

geographic and economic conditions in the area and explained how people and businesses in the county interacted with neighboring areas.

Frank Tomac, a resident living in western Sioux County, concurred with most of the arguments presented by the County Commissioners. He suggested, however, that the time zone boundary be placed at State Highway 31, rather than the western border of the county. Mr. Tomac noted that the western part of the county is rural and very sparsely populated. He noted that there is no road going east to west in this part of the county. Residents must either go into South Dakota or drive a considerable distance into Grant County to get to the eastern part of the county. Because of the proximity with the South Dakota border, Mr. Tomac noted that many of the public services in this area are provided in South Dakota. Other services are provided in Grant County, which is on mountain time. In response to his comments, the Commissioners decided to amend their request.

In a petition dated November 1, 2001, the Chairman of the Board of County Commissioners for Sioux County asked the Department of Transportation to move the central portion of Sioux County, North Dakota, from the mountain time zone to the central time zone. In the petition, the Chairman asked:

"That the U.S. Department of Transportation move the time zone line separating central time and mountain time in Sioux County, North Dakota, west to Highway 31, so that all land in Sioux County east of Highway 31 would be in Central Time and all land west of Highway 31 would remain in Mountain Time.

This request is made for the following reasons:

1. Sioux County is currently one of the few counties in North Dakota that is divided in two as far as time zones go. A small area in the southeast corner of the county, including Fort Yates (the county seat) is already in the central time zone, and the entire rest of the county is in the mountain time zone.

2. That while Fort Yates operates on central time, a large part of the northern area of Sioux County, while technically being in the mountain time zone, already operates incorrectly on central time anyway.

3. That Fort Yates is the county seat and main center of commerce for the entire county, being the only town larger than five hundred people, and moving the entire eastern half of the county, where 95 percent of the population resides, to central time would eliminate confusion.

4. That virtually all television and radio broadcasts come out of Bismarck, ND, which is also on central time.

5. That virtually all supplies bought in Sioux County come out of Bismarck, ND, also.

6. That Sioux County residents regularly travel to Bismarck, ND, for shopping and recreational purposes.

7. That while the voters of Sioux County voted on June 13, 2000, to move Sioux County to the central time zone, the inhabitants of western Sioux County almost unanimously wish to remain on mountain time. This action would facilitate the wishes of all involved."

In response to the Board's action, Mr. Tomac sent written comments reiterating his position and urging the Department to set the boundary at Highway 31. No other written comments have been filed to date in response to our invitation.

Under DOT procedures 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. DOT determined that the Resolution of the Chairman of the County Commissioners of Sioux County, ND made a *prima facie* case that warranted opening a proceeding to determine whether the change should be made. On September 17, 2002, DOT issued a notice of proposed rulemaking (NPRM) proposing to make the requested change and inviting additional public comment. No comments were filed. We are, therefore, adopting the proposal without change.

As proposed in the NPRM, this change will go into effect during the next changeover from daylight saving time to standard time, which is on October 26, 2003.

#### Impact on Observance of Daylight Saving Time

This time zone proposal does not directly 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 first Sunday in April until 2:00 a.m. on the last Sunday in October, except in any State that has, by law, exempted itself from this observance.

#### Regulatory Analysis & 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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph

10e of the regulatory policies and procedures of DOT is unnecessary. The rule primarily affects the convenience of individuals in scheduling activities. By itself, it imposes no direct costs. Its impact is localized in nature.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations, and governmental jurisdictions with populations of less than 50,000. This rule will primarily affect individuals and their scheduling of activities. Although it will affect some small businesses, not-for-profits and, perhaps, several small governmental jurisdictions, it will not be a substantial number. In addition, the change should have little, if any, economic impact.

Therefore, the Office of the Secretary certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

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

#### Federalism

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

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that require 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 would not affect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.