

Dated: September 12, 2002.

**Stephen L. Johnson,**

*Assistant Administrator for Prevention,  
Pesticides and Toxic Substances.*

Therefore, 40 CFR chapter I is proposed to be amended as follows:

#### **PART 761—[AMENDED]**

1. The authority citation for part 761 continues to read as follows:

**Authority:** 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

2. Section 761.80 is amended by adding a new paragraph (j) to read as follows:

#### **§ 761.80 Manufacturing, processing and distribution in commerce exemptions.**

\* \* \* \* \*

(j) The Administrator grants the following petitions to import PCBs and PCB items for disposal pursuant to this part:

(1) United States Defense Logistics Agency's January 19, 2001, petition for an exemption for 1 year to import PCBs and PCB Items stored on Wake Island and identified in its petition for disposal.

(2) United States Defense Logistics Agency's April 16, 2001, petition for an exemption for 1 year to import PCBs and PCB Items stored or in use in Japan and identified in its petition, as amended, for disposal.

\* \* \* \* \*

[FR Doc. 02-23718 Filed 9-13-02; 2:56 pm]

BILLING CODE 6560-50-S

## **DEPARTMENT OF TRANSPORTATION**

### **Office of the Secretary**

#### **49 CFR Part 71**

[Docket No. OST-2002-13361]

RIN 2105-AD17

#### **Standard Time Zone Boundary in the State of North Dakota: Proposed Relocation of Sioux County**

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** At the request of the Chairman of the Board of County Commissioners for Sioux County, ND, DOT proposes to relocate the boundary between mountain time and central time in the State of North Dakota. DOT proposes to move all of the county east of State Highway 31 into the central time zone.

**DATES:** Comments should be received by October 17, 2002, to be assured of consideration. Comments received after that date will be considered to the extent practicable. If the time zone boundary is changed as a result of this rulemaking, the effective date would be no earlier than 2 a.m. MDT Sunday, October 27, 2002, which is the changeover from daylight saving to standard time.

**ADDRESSES:** You may submit your comments and related material by only one of the following methods:

(1) By mail to the Docket Management Facility (OST-2002-13361), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

(2) By hand delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

#### **FOR FURTHER INFORMATION CONTACT:**

Joanne Petrie, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10424, 400 Seventh Street, Washington, DC 20590, (202) 366-9315, or by e-mail at [joanne.petrie@ost.dot.gov](mailto:joanne.petrie@ost.dot.gov).

**SUPPLEMENTARY INFORMATION:** 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 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."

Time zone boundaries are set by regulation (49 CFR part 71). Currently, under regulation, the southeastern part of the county around Fort Yates is in the central time zone and the remainder of the county is in the mountain time zone. The area near Fort Yates has the greatest population, is the county seat, and has the greatest concentration of schools, businesses, medical facilities, houses of worship and recreational facilities. Areas to the south and east of the county observe central time. Morton County, which is north of Sioux County, is currently split between central and mountain time. Morton County has asked to be changed to central time and that request is currently pending before the Department. Grant County, which lies to the northwest and Adams County, which lies to the west, both observe mountain time.

The Standing Rock Indian Reservation is geographically located in both North and South Dakota and covers approximately 2.3 million acres. All of Sioux County is part of the reservation. The Standing Rock Sioux observe central time. Under the Uniform Time Act, as amended, the county is currently divided between central and mountain time for federal, state and county purposes.

#### **Request for a Change**

In 2000, the Chairman of the Board of County Commissioners for Sioux County asked the Department of Transportation to place the entire county on central time. A DOT representative informed the Standing Rock Sioux of this request by telephone and sent a letter to the Chairman of the Tribal Council. On September 27, 2000, a representative of DOT visited the county and met with a representative of the Standing Rock Sioux Tribal Council to ascertain the Council's views on this request. The Tribal Representative explained that the tribe observed central time, had no plans to change that observance, and had no objection to the request of the Sioux County Board of County Commissioners.

On September 27, 2000, the DOT representative also held an informal public hearing at the Sioux County Courthouse to gather public views on this request. The hearing was widely advertised through numerous newspaper and television stations. In addition, the public was invited to submit written comments to the Department on this possible change.

In addition to the County Commissioners and staff, one member of the public attended and presented testimony. The County Commissioners explained the inconvenience and confusion that resulted from the current time zone boundary. They outlined 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 has determined that the Resolution of the Chairman of the County Commissioners of Sioux County, ND makes a *prima facie* case that warrants opening a proceeding to determine whether the change should be made. Consequently, in this notice of proposed rulemaking, DOT is proposing to make the requested change and is inviting additional public comment. Because this proposal has been subject to public comment for a lengthy period, we are only providing 30 days, rather than the usual 60, for public comment.

We are proposing that this change go into effect during the next changeover from daylight saving time to standard time, which is on October 27, 2002. The Board of County Commissioners have advised the Department that they would like the change to go into effect as soon as possible, that the community is anxious to resolve this issue, and that, as a practical matter, the few residents affected need little or no advance notice of the change. Under the Administrative Procedure Act, final rules are generally effective 30 days after publication of a final rule unless there is a showing of good cause. We request comments concerning the appropriate effective date.

#### 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 2:00 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 and Notices

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

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations, and governmental jurisdictions with populations of less than 50,000. This proposal, if adopted, would primarily effect individuals and their scheduling of activities. Although it would effect some small businesses, not-for-profits and, perhaps, several small governmental jurisdictions, it would 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 proposed rule would not, if adopted, have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in

understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Joanne Petrie at (202) 366-9315.

### Collection of Information

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

### Federalism

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

### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) and E.O. 12875, Enhancing the Intergovernmental Partnership, (58 FR 58093; October 28, 1993) govern the issuance of Federal regulations that 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 proposed rule would not impose an unfunded mandate.

### Taking of Private Property

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

### Civil Justice Reform

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

### Protection of Children

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

### Environment

This rulemaking is not a major Federal action significantly affecting the quality of the human environment

under the National Environmental Policy Act and, therefore, an environmental impact statement is not required.

### Consultation and Coordination with Indian Tribal Governments

E.O. 13175 provides that government agencies consult with tribes on issues that impact the Indian community. The Department has consulted with the Standing Rock Sioux and will continue to do so as this rulemaking progresses.

### List of Subjects in 49 CFR Part 71

Time zones.

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

### PART 71—[AMENDED]

1. The authority citation for part 71 would continue to read:

**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; 49 CFR 159(a), unless otherwise noted.

2. Paragraph (a) of § 71.7, Boundary line between central and mountain zones, would be revised 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 northern land boundary of Oliver County; thence west along the northern county line to the northwest boundary; thence south along the western county

line to the southwest boundary; thence east along the southern county line to the northwest corner of T. 140 N., R. 83 W.; thence south to the southwest corner of T. 140 N., R. 82 W.; thence east to the southeast corner of T. 140 N., R. 83 W.; thence south to the middle of the Heart River; thence easterly and northerly along the middle of that river to the southern boundary of T. 139 N., R. 82 W.; thence east to the middle of the Heart River; thence southerly and easterly along the middle of that river to the northeast boundary of 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 Rivers.

\* \* \* \* \*

Issued in Washington, DC, on September 12, 2002.

**Kirk K. Van Tine,**  
*General Counsel.*

[FR Doc. 02-23707 Filed 9-16-02; 8:45 am]

**BILLING CODE 4910-62-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Unarmored Threespine Stickleback

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

**ACTION:** Finding that the designation of critical habitat should not be made.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), find that the proposed designation of critical habitat for the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) pursuant to the Endangered Species Act of 1973, as amended, (Act) should not be made final. On November 17, 1980, we proposed designating approximately 51 kilometers (31.7 miles) of streams in Los Angeles and Santa Barbara Counties, California, as critical habitat for this species (45 FR 76012).

**FOR FURTHER INFORMATION CONTACT:** Chief, Branch of Listing, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 420, Arlington, VA 22203 (telephone 703/358-2105).

**SUPPLEMENTARY INFORMATION:**