are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87–ASW–5."

The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Forth Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concened with this relemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the existing 700-foot transition area at Graham, TX. To enhance airport usage, a new SIAP is being developed for the Graham Municipal Airport, utilizing the relocated Graham NDB as a navigational aid. The development of a new SIAP, based on this relocated navigational aid, entails revision of the existing transition area at Graham, TX, at and above 700 feet above ground level within which aircraft are provided air traffic control services. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under VFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routing amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Graham, TX [Revised]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Graham Municipal Airport (latitude 33°06'38" N., longitude 98°33'16" W.).

Issued in Fort Worth, TX, on March 17, 1987.

Larry L. Craig,

Assistant Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87–6924 Filed 3–27–87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance Benefits; Recovery of Overpayments

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: In this proposed rule we expand the definition of what we consider to be "against equity and good conscience" in deciding whether or not to recover an overpayment of Social Security benefits from a contingently liable individual to include the situation where the contingently liable individual was living in a separate household from the overpaid individual at the time of the overpayment. A contingently liable individual is one who is entitled to benefits on the same earnings record as the individual who actually received the overpayment of benefits. The new definition would provide a more liberal policy for waiving overpayments under certain conditions.

DATE: We will consider your comments if we received them no later than May 29, 1987.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Office of Regulations, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7951.

SUPPLEMENTARY INFORMATION:

General

Section 204(b) of the Social Security Act (the Act) provides that the Social Security Administration (SSA) shall not adjust benefits or make recovery because of an overpayment from any individual who is without fault if adjustment or recovery from the individual would defeat the purpose of the title or be against equity and good conscience. Section 204(a) directs us to issue regulations regarding our overpayment and underpayment policies.

Our current regulations, § 404.509, define "against equity and good conscience." In addition, there are examples of how we apply the definition in making determinations on requests to waive recovery of overpayments. Our policy, as contained in the definition of "against equity and good conscience", provides that recovery of an overpayment will be considered inequitable if an individual who is without fault, as defined in § 404.510, relinquished a valuable right or changed his or her position for the worse because of a notice that we would make payment or because of the actual payment. The individual's financial circumstances are irrelevant to our determination of whether recovery would be against equity and good conscience. Those circumstances are considered, however, in determining whether recovery would defeat the purpose of the title (see § 404.508).

We hold the overpaid individual as primarily liable for repayment of the overpayment. If we are unable to obtain repayment from the primarily liable individual, we then seek recovery by withholding benefits due from any other individual entitled to benefits on the same record of earnings as the overpaid individual. These other individuals are considered contingently liable.

Beneficiaries and others have pointed out to us that contingently liable individuals living in separate households usually have little or no contact with the overpaid individual or that individual's household. As a result, they often do not know the cause or amount of the overpayment. (Some contingently liable individuals do not learn of the overpayment and their liability until they file for benefits years later.) Additionally, they probably do not derive financial benefit from the overpayment amounts because they lived in a separate household from the overpaid individual at the time the overpayment was made.

We agree with the comments that our current policy of recovering an overpayment from a contingently liable individual who lived in a separate household at the time the overpayment was made should be changed.

For the reasons stated above, we propose to expand the definition at § 404.509 of "against equity and good conscience" in recovery of an overpayment to include a contingently liable individual living in a separate household at the time of the overpayment. In addition, we will add an example (example 4) of a contingently liable individual who is granted waiver of recovery of an overpayment because the individual is without fault and did not live in the same household as the overpaid individual at the time of the overpayment.

In addition to the expanded definition and the new example, we have deleted one example that is not longer correct due to statutory changes affecting entitlement and, after editing the remaining examples to reorder or make them clearer, reprinted them for ease of updating.

Executive Order 12291

These proposed regulations would change the definition of what we consider to be "against equity and good conscience" in recovering an overpayment. The new definition would implement a more in recovering an overpayment. The new definition would implement a more equitable policy of waiving recovery of overpayments under certain conditions. We estimate the cost to be minor (less than $4 million per year). Therefore, these regulations do not meet the criteria specified in Executive Order 12291 for a major rule and regulatory impact analysis is not required.

Paperwork Reduction Act

These proposed regulations impose no reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these regulations affect only benefit amounts payable to individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act of 1980, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 13.082—Social Security Disability Insurance; 13.803—Social Security Retirement Insurance; 13.805—Social Security Survivors' Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-age, survivors and disability insurance.

Dated: August 18, 1986.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: August 22, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 404—[AMENDED]

For the reasons set out in the preamble, Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 404, Subpart F is revised to read as follows:

Authority: Secs. 204, 205, 227, and 1102, Social Security Act; 49 Stat. 624, 53 Stat. 1368, 79 Stat. 379, 49 Stat. 647, 67 Stat. 18, 631; sec. 5, Reorganization Plan No. 1 of 1953; 42 U.S.C. 404, 405, 427, 1302.

2. Section 404.509 is revised to read as follows:

§ 404.509 Against equity and good conscience; defined.

(a) Recovery of an incorrect payment is "against equity and good conscience" (under title II and title XVIII) if an individual—

(1) Changed his or her position for the worse (Example (1)) or relinquished a valuable right (Examples (2) and (3)) because of reliance upon a notice that a payment would be made or because of the incorrect payment itself; or

(2) Was living in a separate household from the overpaid person at the time of the overpayment and derived no benefit from the overpayment (Example (4)).

(b) The individual's financial circumstances are not material to a finding of against equity and good conscience.

Example 1. A widow, having been awarded benefits for herself and daughter, entered her daughter in private school because the monthly benefits made this possible. After the widow and her daughter received payments for almost a year, the deceased worker was found to be not insured and all payments to the widow and child were incorrect. The widow has no other funds with which to pay the daughter's private school expenses. Having entered the daughter in private school and thus incurred a financial obligation toward which the benefits had been applied, she was in a worse position financially than if she and her daughter had never been entitled to benefits. In this situation, the recovery of the payments would be inequitable.

Example 2. After being awarded old-age insurance benefits, an individual resigned from employment on the assumption he would receive regular monthly benefit payments. It was discovered 3 years later that (due to a Social Security Administration error) his award was erroneous because he did not have the required insured status. Due to his age, the individual was unable to get his job back and could not get any other employment. In this situation, recovery of the overpayments would be against equity and good conscience because the individual gave up a valuable right.

Example 3. In June 1985, H filed for hospital insurance benefits and submitted evidence, which he believed was correct, showing he was 65 years old. He was subsequently notified that he was entitled to hospital insurance coverage effective July 1, 1985. At the same time, H was notified that he was entitled to monthly Social Security benefits, but because he was working regularly and earning in excess of $20,000 a year, no payment would be made until his work status changed. On the basis of the notice of entitlement to hospital insurance coverage, H allowed his private insurance policy, which provided for full reimbursement of hospital expenses in each calendar year, to lapse as of July 1, 1985. In August 1985, H was an inpatient at a hospital for 20 days and incurred $4,500 of hospital expenses. For the services received by H, the hospital was paid $4,100 ($4,500 minus the $400 deductible) under the hospital insurance program. Later that year, H became aware of and submitted other evidence showing beyond doubt that he was 63 years old in August 1985. Based on this new evidence, the Social Security Administration determined that H was not entitled under the hospital insurance program and the hospital had been incurrectly paid $4,100 (no monthly benefits had been paid). With respect to H's liability for the incorrect payment of $4,100, unless waiver applied, this amount would be adjusted against futue payment (if any) of monthly Social Security or Railroad Retirement benefits or would be recovered from H. Under the facts presented, however, adjustment or recovery of the incorrect payment from H is considered against equity and good conscience because in reliance on the award notice advising him of his entitlement to hospital insurance coverage, H relinquished a valuable right when he allowed his private health insurance to lapse.

Example 4. M divorced K and married L. M died a few years later. When K files for benefits as a surviving divorced widow, she learns that L had been overpaid $3,200 also on M's earnings record. Because K is receiving benefits on the same record of earnings, K is contingently liable. K was living in a separate household from L at the time of the overpayment and derived no benefit from the overpayment. K requests waiver of recovery of the $3,200 overpayment from benefits due her. In this situation, it would be against equity and good conscience to recover the overpayment from K.

[FR Doc. 87-6902 Filed 3-27-87; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-168-86]

Capitalization and Inclusion in Inventory of Certain Costs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to accounting for production costs incurred in producing property and acquiring property for resale. Changes to the applicable tax law were made by the Tax Reform Act of 1986. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered by May 29, 1987. In general, the amendments are proposed to be effective for costs incurred after December 31, 1986.

ADDRESS: Send comments and requests for public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-168-86) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Paulette C. Galanko of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20334 (Attention: CC:LR:T), (202) 566-3288, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (designated by a "T" following the section citation) in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 1 of Title 26 of the Code of Federal Regulations. These amendments are proposed to conform the regulations to the requirements of section 803 of the Tax Reform Act of 1986 (Pub. L. 99-514), 100 Stat. 2085. For the text of the temporary regulations, see FR Doc. 87-6720 (T.D. 8131) published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations provides a discussion of the rules. The final regulations, which this document proposes to base on those temporary regulations, would amend Part 1 of Title 26 of the Code of Federal Regulations.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations propose herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted comments. If a public hearing is held, Notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these regulations is Paulette C. Galanko of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation on matters of both substance and style.

List of Subject in 26 CFR 1.441-1-1.483-2

Income taxes, Accounting, Deferred compensation plans.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-6721 Filed 3-24-87; 3:17 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[Docket No. 6 Notice No. 87-7]

Standard Time Zone Boundary in the State of Indiana; Termination of Rulemaking

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Withdrawal of proposal and termination of rulemaking.

SUMMARY: The Department is withdrawing a proposal to relocate the boundary between eastern and central time in the State of Indiana, which would have moved Starke and Jasper counties from the central time zone to the eastern time zone. Making the change would not have satisfied the primary statutory standard of "the convenience of commerce.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Room 10424, Washington, DC 20590. (202) 366-9306.

SUPPLEMENTARY INFORMATION:

Background

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 observance in Indiana: current situation. The State of Indiana is unique in the pattern of its observance of standard time and daylight saving time. Although twelve other States are in two time zones, only Indiana has three distinct areas of time observance. In the northwest near Chicago, Illinois, and including the cities of Gary and Hammond, Indiana, are six Indiana counties in the central zone. They include Starke and Jasper counties, the subjects of this action. In the southwest, including Evansville, Indiana, but not touching the six northwestern counties, are five counties in the central zone. The rest of the state (81 counties) is in the eastern zone, including the area between the two central zone areas.

To compound the uniqueness of time observance in Indiana, the state has an exemption from daylight saving time for the eastern time zone portion. As a consequence, during the period of the year when DST is in effect, despite the difference in time zones, the entire state observes a uniform clock time.

Time observance in Indiana: history. The appropriate time zone for Indiana has been the subject of much debate since time zones were first established. When time zones were first adopted by the Federal Government in 1918, all of Indiana was in the central zone. In 1961, the Interstate Commerce Commission (DOT's predecessor in this regard) moved the eastern half of the State (including Indianapolis, the capital) to the eastern zone, but denied requests to include more of the state in eastern time.

In 1967, DOT proposed to rescind the ICC action and restore the entire State to central time. That proposal—issued at the request of the Governor of Indiana—was overwhelmingly unpopular with the people of Indiana. Consequently, in 1968, DOT amended its 1967 proposal by proposing to include in the eastern zone all of the state except six counties in the northwest near Chicago, Illinois, and seven counties in the southwest. That amended proposal met with great support, with one modification: there was support for leaving only six of the southwestern counties in the central zone. Effective April 27, 1969, therefore, all of the State was put in the eastern zone except six in the northwest and six in the southwest.

In 1977, at the requst of the Board of County Commissioners of Pike County, one of the six southwestern counties in the central zone, DOT conducted a proceeding similar to this one that resulted in Pike County being moved from central to eastern time. In 1981, at the request of the Board of County Commissioners of Starke County, DOT conducted a proceeding similar to this one, but decided at the end of the proceeding not to move Starke County from central to eastern time. In 1985, the Department rejected a request from the remaining 5 central time zone counties in southwestern Indiana to be moved into the eastern time zone.

Impact on observance of daylight saving time. The relationship between time zone boundaries and the observance (or nonobservance) of daylight saving time can sometimes be confusing. One comment to the docket in this proceeding, for example, said that the commenter wanted daylight time, not central time. It should be emphasized that this proceeding concerns only whether the eastern/central time zone boundary should be moved. The application of daylight saving time within the State of Indiana is not at issue.

The proposals. The Board of County Commissioners of Starke County and the Board of County Commissioners of Jasper County made separate, formal requests to the Department of Transportation to move each county from central to eastern time. The Department determined that these proposals made a *prima facie* case for opening a proceeding to determine whether the changes should be made. The Department published a notice of proposed rulemaking (NPRM) on this subject on December 3, 1986 (51 FR 43644) and held public hearings in Starke and Jasper counties on January 6 and 7, 1987. The Department received approximately 400 comments on the proposal, and a total of 50 persons spoke at the two public hearings.

Starke County

Comments

Public sentiment in Starke County appears to be rather evenly divided on whether it makes more sense for the county to be in the eastern or the central time zone. Of the 66 written comments the Department received concerning Starke County, 33 favored central time and 33 favored eastern time. Both proponents and opponents of the time zone change included petitions signed by local residents with their submissions. A majority of the petition signatures oppose the proposed change. Of the 14 persons who spoke at the Starke County hearing, nine favored eastern time and five favored central time.

The principal arguments made by proponents of changing the county to eastern time were the following:

• County residents do not commute to jobs in the Chicago, Gary, and other central time areas to the extent that they used to. Rather, commuting patterns now take county residents to St. Joseph and Pulaski counties and the South Bend area, which are in the eastern time zone.

• Most of the rest of the state, and particularly the state capital, Indianapolis, is on eastern time. It would be beneficial for the county to be on the same time zone as most of the rest of the state. For state and local government offices in Starke County (as well as for some Federal officies, like the Postal Service), it would reduce confusion and ease communications with government offices in Indianapolis if the county were on eastern time.

• Many businesses have suppliers or customers primarily in the eastern time zone. It would make customer service, deliveries, and other commercial relationships easier if the county were on eastern time. Some professional services (e.g., medical specialists) are more readily available in South Bend than in central time areas.

• Television stations in South Bend are more relevant for Starke County viewers than are Chicago stations.

• Changing to eastern time would permit the county to remain on standard time all year round, which is desirable for people who don't like to change their clocks in April and October.

• Supporters of changing to eastern time argue that the change would not have an adverse effect on farm work or schoolchildren's safety.

• An official of Ancilla College in Marshall County, an eastern time zone jurisdiction adjacent to Starke County, said the schedules of her institution's Starke County students and their families are complicated by the difference in time zones.

The principal arguments made by those persons who favored remaining on central time were the following:

• Changing to eastern time would mean that schoolchildren would have to go to school in the dark in the morning, increasing safety risks.

• Most commuters still go to central time zone areas to work. The county judge and court commissioner presented information derived from jury rolls that showed that of Starke County residents in their jury records who commuted out of the county in recent years, over 75 percent still went to work in central time zone areas.

• Most of the actions transferred into the county court from other jurisdictions under Indiana's change of venue statute come from central times areas. Changing the county's time zone would complicate court scheduling significantly.

• More people watch Chicago TV than South Bend TV; in any event, it is more convenient to watch South Bend TV while our own clocks are on central time (e.g., 11:00 news comes on at 10:00).

• There are as many business and professional relationships with central time as with eastern time areas.

• People are more likely to go shopping at malls in central time areas than to go to South Bend or other eastern time zone areas for this purpose.

• While there is some inconvenience for people attending Ancilla College in the current situation, as many people go to a Purdue University branch in a central time area. They would be inconvenienced if the time were changed.

In addition to these comments, there was a petition signed by approximately 600 persons, most of them from Starke County, who said that they wanted the entire State of Indiana to be in the central time zone, with year-round daylight saving time. Time zones should be by states, not counties, the peitition said.

The people signing this petition clearly did not favor putting Starke County on eastern time. It is beyond the scope of this proceeding to consider any action having statewide effect, however. To be considered by the Department, any request to realign the State of Indiana's time zones so that the entire state was in the central time zone would have to come from the state government level.

Discussion and Decision

In 1981, Starke County petitioned the Department to move the county from the central to the eastern time zone. In an October 16, 1981, decision, the Department denied the petition. The primary reason for this decision was that commuting patterns for county residents were such that far more commuters would be inconvenienced by changing the county to eastern time than would be helped by making the change. Because the principal commuting direction for Starke County residents was from the county to central time areas, the Department concluded, it would not serve the convenience of commerce to move the county into the eastern time zone.

Proponents of the current petition to move Starke County into the eastern time zone alleged that, because of declining employment opportunities in heavy industry in the Illinois/Indiana "rust belt," these commuting patterns had changed. More commuters, they said, now went to eastern time zone areas.

While several commenters said that it was their impression that this shift in commuting patterns had taken place, they were unable to present any statistical evidence on the point. The 1980 census data relied upon in the Department's 1981 Starke County remain the most recent comprehensive data relevant to this issue. The jury statistics presented by the court commissioner, while not as comprehensive or conclusive as census data or state employment statistics, were the only post-1981 data presented to the Department. This information indicated that commuting patterns had not changed significantly since the Department's 1981 decision.

The Department regards the proponents' case for there having been a shift in employment and commuting patterns as unproven. Consequently, the main basis for the Department's 1981 conclusion that the proposed shift of Starke County to eastern time would not serve the convenience of commerce remains valid.

The Department does not believe that opponents' concerns about the effect of making the time zone change on the safety of school transportation for children are well-founded. As the Department pointed out in the 1981 decision concerning Starke County, schoolbus pickups in rural areas tend to be at the children's homes. Second, nearby eastern zone counties already have a very similar time/light situation for morning pickups to what Starke County would have if it moved to the eastern time zone. These counties do not appear to have experienced unusual safety problems in morning school transportation related to the time when it gets light outside.

The Department regards the other arguments by opponents and proponents of the change as inconclusive. Making the change would reduce inconvenience for some individuals, businesses, educational institutions and government offices. The change would create greater inconvenience for others. Living near a time zone border always creates inconvenience, which the Department cannot eliminate by shifting a jurisdication from one time zone to another. The close division of opinion among commenters on the Starke County petition appears to reflect a rather even balance of inconvenience, on issues other than commuting patterns, between the merits of leaving the county in the central zone or moving it to the eastern zone. These arguments do not lead to a conclusion that the convenience of commerce would be, on the whole, better served by granting the county's petition than by denying it.

For these reasons, the Department concludes that it would not serve the convenience of commerce to grant the petition to move Starke County into the eastern time zone. The county's petition is therefore denied, and the rulemaking with respect to Starke County is terminated.

Jasper County

Comments

In contrast to the situation in Starke County, comments relating to the proposed time zone change in Jasper County were not evenly divided. Among the written comments, 39 favored moving the county to eastern time, while 273 opposed the change. The comments of both proponents and opponents included petitions signed by numbers of local residents. The opponents of the change obtained many more petition signatures for their positions, including one petition with over 2000 signatures. Of the 36 individuals who spoke at the public hearing, 33 opposed the change.

There was a strong geographical pattern evident in the comments. Commenters from the northern part of the county (i.e., DeMotte, Wheatfield and the surrounding area) were almost unanimously against the proposed change. A substantial portion of all negative comments on the proposal came from persons in the northern part of the county. On the other hand, there were few commenters from the southern part of the county (i.e., the Remington area). These commenters appeared not to have strong feelings about the issue, at least in part because many individuals and businesses in this portion of the county appear to observe eastern time on an informal basis, regardless of the official time zone for the county. Most of the support for the proposed change came from the central part of the county (i.e., the Rensselaer area). Even from this part of the county, however, there were nearly as many comments opposing the proposal as favoring it.

Comments favoring moving Jasper County from central to eastern time made the following principal arguments:

• It would be beneficial to put the county on the same time as most of the rest of the state and its capital, Indianapolis. This would be especially helpful for state and local government offices and the Postal Service, which deal principally with offices in Indianapolis or Lafayette.

• Many businesses, at least in the central and southern portions of the county, have their main supply and customer relationships with persons and firms in the eastern time zone areas of the state.

• People in the central and southern part of the county go to Lafayette for shopping and professional services.

• With the opening in a few years of a new Japanese motor vehicle plant in the Lafayette area, work opportunities in the eastern time zone for Jasper county residents will increase.

• St. Joseph's College (a significant employer in the south central part of the county) has its business relationships primarily in the eastern time zone areas of the state, and most of its employees live in eastern time zone areas.

Comments opposing moving Jasper County from the central to the eastern time zone made the following principal arguments:

• Most businesses' supply and marketing relationships, especially in the northern part of the county, are with businesses and individuals located in central time zone areas. For example, a branch bank in DeMotte serves many customers in central time zone counties; many employees at a steam-electric generating plant, the county's largest employer, commute from central time zone areas; another plant with 300 employees reports to a headquarters in Chicago; and grain farmers tend to use elevators in central time zone areas. Many comments from small businesses in the northern part of the county made similar points.

• Most radio and TV stations received are from Chicago and other central time zone areas. There are no TV stations received or same-day newspaper service from Indianapolis.

• 1980 data shows that a significant majority of Jasper County residents who commute to work outside the county commute to the Chicago area and other central time zone locations. This situation still appears to exist, even though there are not updated statistics on the point.

• The northern part of the county is growing economically because it is on the southern fringe of the Chicago exurban area. People and business locate there whose jobs or markets relate to the greater Chicago area. The additional inconvenience of being in the eastern time zone would likely give people incentives to locate in adjacent parts of central time zone counties, harming economic growth in Jasper County.

• The northern part of the county is more populous than the southern part of the county (approximately 18,000 population compared to 10,000). Moving the county to eastern time would, therefore, inconvenience more people than it would help.

• For air transportation, Jasper County residents are much more likely to use Chicago than Indianapolis or Lafayette airports.

• Changing the time zone would create school-related problems. In addition to the concern about children waiting for school buses in the dark, commenters expressed concern about problems in scheduling athletic events and other activities. The change would also complicate life for students (and their families) who go to school in Jasper County but live in nearby central time zone counties.

• There are plenty of stores (e.g.,malls in Lake County) and professional services (e.g., emergency medical facilities) in Jasper County and nearby central time zone areas for people to use.

• Lake County lawyers like to move cases to Jasper County courts under the Indiana venue law. This would be less convenient if the time zone were changed.

In addition to the comments for and against making the requested time zone change for the whole county, 13 written comments and four speakers at the hearing favored splitting the county at the school district boundary (with the portion of the county served by the Kankakee Valley School Corporation remaining on central time and the rest of the county being changed to eastern time). This approach, its proponents said, would satisfy the people in the northern end of the county who wanted to stay on central time while giving people in the southern and central part of the county the opportunity to use eastern time.

Nine written comments and one speaker at the hearing opposed this suggestion. Their basic argument was that splitting the county would produce more confusion and inconvenience than leaving it as a unit. This was particularly true, they said, for purposes of the delivery of local government services.

Discussion and Decision

The written comments and hearing statements of persons from the northern part of Jasper County made a convincing case for the proposition that it would ill serve the convenience of commerce to move at least that part of the county from eastern to central time. That the case is convincing is not due solely to the fact that comments from that part of the county were both numerous and virtually unanimous.

The arguments described above concerning economic growth trends, employment and commuting patterns, and business relationships with suppliers and customers were uncontroverted. They suggest strongly that existing commercial patterns, which have bolstered the economy in a portion of Indiana which otherwise has had considerable economic difficulty in recent years, could be disrupted by a time zone change. Even more than the apparently strong personal preferences of residents of the area to remain on central time, these factors lead to a conclusion that moving the northern part of the county to eastern time would not serve the convenience of commerce. This necessarily implies a decision against moving the entire county into the eastern time zone.

There remains the question of whether it would serve the convenience of commerce to split the county along school district boundary lines. Splitting counties between two different time zones is not unprecedented. At the present time, 11 counties in seven states (none of them in Indiana) are split. The Department concludes that it would not be appropriate to split Jasper County however.

In part, this conclusion is based on the general proposition that it is inadvisable to split governmental jurisdictions, except when there is a compelling reason to do so. Many commenters in both Starke and Jasper counties mentioned their sense that it would be better for everyone concerned if the entire state was in only one time zone; the considerations that underlie that sentiment apply with even greater force to keeping local jurisdictions in one piece for time purposes.

In addition to this general consideration, the Department relies on a number of other factors in deciding not to split the county. First, the Department is persuaded that there is merit in the argument made by commenters that splitting the county would create confusion in the provision of local government services. If the section of the county with the majority of the county's population is on central time, while the county seat and offices are on eastern time, the inconvenience for residents of the northern portion of the county would be substantial. In addition, this situation would probably make it more difficult for county agencies and employees to carry out their functions.

Second, the comments favoring moving even the central and southern portions of the county to the eastern time zone were not compelling. It is true that county offices would benefit from being on the same time as state government offices in Indianapolis, but it is doubtful that this convenience would offset the inconvenience of being in a different time zone from the majority of the county's residents.

Third, businesses and educational institutions in the southern part of the county may, indeed, find it more convenient to be on eastern time. (As mentioned above, a number of commenters mentioned that many businesses and individuals in the Remington area already observe eastern time on an unofficial basis.) On balance, however, the Department believes that the inconvenience caused by splitting the county (including that caused businesses in central and southern Jasper County in dealing with northern Jasper County businesses and individuals and vice-versa in a split county) would outweigh this benefit. The coming of a new Japanese motor vehicle plant to the Lafayette area may influence employment and commuting patterns in the future, but it would not be a good idea to base a decision in this proceeding on speculation about such future effects.

Finally, the views of commenters suggest that there is neither broad nor deep local support for splitting the county. As mentioned above, while virtually all of the support for moving any part of the county into the eastern time zone came from the central and southern part of the county, there were nearly as many comments from those areas opposed to the change as favoring it. A number of the comments from businesses or other organizations counted as favoring eastern time did not strongly express a desire to change. Rather, they simply said that a change, if it came, would not cause problems for them. As also noted above, only a small number of comments explicitly discussed the idea of splitting the county.

For these reasons, the Department concludes that it would not serve the convenience of commerce to grant the petition to move Jasper County into the eastern time zone. The county's petition is therefore denied, and the rulemaking with respect to Jasper County is terminated.

Issued at Washington, DC, this 25th day of March 1987.

Rosalind A. Knapp,

Deputy Genreal Counsel.

[FR Doc. 87-6950 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 51]

Federal Motor Vehicles Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Termination of Rulemaking.

SUMMARY: This notice announces the agency's decision to retain the automatic restraint requirement for convertibles manufactured after September 1, 1989. NHTSA has concluded that it is reasonable and practicable for manufacturers to install driver-only air bag systems or automatic safety belts in convertibles. One of the primary reasons for the agency's decision is the anticipated wide-spread availability of driver-side air bag systems for passenger cars, including convertibles. The increased availability of air bag systems will be a result of a final rule, published elsewhere in today's **Federal Register**, which amends Standard No. 208, *Occupant Crash Protection*, to provide, until September 1, 1983, that a car meeting the performance requirements in the standard with a non-belt automatic restraint, such as an air bag, for the driver and a manual lap/shoulder belt at the right front passenger seating position will be considered in compliance with Standard No. 208. The increased production of driver-side systems which will result from that rulemaking action will decrease the cost of those systems, thus making it financially easier for manufacturers to install those systems in cars that are produced in low volumes, such as convertibles.

DATE: Petitions for reconsideration must be filed with the agency by April 29, 1987.

ADDRESS: Petitions for reconsideration should refer to the docket and notice numbers of this notice and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, National Highway Traffic Safety Administration, Room 5320, NRM-12, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION:

Background

On July 11, 1984 (49 FR 28962), the Department of Transportation announced its decision on occupant crash protection. The decision provided for the phased-in implementation of an automatic restraint requirement for the front outboard seats in passenger cars, including convertibles, beginning on September 1, 1986, with full implementation to take place on September 1, 1989. The decision also announced that the agency was considering whether to rescind the automatic restraint requirement for convertibles and would specifically