

294141

DEPT. OF TRANSPORTATION
DOCKETS

2004 AUG 26 A 10: 13

**MEMORANDUM OF UNDERSTANDING
BETWEEN
WERNER ENTERPRISES, INC.
AND
FEDERAL HIGHWAY ADMINISTRATION**

FMCSA-2004-18940-5

SUBJECT:

Recording Drivers' Hours-of-Service by Use of Global Positioning System (GPS)

Technology and Complementary Computer Software Programs.

PURPOSE:

The purpose of this Memorandum of Understanding (MOU) is to establish the terms of a demonstration project to determine the feasibility of using GPS technology and complementary computer software programs to record drivers' hours-of-service in lieu of using the "record of duty status" required by 49 CFR 395.8. This MOU will help promote the President's initiatives for reinventing government and regulatory reform, in particular by exploring the use of new technology to reduce paperwork burdens, enhance highway safety, and improve operational efficiency.

AGREEMENT:

(1) For purposes of this agreement, the Federal Highway Administration (FHWA) has determined that Werner Enterprises, Inc.'s (Werner) GPS technology and complementary safety management computer systems substantially conform to the standards for "automatic onboard recording devices" set forth in 49 CFR 395.15.

(2) Under the terms and conditions of this agreement, Werner may require its drivers to use the company's GPS technology and complementary safety management computer systems to record their hours-of-service in lieu of complying with the requirements of 49 CFR 395.8.

(3) The FHWA shall, to the maximum extent practicable, communicate with State, provincial, and local enforcement agencies regarding the terms and conditions of this agreement.

(4) The FHWA shall not divulge to any third party proprietary information related to Werner's GPS technology or related safety management computer systems.

(5) In the event the FHWA conducts a motor carrier safety management investigation of Werner, the agency shall review 100 per cent of the company's hours-of-service records. The FHWA will not hold Werner to a higher standard of compliance than the rest of the industry.

(6) Werner shall require its drivers to immediately note any failure of the GPS technology or complementary safety management computer systems. Upon request of enforcement officials, Werner drivers will contact their headquarters and request facsimile copies of their "records of duty status" for the previous eight days.

(7) Werner shall ensure that each commercial motor vehicle it operates has on board, and available for review, an information packet containing the following three items:

(a) An instruction sheet describing in detail how hours-of-service data may be retrieved from the onboard GPS equipment.

(b) A supply of blank record of duty status graph-grids sufficient to record the driver's duty status and other related information for the duration of each trip.

(c) A copy of a letter, signed by the FHWA Administrator, authorizing Werner Enterprises, Inc. to use its "paperless electronic logging system" in lieu of using the "record of duty status" required by 49 CFR 395.8.

(8) Werner shall, upon reasonable request, allow FHWA personnel access to its GPS and related safety management computer systems located at its principal place of business.

(9) During periodic on-site visits by FHWA personnel, Werner shall, upon request, furnish the FHWA a report of driver violations of the maximum driving time rules set forth in 49 CFR 395.3. The report shall list drivers in alphabetical order; violations by each driver shall be listed in chronological order.

(10) During periodic on-site visits by FHWA personnel, Werner agrees to furnish information, upon request, indicating what disciplinary and/or remedial action, if any, was taken as a result of a driver violating the maximum driving time rules set forth in 49 CFR 395.3.

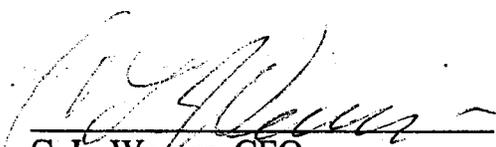
CONSULTATIONS:

Both parties may consult at any time on issues relating to this agreement. Such consultations will take place at the earliest possible date, but no later than thirty (30) days after one of the parties makes a request, unless otherwise mutually agreed.

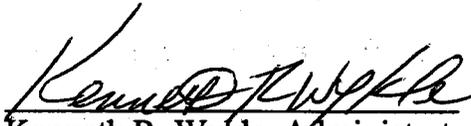
EFFECTIVE DATE, TERMINATION, AND REVIEW:

This agreement is effective upon signature by both parties and will remain in effect until superseded or terminated by either party after written notice to the other party.

Signed this 10th day of June 1998, in two originals.



C. L. Werner, CEO
Werner Enterprises, Inc.



Kenneth R. Wykle, Administrator
Federal Highway Administration