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12

Date of Hearing: 12/10/18

Case No. 18-1415-TR-CVF

PUCO.

PUCO Case Caption: IMO: Westbrook Monster
mix, LLC Notice of
A pparent Violation and
Intent to assess
For future

List of exhibits being filed:

Staff Exhibits 1-8

this is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business.
Technician K Date Processed 1/3/19

Reporter's Signature: Romaine James

Date Submitted: 1/2/19

BEFORE THE PUBLIC UTILITIES
COMMISSION OF OHIO

- - -

In the Matter of:)	
)	
Westbrook Monster Mix, LLC)	
)	
Notice of Apparent)	Case No. 18-1415-TR-CVF
)	
Violation and Intent to)	
)	
Assess Forfeiture.)	

- - -

PROCEEDINGS

Before Anna Sanyal, Attorney Examiner, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Hearing Room 11-D, Columbus, Ohio, on
Monday, December 10, 2018, at 10:00 a.m.

- - -

Armstrong & Okey, Inc.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
(614) 224-9481 - (800) 223-9481

- - -

Staff Ex 1

DRIVER/VEHICLE EXAMINATION REPORT



Public Utilities Commission of Ohio
180 East Broad Street
Transportation Department
Columbus, OH 43215
Phone #: (614)466-0429 Fax #: (614)752-9274

Report Number: OH3274020192
Inspection Date: 4/23/2018 Certification Date:
Time Started: 11:30 Time Ended: 12:35
Inspection Level: III - Driver-Only Inspection
HM Inspection Type: No HM Inspection

WESTBROOK MONSTER MIX LLC

152 WESTBROOK RD

PEACH BOTTOM, PA 17563-9679

USDOT #: 03081768

Phone #: (717)278-7084

MC/MX #:

Fax #:

State #:

Driver: TUCKER, JAMES A

License #: 18071680

State: PA

Date of Birth: 1/6/1958

Location: ROADSIDE.

MilePost: 98

Highway: IR77

Origin: ZANESVILLE, OH

Bill of Lading:

County: STARK

Destination: SMITHVILLE, OH

Cargo: EMPTY

Shipper:

VEHICLE IDENTIFICATION:

Unit	Type	Make	Year	State	License#	Equipment ID	Unit VIN	GVWR	CVSA #	CVSA Issued #	OOS Stkr.#
1	TR	FRHT	2012	PA	AG71426	NONE	1FVMC5DVXCHBJ8307	68,000			Y

BRAKE ADJUSTMENTS: No brake measurements recorded.

VIOLATIONS :

Vio Code	Section	Unit	OOS	State Citation Number	Verify*	Crash	Violation Description
385.337B	385.337(b)	1	Y		N	N	Operating in violation of FMCSA Operational Out of Service order for Failure to permit a Safety Audit

* N - Non-OOS or Driver OOS Violation

HazMat: No HM Transported.

Placard: NA Cargo Tank:

Special Checks:

- ☐ Alcohol/Controlled Substance Check
☐ Conducted by Local Jurisdiction
☐ Size and Weight Enforcement
☐ EScreening

- ☐ Traffic Enforcement
☐ PASA Conducted Inspection
☐ Drug Interdiction Search

- ☐ Post Crash Inspection
☐ PBBT Inspection
 Arrests:

Inspection Notes: This carrier was shown as being under an OOS order for New Entrant Revoked - Refusal of Audit/No Contact on 4/6/2018 by a real-time query at 4/23/2018 11:52:33 AM
DRIVER GOING TO SMITHVILLE PICK UP LOAD OF EMPTY BAGS, GOING TO ZAINSVILLE, OH TO GIVE LOAD TO A CARRIER TO BE SENT TO MILL IN KANSAS.
DRIVER HAD WIFE TAKE HIM TO ZANESVILLE FROM HOME TO PICK TRUCK UP AT FYDA FREIGHTLINER
TRUCK DROPPED OFF THERE FOR REPAIR WORK, TRUCK WOULD NOT START
COMPANY GOES TO DIFFERENT FEED MILLS TO PICK UP 3 IN PA.
DRIVER SAYS TAKES TRUCK HOME AND STARTS WORK DAY FROM THERE
CALLED COLUMBUS TO VERIFY FEDERAL OOS

Special Study Fields:

Special Study1:

Special Study6:

Special Study2:

Special Study7:

Special Study3:

Special Study8:

Special Study4:

Special Study9:

Special Study5:

Special Study10:

Locally Defined Fields:

For-Hire Carrier: N;Fatalities (Y/N): N;Driver Address: 16299 DUNNINGS HWY PO BOX 122;Driver City: NEWRY;Driver State: PA;Driver Zip: 16665;Photos Taken (Y/N): Y;Reason Code: DOTI;FMCSA Credentials Verified-Y/N: Y;CDL Verified (Y/N): Y;FMCSA OOS Order Issued(Y/N): Y

* Pursuant to authority contained in Title 49, Code of Federal Regulations, Section 396.9, I hereby declare vehicles with defects followed by an "Y" in the "Out of Service" column in the violations discovered section of this report OUT OF SERVICE. No person shall remove the out of service stickers applied to these vehicles, or operate such vehicles until the out of service defects have been repaired and the vehicles have been restored to safe operating condition.

Report Prepared By:

D A Bell

Badge #:

3274

Copy Received By:

TUCKER, JAMES A

Page 1 of 2



OH3274020192

X

X

staff Ex 2



Carrier is currently under a Federal OOS

Reason: New Entrant Revoked - Refusal of Audit/No Contact
Out-of-Service Date: 4/6/2018

Carrier Information

Name: WESTBROOK MONSTER MIX LLC
DBA:
Street: 152 WESTBROOK RD
City: PEACH BOTTOM
Phone: (717)278-7084
State: PA Zip: 17563-9679
Country of Domicile: UNITED STATES

Inspection Value



100 Inspect

Inspection Value is based on lack of Safety data.

Carrier Details

Operating Authority Status		
Vehicle Out-Of-Service Rate	100.00 %	Total Number of Inspections: 1
Driver Out-Of-Service Rate	100.00 %	Inspections Per Power Unit: 0.33
Number of Power Units	3	Inspections Per Driver: 0.50
Inspections Involving HM		Number of Drivers: 2

BASIC Safety Information

Ohio | Public Utilities Commission

Asim Z. Haque, Chairman

Commissioners

M. Beth Trombold
Thomas W. Johnson
Lawrence K. Friedeman
Daniel R. Conway

08/07/2018

OH3274020192C
John Martin
416 CLEARFIELD RD
QUARRYVILLE, PA 17566-9762

RE: **NOTICE OF PRELIMINARY
DETERMINATION**
Case No. OH3274020192C

Dear Sir or Madam:

On 04/23/2018, a vehicle operated by WESTBROOK MONSTER MIX LLC, and driven by JAMES A TUCKER, was inspected within the State of Ohio. As the result of discovery of the following violations of the Commission's rules, Staff of the Commission timely notified WESTBROOK MONSTER MIX LLC (Respondent) pursuant to rule 4901:2-7-07, Ohio Administrative Code (O.A.C.), that it intended to assess a civil forfeiture against the Respondent in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
385.337B	4	Operating in violation of FMCSA Operational Out of Service order for Failure to permit a Safety Audit	2750.00
		Total of Group 4	2750.00

TOTAL AMOUNT DUE: \$2,750.00

A conference was conducted pursuant to rule 4901:2-7-10, O.A.C., at which the Respondent had a full opportunity to present any reasons why the violation did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by Staff.

As a result of the conference, Staff has made a Preliminary Determination that the Commission should assess a civil forfeiture against WESTBROOK MONSTER MIX LLC in the following amount:

CODE	GROUP	VIOLATION	FORFEITURE
385.337B	4	Operating in violation of FMCSA Operational Out of Service order for Failure to permit a Safety Audit	2750.00

180 East Broad Street
Columbus, Ohio 43215-3793

(614) 466-3016
www.PUCO.ohio.gov



**ROADSIDE INSPECTION
INSTRUCTION SHEET
NOTICE OF PRELIMINARY DETERMINATION**

Please read this instruction sheet carefully. It contains information about your rights and responsibilities in regard to this Notice of Preliminary Determination.

You have received a "Notice of Preliminary Determination" as described in Rule 4901:2-7-12, Ohio Administrative Code (O.A.C.). **Within 30 days of this notice, you must either: (1) pay the assessed civil forfeiture or (2) file a written request for an administrative hearing.** If you do not pay the forfeiture or file a request for an administrative hearing within 30 days of this notice, your case will be placed in our default process. Both procedures are described below.

1. How to Pay the Forfeiture

If you do not wish to further contest the violations described in this notice, you may make payment of the civil forfeiture indicated in this notice via one of the following methods:

Online at <https://omcis.puc.state.oh.us/home.aspx>. You will need your case number and PIN located on the enclosed voucher.

Mail: send a check or money order (no Canadian postal money orders) made payable to "Treasurer, State of Ohio." **In order to assure proper credit, you must write the case number on the face of the check or money order.** Please send payment to the following address:

Public Utilities Commission of Ohio
Attn: CF Processing
180 East Broad Street, 4th Floor
Columbus, OH 43215-3793

2. How to File a Request for an Administrative Hearing

If you wish to further contest the violations described in this notice, you should file a "Request for an Administrative Hearing" with the Commission's Docketing Division as described in Rule 4901:2-7-13, O.A.C. Your "Request for an Administrative Hearing" must be **in writing** and must contain the **case number** indicated on this notice. Also, please include the **contact name, address, and telephone number**, of the person to whom further communications regarding this matter should be directed. The request shall be signed by the respondent or its authorized representative. A copy of this "Notice of Preliminary Determination" must be attached to your request.

Your "Request for an Administrative Hearing" must be mailed or hand-delivered **within 30 days of this notice** to the following address:

Public Utilities Commission of Ohio
Attn: Docketing Division
180 East Broad Street
Columbus, OH 43215-3793

3. Failure to Submit a Request for an Administrative Hearing

If you do not serve a timely "Request for an Administrative Hearing" in the manner described above, you will forfeit your right to





The Public Utilities
Commission of Ohio
180 E. Broad St. - Fourth Floor
Columbus, OH 43215

OMCIS VOUCHER

Date: 8/7/2018
Legal Name: WESTBROOK MONSTER MIX LLC
Address: 416 CLEARFIELD RD
City: QUARRYVILLE
State: PA
Zip: 17566-9762
Case Number: OH3274020192C
PIN: 2DT5

Item	DueDate	Amount
1	9/21/2018	\$2,750.00
Total		\$2,750.00

Pay online at <https://omcis.puc.state.oh.us/home.aspx> or enclose this voucher with your check or money order if paying by mail.



OH3274020192C



Staff Ex 4



U.S. Department of
Transportation
**Federal Motor
Carrier Safety
Administration**

JOHN FRANKLIN MARTIN JR.
PRESIDENT
WESTBROOK MONSTER MIX LLC
152 WESTBROOK RD
PEACH BOTTOM, PA 17563-9679

1200 New Jersey Ave., S.E.
Washington, DC 20590
January 3, 2018

In reply refer to:
USDOT Number: 3081768

Action Required: Call 1-877-905-8016 to complete the registration process.

The Federal Motor Carrier Safety Administration (FMCSA) is responsible for ensuring the safe operation of commercial motor vehicles on our nation's highways. FMCSA has received your application for USDOT New Entrant registration to operate in interstate commerce.

Please be aware, if WESTBROOK MONSTER MIX LLC requires motor carrier operating authority in addition to a USDOT New Entrant registration number, WESTBROOK MONSTER MIX LLC is required to apply for and be granted such operating authority before conducting any transportation as a motor carrier in interstate commerce. Information on applying for motor carrier operating authority may be found at FMCSA's website: <http://www.fmcsa.dot.gov>.

Please contact FMCSA support staff at 1-877-905-8016, Monday - Friday 8:00AM to 8:00PM EST, to complete the process for new entrant registration.

Once validation has been completed, you will be contacted by the appropriate office to schedule a new entrant safety audit. As a new entrant motor carrier, WESTBROOK MONSTER MIX LLC must undergo a required safety audit. The safety audit usually takes from 2 - 4 hours to complete. In preparation for the safety audit additional information may be found at FMCSA's website: <http://www.fmcsa.dot.gov>.

Listed below are some of the requirements the FMCSA will verify when a safety audit is conducted;

- A Drug & Alcohol Program (if applicable);
 - o Including Random Drug & Alcohol Testing, Pre-Employment Drug Testing and other testing as required.
- Periodic (annual) inspections;
- Records of Duty Status (if applicable);
- The required minimum level of Financial responsibility (Insurance) (if applicable);
- Drivers with proper Commercial Drivers License (if applicable).

It is strongly suggested that WESTBROOK MONSTER MIX LLC download the Educational and Technical Assistance (ETA) Package located at <http://www.fmcsa.dot.gov/safety-security/eta/index.htm>.

In accordance with 49 CFR section 385.337 49 CFR 385.337, failure to permit a safety audit to be performed may result in the revocation of WESTBROOK MONSTER MIX LLC's USDOT New Entrant registration and WESTBROOK MONSTER MIX LLC's operation being placed out of service. Additionally, the refusal to submit to a safety audit may also subject a new entrant motor carrier to the penalty provisions in 49 U.S.C. 521(b) (2) (A), as adjusted for inflation.

WESTBROOK MONSTER MIX LLC's USDOT number can be found in the upper right hand corner of this letter. This USDOT number should be marked on commercial motor vehicles operated by WESTBROOK MONSTER MIX LLC as required by 49 CFR section 390.21. A copy of the FMCSRs, including this regulation, may be found on the FMCSA web site, <http://safer.fmcsa.dot.gov>.

Sincerely,

Joseph P. DeLorenzo, Director, Office of
Enforcement and Compliance

Enclosures:
New Entrant Brochure
Drug and Alcohol Brochure

Staff ES



U.S. Department
of Transportation
**Federal Motor
Carrier Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590
February 2, 2018

In reply refer to:
USDOT Number: 3081768

JOHN FRANKLIN MARTIN JR.
PRESIDENT
WESTBROOK MONSTER MIX LLC
152 WESTBROOK RD
PEACH BOTTOM, PA 17563-9679

On January 3, 2018 the Federal Motor Carrier Safety Administration (FMCSA) informed WESTBROOK MONSTER MIX LLC that its application seeking USDOT New Entrant registration to operate in interstate commerce within the United States was approved.

That letter also requested that WESTBROOK MONSTER MIX LLC contact FMCSA support staff to validate information in its application. Currently, according to FMCSA's records, no contact with FMCSA has been made.

Therefore, this is a second request that you contact FMCSA as soon as possible. Please call FMCSA support staff at 1-877-905-8016, Monday - Friday 8:00AM to 8:00PM EST.

Once validation has been completed, you will be contacted by the appropriate office to scheduling of a new entrant safety audit. As a new entrant motor carrier, WESTBROOK MONSTER MIX LLC must undergo a required safety audit. The safety audit usually takes from 2 - 4 hours to complete. In preparation for the safety audit additional information may be found at FMCSA's website: <http://www.fmcsa.dot.gov>.

In accordance with 49 CFR section 385.337, failure to permit a safety audit to be performed may result in the revocation of WESTBROOK MONSTER MIX LLC's USDOT New Entrant registration and WESTBROOK MONSTER MIX LLC's interstate operation being placed out of service. Additionally, the refusal to submit to a safety audit may also subject a new entrant motor carrier to the penalty provisions in 49 U.S.C. 521(b) (2) (A), as adjusted for inflation.

Sincerely,

Joseph P. DeLorenzo, Director, Office of
Enforcement and Compliance



U.S. Department of
Transportation
1200 New Jersey Ave. S.E.
Washington, D.C. 20590

**Federal Motor Carrier
Safety Administration**

March 26, 2018

In reply refer to:
USDOT Number: 3081768

**WESTBROOK MONSTER MIX LLC
152 WESTBROOK RD
PEACH BOTTOM, PA 17563-9679**

Action Required: Out of Service/Revocation Warning Letter.

On January 3, 2018 the Federal Motor Carrier Safety Administration (FMCSA) informed you that your application seeking registration to operate in interstate commerce within the United States was approved. That letter also informed you that the FMCSA would continue to evaluate your safety management practices through a Safety Audit, and that under Part 385 of Title 49 of the Code of Federal Regulations (49 CFR 385.337), failure to permit a Safety Audit to be performed on your operation could result in the revocation of your USDOT New Entrant registration and or the penalty provisions in 49 U.S.C. 521(b)(2) (A).

A safety auditor has tried on three separate occasions to contact you to schedule a safety audit, but was unable to reach you. In light of this, you are considered to have refused to submit to a safety audit under 49 CFR 385.337.

Therefore, in accordance with 49 CFR 385.337(b), you are hereby advised that your USDOT New Entrant registration will be revoked and your operation placed out of service unless you **agree in writing**, within 10 days from the service date of this notice, to permit a safety auditor to conduct the safety audit required under Part 385. Your correspondence should be directed to the contact information listed below. At that time please provide a valid telephone number for your company.

If your USDOT New Entrant registration is revoked, you may reapply no sooner than 30 days after the date of the revocation. Should that occur, you would need to initiate the USDOT New Entrant registration process again by completing an updated Motor Carrier Identification Report (MCS-150).

If you have any questions, please contact your local FMCSA Division office at the address below:

PA PUBLIC UTILITY COMMISSION
NEW ENTRANT ADMINISTRATOR
PHILLIP JONES
SCRANTON STATE OFFICE, RM 320 100 LACKAWANNA AVE
SCRANTON, PA 18503
Telephone No.: 570-963-4552

Sincerely,

Joseph P. DeLorenzo
Director, Office of Enforcement and Compliance



U.S. Department of
Transportation

**Federal Motor
Carrier Safety
Administration**

1200 New Jersey Ave., S.E.
Washington, DC 20590

April 6, 2018

In reply refer to:
USDOT No.: 3081768

JOHN FRANKLIN MARTIN JR.
PRESIDENT
WESTBROOK MONSTER MIX LLC
152 WESTBROOK RD
PEACH BOTTOM, PA 17563-9679

**ORDER TO REVOKE "NEW ENTRANT" REGISTRATION AND CEASE ALL INTERSTATE
TRANSPORTATION U.S. DOT Number: 3081768**

This Order is issued pursuant to 49 CFR 385.337(b). In a letter dated March 26, 2018 WESTBROOK MONSTER MIX LLC was notified that its New Entrant Registration would be revoked unless it agreed in writing within 10 days of March 26, 2018 to permit a Safety Audit to be performed. Because WESTBROOK MONSTER MIX LLC has failed to agree to the safety audit its New Entrant Registration is hereby revoked and WESTBROOK MONSTER MIX LLC's operations are placed out of service effective immediately. WESTBROOK MONSTER MIX LLC must immediately cease all Interstate motor carrier operations in the United States.

Failure to comply with this Order may subject the carrier to penalty provisions in 49 USC 521(b) (2) (A) not to exceed \$11,000 for each offense.

Under section 385.329, WESTBROOK MONSTER MIX LLC may reapply for new entrant registration no earlier than 30 days from the date of this Order. In accordance with 49 CFR 385.329, in order to reapply WESTBROOK MONSTER MIX LLC must submit an updated MCS-150 (Motor Carrier Identification Report), submit to a safety audit, and restart the 18-month new entrant monitoring period. Reapplication may be made via the FMCSA web site (<http://safer.fmcsa.dot.gov>) or by submitting a MCS-150 form. The form may be obtained by calling FMCSA's technical support at 1-800-832-5660 or via the FMCSA web site.

Sincerely,

Joseph P. DeLorenzo, Director, Office of
Enforcement and Compliance

Max. Christopher
 Water, Bad
 vbaqfmdgrykg
 Friday, December
 2003
 2003
 2003
 2003
 2003

Safety Audit Referral

3031762	CA
WESTBROOK MONSTER MIX LLC	
416 CLEARFIELD RD QUARRYVILLE PA 17566	

Add New No Show Revocation

Student Reception	
-------------------	--

Add a New Contact Attempt							
Attempt Date (mm/dd/yyyy) *	Attempt Time (HH:MM) *	Attempt Type *	Attempt Person *	Contact Person *	Select to Add		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>		
Attempt Comment *							
Attempt Date (mm/dd/yyyy) *	Attempt Time (HH:MM) *	Attempt Type *	Attempt Person *	Contact Person *	Select to Add		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>		
Attempt Comment *							
Attempt Date (mm/dd/yyyy) *	Attempt Time (HH:MM) *	Attempt Type *	Attempt Person *	Contact Person *	Select to Add		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="checkbox"/>		
Attempt Comment *							
<div> <div>Add Contact Attempts</div> </div>							

[illegible]

Public Utilities Commission of Ohio

Transportation Department

Motor Carrier & Rail Enforcements

CM & NECA Programs Manager
(614) 728-9128

www.PUCC.china.gov.cn

Staff Gr 8