

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

OST Docket No. 2005- ~~2214-1~~
RIN 2105-AD53

Time Zone Boundaries in the State of Indiana

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The General Assembly and Governor of the State of Indiana have asked the Department of Transportation (DOT) to initiate proceedings to hold hearings in the appropriate locations in Indiana on the issue of the location of the boundary between the Eastern and Central Time Zones in Indiana. The General Assembly and Governor did not, however, take a position on where the boundary should be. This notice initiates those proceedings and invites local officials in Indiana that wish to change their current time zone in accordance with Indiana Senate Enrolled Act 127 (the Act) to notify DOT of their request for a change. Provided that the submitted petition(s) affirmatively ask for a specific change and provide adequate supporting data, DOT will issue a notice of proposed rulemaking (NPRM), which will solicit public comment, and schedule public hearings on the proposed time zone boundary change.

The notice also announces the opening of an internet-accessible, public docket to receive any petitions and other relevant documents concerning the appropriate placement of the time zone boundary in the State of Indiana.

The Department recognizes the importance of the time zone boundaries to residents of the State of Indiana and will consider the information it receives in a timely manner.

DATES: County or local officials should submit their petitions to the Docket not later than September 16, 2005.

ADDRESSES: You may submit petitions [identified by the docket number in the heading at the beginning of this document] by any of the following methods:

- Web Site: <<http://dms.dot.gov>>. Follow the instructions for submitting petitions on the DOT electronic docket site.
- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; US Department of Transportation, 400 Seventh Street, SW, Nassif Building, Room PL-401, Washington, DC 20590-001.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW, Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Joanne Petrie, Office of the General Counsel (C-50), 400 Seventh Street, SW, Washington, DC 20590; email indianatime@dot.gov; (202) 366-9306.

SUPPLEMENTARY INFORMATION:

The Indiana General Assembly recently adopted legislation providing that the entire State of Indiana will begin to observe daylight saving time beginning in 2006. Under Federal law, the decision whether to observe daylight saving time is solely up to

the State and will not be addressed by DOT. Comments on that decision should be directed to State officials and not DOT.

The Act also addressed the issue of changing the location of the boundary between the Eastern and Central Time Zones. In this regard, the Act states that, “[T]he state supports the county executive of any county that seeks to change the time zone in which the county is located under the procedures established by Federal Law.” The Act also provides that, “The governor and the general assembly hereby petition the United States Department of Transportation to initiate proceedings under the Uniform Time Act of 1966 to hold hearings in the appropriate locations in Indiana on the issue of the location of the boundary between the Central Time Zone and the Eastern Time Zone in Indiana.” Finally, the Act requests that DOT refrain from changing the time zone of any county currently located within the Central Time Zone and five counties near Cincinnati and Louisville.

On July 15, 2005, Secretary Mineta sent a letter to Governor Mitch Daniels responding to this legislation and letters from the Governor. The letter noted that it is our normal practice, in implementing our responsibilities under the Uniform Time Act with respect to the location of time zone boundaries, to take action on a specific request for change in the time zone boundary for a particular jurisdiction from the elected officials of that jurisdiction. After receiving a request, we then determine whether it meets the minimum statutory criteria before issuing a NPRM to make a change.

The letter noted that, because of the special circumstances in Indiana as a result of the recent legislation, and in order to proceed in an orderly manner, DOT would take the following actions:

“We will publish in the *Federal Register* a notice that advises the appropriate local officials in Indiana that, if they wish their county to change its current time zone, they should notify DOT of that intent, and provide us with a request containing specific data and information by a date certain.

Our notice will set out the type of data and information necessary to justify issuing an NPRM.

We will set the date for submission of the requests at the time we issue the notice.

After reviewing the requests and supporting data, we will determine which requests, if any, justify the issuance of an NPRM. Once justified, we will issue the NPRM, which will solicit public comment and will schedule public hearings. After the close of the comment period, we will review all comments and take appropriate final action.”

These procedures are designed to provide local officials with a convenient and efficient opportunity to request a change in their county’s current time zone. In addition, by learning where there is interest in changing the boundary between the Eastern and Central Time Zones, DOT will be better able to address Indiana’s concerns in a more targeted and timely manner. The purpose of this notice is to invite counties that wish to change their time zone boundary in response to the legislation to submit petitions and appropriate supporting documentation to DOT by September 16, 2005.

For decades, DOT has used an informal set of procedures to address time zone issues. Under Federal law, there are two ways in which an area in the United States can be moved from one time zone to another. The first is by a statute enacted by Congress and the second is by a regulation issued by the Secretary of Transportation. For the latter, the request should be made by the ranking elected official or body in the area that is the subject of the request. While a request to change time zones by the Governor or the Legislature meets this requirement, requests from this level are quite rare. Usually, such

requests cover one or more counties, or parts of a county; hence, the request should come from the board of county commissioners or similar body.

The request should be accompanied by a formal certification from the appropriate governmental official that the request is the result of official action by the requesting party, if the requesting party is a legislative body. It should include the name and title or position of a person representing the requesting party whom DOT may contact for further information, as well as address, telephone number, fax number, and email address. The request should be submitted to the Secretary of Transportation, Washington, DC 20590, Attention: General Counsel (C-50) by any of the methods set forth under the "Address" section earlier in this notice.

Most importantly, the petition should include, or be accompanied by, detailed information supporting the requesting party's contention that the requested change would serve the convenience of commerce. The convenience of commerce 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. The supporting documentation should 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 will consider any other information that the county or local officials believe to be relevant to the proceeding.

In order to proceed efficiently, we ask that any county wishing to change its time zone boundary formally notify DOT by September 16, 2005. The submission should affirmatively take a position concerning what time zone all the county should be placed in and should include specific data supporting that position as outlined in our informal procedures. All petitions received by September 16, 2005, will be considered on an expedited schedule. Counties, or other governmental representatives, are free to petition after that date but may not be included in any rulemaking covering those received by September 16, 2005.

In addition, this notice announces the opening of an internet-accessible, public docket that will include a copy of the legislation, correspondence from the Governor, county petitions, and other relevant documents concerning the appropriate placement of the time zone boundary in the State of Indiana.

Issued in Washington, DC on August 10, 2005



Jeffrey A. Rosen
General Counsel