

received the image and completes its analysis.

(iii) Cooperate with DC3 to ascertain intruder methodology and identify systems compromised as a result of the intrusion. The DCISE Web site will provide detailed guidelines and processes as needed and appropriate.

(iv) As required by the Government and permitted by law, share files on compromised systems that pertain to unclassified DoD information.

(6) *Damage assessment activities.* The DoD Damage Assessment Management Office (DAMO) will conduct an initial damage assessment and notify the Contractor whether a follow-up compromise assessment report is required. If required, the follow-up report shall include at a minimum the following information:

(i) An index of DoD information contained on the affected system.

(ii) An initial list of DoD programs impacted by the compromise.

(iii) The type of DoD information compromised (e.g., CPI, PII, Privacy Act, ITAR, EAR, and HIPAA) and a brief description of the accessed information.

(iv) The Contractor's points of contact to coordinate future damage assessment activities.

(v) The threat methodology.

(vi) Amount of DoD information including files/data bytes exfiltrated or accessed.

(vii) Inventory of DoD IT equipment accessed or from which DoD information has been exfiltrated.

(d) *Protection of reported information.* Except to the extent that such information is publicly available, DoD will protect information reported or otherwise provided to DoD under this clause in accordance with applicable statutes, regulations, and policies (e.g., CPI, PII, FOIA, Trade Secrets Act, Privacy Act, ITAR, EAR, and HIPAA).

(1) The Contractor and its subcontractors shall mark attribution information reported or otherwise provided to the Government. The Government may use attribution information and disclose only to authorized persons for cyber security and related purposes and activities pursuant to this clause (e.g., in support of forensic analysis, incident response, compromise or damage assessments, law enforcement, counterintelligence, threat reporting, trend analyses). Attribution information is shared outside of the DCISE only to authorized entities on a need-to-know basis as required for such Government cyber security and related activities. The Government may disclose attribution information to support contractors that are supporting the Government's cyber security and related activities under this clause only if the support contractor is subject to legal confidentiality requirements that prevent any further use or disclosure of the attribution information.

(2) The Government may use and disclose reported information that does not include attribution information (e.g., information regarding threats, vulnerabilities, incidents, or best practices) at its discretion to assist entities in protecting information or information systems (e.g., threat information

products, threat assessment reports); provided that such use or disclosure is otherwise authorized in accordance with applicable statutes, regulations, and policies.

(e) Nothing in this clause limits the Government's ability to conduct law enforcement or counterintelligence activities, or other lawful activities in the interest of national security. The results of the activities described in this clause may be used to support an investigation and prosecution of any person or entity, including those attempting to infiltrate or compromise information on a Contractor information system in violation of any statute.

(f) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts under this contract, if the subcontractor will have access to or generate DoD information. In altering this clause to identify the appropriate parties, the Contractor shall modify the reporting requirements to include notification to the prime contractor or the next higher tier in addition to the reports to the DCISE as required by paragraph (c) of this clause.

(End of clause)

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[OST Docket No. OST-2010-0046]

Standard Time Zone Boundary in the State of North Dakota: Proposed Change for Mercer County, North Dakota, From Mountain to Central Time Zone

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

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Chairman of the Board of County Commissioners for Mercer County, North Dakota, petitioned the U.S. Department of Transportation to move Mercer County from the mountain to the central standard time zone. The Department believes that the petition makes a prima facie case for the proposed time zone change, and we are using this notice to solicit public comment on the proposal.

DATES: Public comments to the docket should be submitted by June 14, 2010. Late-filed comments will be considered to the extent practicable. The Department has scheduled a public hearing on this issue from 7-10 p.m. (Mountain Daylight Time) on Friday, May 14, 2010, in the "Large Room" of the City Hall, 146 East Main Street, Hazen, North Dakota.

ADDRESSES: You may submit comments (identified by the agency name and DOT Docket ID Number OST-2010-0046) by any of the following methods:

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

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

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Fax:* 202-493-2251.

Instructions: You must include the agency name (Office of the Secretary, DOT) and Docket number (OST-2010-) for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail or courier. Note that all comments received will be posted without change to <http://www.regulations.gov> including any personal information provided and will be available to internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://DocketsInfo.dot.gov>.

Docket: For internet access to the docket to read background documents and comments received, go to <http://www.regulations.gov>. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Docket Operations, M-30, West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room W94-302, 1200 New Jersey Avenue, SE., Washington, DC 20590, (202) 366-9310, bob.ashby@dot.gov.

SUPPLEMENTARY INFORMATION: For more than a century, time zone boundaries in North Dakota have had an interesting and varied history. Beginning in 1883, mountain time was observed in the southwest portion of the state and a few locations in the northwest, with central time being used elsewhere. In 1929, the Interstate Commerce Commission (ICC), which then had jurisdiction over time zone boundaries, extended central time to cover all but a cluster of counties in

the southwest corner of the state. Congress transferred the ICC's time zone boundary powers to the Department of Transportation (DOT) in 1967. DOT exercises these powers under the provisions of the Uniform Time Act of 1966 (15 U.S.C. 260–64).

The Department has exercised its authority under this statute in several proceedings affecting North Dakota. In 1968, in response to a petition from the Governor of North Dakota, the Department placed 14 counties lying south and west of the Missouri River into mountain time. The change was made to accommodate the historical pattern of time observance in the state. In 1992, in response to a petition from the Board of Commissioners of Oliver County (which is adjacent to Mercer County), the Department moved that county into the central time zone. The Department took similar action with respect to Morton County and a portion of Sioux County in 2003.

In 2000–2003, the Department considered a petition from the Mercer County Commission to move the county to the central time zone. The proposal was controversial in the county. A 2000 referendum favored changing to central time by a vote of 1,180 to 1038. However, a majority of written comments to the Department's docket favored keeping the county in the mountain time zone. After considering the comments, and while acknowledging the reasons supporting a change, the Department decided to deny the petition (68 FR 53082; September 9, 2003). The Department's decision noted that the Commission was free to file a new petition on the subject in the future. In a petition dated October 9, 2009, Mr. Lyle L. Latimer, Chairman of the Mercer County Board of County Commissioners, asked the Department to move the county from the mountain time zone to the central time zone.

Under the Uniform Time Act, 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 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." The principal standard for deciding whether to change a time zone is defined very broadly to include consideration of all the impacts upon a community of a change in its standard of time. DOT has developed a series of questions to assist communities and us in determining the impact of a time zone change on the "convenience of

commerce." The Department considers information bearing on these questions in making its decision on a proposed time zone change.

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?

The current Mercer County petition stated several reasons for the request, outlining the Commission's view of why the change would meet the "convenience of commerce" standard. The following is a summary of the reasons asserted in support of the request, which facially address several of the Department's questions.

* Almost all supplies for businesses in Mercer County, including the coal and agriculture industries, are shipped from the Bismarck/Mandan area and other points in the central time zone.

* Communications media (newspapers, radio and television stations) serving Mercer County are based in the Bismarck/Mandan area.

* There is no regular passenger transportation serving Mercer County. Residents go to the Bismarck/Mandan area to catch planes, trains, and buses.

* The main offices for several Mercer County energy industry facilities are located in Bismarck.

* Many residents regularly travel to the Bismarck/Mandan area for recreation, health care, and other purposes.

* Geographically, Mercer County is adjacent to the central time zone on the east, north, and south sides of the county, and is therefore well-located for

inclusion in the central time zone. The Fort Berthold Indian Reservation, located in Mercer County, is currently in the central time zone.

The current petition represents that local government, industry, and education leaders recently brought the matter to the Commission's attention, requesting that the question of changing the time zone be raised. One change affecting the schools that has been mentioned is that a school in Stanton, in Mercer County, has closed, with Mercer students now being transported to a school in Center, in Oliver County, which is located in the central time zone. In addition, it has been suggested that commuting patterns may be more oriented toward areas in the central time zone than was the case in the 2000–2003 period.

When DOT considers a petition to change a time zone boundary, the Department will generally begin a rulemaking proceeding if the highest elected officials in the area make a *prima facie* case for the proposed change. The Department believes that the Mercer County Commission's petition does make a *prima facie* case to change the time zone of Mercer County from mountain to central. Consequently, we are issuing this notice of proposed rulemaking (NPRM) that would move the county into the central time zone.

The Department is opening a comment period on this matter. The public hearing is scheduled during this comment period, to give interested persons the opportunity to develop their thoughts and comments before the hearing and to respond in writing after the hearing, if they wish, to information presented at the hearing.

The Department wants to make clear that, by issuing this NPRM, we are not taking a position on the merits of the petition. The Department does not have a "going-in position" on whether the county should remain in the mountain time zone or change to the central time zone. The effect of the NPRM is simply to begin a public input process that will include the opportunity for written comments and the opportunity to speak at a public hearing in the county.

In making a decision based on what the Department learns from this process, the Department will focus on matters affecting the "convenience of commerce," which we interpret broadly to encompass matters concerning the effects of a potential change on the economy of the jurisdiction in question, transportation, education and other public institutions, and other factors including the personal views of residents. Our ultimate decision will be based on information provided to the

written docket or at the hearing. Commenters and participants at the public hearing should present all the information they can, in as great detail as possible, relevant to the Department's questions concerning whether the proposal meets the "convenience of commerce" standard. Comments that explain why mountain time or central time is preferable, in terms of the Department's "convenience of commerce" standard, will be of greater use to the Department than unexplained expressions of liking one outcome better than the other.

We believe that the views of community members and leaders is an important part of the Department's decisionmaking process, on the assumption that the people and organizations who would be most affected by a proposed change are in the best position to advise us on the effects of a change. The process is not simply a matter of a vote, however. As in all rulemaking proceedings, the Department's decision is not made solely on the basis of the number of comments that persons favoring one outcome or another sent to us.

If the Department decides to move Mercer County into the central time zone, we would time the decision to be effective on November 7, 2010, to coincide with the change from daylight to standard time. The purpose of this timing would be to minimize disruption from the change.

Regulatory Analyses and Notices

Executive Order 12866 and Regulatory Flexibility Act

The Department has determined that this action is not a significant regulatory action for purposes of Executive Order 12866 or the Department's regulatory policies and procedures. The rule primarily affects the convenience of individuals in scheduling activities. By itself, it imposes no direct costs. Its impact is localized in nature, affecting only the residents of a single county. 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. While some small entities (*i.e.*, small business or governmental entities in Mercer County) would be affected by setting their clocks differently than in the past, the economic effects of doing so would not be significant. Therefore, the Department certifies that the rule would not have a significant economic impact on a substantial number of small entities.

Federalism

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). The NPRM 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 NPRM would not impose an unfunded mandate.

Protection of Children

We have analyzed this NPRM under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This NPRM 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. The Department will consider any comments it receives about potential safety effects on children of a time zone change.

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>.

Paperwork Reduction Act

This rule does not create any information collection requirements

covered by the Paperwork Reduction Act.

List of Subjects in 49 CFR Part 71

Time zones.

Robert S. Rivkin,
General Counsel.

For reasons discussed in the preamble, the Department of Transportation proposes to amend Title 49 of the Code of Federal Regulations, Part 71, as follows:

PART 71—STANDARD TIME ZONE BOUNDARIES

1. The authority citation for 49 CFR 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), unless otherwise noted.

2. Revise § 71.7 (a) to read as follows:

§ 71.7 Boundary line between central and mountain zones.

(a) *Montana-North Dakota.* Beginning at the junction of the Montana-North Dakota boundary with the boundary of the United States and Canada southerly along the Montana-North Dakota boundary to the Missouri River; thence southerly and easterly along the middle of that river to the midpoint of the confluence of the Missouri and Yellowstone Rivers; thence southerly and easterly along the middle of the Yellowstone River to the north boundary of T. 150 N., R. 104 W.; thence east to the northwest corner of T. 150 N., R. 102 W.; thence south to the southwest corner of T. 149 N., R. 102 W.; thence east to the northwest corner of T. 148 N., R. 102 W.; thence south to the northwest corner of 147 N., R. 102 W.; thence east to the southwest corner of T. 148 N., R. 101 W.; thence south to the middle of the Little Missouri; thence easterly and northerly along the middle of that river to the midpoint of its confluence with the Missouri River; thence southerly and easterly along the middle of the Missouri River to the midpoint of its confluence with the western land boundary of Mercer County; thence south along the western county line of Mercer County to the southwest boundary; thence east and south along the southwestern county boundary of Morton County to the intersection with the boundary with Sioux County; thence west and south along the northern boundary of Sioux County to the center of State Highway 31; thence south along the center of

State Highway 31 to the state border
with South Dakota; thence east along

the southern boundary of Sioux County
to the middle of the Missouri River.

* * * * *

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