioning Counties 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.

On the other hand, DOT found that the Petitioning Counties did not submit sufficient information with regard to several other factors, including worker commuting patterns, television/radio broadcasting, newspapers, airports/airline services. In addition, the Petitioning Counties did not submit 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. Nevertheless, overall, the Petitioning Counties made a sufficient case that changing back to the Eastern Time Zone would serve the convenience of commerce.

#### Comments to the Docket—An Overview

There were over 3500 entries to the docket in this proceeding concerning both the Petitioning Counties and Perry County. The vast majority of the comments were submitted either in e-mails, letters, or information submissions to DOT's Docket Management System. Approximately 225 persons left a telephone message for, or talked with, the contact person noted in the Notice of Proposed Rulemaking. A list of these persons is included in the docket. DOT notes that comments submitted to the prior time zone proceeding docket, OST-2005-22114, after the issuance of DOT's July 2006 final rule but before the July 2007 Notice of Proposed Rulemaking, were transferred to this docket and considered before issuing this final rule.

Comments were made by the residents of the Petitioning Counties and Perry County, as well as other counties in Indiana, including

Lawrence, Marion, Monroe, Orange, Owen, and Spencer Counties. Although this proceeding is only to address whether the time zone boundary should be changed for the Petitioning Counties and Perry County, the commenters suggested a wide variety of approaches to establishing time zone boundaries in Indiana, including moving their county to the Eastern Time Zone, keeping their county in the Central Time Zone, placing all of the State in the Eastern Time Zone, and placing all of the State in the Central Time Zone. Some said that they did not care whether it was the Central Time Zone or the Eastern Time Zone, they just wanted the State to be in the same time zone. A few commenters asked DOT to give Indiana a time zone and then "stay in it." Others said that shifting time zones made things more confusing.

Comments were submitted by elected officials. Governor Daniels, State Representative Crooks, the Martin County Commissioners (jointly), Martin County Commissioner Boyd in his individual capacity, Pike County Commissioner Flint, Martin County Council Member Gee, and City of Jasper Mayor Schmitt and Jasper's seven council members submitted comments supporting the Eastern Time Zone. Santa Claus Town Councilman Burke submitted a comment in favor of the Central Time Zone for the Petitioning Counties.

Comments were filed by individuals expressing their personal interests and preferences as well as their views on how a time zone change would be for the convenience of commerce. Some commenters made the choice of time zone reluctantly. The Martin County Board of Commissioners, for example, noted that they favored the entire State to be in the same time zone, but preferred the Eastern Time Zone as an alternative. This same sentiment was echoed by one Daviess County businessman who stated, "While I personally feel the entire state should be on the Central Time Zone due to our geographic location in the nation, we as a company would be better served to be in sync with the rest of the state. I thereby grudgingly request that Daviess be moved back to the Eastern Time Zone." But as one commenter observed, "we all have to see by now that there are benefits to both time zones."

Most commenters identified themselves, although some comments were submitted anonymously. Several individuals submitted multiple comments, usually providing commentary on information submitted by others. Some noted their affiliation as concerned parents and grandparents,

interested family members, and volunteers.

Comments were also submitted by a variety of business interests including a chamber of commerce. Cabinet and furniture manufacturers, banks, natural gas and electric companies, trucking companies, real estate offices, a university professor, lawyers, and grain and livestock farmers commented. Health care and insurance providers, construction companies, a sawmill and logging operator, information technology and metal companies, and small retail businesses also commented.

Some comments included multiple signatures or multiple commenters. For example, with his letter, Representative Crooks submitted not only the results of his 2007 legislative survey, but the approximately 2500 actual responses that included comments on the time zone issue. Representative Crooks concluded by requesting that DOT return the Petitioning Counties to the Eastern Time Zone. In addition, the creator of advertisements and a Web site for [DuboisCounty4CentralTime.com](http://DuboisCounty4CentralTime.com) submitted approximately 500 comments on the time zone issue. Each of the comments included the commenter's name, e-mail address, business affiliation (if applicable), time zone preference, and additional comments. While there were some comments in support of the Eastern Time Zone, as noted by the submitter, "the resounding support from business and the public is for central time."

DOT has recognized that time zone changes can be disruptive to a community and very divisive. Some commenters accused others of providing "half truths and misleading information." However, the lengths to which some would go to support a time zone change in their favor became apparent in the filing of two comments, one from the town of Ireland and the other from St. Raphael Catholic Church, both located in Dubois County and in support of the Central Time Zone. The former included the names of 114 persons, the latter included 320 names, and neither included signatures. DOT was advised by the pastor of St. Raphael, the president of the St. Raphael's parish council, and individuals on the lists that both lists were fraudulently submitted and did not represent the views of the persons on the list.

The primary reasons given by those in favor of the Central Time Zone include the benefit to commerce and increasing availability for communication with customers on the West coast; geographic location of the State, with closer ties to Evansville, IN, and Owensboro, KY,

compared to Indianapolis and the East coast; safety of school children; and employment-related reasons such as wanting to live in and work in counties in the same time zone. Primary reasons given by those in favor of the Eastern Time Zone include commerce and the quality of life. With regard to commerce, commenters preferred the Eastern Time Zone because Indianapolis, the state capital, and the majority of the State are on the Eastern Time Zone, and the convenience of commerce would be better served if businesses did not have to adjust for time zone differences. With regard to the quality of life, commenters said it would be improved by having more daylight in the evening to spend time with the family or outdoors and because parents would have fewer problems with their children's after school care and sporting events.

DOT notes that several individuals sent multiple submissions to the docket, questioning information and data that were provided by the Petitioning Counties. DOT recognized that the Petitioning Counties had submitted information that needed to be clarified or corrected. DOT raised these concerns in several letters to the Petitioning Counties and, as a result, new information was submitted by the Petitioning Counties to DOT. DOT wanted to ensure that the data we rely upon are correct. We note, however, that 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. Therefore, in this final rule, DOT broadly discusses the comments submitted as they relate to the convenience of commerce standard, without necessarily addressing specific factual issues raised by these comments.

#### **Comments on Safety of the Children, Voting, and Personal Preferences**

A substantial number of the commenters repeatedly raised safety of the children, voting, and their personal preferences. Commenters who said they preferred staying in the Central Time Zone relied upon concerns about the safety of the children. On the other hand, both opponents and proponents of time zone changes repeatedly noted that they were "voting" for their time zone preference.

With regard to the safety of the children, some concerned parents commented that, for safety reasons, their children should not have to be standing at the bus stop on rural roads when it is still dark outside and, therefore, urged DOT to deny the requests to move to the Eastern Time Zone. Other concerned parents stated they preferred that their

children have an extra hour of daylight at the end of the day to allow them to spend more time outdoors to get exercise and, therefore, preferred the Eastern Time Zone.

Safety is the number one priority of the DOT and we are committed to improving safety of school children. However, as DOT noted in the January 2006 final rule, "Laws exist to protect children getting on and off school buses. If a bus stop is located in a dangerous place, the Department continues to encourage individuals and local communities to talk with the school office or transportation director about changing the location."

With regard to voting for personal preferences, a significant number of comments to the docket were just a line or two stating, "I vote to keep the Petitioning Counties in the Central Time Zone," or "I vote for the Eastern Time Zone," or "My vote is for the same time zone for the entire State of Indiana," or "My husband and I vote for Eastern Time." Many called for a public referendum on the issue.

DOT's decision whether to change the time zone boundary is not based on the number of persons supporting a particular time zone. Rather, as noted above, Congress adopted the statutory standard for decisions to move an area from one time zone to another: "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce" and the information provided by commenters helps us make this decision. This standard is defined very broadly by DOT to include consideration of all the impacts upon a community of a change in its time zone. It is DOT's responsibility to consider requests for changes in time zone boundaries in light of the statutory standard, bearing in mind the need to address the effect on economic, cultural, social, and civic activities within a county and between neighboring counties in making decisions. The views or preferences of citizens, without regard for the convenience of commerce, are not sufficient to support a time zone change. Furthermore, with regard to comments requesting that DOT move the entire State to the same time zone, DOT does not have a statewide proposal before it nor has the Indiana legislature endorsed such an approach. It is, therefore, beyond the scope of this proceeding to consider such a significant change to the State's time zone boundaries.

#### **Comments Addressing the Request of the Petitioning Counties and the Convenience of Commerce Standard**

In addition to the general comments received on the proposed time zone change for the Petitioning Counties, DOT also received specific comments relating to the questions DOT considers when determining whether to change a time zone boundary. These comments are summarized below and were considered by DOT in determining the appropriate time zone for the Petitioning Counties.

##### *Community Imports and Exports*

Large and small businesses commented in favor of both the Central and the Eastern Time Zone depending on the location of their suppliers and customers. However, those favoring the Eastern Time Zone also referred to lost business implications due to the unavailability of contacts at the beginning and end of the day and during lunchtime. For example, the Martin County Board of Commissioners noted that both the Martin County government and local businesses lost two hours a day. They stated, "There is a never-ending confusion with vendors and out of the area contacts about the time to contact parties."

In addition, one small business from Knox County commented that the struggles of time zone differences with customers and suppliers make it even more difficult to compete in a "big business world" and applauded the efforts of the Petitioning Counties to work together to move back to the Eastern Time Zone. Another small business from Dubois County noted that the number of missed calls "skyrocketed" with the change to the Central Time Zone. Other small retailers preferred the Eastern Time Zone for the additional daylight at the end of the day for shoppers. As for larger organizations, the Commanding Officer of the Naval Service Warfare Center, Crane, (NSWC Crane) and Officer-in-Charge, Naval Support Activity, Crane, (NSA Crane) described a negative impact of the Central Time Zone on productivity.

Some individuals supporting the Central Time Zone questioned what they referred to as the "supposed four hour difference" every business day and stated that in a global economy, businesses regularly "deal with it." In addition, a few commenters questioned whether the Central Time Zone resulted in a negative impact on the productivity at NSWC Crane and submitted some newspaper articles that highlight contracts awarded across time zones.

### *Television and Radio Broadcasts*

With regard to television and radio broadcasts, the President of DCBroadcasting, a media company operating a community TV station and several radio stations in Dubois County and adjoining counties, noted that the company operated in both time the Central and Eastern Time Zones. The only reason he gave for supporting the Eastern Time Zone was that the Jasper, Huntingburg, and Ferdinand Chambers of Commerce, all in Dubois County, supported the Eastern Time Zone.

Some individual commenters favoring the Central Time Zone noted that the majority of the television and radio signals received by the Petitioning Counties are from Evansville. One individual from Knox County expressed concern about a change back to the Eastern Time Zone because Knox County is "tornado alley" and radio stations broadcasting reports from the National Oceanic and Atmospheric Administration are from the Central Time Zone. Another Central Time Zone supporter noted that Dubois County residents receive weather watches and warnings from cities in the Central Time Zone.

### *Newspapers*

Several individuals supporting the Central Time Zone noted that each of the Petitioning Counties has its own newspapers and that all have subscribers from the surrounding counties. In addition, these commenters also pointed out that more residents of the Petitioning Counties subscribe to the *Evansville Courier & Press* than to the *Indianapolis Star*.

### *Bus and Passenger Rail Service*

Commenters generally noted that residents are not regular bus or rail passengers and that this question was irrelevant to this proceeding. For example, the Martin County Board of Commissioners noted in their comments to the docket that there is no passenger rail traffic in Southwest Indiana and an anonymous commenter said the number of persons who use these services is "miniscule." On the other hand, an individual from Knox County noted that the two closest passenger rail stations are two cities in Illinois in the Central Time Zone.

### *Airports/Airline Services*

With regard to airports/airline services, the Commanding Officer of NSWC Crane and Officer-in-Charge, NSA Crane, noted that the travel office processes 1200 to 1400 travel orders per month and that the main airport used is the Indianapolis International Airport.

He also claimed that the time zone difference between the installation and the airport has resulted in lost productivity. In addition, the Martin County Board of Commissioners noted that "the greatest majority of air passengers utilize the major airports at Indianapolis and Louisville." With a time difference, they explained that travelers would need to leave Martin County by 2:30 or 3 a.m. to make a 7 a.m. flight or travel to the airport the night before and incur additional expenses.

A Central Time Zone supporter attached an article from the *Evansville Courier and Press* detailing the upcoming daily flights from Evansville to Indianapolis. This commenter suggested that persons could easily fly out of Evansville and connect in Indianapolis on their way to a final destination.

### *Worker Commuting Patterns*

The majority of workers in the Petitioning Counties live and work in their home counties and the commuters do not have a large impact on the overall workforce in most of the Petitioning Counties. In Martin County, however, commuters make up 46.9% of the Martin County workforce. In some organizations, the number of employees from another county may even be greater. For example, NSWC Crane's Commanding Officer and Officer-in-Charge, NSA, Crane, provided a list of personnel and their home counties. He noted that 93% of NSWC Crane's 2643 employees and 65% of NSA Crane's 145 employees live in the Eastern Time Zone. In addition, his data showed that there are 1494 support service contract personnel and he surmised that they also lived predominantly in the Eastern Time Zone.

Commenters from Martin County favoring the Central Time Zone expressed concern about a focus on worker commuting patterns and said that the time zone boundary for Martin County should focus on preferences of the residents of Martin County. For example, one commenter stated that the counties in the Eastern Time Zone surrounding Martin County should petition for a time zone change to the Central Time Zone in order to be in the same time zone as Martin County.

### *The Community's Economy/Economic Development*

The Dubois County Area Development Corporation commented in support of moving the Petitioning Counties to the Eastern Time Zone as did the Pike County Growth and Development Council.

NSWC Crane, located primarily in Martin County with small portions in Greene and Lawrence Counties, has one of the largest technical workforces in Indiana and an annual operating budget of \$1.7 billion, with approximately 2500 employees and 1500 contract personnel. NSWC Crane's Commanding Officer and Officer-in-Charge, NSA Crane, summed up the benefits of a move to the Eastern Time Zone saying, "It would enhance the business climate for the regions, and enhance the effectiveness of state and local efforts to diversify the economic base of the region as well as the development of the WestGate@Crane technology park."

Some individuals questioned the information provided in the Joint Petition and Supplemental Responses as related to NSWC Crane noting that rescheduling and logistical problems have been worked out during the months since the change in time zones. They also asserted that companies should have tracked and reported on their losses that resulted from a time zone change.

### *Schools, Recreation, Health Care, or Religious Worship*

With regard to schooling, comments were submitted by school superintendents, parents, and the President of, as well as a professor of business and management from, Vincennes University. The Superintendent of the North Daviess Community Schools reported that the North Daviess Community School Board voted in favor of a return to the Eastern Time Zone. The superintendent noted that he concurred with the school board's vote and believes "it is in the best interest of our entire school community." In support of his position, the Superintendent stated that 25% of the teaching staff lives in the Eastern Time Zone, the entire athletic conference is in a different time zone, and that choral and band festivals with neighboring schools in different time zones have led "to confusion for parents and spectators." In addition, the Superintendent of Greater Jasper Consolidated Schools in Dubois County supported a move to the Eastern Time Zone. He stated that "in order to have effective and timely communication with regard to education issues, Greater Jasper Consolidated School Corporation needs to be on the same time as the Department of Education in the State of Indiana." The Superintendent of the Shoals Community School Corporation, in Martin County, also commented in favor of the Eastern Time Zone for staffing, school start times, and class schedules.

With regard to post-secondary education, the President of Vincennes University pointed out that students cross time zones daily and commented in support of the Eastern Time Zone so that each of its “campuses and sites could function consistently on the same time zone.”

On the other hand, there were commenters who said that schooling issues favored the Central Time Zone. For example, one commenter from Dubois County noted that for post-secondary education, students in the community go to colleges in the Central Time Zone. The Vincennes University professor submitted a comment in favor of the Central Time Zone for Knox County. His only reason was “They have not been given enough time to appreciate the change.” An individual from Knox County noted that the Joint Petition referred to “one of the smallest public school systems in Knox County” in support of the Eastern Time Zone. The commenter provided two tables listing football and basketball schedules for the largest school corporation in Knox County to assert that if Knox County remained in the Central Time Zone even if the other Petitioning Counties were changed, there would be a higher percentage of games played in the Central Time Zone.

With regard to recreation, the Martin County Board of Commissioners noted the proximity of Martin County to Indiana University in Monroe County and its cultural, sporting, and educational opportunities for Martin County residents, and that residents could avail themselves to these opportunities more easily if Martin County were in the Eastern Time Zone. The Dubois County Tourism Commission also submitted a comment supporting the Eastern Time Zone stating, “We feel it is crucial to operate on the same time zone as the majority of our state, as well as our state capital, Indianapolis.” In addition, the Commission noted that two-thirds of the business and leisure travelers to Dubois County travel from the north and east, areas that are in the Eastern Time Zone.

With regard to health care, commenters expressed a time zone preference based on the time zone of their health care provider. Some gave no reason. For example, the Huntington Medical Association in Dubois County submitted the following comment: “Please leave us on Central.” Others supplied more explanation for their preference. For example, an individual from Knox County said that health care is the “number one industry” in Knox County and that the majority of the

patients come from the Central Time Zone.

#### *Regional Connections*

Some commenters said that the Petitioning Counties should be considered to be within the Evansville region. Others said that the Petitioning Counties are more closely connected to counties in the Eastern Time Zone. Yet the majority of commenters who mentioned regional connections noted that the Petitioning Counties should be kept together in the same time zone. However, one commenter from Knox County provided information in an attempt to prove that Knox County “has the greatest case to stay on Central time,” although he did say that he believed all the counties should be left in the Central Time Zone.

#### **DOT Determination With Regard to the Petitioning Counties**

Based on the Joint Petition, the three Supplemental Responses, and comments to the docket, DOT is relocating, for the convenience of commerce, the Petitioning Counties, Knox, Daviess, Martin, Pike, and Dubois Counties, from the Central Time Zone to the Eastern Time Zone. We did not receive information or data that would persuade us to change from our initial determination that the Petitioning Counties submitted sufficient information to justify a proposal for a time zone change. The totality of the information received by DOT supports a time zone change for the convenience of commerce.

#### **2007 Notice of Proposed Rulemaking and Supplemental Notice of Proposed Rulemaking Concerning Perry County**

Perry County is located in southwest Indiana, is contiguous to the Petitioning Counties, and had its time zone changed at the same time as the Petitioning Counties. Therefore, DOT asked for comments with regard to Perry County in the Notice of Proposed Rulemaking concerning the standard time zone boundary in Southwest Indiana published in the **Federal Register** on July 19, 2007. (72 FR 39593). Under our normal procedures, we do not take action unless a county makes a clear showing that the proposed change of time zone would meet the statutory standard. However, as we noted in our previous rulemaking on time zone boundary changes in Indiana, this has been an unusual proceeding because of the number of counties involved, their relationship to each other and to other neighboring counties, and the circumstances leading up to the petitions. DOT stated in the July 2007

**Federal Register** notice, “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. \* \* \* Our decision in the final rule will be made on the basis of information and comments developed during the entire rulemaking proceeding.”

At the time of the NPRM, DOT was unaware that, on June 1, 2007, Perry County submitted a Petition (2007 Perry County Petition) (OST 2007–28746–654) for a time zone boundary change back to the Eastern Time Zone, if DOT changed the time zone boundary of the Petitioning Counties. DOT reviewed the 2007 Perry County Petition and the exhibits attached to it. The 2007 Perry County Petition addressed all of the factors that we consider in these proceedings. The 2007 Perry County Petition provided information about time zone impacts on businesses, workers, and the economy; transportation; radio, television, and the print media; and schooling, healthcare, and recreation. In addition, it included considerations of a time zone change on mail, safety, and energy as well as the preferences of Perry County residents.

On July 31, 2007, DOT wrote to Perry County requesting additional information to justify that changing Perry County back to the Eastern Time Zone would serve the convenience of commerce. In addition, on August 8, 2007, DOT provided notice of the 2007 Perry County Petition in a Supplemental Notice of Proposed Rulemaking. (72 FR 44466). DOT summarized the petition Perry County filed in support of its earlier request to change to the Central Time Zone (the 2005 Perry County Petition), the 2007 Perry County Petition, and DOT’s questions on the information submitted by Perry County. DOT sought comments on the justification provided by Perry County and responsive information to its questions.

On August 9, 2007, Perry County submitted a response (Perry County Supplemental Submission) to DOT’s letter requesting additional information.

#### **2005 and 2007 Perry County Petitions and Perry County Supplemental Submission**

##### *Community Imports and Exports*

The 2005 Perry County Petition to move from the Eastern Time Zone to the Central Time Zone stated that the primary employers in the county supply products to customers located throughout North America although most of the customer base is located in

the United States, either in the Midwest or the South. In addition, it noted that Perry County's newer employers are considered "just-in-time" suppliers to the automotive industry which require a location less than a day's distance from their respective customers.

In lieu of answering the question on community imports and exports with an overview or analysis of the matter, the 2007 Perry County Petition summarized and attached 16 letters from businesses, schools, a hospital, and individuals. According to the 2007 Perry County Petition, the letters express "a desire to change to the Eastern Time Zone" because business conducted on Eastern time and the difference in time zones "causes operating challenges on a daily basis." The 2007 Perry County Petition noted that "businesses in Perry County have in effect lost four hours of each day that they can deal with customers and suppliers from the Eastern Time Zone: One hour in the morning, two hours at lunch, and one hour at the end of the day." In further support of the Eastern Time Zone request, the 2007 Perry County Petition specifically references three diverse businesses: The Southern Indiana Rural Electric Cooperatives, which would be the only Hoosier Energy Power Network out of 17 that would be in the Central Time Zone and claims metering and billing problems; Kleeman Masonary, Inc, which usually travels east in its construction business; and Perry County Memorial Hospital, which has difficulties dealing with insurance companies in the Eastern Time Zone.

While the 2007 Perry County Petition claimed the 16 letters attached to it are from businesses and schools, DOT notes that two of the letters were written on business letterhead and merely provided a preference for a time zone without any justification. Another letter stated that it is "more cumbersome" to be on a different time zone, but provides no explanation. In contrast to the 16 letters, the 2007 Perry County Petition states that the Perry County Chamber of Commerce has informed the Perry County Commissioners that "there are 386 total employers located in Perry County" and that 41% of businesses have expressed a preference for the Central Time Zone. The 2007 Perry County Petition does not provide the reasons for the "preference."

In order to more clearly assess the impact of a time zone change on businesses, DOT asked Perry County to provide an analysis of time zone impacts on businesses in the county and the reasons for the time zone preference expressed by Perry County businesses.

In response to DOT's request, the Perry County Supplemental Submission stated, "The Perry County Commissioners have no additional analysis to submit; however attached hereto as Exhibit "A" is an additional letter from a local business which expresses a preference for Eastern Time Zone, and the reasons for the preference."

#### Television and Radio Broadcasts

With regard to television broadcasts, the 2005 Perry County Petition stated that the County was "located within the Area of Dominant Influence for the Evansville, Indiana television market." The 2005 Perry County Petition also stated that Perry County "receives cable and over-the-air broadcasts from the Louisville, Kentucky market as well." The 2007 Perry County Petition made the same statements concerning television broadcasts.

With regard to radio broadcasts, the 2005 Perry County Petition stated that the "majority of the stations serving Perry County are located either in the Central Daylight Saving or Eastern Standard time zones." The 2007 Perry County Petition elaborated on the previous petition by providing a list of AM and FM radio signals for five cities within the County based on information from radio-locator.com. As the 2007 Perry County Petition noted, residents in the northern part of the County primarily receive radio signals from the Eastern Time Zone while residents in the southern part of the County receive radio signals from the Central Time Zone. While the 2007 Perry County Petition provides radio signal information for five cities, it did not provide any information about the population of those cities.

In order to assess the impact of a time zone change on television and radio broadcasts, DOT asked Perry County for population data for Bristow, Cannelton, Leopold, St. Croix, and Tell City, the localities referred to in the 2007 Perry County Petition. The Perry County Supplemental Submission provided the 2000 U.S. Census Bureau statistics for Tell City and Cannelton and the U.S. Census Bureau American Fact Finder reports for the other cities. According to this submission, the city or town and its population are: Tell City—12,094; Cannelton—2968; Bristow—1111; Leopold—568; and St. Croix—462. As noted in the 2007 Perry County Petition, the population of Perry County is in excess of 18,000. The majority of Perry County's residents live in Tell City and Cannelton, in the southern part of the County which receives its radio signals from the Central Time Zone.

#### Newspapers

The 2005 Perry County Petition stated, "The primary daily newspaper that serves Perry County is the *Evansville Courier & Press*" in the Central Time Zone and that the local county newspaper, which publishes editions twice per week, also operates a printing plant that prints weekly newspapers for two Central Time Zone communities. On the other hand, the 2005 Perry County Petition also noted that the *Louisville Courier & Journal*, from the Eastern Time Zone, maintains drop boxes for the Sunday edition at several area convenience stores. Daily service, however, is unavailable.

The 2007 Perry County Petition provided more detailed information on newspaper use within the County. The 2007 Perry County Petition asserted that Perry County residents "primarily" receive their news from the local newspaper, *The Perry County News*, which is published twice a week. Furthermore, according to the 2007 Perry County Petition, there are 1,901 weekday subscriptions and 2,271 Sunday subscriptions for the *Evansville Courier & Press*. While this is consistent with Perry County's original request for the Central Time Zone, the 2007 Perry County Petition claimed that the subscriptions support the Eastern Time Zone because the population base is in excess of 18,000. The 2007 Perry County Petition also noted that the *Indianapolis Star* has a very small circulation in the County; and, that the *Louisville Courier-Journal* has no daily subscriptions in the County.

With regard to newspaper publishing, DOT asked Perry County for the number of subscriptions of *The Perry County News* and the *Indianapolis Star*; the total number of households in Perry County; whether the residents of Perry County receive any newspapers from Daviess, Dubois, Knox, Martin, or Pike Counties and; if residents do receive newspaper from these counties, the circulation numbers of those newspapers within Perry County.

The Perry County Supplemental Submission stated that there are 7270 households in Perry County and that the total circulation and street sales for the *Perry County News* are 5625. The Perry County Supplemental Submission also corrected the circulations for two newspapers included in the 2007 Perry County Petition. While the 2007 Perry County Petition claimed that "the *Indianapolis Star* has a very small circulation in the County," according to the Perry County Supplemental Response, the circulation is zero. With regard to the *Louisville Courier-Journal*,



the 2007 Perry County Petition claimed there were "no daily subscriptions in the County." According to the Perry County Supplemental Response, however, the *Louisville Courier-Journal* distributes seven daily and thirteen Sunday newspapers in Perry County. As for other newspapers, the Perry County Supplemental Response stated that the *Jasper Dubois County Herald* reports 40 mail subscribers in Perry County, but did not provide any information with regard to newspaper subscriptions for Daviess, Knox, Martin, or Pike County newspapers.

#### *Bus and Passenger Rail Service*

The 2005 Perry County Petition stated that there are no bus or passenger rail services in the community. The 2007 Perry County Petition explained bus service in more detail, contrasting bus service provided in Evansville and Louisville, and freight rail services. The 2007 Perry County Petition noted that Evansville is approximately 50 miles away and offers services to western and southern routes. In contrast, Louisville is approximately 75 miles away and offers service to the north, northeast, and south. As for rail service, although DOT requested information on passenger rail service, the 2007 Perry County Petition referred only to freight rail service that carries goods through several southern Indiana counties.

#### *Airports/Airline Services*

The 2005 Perry County Petition stated that the nearest airport is in Evansville, IN, located in the Central Time Zone, approximately 55 miles from Perry County. The 2005 Perry County Petition also noted that there is an airport in Louisville, KY, in the Eastern Time Zone, 75 miles from Perry County. The 2007 Perry County Petition reiterated the same information with regard to airport location and supplemented it by referring to the number of departures and destinations and the impact of early morning flights on travelers. According to the 2007 Perry County Petition, the Evansville Regional Airport has, approximately, only 35 daily departures in contrast to Louisville International Airport which offers daily departures to "around 140 domestic destinations plus 53 international destinations." The 2007 Perry County Petition also noted that because Louisville International Airport is in the Eastern Time Zone, it is "extremely difficult" to take early morning flights unless travelers spend the night at or near the airport.

#### *Worker Commuting Patterns*

The 2005 Perry County Petition stated that 3,267 persons, or 26% of its total

workforce, reside in Perry County but work outside of the County. Of the top five areas to which Perry County residents commute for work, four were in the Central Time Zone and, the fifth, Dubois County, was at that time requesting to be located in the Central Time Zone. (Dubois County is now requesting to be moved back to the Eastern Time Zone.) A STATS Indiana Annual Commuting Trends Profile based on Indiana IT-40 Returns for Tax Year 2003 was attached to the 2005 Perry County Petition.

The 2007 Perry County Petition also referred to the Perry County workforce. The actual numbers provided differ from the earlier submission because they are from STATS Indiana Annual Commuting Trends Profile based on Indiana IT-40 Returns for Tax Year 2005. Nevertheless, the percentage of the workforce that leaves the County did not change; it remains 26%.

#### *The Community's Economy/Economic Development*

The 2005 Perry County Petition discussed the major elements of the community's economy, the improvement in the County's economy, and efforts to ensure that the local economy continues to improve. The 2005 Perry County Petition noted "a dramatic shift from traditional woodworking industries to a significant transportation cluster." It stated that the "primary employers manufacture products for the automotive, heavy truck, and aerospace industries." The 2005 Perry County Petition also referred to a regional rural hospital and noted the planning and infrastructure the County put in place to support future economic growth and its partnerships to enhance growth.

The 2007 Perry County Petition's answer to the question on the community's economy is nearly identical to the 2005 Perry County Petition. There is only one change. The 2007 Perry County Petition eliminated, in this response, reference to "a regional rural hospital which serves counties in Southern Indiana and Western Kentucky, located in the Central time zone." However, it included the reference to the hospital in response to the question concerning health care.

In order to assess the impact of a time zone change on the community's economy, DOT asked Perry County to identify whether Perry County has entered into economic partnerships with Daviess, Dubois, Knox, Martin, or Pike Counties or other Counties in southern Indiana and, if it has entered into partnerships, the nature of these

partnerships and how a time zone change would affect them.

The Perry County Supplemental Submission stated that Perry County is a member of both the Indiana 15 Regional Planning Commission and the Southwest Indiana Development Council. The Perry County Supplemental Submission noted that if both the Joint Petition and the 2007 Perry County petition result in a time zone change for the 6 Southwestern Indiana Counties they cover, the change would impact the Indiana 15 Regional Planning Commission and the Southwest Indiana Development Council by reducing the number of Counties in the Central Time Zone.

#### **Schools, Recreation, Health Care, or Religious Worship**

With regard to schools, the 2005 Perry County Petition emphasized post-secondary education. While the 2005 Perry County Petition recognized that Perry County residents attend post-secondary schools in the Eastern and Central Time Zones, it noted that more Perry County residents go to the University of Southern Indiana in the Central Time Zone than any other school.

The 2007 Perry County Petition shifted the focus from post-secondary education to the high school level. It noted that no Perry County school districts are in more than one time zone, but said that the schools cross time zones to participate in sporting events. Exhibits 10 through 14 to the 2007 Perry County Petition provided information on the athletic conferences in southern Indiana, and the schedules for basketball, volleyball, football, cross country, baseball, and softball. The 2007 Perry County Petition asserted that playing games in different time zones "causes extreme complications with scheduling and arrival and departure times for the schools."

The 2005 Perry County Petition did not address recreation or whether County residents left the County to pursue recreational interests. The 2007 Perry County Petition, however, stated, "Perry County prides itself on its outdoor recreational activities including the vast amounts of Hoosier National Forest and ready access to the Ohio River for recreation such as boating, fishing and hunting." The 2007 Perry County Petition also referred to recreational softball, baseball, and soccer leagues that could play later into the evening if the County were located in the Eastern Time Zone.

In order to assess the impact of a time zone change on recreation, DOT requested information on whether



residents leave Perry County for recreation and the standard of time observed in the places where they go for this purpose. The Perry County Supplemental Submission stated, "Perry County was unable to locate any statistics concerning what percentage of residents leave the county for recreation."

With regard to health care, the 2005 Perry County Petition noted that Perry County is "home to a regional rural hospital." It also noted that residents "primarily travel to Evansville and Jasper, Indiana" to purchase health services. Like the 2005 Perry County Petition, the 2007 Perry County Petition also noted the regional hospital and refers to a letter from Perry County Memorial Hospital. The letter stated that the hospital conducts "a lot of business with our State Capitol in Indianapolis" and that "the large insurance companies" that it does business with are also located there.

While the letter from Perry County Memorial Hospital provides business reasons for an Eastern Time Zone preference, it does not address the impact of the current time zone on Perry County residents and whether they are referred to health care providers in other time zones. Therefore, in order to assess the impact of a time zone change on health care, DOT requested information on the number of patients referred from Perry County to health care providers in Evansville, Jasper, Indianapolis, and Louisville. The Perry County Supplemental Submission provided information concerning the patients transferred from Perry County Memorial Hospital in 2006. According to the Perry County Memorial Hospital transfer information, 728 out of 838 patients in 2006 were transferred to hospitals in the Central Time Zone. Two of these Central Time Zone hospitals are in Evansville, IN, and the other is located in Owensboro, KY.

Neither the 2005 Perry County Petition nor the 2007 Perry County Petition addressed religious worship and DOT had no additional questions concerning this issue.

### **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, Perry County, and commenters advocated for a move by referring to their ties to other Indiana counties currently in the Central Time Zone. DOT carefully reviewed this data and utilized it in reaching its decision. DOT recognized the importance of regional connections and the benefits of similar

time zones and regional ties among counties. As described in the summary of the hearings and comments to the docket in DOT's January 2006 Final Rule, the Southwestern Counties have strong regional ties to each other and Central Time Zone Counties. DOT stated, "While Daviess, Dubois, Knox, Martin, and Perry border other Indiana counties in the Eastern Time Zone, their ties to those counties is 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. 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."

The 2007 Perry County Petition addressed regional connections by noting that at DOT's hearing on time zones in November 2005, "Perry County representatives stated that one of the reasons for the requested change was the fact that Dubois County was also petitioning to be placed in the Central Time Zone." The 2007 Perry County Petition also noted that five other counties in the area petitioned for a time zone change back to the Eastern Time Zone.

DOT asked Perry County to address the regional connectivity of Perry County with other counties in southern Indiana, including those that have and have not petitioned for a time zone change and how a time zone change would affect regional connections. The Perry County Supplemental Submission stated, "Perry County has no additional information to submit in this response."

### **Comments Addressing Perry County's Request**

In addition to general comments received on the proposed time zone change for the Petitioning Counties and Perry County's request for a time zone change, DOT also received specific comments on the 2007 Perry County Petition. In general, Perry County individuals and businesses commented in support of a change to the Eastern Time Zone and also in favor of staying in the Central Time Zone. Businesses supporting the Eastern Time Zone referred to the general impact of lost ability to work with customers and suppliers. Some were more specific, referring to the actual impact on their business. For example, one trucking and excavating company referred to dealing with an Indiana county to the east that

is located in the Eastern Time Zone. Because of this specific relationship, the owner supported the Eastern Time Zone for the County. Other commenters referred to the Petitioning Counties and said if the five other Counties were going to change time zones, Perry County should too.

Those preferring the Central Time Zone also expressed both general and specific reasons to remain in the Central Time Zone. Commenters noted that nothing has changed in Perry County since the 2005 Perry County Petition and that Central Time is working for them personally and for their businesses. One commenter responded to the assertion that Perry County should change time zones because the five other Counties were changing by quoting his mother saying, "if the other person jumps off of a bridge it does not mean that you have to jump too." The overwhelming majority of commenters concerning the time zone boundary for Perry County based their choice on personal preferences.

There were comments with regard to the specific aspects of the convenience of commerce standard. While many assertions were made generally, there are a few that are worth noting. With regard to health care, commenters asserted that Perry County residents go to Owensboro, KY, to visit health care professionals. For example, one commenter expressed concern that DOT did not specifically request information about Owensboro and noted that a "GREAT NUMBER" of Perry County residents travel to Owensboro for doctor's appointments, hospital visits, outpatient surgery, and children's orthodontist appointments. With regard to the education aspect of the convenience of commerce standard, the Superintendent of Cannelton City Schools commented on behalf of the Board of School Trustees. The Superintendent requested that Perry County remain on Central Time based on safety concerns of the students.

### **DOT Determination With Regard to Perry County**

As we have noted, DOT's determination as to whether to grant a request to change a time zone boundary is based upon our review of the information submitted. If sufficient information is not submitted to justify a time zone change under the statutory standard, the petition will be denied. Perry County has failed to make that showing.

Perry County did not provide responsive information concerning the effect of a time zone change on community imports and exports.

Instead, it made general assertions about businesses losing four hours each day to deal with customers and suppliers because of a time zone difference and offered 16 letters from businesses, schools, a hospital, and individuals supporting a change to the Eastern Time Zone. However, Perry County also stated that 41% of employers expressed a preference for the Central Time Zone. The majority of the Perry County population receives television and radio broadcasts from the Central Time Zone. While a much smaller number of residents, in the northern part of the County may receive more broadcasts from the Eastern Time Zone, Central Time Zone broadcasts are still readily available. In addition, the majority of households (5625 out of 7270) get the local newspaper published in Perry County. Of the residents interested in subscribing to another newspaper, nearly 2000 subscribe to the *Evansville Courier & Press* published in the Central Time Zone. As for newspapers published in the Eastern Time Zone, less than 50 residents are regular subscribers. Therefore, neither television and radio broadcasting nor newspaper circulation support a move back to the Eastern Time Zone.

With regard to the worker commuting patterns factor, statistics show that 76% of the Perry County workforce resides and works in the County. Of the 26% that works outside of the County, at least 65% work in Central Time Zone Counties within Indiana or in Kentucky. Although Perry County has noted its participation in a planning commission and development council, Perry County has not provided any information about any past, current, or planned economic partnerships between Perry County and any of the Petitioning Counties or other Southwestern Indiana Counties that would result in jobs in the region, enhancing the County's economy, or increasing the County's tax base. Accordingly, Perry County has not provided persuasive evidence that, with regard to worker commuting patterns or the community's economy or economic development, a time zone change would be beneficial to the County. With regard to health care, the majority of patients are referred to providers in the Central Time Zone, and Perry County has not shown that a change in the time zone is warranted for reasons related to health care. With regard to regional connectivity, Perry County provides no support for its request for a time zone change other than to refer to comments made at the 2005 hearings and the Petitioning Counties made no reference to any ties to Perry County in their

discussions of connections with other Indiana counties. Passenger rail, bus, and airline services, education, recreation, and religious worship in Perry County do not appear to be impacted by time zones. However, at the high school level, athletic competition crosses time zones, and sporting events are played in both the Eastern and Central Time Zones.

Based on the information submitted by Perry County and by other comments to the docket, Perry County appears to be oriented to the Central Time Zone and Perry County has not provided sufficient information based upon the convenience of commerce standard and DOT's time zone factors to justify a time zone change. Therefore, DOT denies the 2007 Perry County Petition.

### **The Future of Time in Indiana**

#### *Impact on Observance of Daylight Saving Time*

This final rule does not affect the observance of Daylight Saving Time. Under the Uniform Time Act of 1966, as amended, the standard time of each time zone in the United States is advanced one hour from 2 a.m. on the second Sunday in March until 2 a.m. on the first Sunday in November, except in any State that has, by law, exempted itself from this observance. In 2006, under State law, Indiana began observing Daylight Saving Time throughout the State. Both Central and Eastern Time Zone counties now observe Daylight Saving Time thereby preserving a one hour time difference throughout the year. This final rule does not change Indiana's decision to observe Daylight Saving Time statewide.

#### *Practical Application of This Final Rule*

The effective date of this final rule is November 4, 2007, the changeover date from Daylight Saving Time to standard time. At 2 a.m. Central Daylight Saving Time, the Petitioning Counties do not change their clocks, because they are returning to the Eastern Time Zone. At 2 a.m., the Petitioning Counties will be on Eastern Standard Time. As for Perry County, at 2 a.m., because Indiana now observes Daylight Saving Time, the clocks in Perry County should be moved back one hour, to 1 a.m. Central Standard Time. On March 9, 2008, the changeover date to Daylight Saving Time, all Indiana clocks will be moved ahead one hour.

#### *New Petitions for a Time Zone Change in Indiana*

As evidenced by the comments to the docket, time zone boundary changes can be extremely disruptive to a community.

Therefore, a time zone change should not be made without careful consideration. DOT's decision to change a time zone boundary is based on the statutory standard "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce," which DOT defines very broadly to include consideration of all the impacts upon a community of a change in its standard of time. To minimize disruption to Indiana communities and their residents and to allow DOT and these communities to fully assess the impact of changes to the time zone boundaries, DOT will not consider any petitions for a time zone change from any elected officials in Indiana for at least one year after the effective date of this final rule.

### **Regulatory Analysis and Notices**

This final 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 final 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 final 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 rule primarily affects individuals and their scheduling of activities. Although it would affect some small businesses, not-for-profits and, perhaps, a number of small governmental jurisdictions, we have not received comments asserting that our proposal, if adopted, would have had a significant economic impact on small entities.

Therefore, I certify under 5 U.S.C. 605(b) that this final rule does not have a significant economic impact on a

substantial number of small entities. 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 rule so that they can better implement it.

#### Collection of Information

This final rule does not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This final rule does not have a substantial direct effect on, or sufficient federalism implications for, the States, nor would it limit the policymaking discretion of the States. Therefore, the consultation requirements of Executive Order 13132 do not apply.

#### 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 final rule would not impose an unfunded mandate.

#### Taking of Private Property

This final rule does 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 final 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 final 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 as defined by the Executive Order 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 amends Title 49 part 71 to read as follows:

#### PART 71—[AMENDED]

■ 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, *Boundary line between eastern and central zones*, 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.

\* \* \* \* \*

Issued in Washington, DC on: September 19, 2007.

**Mary E. Peters,**  
*Secretary.*

[FR Doc. 07-4721 Filed 9-20-07; 1:38 pm]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AU77

#### Endangered and Threatened Wildlife and Plants; Prudency Determination for the Designation of Critical Habitat for *Trichostema austromontanum* ssp. *compactum*

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of final determination.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have reconsidered whether designating critical habitat for *Trichostema austromontanum* ssp. *compactum*, a plant, is prudent. We listed this taxon as threatened under the Endangered Species Act of 1973, as amended (Act), in 1998; at that time, we determined that designation of critical habitat was not prudent, because designation would increase the degree of threat to the taxon and would not benefit the taxon. As a consequence of a settlement agreement, we withdrew our previous not-prudent determination, and agreed to reevaluate the prudency of designating critical habitat. However, based on our review and evaluation of the best scientific and commercial information available, we believe that designation of critical habitat continues to be not prudent for *T. a. ssp. compactum*.

**DATES:** This rule becomes effective on October 25, 2007.

**ADDRESSES:** Comments and materials we receive, as well as supporting documentation used in the preparation of this determination, will be available for public inspection, by appointment,