

**FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
Response to Notice and Request for Comments**

**Agency Information Collection Activities
Driver and Carrier Surveys Related to EOBRs and
Potential Harassment Deriving from EOBR Use**

(Docket# FMCSA-2012-0309)

**Submitted by:
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Werner Enterprises, Inc. ("Werner" or the "Company") is a transportation and logistics company engaged primarily in hauling truckload shipments of general commodities in both interstate and intrastate commerce. We also provide logistics services through our Value Added Services ("VAS") division. We are one of the five largest truckload carriers in the United States (based on total operating revenues), and our headquarters are located in Omaha, Nebraska, near the geographic center of our truckload service area. We were incorporated in the State of Nebraska on September 14, 1982.

We have been operating an electronic logging and fleet management system since 1998 and have had a significant amount of experience with electronic logs and driver issues related to electronic logs.

We submit the following comments in response to the Notice and Request for Comments published in the Federal Register on May 28, 2013, and Vol. 78, No. 102, page 32001. Other than general comments applicable to the entire survey, the following are directed at the Driver's Quantitative Survey OMB Control Number: 2126-xxx and are numbered to correspond to the survey question which raises the concern.

A general concern, however, is that many of the questions do not distinguish an EOBR from a fleet management system ("FMS"). In practice, the two are sometimes closely related but unless they are somehow distinguished, many of the driver responses to questions about EOBRs are likely to be misinterpreted by the driver and answered on the basis of FMS. For example the questions asked under Q: 16 and 17 with regard to Schedules, Fatigue, Communications and Paid and Unpaid Time, all relate to FMS and not to EOBRs. Interruption of off-duty time for example has nothing to do with an EOBR but relates to the communication device used to interrupt the driver. The interruption would be the same whether from a FMS or a cell phone. The survey should be redesigned to gather information only about EOBRs and not about FMSs.

Comments to specific questions are as follows:

2. This question raises concerns about “your job”. It is not specific as to whether it refers to the driver’s current employment or to his or her general job of truck driving. The survey does not ask how long the driver has been at his or her current employment or even how long he or she has been a truck driver. (It does ask at Q: 41 how long they have had a CDL.) It would seem that satisfaction with the job would have some relationship to tenure.
5. While we do not understand the relevance of this question, we point out that many drivers receive additional pay for other job related activities. This is not “some other basis” as described in Q: 5, but for addition activities such as loading, unloading, waiting time, multiple stops, and shag trips. To the extent total pay is relevant to EOBR use, perhaps an additional question should be considered.
10. and 11. The driver is not asked either here or in the Recruitment Questionnaire how long they have been using the equipment on which question 11 is based. Satisfaction is often related to familiarity and comfort with the system. Our experience with EOBRs suggests that drivers new to the device often express frustration and dissatisfaction during the period of initial use which dissipates as familiarity with the device increases. We would suggest asking a question to determine length of experience and perhaps another asking the driver’s opinion as to how well they feel they know the equipment.
14. The use of the two words “...you, yourself?” is confusing.
16. and 17. We believe that the use of the words “coming from” is confusing and subject to different interpretation by different drivers. For example, the request may be made over the device and therefore “come from” but have nothing to do with the EOBR. Is the ultimate question, “Which of these, if any, happen to you only because you have an EOBR?” Clearly they are things that can happen whether or not an EOBR is being used. If the driver interprets “coming from” as meaning “have any connection with” as opposed to “resulting from” they may well over attribute problems to the EOBR. These questions are also point out the problem of not separating the EOBR component from the Fleet Management System.
21. It appears that a non EOBR user who has answered other than yes to question 19 will not answer this question. It would seem important to find out if the driver has been asked to drive or work more hours even if they weren’t punished for it as required by Q: 19.
30. If the driver responds that he felt harassed, he or she should also be asked if he felt that the enforcement officer was being unreasonable or somehow out of

line. Many drivers report problems from the attitude of officers towards EOBR devices and the fact that the officers don't understand how they work.

It is also noted that while the Summary indicates that the survey data is to determine the extent to which EOBRs could be used by motor carriers or enforcement personnel to harass drivers, these are the only two questions (Q:29 and Q: 30)directed at enforcement personnel. This suggests a possible questionnaire bias against carriers.

31. Optional answer 2 may be confusing. What is meant by the use of the words "formally filed"? Filed with whom? In most cases the EOBRs require the driver to indicate that he or she has reviewed the logs before they are submitted to the carrier which suggests that this may already be happening.
34. The definition is confusing and hard to follow. Among other things it requires the driver to possess some knowledge of what "fatigue or ill driver restrictions" are without any verification that the driver understands those restrictions. The definition needs to be broken into simple phrases and clarified. It is also potentially confusing to the driver that the question follows question 15 in which the driver is asked to identify which of 14 different items the driver considers to be harassment. Many of those items would not seem to fit in the definition given at Hand Card 34 yet the driver may have already identified those items as harassing. If this question is used as written a new item 4 should be added to the list of possible answers read to the driver. The new option should be "Don't understand the definition."
35. The definition in Hand Card 35 is also wordy and will be confusing to many drivers. It needs to be broken down to more understandable parts and the fourth option added as suggested in 34 above.
36. This question seems to presuppose that the company for which the driver currently drives is the same company with which the driver developed his opinions about EOBRs. Given the rate at which drivers change jobs it is possible that the experience with EOBRs was with a prior carrier and again there is no indication of how long the driver has been with the company or how long he or she has actually used an EOBR.

Thank you for the opportunity to comment on these documents.