

CDTI—Cockpit Display of Traffic Information.

MOPS—Minimum Operational Performance Standards.

NRA—Non-Radar Airspace.

RFG—Requirements Focus Group.

STP—Surveillance Transmit Processing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, August 29, 2006.

**Francisco Estrada C.,**

*RTCA Advisory Committee.*

[FR Doc. 06-7490 Filed 9-6-06; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statement: City of Cleveland, Cuyahoga County, OH

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed project in the City of Cleveland, Cuyahoga County, Ohio.

**FOR FURTHER INFORMATION CONTACT:** Victoria Peters, Office Director, Office of Engineering and Operations, Federal Highway Administration, 200 N. High Street, Room 328, Columbus, Ohio 43215, Telephone: (614) 280-6896.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Ohio Department of Transportation (ODOT), will prepare an EIS for proposed improvements to Interstates 71, 77 and 90, and connecting radial freeways and local roadways, known as the Cleveland Innerbelt. The Cleveland Innerbelt is routed across the Cuyahoga River valley and around the south and east sides of downtown Cleveland, Ohio. The project termini are located approximately at the merge/diverse point of State Route 176, (the Jennings Freeway) and Interstate 71 southwest of downtown, south of the existing Interstate 90/77 Central Interchange on I-77 south of downtown, and east of the Interstate 90/State Route

2 interchange east of downtown along the shore of Lake Erie.

On September 18, 2001 the FHWA issued a Notice of Intent, (66 FR 49448, Sep. 27, 2001), for the Cleveland Innerbelt action, which was in the planning phase of project development, indicating that an Environmental Assessment or EIS would be prepared. Since 2001 project development and public involvement activities have been ongoing. To effectively and efficiently manage the Cleveland Innerbelt Project the FHWA, in cooperation with the ODOT, has decided to prepare an EIS for the proposed Project.

The purpose of the Cleveland Innerbelt Project is to improve the physical condition of the existing bridge decks and roadway pavements, improve the operational performance of the roadway system, improve the safety of the roadway system, and improve the access provided by the roadway system, while supporting community goals and objectives. Alternatives under consideration include: (1) the no-build (Defined as: maintaining/reconstructing the facility in kind); and (2) rehabilitation/upgrading of the existing infrastructure combined with construction of new facilities on modified alignment(s).

Letters describing the proposed Project and soliciting comments will be sent to appropriate Federal, and State, agencies known to have interest in this proposal. Moreover, public involvement activities will continue to facilitate the further development of alternatives, and to identify and quantify the social, economic, and environmental impacts of the proposed Project. A public hearing will be held. Public notice will be given of the time and place of the hearing. The Draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues relating to this proposed Project are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed Project and the EIS should be sent to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 31, 2006.

**Victoria Peters,**

*Office Director, Office of Engineering and Operations, Federal Highway Administration, Columbus, Ohio.*

[FR Doc. E6-14814 Filed 9-6-06; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2003-15818]

#### Exemption to Allow Werner Enterprises, Inc. To Use Global Positioning System (GPS) Technology To Monitor and Record Drivers' Hours of Service

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Renewal of exemption; request for comments.

**SUMMARY:** The FMCSA announces its decision to renew Werner Enterprises, Inc.'s (Werner) exemption from the Agency's requirement that drivers of commercial motor vehicles (CMVs) operating in interstate commerce prepare handwritten records of duty status (RODS). Werner has requested that its exemption be renewed so that it may continue its practice of monitoring the hours of service (HOS) of its drivers by means of GPS technology and complementary computer programs. Werner proposes in this application that the terms and conditions of the current exemption remain in place for a second two-year period. The FMCSA believes that with the terms and conditions in place, Werner will maintain a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the requirement for a written RODS.

**DATES:** This decision is effective September 7, 2006. Comments must be received on or before October 10, 2006.

**ADDRESSES:** You may submit comments to the DOT Docket Management System (DMS), referencing Docket Number FMCSA-2003-15818, using any of the following methods:

- *Web Site:* <http://dmses.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

• *Hand Delivery:* 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.

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

*Instructions*: All submissions must include the Agency name and docket number for this notice. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading for further information.

*Docket*: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or 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 DMS is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act*: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT**: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC-PSD, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590-0001. Telephone: 202-366-4009. E-mail: [MCPSPD@dot.gov](mailto:MCPSPD@dot.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On April 6, 1998, FMCSA published a notice (63 FR 16697) soliciting motor carriers to participate in a "pilot demonstration project" (the Project). The Project was a voluntary program under which motor carriers with GPS technology and related safety-management computer systems would enter into an agreement with the Agency to use such systems to record and monitor drivers' HOS in lieu of the RODS required by 49 CFR 395.8. The

Agency stated its belief that GPS technology and certain complementary safety-management computer systems then being used by the motor carrier industry provided at least the same degree of HOS monitoring accuracy as the automatic on-board recorders permitted by 49 CFR 395.15. Although participation in the Project was open to all interested motor carriers, Werner was the only motor carrier to enter into a memorandum of understanding (MOU) with the Agency to allow the use of GPS technology. A copy of the Werner MOU, dated June 10, 1998, is included in the docket referenced at the beginning of this notice.

Following execution of the MOU, FMCSA closely monitored Werner's use of GPS technology. Over the course of the pilot demonstration project, FMCSA conducted on-site reviews of Werner and also investigated a complaint made against Werner. These activities resulted in improvements in Werner's GPS system that increased the accuracy of the RODS of Werner's drivers and thereby improved HOS compliance. In March, 2002, Werner and FMCSA amended the MOU to incorporate various modifications of the GPS system designed to improve Werner's monitoring of its compliance with the HOS rules. A copy of the amended MOU is also in the docket of this notice.

In 2003, FMCSA exercised its authority under 49 U.S.C. 31315(b) to consider Werner for an exemption from its regulation requiring RODS to be maintained in paper form. On December 11, 2003, the Agency gave the public notice and the opportunity to comment on the proposal (68 FR 69117). FMCSA considered the comments and on September 21, 2004, granted Werner an exemption from 49 CFR 395.8 for a two-year period, with terms and conditions similar to those of the amended MOU (69 FR 56474).

##### **Werner's Application for an Exemption Renewal**

Werner has applied for renewal of this exemption; a copy of the application has been placed in the docket. Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption from the HOS requirements in 49 CFR 395.8 for a period of up to two years if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are prescribed in 49 CFR part 381. The FMCSA has evaluated Werner's application for a renewal on its merits and decided to

renew the exemption for a two-year period.

##### **Terms and Conditions of the Exemption System Operation**

(a) System defaults must record truck stationary time as "on duty, not driving."

(b) Movements of the vehicle greater than two miles must be recorded as driving time.

(c) Speed (which is determined by time and distance between truck location updates) that is calculated to be below 10 miles per hour (mph) may be considered invalid. In these instances, distance traveled may be divided by average driver mph or average State-to-State mph to derive a rough estimate of the driving time. Werner must discontinue the use of driving time modeling entirely if its GPS provider improves the satellite positioning frequency or incorporates other technology that makes the modeling unnecessary.

(d) With the exception of automatically recording the driver's status as "on duty, not driving" when the driver's fuel card is inserted into the card reader, no system defaults are authorized for routine stops (*i.e.*, deliveries, pickups, rest). Drivers must make the correct duty status entry into the electronic system.

(e) The system must not allow drivers to manipulate the system to conceal driving hours.

##### **Documentation of System Failures**

Werner must require each driver to note immediately any failure of the GPS technology or complementary safety management computer systems, and to immediately begin preparing hard-copy driver logs during the period that the technology is inoperative. Werner must maintain a centralized record of each separate failure, including the date, time periods, individual driver or operating division(s) impacted, and type of failure. Upon request by Federal or State enforcement officials, Werner must provide facsimile copies of its RODS for the current day and the previous 7 days for the driver(s) affected by the failure. In the event Werner is unable to produce these facsimile copies within two hours, the driver(s) must manually prepare a driver RODS for the current day and reconstruct his or her duty hours for the previous 7 days. When the system becomes operational, a fax of the missing RODS must be forwarded to the agreed-upon site as soon as possible. Failure to produce either of these two types of documents within two hours constitutes a violation of this exemption and 49 CFR 395.8(a).

### *Information Required on All CMVs Operated by Werner*

Werner must ensure that each CMV it operates has on board and available for review by Federal or State enforcement personnel an information packet containing the following three items:

- (a) An instruction sheet describing in detail how HOS data may be retrieved from the on-board GPS equipment;
- (b) A supply of blank RODS graph-grids sufficient to record the driver's duty status and other related information for the duration of each trip; and
- (c) A copy of the exemption issued by FMCSA authorizing Werner to use GPS technology and complementary computer software programs in lieu of the RODS required by 49 CFR 395.8.

### *FMCSA Access to Safety Management Information System*

Werner must allow FMCSA personnel reasonable access to its safety management information system(s). If FMCSA requests access to the system(s), Agency personnel will determine the scope and nature of the assessment. At a minimum, access to records will include:

- (a) Driver records of duty status created by Werner's GPS and related safety management computer systems;
- (b) Driver-dispatch "message histories" and detailed position histories associated with driver records of duty status;
- (c) Driver payroll records associated with driver records of duty status;
- (d) Driver shipping document records; and
- (e) Miscellaneous trip expense records.

### *Reporting of Corrections or Amendments to Records*

Werner must furnish upon request information indicating the number of times the "driving" time on driver RODS was changed for each driver, and identifying who authorized each altered record.

### *Documenting Distance Traveled*

Werner must ensure the system for monitoring and recording drivers' HOS has a means of determining that the mileage each driver travels is based on data from the vehicle's electronic control module or other on-board vehicle system, rather than on less accurate methods such as GPS-based (point-to-point) calculations that may underestimate the distance traveled.

### *Enforcement of Hours of Service While the Exemption Is in Effect*

Under the terms and conditions of this exemption, Werner may require its drivers to use the company's GPS technology and complementary safety-management computer systems to record their HOS instead of complying with the requirements of 49 CFR 395.8. The FMCSA will also continue, to the greatest extent practicable, to communicate with State, Provincial, and local enforcement agencies regarding the terms and conditions of the exemption. The FMCSA will also continue its policy of not divulging to any third party proprietary information related to Werner's GPS technology or related safety management computer systems.

In the event FMCSA conducts a compliance review or any other type of motor carrier safety management investigation of Werner, FMCSA will review, using its automated hours-of-service assessment system, 100 percent of the applicable operating division's hours-of-service records for compliance with the maximum driving time limitations set forth in 49 CFR 395.3. The 100 percent sampling would not extend to any other portion of the regulations reviewed. With respect to the investigation of the accuracy of hours-of-service records (49 CFR 395.8(e)), FMCSA reserves the right to sample records in accordance with FMCSA policies applicable to all motor carriers, and Werner retains the right to contest the validity of the sample used.

The Agency does not intend to hold Werner to a higher standard of compliance than the rest of the industry, nor would it treat Werner differently in conducting compliance investigations or other types of investigations. At any time during the exemption period, FMCSA may conduct compliance reviews of Werner, consistent with standard operating policies applicable to all motor carriers. These compliance reviews would result in the assignment of a safety rating, and the Agency could initiate enforcement action against Werner for serious violations.

Werner's drivers and vehicles continue to be subject to roadside inspections conducted by FMCSA or State enforcement personnel during the period of the exemption. The exemption does not preclude States from continuing to enforce applicable State requirements concerning on-duty and driving-time limits. It does, however, preclude States from requiring Werner drivers to prepare and present RODS. Werner must ensure that its drivers cooperate with Federal and State

enforcement personnel who request information, during roadside inspections, concerning its drivers' hours of service.

### **Request for Comments**

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comments on the approval of Werner's request for a renewal of its exemption from the requirements of 49 CFR 395.8. The Agency requests that interested parties submit comments by October 10, 2006. The FMCSA will review all comments received by this date and determine whether the renewal of the exemption is consistent with the requirements of 49 U.S.C. 31315 and 31136(e). The FMCSA believes the requirements for a renewal of an exemption under 49 U.S.C. 31315 and 31136(e) can be satisfied by initially granting the renewal and then requesting and subsequently evaluating comments submitted by interested parties. As indicated above, the Agency previously published a notice of final disposition announcing its decision to exempt Werner from the HOS requirements of 49 CFR 385.8. The decision to renew the exemption is based on the merits, and made only after careful consideration of the comments submitted in response to the April 30, 2003 (68 FR 23174) notice.

Interested parties or organizations possessing information that would otherwise show that Werner's GPS system is not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any information submitted and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will take immediate steps to revoke the exemption of the driver(s) in question.

Issued on: August 31, 2006.

**David H. Hugel,**

*Deputy Administrator.*

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**BILLING CODE 4910-EX-P**