

1500 SW Arrowhead Road
Topeka, KS 66604-4027



20211014105641
Kansas Corporation
Commission
Phone: 785-271-3100
Fax: 785-271-3354
<http://kcc.ks.gov/>

Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

Laura Kelly, Governor

NOTICE OF PENALTY ASSESSMENT
22-TRAM-166-PEN

October 14, 2021

Brett D. Warstler, Managing Member
Warstler Worldwide LLC d/b/a Warstler Excavating
6014 SE Hwy Alt 69
Riverton, KS 66770

This is a notice of a penalty assessment against Warstler Worldwide LLC d/b/a Warstler Excavating (Warstler) for violation(s) of Kansas Motor Carrier Safety Statutes, Rules, and Regulations discovered during a compliance review conducted on October 5, 2021, by Kansas Corporation Commission Special Investigator Michael Heenan. Penalties are assessed in accordance with the FY 2022 Uniform Penalty Assessment Matrix, approved by the Commission on June 29, 2021. For a full description of the penalty(s) and terms and obligations please refer to the Order attached to this notice.

IF YOU ACCEPT THE PENALTY: Warstler has been assessed a \$750 penalty. You have thirty (30) days from the date of service of the Penalty Order to pay the penalty. Please remit payment of \$750, through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. If you have not received a letter from the Transportation Division assigning you a PIN, please contact that Division at 785-271-3145. You must have an account through KTRAN to pay the penalty owed.

The attached Order requires a representative of Warstler to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order and to provide the undersigned Litigation Counsel with written proof of attendance. A schedule of dates and locations for safety seminars can be found at the Commission's website http://www.kcc.state.ks.us/trans/safety_meetings.htm.

IF YOU CONTEST THE PENALTY ORDER: You have the right to request a hearing. A request for hearing must be made in writing, setting forth the specific grounds upon which relief is sought. Warstler must file, within fifteen (15) days from the date of service of this Order, the request for hearing with the Commission's electronic filing system found at <https://puc.kcc.ks.gov/e-filing/e-express/>, and mail a copy of the request for hearing to the undersigned at the above address. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy to the undersigned Litigation Counsel.¹

IF YOU FAIL TO ACT: Failure to pay the penalty of \$750 within thirty (30) days from the date of service of the Penalty Order or failure to comply with the terms of the Order, or in the alternative, failure to provide a timely written request for a hearing, will result in the Order becoming final and may result in additional sanctions of suspension and/or revocation of your motor carrier operating authority.

Respectfully,
/s/ Ahsan A. Latif
Ahsan A. Latif
Litigation Counsel
(785) 271-3118
a.latif@kcc.ks.gov

¹ K.A.R. 82-1-215; K.S.A. 77-542.

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Andrew J. French, Chairperson
 Dwight D. Keen
 Susan K. Duffy

In the Matter of the Investigation of **Warstler**)
Worldwide LLC d/b/a Warstler Excavating,)
of Riverton, KS, Regarding the Violation(s) of)
the Motor Carrier Safety Statutes, Rules and) Docket No. 22-TRAM-166-PEN
Regulations and the Commission's Authority to)
Impose Penalties, Sanctions and/or the)
Revocation of Motor Carrier Authority.)

PENALTY ORDER

The above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. JURISDICTION

1. Pursuant to K.S.A 66-1,108b, 66-1,111, 66-1,112g, and 66-1,115, the Commission is given full power, authority and jurisdiction to supervise and control motor carriers, as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f, doing business or procuring business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.

2. Pursuant to K.S.A. 66-1,129a, 66-1,130 and 66-1,142b, the Commission may suspend operations, revoke or amend certificates, and initiate sanctions or fines against every motor carrier and every person who violates any provision of Kansas law in regard to the

regulation of such motor carriers and persons, or who fails to obey any order, decision or regulation of the Commission.

3. The Commission has the authority, pursuant to K.A.R. 82-1-237, to investigate an entity under the Commission's jurisdiction and issue an order on the Commission's own motion when the Commission believes the entity is in violation of the law or any order of the Commission.

II. BACKGROUND

4. Warstler Worldwide LLC d/b/a Warstler Excavating (Warstler or Carrier) has private operating authority with the Commission and further operates under USDOT number 1751652.

5. Brett Warstler attended the Procedures for Safety Compliance Seminar presented by the Kansas Corporation Commission, on January 23, 2018, on behalf of Warstler.

6. Warstler is a private motor carrier which primarily hauls motor vehicles, construction, building materials, utility, other, grain, feed, hay, and livestock.

III. STATEMENT OF FACTS

7. Pursuant to the jurisdiction and authority cited above, on October 5, 2021, Commission Staff (Staff) Special Investigator Michael Heenan conducted a safety compliance review of the operations of Warstler. A copy of the safety compliance review is included in this Penalty Order as Attachment "A" and is hereby incorporated by reference. As a result of this investigation, the special investigator identified four (4) violation(s) of the Motor Carrier Safety Regulations.

- a. On August 31, 2021, Warstler required or permitted its driver, John White, to operate a CDL-required commercial motor vehicle, a 2001

International, VIN ending in 007765, GVWR 52,000 lbs., in intrastate commerce in Pittsburg, Kansas. This trip is evidenced by a Driver/Vehicle Examination Report, dated August 31, 2021, a copy of which is attached hereto as Attachment “B” and is hereby incorporated by reference. At the time of this transportation, Warstler was not registered in the FMCSA Drug and Alcohol Clearinghouse. The Carrier’s failure to be enrolled in the FMCSA Drug and Alcohol Clearinghouse is a violation of 49 C.F.R. 382.711(b), adopted by K.A.R. 82-4-3c and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

- b. During the transportation described in paragraph a., above, Warstler permitted or required its driver, Mr. White, to operate a commercial motor vehicle that had previous violations discovered on August 3, 2021 that were not corrected. The violations are as follows: 49 C.F.R. 396.17(c), 49 C.F.R. 393.9, and 49 C.F.R. 393.11. Staff does not recommend a fine at this time for these violations, but directs the Carrier to correct the violations and provide proof of the corrections.
- c. On August 3, 2021, Warstler required or permitted its driver, Zachary W. LaTurner, to operate a CDL-required commercial motor vehicle, a 2001 International, VIN ending in 007765, GVWR 52,000 lbs., in intrastate commerce in Pittsburg, Kansas. This trip is evidenced by a Driver/Vehicle Examination Report, dated August 3, 2021, a copy of which is attached hereto as Attachment “C” and is hereby incorporated by reference. At the time of this transportation, Warstler failed to obtain an annual motor

vehicle report for its driver, Mr. LaTurner. The Special Investigators found three (3) violations of this type. The Carrier's failure to obtain motor vehicle reports annually for their drivers is a violation of 49 CFR 391.51(b)(4), adopted by K.A.R. 82-4-3g, and authorized by KSA 66-1,129. Staff recommends a fine of \$250.

- d. On February 26, 2021, Warstler required or permitted its driver, John T. White, to operate a CDL-required commercial motor vehicle, a 2001 International, VIN ending in 007765, GVWR 52,000 lbs., in intrastate commerce in Pittsburg, Kansas. This trip is evidenced by a Driver/Vehicle Examination Report, dated February 26, 2021, a copy of which is attached hereto as Attachment "D" and is hereby incorporated by reference. At the time of this transportation, Warstler failed to obtain a valid copy of the medical examiner certificate for its driver, Mr. White. The Carrier's failure to obtain a copy of its drivers medical examiner certificates and keep it in the driver's qualifications file is a violation of 49 C.F.R. 391 (b)(7), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

IV. STAFF'S RECOMMENDATIONS

8. Staff submitted a Report and Recommendation (R&R), dated October 8, 2021, attached hereto as Attachment "E" and is hereby incorporated by reference. In its R&R, Staff made recommendation regarding the above-mentioned violations.

9. Based upon the available facts, Staff recommends the Commission finds Warstler committed four (4) violation(s) of Kansas law that governs motor carriers, including various

provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

10. Additionally, Staff recommends a civil penalty of \$750 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations.

11. Staff further recommends that a representative from Warstler be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

12. Staff further recommends Warstler submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

13. Finally, Staff recommends that Warstler submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for this review.

V. CONCLUSIONS OF LAW

14. The Commission finds it has jurisdiction over Warstler pursuant to K.S.A. 66-1,108b because it is a motor carrier as defined in 49 C.F.R. Part 390.5 as adopted by K.A.R. 82-4-3f.

15. The Commission finds Warstler committed four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

THE COMMISSION THEREFORE ORDERS THAT:

A. Warstler Worldwide LLC d/b/a Warstler Excavating, of Riverton, KS is hereby assessed a \$750 civil penalty for four (4) violation(s) of Kansas law governing the regulation of motor carriers, the Kansas Administrative Regulations and provisions of the Federal Motor Carrier Safety Regulations, as adopted by the Kansas Administrative Regulations.

B. Warstler is hereby ordered to attend a Commission-sponsored safety seminar within ninety (90) days from the date of this Order, and is to provide Litigation Counsel with written proof of attendance.

C. Carrier is hereby ordered to submit a written, comprehensive corrective action plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in this Penalty Order, including specific and detailed information explaining Carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

D. Warstler is ordered to submit to one follow-up safety compliance review within eighteen (18) months from the date of this Order. Transportation Staff will contact the Carrier to set up the appointment.

E. Pursuant to K.S.A. 77-537 and K.S.A. 77-542, any party may request a hearing on the above issue(s) by submitting a written request setting forth the specific grounds upon which relief is sought. The request may be electronically filed with the Commission's electronic filing

system at <https://puc.kcc.ks.gov/e-filing/e-express/>, within fifteen (15) days from the date of service of this Order, and a copy of the request mailed to the Litigation Division. If you do not have access to the internet, you can mail an original and seven copies of the request to the Executive Director at 1500 S.W. Arrowhead Road, Topeka, Kansas 66604, and mail a copy of the request to Litigation Counsel. A hearing will be scheduled only upon written request. Failure to timely request a hearing will result in a waiver of Warstler's right to a hearing, and this Penalty Order will become a Final Order.

F. If a request for hearing is filed, attorneys for all parties shall enter their appearances in Commission proceedings by giving their names and addresses for the record. For civil penalties exceeding \$500, a corporation shall appear before the Commission by its attorney, unless waived by the Commission for good cause shown and a determination that such waiver is in the public interest.²

G. If you do not request a hearing, the payment of the civil penalty of \$750 is due in thirty (30) days from the date of service of this Order. Payment of \$750 must be made through your personal account with the Kansas Corporation Commission's Kansas Trucking Regulatory Assistance Network (KTRAN) system located at <https://puc.kcc.ks.gov/ktran/>. You must have an account through KTRAN to pay the penalty.

H. Failure to pay the \$750 civil penalty within thirty (30) days from the date of service of this Penalty Order and/or failure to comply with the provisions of this Order may result in suspension of Warstler's motor carrier operating authority without further notice.³ Additionally, the Commission may impose further sanctions to include, but not limited to, the

² . K.S.A. 77-515(c); K.A.R. 82-1-228(d)(2); K.A.R. 82-1-202(a).

³ K.S.A. 66-1,105.

issuance and enforcement of revocation of authority and/or cease and desist orders, and any other remedies available to the Commission by law, without further notice.

BY THE COMMISSION IT IS SO ORDERED.

French, Chairperson; Keen, Commissioner; Duffy, Commissioner

Dated: 10/14/2021 _____



Lynn M. Retz
Executive Director

AAL

ATTACHMENT “A”

UNITED STATES DEPARTMENT OF TRANSPORTATION



U.S. DOT#: 1751652
MC/MX#: 0

Legal: WARSTLER WORLDWIDE LLC
Operating (DBA): WARSTLER EXCAVATING

Investigation Date:
10/05/21

Investigation Type: Onsite Comprehensive Investigation

Location of Investigation: Other (Onsite comprehensive conducted remotely due to COVID 19 National Emergence.)

Extent of Operations: Entire Operation

Physical Address

6014 SE HWY ALT 69
RIVERTON, KS 66770
United States

Mailing Address

6014 SE HWY ALT 69
RIVERTON, KS 66770
United States

Contact Information

Contact Name: BRETT D WARSTLER

Email: [REDACTED]

Phone: (417)438-0784 **Cell:** ()- **Fax:** (620)848-3558

Business and Financial

Business Type: Limited Liability Corporation

Gross Revenue: [REDACTED] **For Year Ending:** 12/31/20

Federal Tax ID: [REDACTED]

Operation Classification and Type

Cargo

Type of Operation: Non-HM Interstate Carrier, Non-HM Intrastate Carrier

Motor Vehicles, Construction, Building Materials, Utility, Other (Rocks Sand Dirt), Grain, Feed, Hay, Livestock

Operation Classification

Private Motor Carrier

Property – Hazardous Materials

Property – Non-Hazardous Materials

Hazardous Materials

Which of the following hazardous materials requiring a Safety Permit does the company transport? None

Does the company have a satisfactory security program in place as required in 49 CFR Part 385, Subpart E? N/A

Is an HM Permit required by any State? No

Hazardous Materials

Div 2.1 Flammable Gas = C, S, NB

Div 2.1 Methane Gas = C, S, NB

Class 3 Flammable and Combustible Liquid = C, S, NB

Class 9 Miscellaneous Hazardous Materials = C, S, NB

Hazardous Materials

Equipment

Driver Information

	Owned	Term Leased	Trip Leased	Drivers	Intrastate	Interstate
Straight Trucks	7					
Truck Tractors	3			< 100 Miles		3
Trailers	12			>= 100 Miles		

Power units used in the U.S.: 10

Percentage of time used in the U.S.: 100%

Average trip leased driver/month: 0

Drivers with CDL: 3

Total Drivers: 3

Person(s) Interviewed

Name: BRETT D WARSTLER

Title: MANAGING MEMBER

Questions

Questions about this report or the Federal Motor Carrier Safety or Hazardous Materials regulations may be addressed to the Federal Motor Carrier Safety Administration at:

1500 SW Arrowhead Rd
Topeka, KS 66604-4027
Phone: (785) 271-3151

This report will be used to assess your safety compliance.

Violations

1. Primary: 382.711(b)

Failing to register in the Clearinghouse.

Violations Discovered

Fed	State	Total
-----	-------	-------

1		1
---	--	---

Checked

Fed	State	Total
-----	-------	-------

1		1
---	--	---

Example/Notes:

Driver Name: John T White

Trip date: 08/31/21

Origination: Pittsburg, Ks

Destination: Pittsburg, Ks

PPOB: Riverton, Ks

At the time of this trip, and the time of this review, the carrier had not formally enrolled in the Drug and Alcohol Clearing House. They stated they had experienced difficulties and had not been able to enroll.

Drivers/Vehicles

In Violation	Checked
--------------	---------

2. Primary: 391.51(b)(4)

Failing to maintain the responses of each State agency to the annual driver record inquiry required by 391.25(a).

Violations Discovered

Fed	State	Total
-----	-------	-------

	3	3
--	---	---

Checked

Fed	State	Total
-----	-------	-------

	3	3
--	---	---

Example/Notes:

Driver name: Zachary W. LaTurner

Trip date: 08/03/2021

Origination: Pittsburg, Ks

Destination: Pittsburg, Ks

PPOB: Riverton, Ks

Description of violation: At the time of this trip, and the time of this review, the carrier could not provide MVRs for their drivers that were conducted annually.

The driver listed above had a Missouri MVR in his file dated 1/17/17 which was for his

Drivers/Vehicles

In Violation	Checked
--------------	---------

3	3
---	---

original hire date 1/18/17. The next MVR was dated 9/27/21. The carrier provided all 3 MVRs on their 3 drivers dated 09/27/21. This carrier was notified by email of this review on 09/23/21.

3. Primary: 391.51(b)(5)

Failing to maintain a note relating to the annual review of the driver's driving record as required by 391.25(c)(2).

Violations Discovered

Fed	State	Total
	3	3

Checked

Fed	State	Total
	3	3

Example/Notes:

Company number or vehicle plate number Company number WE 3; Ks # 113506

Description of violation/defect not corrected: The following was noted, 396.17(c); 393.9; 393.11 on both inspections dated 08/03/21 and 08/31/21. 08/03/21- Zachary LaTurner. 08/31/21- John T White.

Origination: Pittsburg, Ks

Destination: Pittsburg, Ks

PPOB: Riverton, Ks

Trip date: 08/31/21

Inspection report number:KSHP9210717

This carrier had the above vehicle with driver Zachary LaTurner that was stopped in a Kansas roadside inspection on 08/03/21 with the above violations.

This carrier had the same vehicle with driver John T White that was stopped by the same KHP officer 28 days later, within 20 minutes of each other and the Motor Carrier Officer listed the exact same violations. The annual inspection provided during this review for the above vehicle 09/04/21 which was after 08/31/21. All drivers certification of violations were expired by at least 2 years.

Drivers/Vehicles

In Violation	Checked
3	3

4. Primary: 391.51(b)(6)

Failing to maintain a list or certificate relating to violations of motor vehicle laws and ordinances required by 391.27.

Violations Discovered

Fed	State	Total
	3	3

Checked

Fed	State	Total
	3	3

Example/Notes:

Company number or vehicle plate number Company number WE 3; Ks # 113506

Drivers/Vehicles

In Violation	Checked
--------------	---------

Description of violation/defect not corrected: The following was noted, 3 3
 396.17(c); 393.9; 393.11 on both inspections dated 08/03/21 and 08/31/21. 08/03/21-
 Zachary LaTurner. 08/31/21- John T White.

Origination: Pittsburg

Destination: Pittsburg

PPOB: Riverton Ks

Trip date: 08/31/21

Inspection report number:KSHP9210717

This carrier had the above vehicle with driver Zachary LaTurner that was stopped in a
 Kansas roadside inspection on 08/03/21 with the above violations.

This carrier had the same vehicle with driver John T White that was stopped by the same
 KHP officer 28 days later, within 20 minutes of each other and the Motor Carrier Officer
 listed the exact same violations. The annual inspection provided during this review for
 the above vehicle 09/04/21 which was after 08/31/21. All drivers annual review of drivers
 records were expired by at least 2 years.

5. Primary: 391.51(b)(7)

Failing to maintain medical examiner's certificate in driver's qualification file.

Violations Discovered

Fed	State	Total
1		1

Checked

Fed	State	Total
3		3

Example/Notes:

Driver name, John T White

Trip date. 2/26/21

Origination: Quapaw OK

Destination: Galena KS

Private Carrier for Rural Water District Work.

At the time of this trip, and the time of this review, the carrier offered one medical on the
 above driver dated 06/14/21 and valid through 06/14/23.

The carrier stated that he had done some contracted driving for him in the past and the
 driver asked to be fully employed and was employed on 09/13/21.

The driver provided a medical that he had dated as above. The carrier stated he had no
 medical prior to the one given.

Drivers/Vehicles

In Violation	Checked
1	3

6. Primary: 396.9(d)(2)

Failure to correct violations or defects listed on a motor vehicle roadside inspection
 report.

Violations Discovered

Fed	State	Total
	1	1

Checked

Fed	State	Total
	1	1

Example/Notes:

Company number or vehicle plate number Company number WE 3; Ks # 113506
Description of violation/defect not corrected: The following was noted,
396.17(c); 393.9; 393.11 on both inspections dated 08/03/21 and 08/31/21. 08/03/21-
Zachary LaTurner. 08/31/21- John T White.
Trip date: 08/31/21
Origination: Pittsburg, Ks
Destination: Pittsburg, Ks
PPOB: Riverton, Ks
Inspection report number:KSHP9210717
This carrier had the above vehicle with driver Zachary LaTurner that was stopped in a
Kansas roadside inspection on 08/03/21 with the above violations.
This carrier had the same vehicle with driver John T White that was stopped by the same
KHP officer 28 days later, within 20 minutes of each other and the Motor Carrier Officer
listed the exact same violations. The annual inspection provided during this review for
the above vehicle 09/04/21 which was after 08/31/21.

Drivers/Vehicles

In Violation	Checked
1	1

Safety Fitness Rating

Your proposed safety rating is: **SATISFACTORY** 0 UNSATISFACTORY rating factors and 2 or fewer CONDITIONAL rating factors. Corrective actions must be taken for any violations (deficiencies) identified in this report. See below for more information.

RATING FACTORS	RATING	ACUTE	CRITICAL
Factor 1: General = Parts 387 and 390	Satisfactory		
Factor 2: Driver = Parts 382, 383 and, 391	Satisfactory		
Factor 3: Operational = Parts 392 and 395	Satisfactory		
Factor 4: Vehicle = Parts 393 and 396	Satisfactory		
OOS Vehicles (CR): 0			
Number of Vehicles Inspected (CR): 3			
OOS Vehicles (MCMIS): 0			
Number of Vehicles Inspected (MCMIS): 1			
OOS Rate: 0%			
Factor 5: Haz. Mat. = Parts 397, 171, 177 and, 180	Satisfactory		
Factor 6: Accident Factor = Recordable Rate	Satisfactory	N/A	N/A
Total Miles Operated: 82,758			
Recordable Accidents: 0			
Recordable Accidents/Million Miles: 0.00			

You must take corrective actions for any violations (deficiencies) identified in the Violations section of this report.

DataQs: If you dispute the violations recorded in the Violations section of this investigation report, and the violations were not used in the calculation of your safety rating, you may submit a Request for Data Review (RDR) through DataQs. The DataQs system is the method to remove violations that did not affect your safety rating. DataQs is an online system that allows a motor carrier or driver to request and track a review of Federal and State issued data that it believes to be incomplete or incorrect. To submit an RDR, go to <https://dataqs.fmcsa.dot.gov>.

Process Breakdown and Remedies

BASIC: Driver Fitness

Process Breakdown: Roles and Responsibilities

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Roles and Responsibilities:

1. Define and document the role of managers and supervisors for implementing driver-fitness policies and for monitoring compliance with them. This should include regular evaluation of the carrier's driver-wellness program.

BASIC: Controlled Substances/Alcohol

Process Breakdown: Roles and Responsibilities

Specific Recommended Remedies

To implement Safety Improvement Practices, the following list are recommended practices related to Roles and Responsibilities:

1. Ensure that managers are responsible for ascertaining that employees receive training concerning controlled substances and alcohol in accordance with State or Federal regulations and company policy.

Recommendations

1. **Additional Information**

Please visit the CSA outreach site for additional guidance: <https://csa.fmcsa.dot.gov>.

2. **A copy of your profile can be obtained by accessing the Portal.**

A copy of your carrier profile can be obtained at no cost from the FMCSA Portal (<https://portal.fmcsa.dot.gov/login>).

3. **Obtain a copy of each driver's driving record and review it.**

Obtain a copy of each driver's driving record and review it annually.

4. **Drug and Alcohol Clearinghouse**

Find out your responsibilities and requirements for FMCSA's Drug and Alcohol Clearinghouse by visiting <https://clearinghouse.fmcsa.dot.gov>.

5. **Investigations not requiring Federal Corrective Action Plan.**

For all Investigations that did not result in a Cooperative Safety Plan:

The KCC requires that you prepare a corrective action letter plan (CAP), addressing the measures taken to correct all violations identified within this report. Submit this letter within 30 days outlining the carrier's updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Mail Submit the letter along with copies of your supporting evidence to:

e-mail: g.davenport@kcc.ks.gov;

FAX: 785.271.3124;

or mail:

Kansas Corporation Commission

Attn: Gary Davenport

1500 SW Arrowhead Rd

Topeka, KS 66604-4027

CAP: The State of Kansas Correction Plan above is required action and if not completed within the required time frame of 30 days there are penalties that will be involved and issued to the carrier.

6. **Acknowledgement of requirements and violations.**

I acknowledge that these requirements and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Travis D Ballard dba TBall Trucking operating authority and/or the impoundment of Travis D Ballard dba TBall Trucking vehicles.

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. The penalty schedule can be found at this web site: http://kcc.ks.gov/trans/penalty_assessment_table.htm

X _____
Printed

X _____
Signed

X _____
Investigator Printed

X _____
Investigator(s) Signed

7. **Stay in Contact.**

Stay in Contact with your reviewing investigator:

Mike Heenan
Special Investigator
Kansas Corporation Commission
620-338-0093
m.heenan@kcc.ks.gov

8. **Any questions about this review.**

If you have any questions concerning this report,, please contact the Kansas Corporation Commission 1500 SW Arrowhead Dr. Topeka, Ks 66604. 785-271-3151

9. **Driver Medical Certificate**

Carrier must not allow any driver to drive a CMV when not medically certified and certified at least every 24 months.

10. **Carrier response and certification.**

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all the violations identified within this report. Submit this letter within 30 days outlining the carrier s updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Submit the letter along with copies of your supporting evidence to:

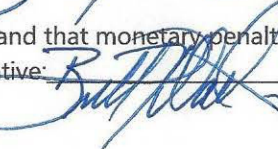
Email: g.davenport@kcc.ks.gov FAX: 785-271-3124 or mail: Kansas Corporation Commission Attn: Gary Davenport 1500 SW Arrowhead Rd Topeka, KS 66604-4027

Failure to submit the plan & attend a KCC safety presentation within 30 days of the closing of the compliance review can result in further penalties in a follow up review. Carrier Warstler World wide LLC _____

Date_10/05/2021_____

I acknowledge that these requirements/violations and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Warstler Worldwide LLC. vehicles operating authority and/or the impoundment of Warstler Worldwide LLC. vehicles.

Signed  Date 10/7/2021

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. Carrier representative:  Date: 10/7/2021

X Mw Heenan 8213
Investigator Printed

X Mw Heenan 8213
Investigator(s) Signed

7. **Stay in Contact.**

Stay in Contact with your reviewing investigator.

Mike Heenan
Special Investigator
Kansas Corporation Commission
620-338-0093
m.heenan@kcc.ks.gov

8. **Any questions about this review.**

If you have any questions concerning this report,, please contact the Kansas Corporation Commission 1500 SW Arrowhead Dr. Topeka, Ks 66604. 785-271-3151

9. **Driver Medical Certificate**

Carrier must not allow any driver to drive a CMV when not medically certified and certified at least every 24 months.

10. **Carrier response and certification.**

The KCC requires that you prepare a corrective action plan, addressing the measures taken to correct all the violations identified within this report. Submit this letter within 30 days outlining the carrier s updated changes to their policies and procedures regarding all listed violations. Explain in detail how, as a carrier representative, you will rectify these deficiencies and prevent their reoccurrence going forward. Include any supporting documentation and evidence as indicated in the recommendations above, (example: vehicle inspections performed, proof of drug and alcohol testing in place, etc.) necessary to prove that corrective action has been taken. Submit the letter along with copies of your supporting evidence to:

Email: g.davenport@kcc.ks.gov FAX: 785-271-3124 or mail: Kansas Corporation Commission Attn: Gary Davenport 1500 SW Arrowhead Rd Topeka, KS 66604-4027

Failure to submit the plan & attend a KCC safety presentation within 30 days of the closing of the compliance review can result in further penalties in a follow up review. Carrier Warstler World wide LLC

Date 10/05/2021

I acknowledge that these requirements/violations and/or recommendations have been discussed with me and my questions have been answered. I understand that failure to satisfactorily remedy the above-listed requirements, and/or failure to comply with Kansas Motor Carrier Safety Statutes and Regulations could result in the suspension of Warstler Worldwide LLC. vehicles operating authority and/or the impoundment of Warstler Worldwide LLC. vehicles.

Signed _____ Date _____

I understand that monetary penalties will be assessed as a result of violations found in this compliance review. Carrier representative: _____ Date: _____

ATTACHMENT “B”

DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

Kansas Highway Patrol
Email: Khp.TruckInspection@KS.GOV
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSHP92101717
Inspection Date: 08/31/2021
Start: 10:25 AM CT End: 10:58 AM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

WARSTLER WORLDWIDE LLC
6014 SE HWY ALT 69
RIVERTON, KS 66770
USDOT#: 01751652
MC/MX#: 00000000
State#:

Phone#: (417)438-0784
Fax#: (620)848-3558

Driver: WHITE, JOHN T
License#: [REDACTED] State: KS
Date of Birth: 02/14/1964
CoDriver: [REDACTED] State:
License#: [REDACTED]
Date of Birth: [REDACTED]

Location: PITTSBURG
Highway: U-69
County:

MilePost: 36 Shipper: WARSTLER
Origin: PITTSBURG,KS Bill of Lading: 553603
Destination: PITTSBURG,KS Cargo: ROCK

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	New CVSA #	OOS#
1	TR	INTL	2001	KS	[REDACTED]	WE3	[REDACTED]	52,000			

BRAKE ADJUSTMENTS: No Brake Measurements Required For Level 2

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17C	1	N		N	N	Operating a CMV without proof of a periodic inspection: None located
393.11	393.11	1	N		N	N	No or defective lighting devices or reflective material as required: No back up lamp
393.9	393.9	1	N		N	N	Inoperable Required Lamp: Driver side rear side marker lamp INOP

HazMat: No HM Transported.

Placard: No **Cargo Tank:**

Special Checks:

* NOTE TO MECHANIC: The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.

Signature Of Repairer X: _____ Facility: _____ Date: _____

*** DRIVER: THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. ***
must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

*CARRIER CERTIFICATION: All defects on this sheet

Signature Of Motor Carrier X: _____ Title: _____ Date: _____

Report Prepared By:
D.S. Bales

Badge #:
9210

Copy Received By:
JOHN WHITE

Page 1 of 1



01751652 KS KSHP92101717

ATTACHMENT “C”

DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

Kansas Highway Patrol
Email: Khp.TruckInspection@KS.GOV
700 SW Jackson, Ste 704
Topeka, KS 66603
Phone: (785)296-7189 Fax: (785)296-2858

Report Number: KSHP92101657
Inspection Date: 08/03/2021
Start: 10:07 AM CT End: 10:38 AM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

WARSTLER WORLDWIDE LLC
6014 SE HWY ALT 69
RIVERTON, KS 66770
USDOT#: 01751652
MC/MX#: 00000000
State#:

Phone#: (417)438-0784
Fax#: (620)848-3558

Driver: LATURNER, ZACHARY W
License#: XXXXXXXXXX **State: MO**
Date of Birth: XXXXXXXXXX
CoDriver:
License#: XXXXXXXXXX **State:**
Date of Birth:

Location: FRONTENAC
Highway: U-69
County:

MilePost: 038
Origin: PITTSBURG,KS
Destination: FRONTENAC,KS
Shipper: WARSTLER
Bill of Lading: NONE
Cargo: ROCK/DIRT

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GWR	CVSA #	New CVSA #	OOS#
1	TR	INTL	2001	KS	XXXXXXXXXX	WE3	XXXXXXXXXX	52,000			

BRAKE ADJUSTMENTS: No Brake Measurements Required For Level 2

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
396.17C	396.17C	1	N		N	N	Operating a CMV without proof of a periodic inspection: No annual inspection located for truck
393.9	393.9	1	N		N	N	Inoperable Required Lamp: 1 of 3 front ID lamps INOP & driver's side rear side marker lamp INOP
393.11	393.11	1	N		N	N	No or defective lighting devices or reflective material as required: No rear ID lamps & no back up lamp on truck

HazMat: No HM Transported.

Special Checks: Size & Weight;

Placard: No **Cargo Tank:**

*** NOTE TO MECHANIC:** The undersigned certifies that all mechanical defects listed on this report HAVE BEEN CORRECTED at the time of signature.
 Signature Of Repairer X: _____ Facility: _____ Date: _____

****//** DRIVER:** THIS FORM IS REQUIRED TO BE RETURNED TO THE CARRIER BY REGULATION. ****//****
 must be corrected or acknowledged PRIOR TO RE-DISPATCH and then certified by a responsible carrier official who must sign below. RETURN THIS FORM WITHIN 15 DAYS to the Motor Carrier Division of the KANSAS HIGHWAY PATROL at the address listed at the top of this form.

***CARRIER CERTIFICATION:** All defects on this sheet
 Signature Of Motor Carrier X: _____ Title: _____ Date: _____

Report Prepared By:
 J. Bales

Badge #:
 9210

Copy Received By:
 ZACHARY LATURNER

Page 1 of 1



01751652 KS KSHP92101657

ATTACHMENT “D”

DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

OKLAHOMA HIGHWAY PATROL (TROOP S)
COMMERCIAL VEHICLE ENFORCEMENT
00 NE 38TH TERR www.ok.gov/ohpcmv
OKLAHOMA CITY, OK 73105-3703
Phone: (405)521-6060 Fax: (405)702-0819

Report Number: OKN114150689
Inspection Date: 02/26/2021
Start: 9:22 AM CT **End:** 10:06 AM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

ARSTLER WORLDWIDE LLC
014 SE HWY ALT 69
IVERTON, KS 66770
SDOT#: 01751652 **Phone#: (417)438-0784**
C/MX#: 00000000 **Fax#: (620)848-3558**
State#:

Driver: WHITE, JOHN T
License#: **State:** KS
Date of Birth:
CoDriver:
License#: **State:**
Date of Birth:

Location: US69A 2M N OF QUAPAW
Highway: US 69A
County:

MilePost: **Shipper:** MIDWEST MINERALS
Origin: QUAPAW,OK **Bill of Lading:** 132029909
Destination: GALENA,KS **Cargo:** SCREENINGS

VEHICLE IDENTIFICATION

Unit	Type	Make	Year	State	Plate #	Equipment ID	VIN	GVWR	CVSA #	New CVSA #	OOS#
1	TT	INTL	2001	KS		WE3		55 52,000			

Brake Adjustments: No Brake Measurements Required For Level 2

VIOLATIONS

Vio Code	Section	Unit	OOS	Citation #	Verify	Crash	Violations Discovered
392.9A	392.9A	1	Y		U	N	Failing to secure load: MATERIAL ON APRON BEHIND TAILGATE. MATERIAL FALLING OUT ONTO APRON WHEN VEHICLE HITS BUMPS ON THE ROADWAY.
393.75C	393.75C	1	N		N	N	Tire-other tread depth less than 2/32 of inch measured in a major tread groove: AXLE 2 DRIVER SIDE OUTSIDE TIRE.

PlazMat: No HM Transported.

Placard: No **Cargo Tank:**

Special Checks:

State Information:

OFF INTERSTATE: 1; **PORTABLE (SCALE TYPE):** 1; **SHIPPER CITY, STATE, ZIP:** PITTSBURG, KS 66762; **SHIPPER STREET ADDRESS:** BOX 412; **TANDEM:** 1; **TURNPIKE:** 0; **VEHICLE OOS?:** 1; **WEIGHT AXLE 1 LEFT:** 7600; **WEIGHT AXLE 2 LEFT:** 3300; **WEIGHT AXLE 3 LEFT:** 8100; **WEIGHT AXLE 4 LEFT:** 7300; **WEIGHT GROSS:** 54100; **1 RIGHT:** 7200; **2 RIGHT:** 4600; **3 RIGHT:** 8100; **4 RIGHT:** 7900; **AXLE CONFIG. WEIGHED:** 1; **CIVIL PENALTY?:** 1; **DOCUMENTATION VERIFIED:** 1; **DRIVER OOS?:** 0; **GROSS:** 1; **INTERSTATE (ROAD TYPE):** 0; **LEGAL (WEIGHT ENF. ACTION):** 1;

Pursuant to the authority contained in Title 47 O.S. Section 230.4 (4)(d); I hereby declare vehicles with defects followed by a "Y" in the "Out-of-Service" column of this report to be 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 a safe operating condition. A CIVIL PENALTY MAY BE ASSESSED FOR OOS VIOLATIONS NOTED ON THIS SECTION.

NOTE TO DRIVER: This report must be furnished to the motor carrier whose name appears at the top of this report. **NOTE TO CARRIER:** If violations are noted, please ensure corrections are completed and sign the below certification. Please return the signed copy of this report within fifteen (15) days to the Oklahoma Highway Patrol, Troop S. Failure to comply may result in forfeiture of OCC License.

Signature Of Repairer X: _____ **Facility:** _____ **Date:** _____
CARRIER CERTIFICATION: THE UNDERSIGNED CERTIFIES THAT ALL VIOLATIONS NOTED ON THIS REPORT HAVE BEEN CORRECTED AND ACTION HAS BEEN TAKEN TO ASSURE COMPLIANCE WITH THE OKLAHOMA MOTOR CARRIER SAFETY STATUTES AS THEY ARE APPLICABLE TO MOTOR CARRIERS AND DRIVERS.
Signature Of Motor Carrier X: _____ **Title:** _____ **Date:** _____

Prepared By:
PARKER

Badge #:
347

Copy Received By:
JOHN WHITE

Page 1 of 2



01751652 OK OKN114150689

DRIVER/VEHICLE EXAMINATION REPORT

Query Central 3.4

OKLAHOMA HIGHWAY PATROL (TROOP S)
COMMERCIAL VEHICLE ENFORCEMENT
200 NE 38TH TERR www.ok.gov/ohpcmv
OKLAHOMA CITY, OK 73105-3703
Phone: (405)521-6060 Fax: (405)702-0819

Report Number: OKN114150689
Inspection Date: 02/26/2021
Start: 9:22 AM CT End: 10:06 AM CT
Inspection Level: II - Walk-Around
HM Inspection Type: None

WARSTLER WORLDWIDE LLC

6014 SE HWY ALT 69

RIVERTON, KS 66770

USDOT#: 01751652

Phone#: (417)438-0784

MC/MX#: 00000000

Fax#: (620)848-3558

State#:

Driver: WHITE, JOHN T

License#:

State: KS

Date of Birth:

CoDriver:

License#:

State:

Date of Birth:

Inspection Notes

BOL SHOWED GROSS WEIGHT OF 54,560 LBS. ESCORTED BACK TO ROCK QUARRY TO UNLOAD.

Special Studies No Special Study Data Recorded

Report Prepared By:
ROY PARKER

Badge #:
347

Copy Received By:
JOHN WHITE

Page 2 of 2



01751652 OK OKN114150689

X _____

X _____

ATTACHMENT “E”

REPORT AND RECOMMENDATION TRANSPORTATION DIVISION

TO: Andrew J. French, Chairperson
Dwight D. Keen, Commissioner
Susan K. Duffy, Commissioner

FROM: Mike Hoeme, Director of Transportation
Gary Davenport, Deputy Director of Transportation

DATE: October 8, 2021

SUBJECT: Docket No. 22-TRAM-166-PEN
In the Matter of the Investigation of Warstler Worldwide LLC d/b/a Warstler
Excavating of Riverton, Kansas Regarding the Violation of the Motor Carrier
Rules and Regulations and the Commission's Authority to Impose Penalties,
Sanctions and/or the Revocation of Motor Carrier Authority.

EXECUTIVE SUMMARY:

Warstler Worldwide LLC d/b/a Warstler Excavating (Warstler or Carrier) is a motor carrier possessing private operating authority from the Commission, primarily hauling motor vehicles, construction, building materials, utility, other, grain, feed, hay, and livestock. Warstler operates under USDOT 1751652. On October 5, 2021, Commission Staff Special Investigator Michael Heenan conducted a safety compliance review of the operations of Warstler. As a result of this investigation, the special investigator identified four (4) violation(s) of the Motor Carrier Safety Regulations, resulting in a recommended penalty of \$750.

DISCUSSION AND ANALYSIS:

On October 5, 2021, Commission Staff Special Investigator Michael Heenan conducted a safety compliance review of the operations of Warstler. As a result of this investigation, the special investigator identified four (4) violation(s) of the Motor Carrier Safety Regulations.

Violation One (1 of 4)

On August 31, 2021, Warstler required or permitted its driver, John White, to operate a CDL-required commercial motor vehicle, a 2001 International, VIN ending in 007765, GVWR 52,000 lbs., in intrastate commerce in Pittsburg, Kansas. This trip is evidenced by a Driver/Vehicle Examination Report, dated August 31, 2021. At the time of this transportation, Warstler was not registered in the FMCSA Drug and Alcohol Clearinghouse. The Carrier's failure to be enrolled

in the FMCSA Drug and Alcohol Clearinghouse is a violation of 49 C.F.R. 382.711(b), adopted by K.A.R. 82-4-3c and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

Violation Two (2 of 4)

During the transportation described in Violation One, above, Warstler permitted or required its driver, Mr. White, to operate a commercial motor vehicle that had previous violations discovered on August 3, 2021 that were not corrected. The violations are as follows: 49 C.F.R. 396.17(c), 49 C.F.R. 393.9, and 49 C.F.R. 393.11. Staff does not recommend a fine at this time for these violations, but directs the Carrier to correct the violations and provide proof of the corrections.

Violation Three (3 of 4)

On August 3, 2021, Warstler required or permitted its driver, Zachary W. LaTurner, to operate a CDL-required commercial motor vehicle, a 2001 International, VIN ending in 007765, GVWR 52,000 lbs., in intrastate commerce in Pittsburg, Kansas. This trip is evidenced by a Driver/Vehicle Examination Report, dated August 3, 2021. At the time of this transportation, Warstler failed to obtain an annual motor vehicle report for its driver, Mr. LaTurner. The Special Investigators found three (3) violations of this type. The Carrier's failure to obtain motor vehicle reports annually for their drivers is a violation of 49 CFR 391.51(b)(4), adopted by K.A.R. 82-4-3g, and authorized by KSA 66-1,129. Staff recommends a fine of \$250.

Violation Four (4 of 4)

On February 26, 2021, Warstler required or permitted its driver, John T. White, to operate a CDL-required commercial motor vehicle, a 2001 International, VIN ending in 007765, GVWR 52,000 lbs., in intrastate commerce in Pittsburg, Kansas. This trip is evidenced by a Driver/Vehicle Examination Report, dated February 26, 2021. At the time of this transportation, Warstler failed to obtain a valid copy of the medical examiner certificate for its driver, Mr. White. The Carrier's failure to obtain a copy of its drivers medical examiner certificates in the driver's qualifications file is a violation of 49 C.F.R. 391 (b)(7), adopted by K.A.R. 82-4-3g, and authorized by K.S.A. 66-1,129. Staff recommends a fine of \$250.

RECOMMENDATION:

Transportation Staff recommends the Commission find Warstler committed four (4) violation(s) of Kansas law that governs motor carriers, including various provisions of the Federal Motor Carrier Safety Regulations (FMCSRs), as adopted by the Kansas Administrative Regulations, and is therefore subject to sanctions or fines imposed by the Commission.

Additionally, Staff recommends a civil penalty of \$750 for four (4) violation(s) of the Motor Carrier Safety Statutes, Rules and Regulations, in accordance with the recommended penalties listed in the applicable Uniform Penalty Assessment Matrix.

Staff further recommends that a representative from Warstler be required to attend a Commission-sponsored safety seminar within ninety (90) days from the date of the Order, and provide Litigation Counsel with written proof of attendance. A schedule of the dates and locations

for safety seminars can be found on the Commission's website at http://kcc.ks.gov/trans/safety_meetings.htm.

Staff further recommends Warstler submit a written, comprehensive Corrective Action Plan (CAP) to Transportation Staff within thirty (30) days of the date of this order, documenting the violation(s) described in the Penalty Order, including specific and detailed information explaining the carrier's efforts and concrete steps taken to ensure the violation(s) do not occur in the future.

Finally, Staff recommends that Warstler submit to one follow-up safety compliance review within eighteen (18) months from the date of the Penalty Order. Transportation Staff will contact the motor carrier at a later date to determine an appropriate time for the review.

CERTIFICATE OF SERVICE

22-TRAM-166-PEN

I, the undersigned, certify that a true copy of the attached Order has been served to the following by means of
10/14/2021
first class mail and electronic service on _____.

AHSAN LATIF, LITIGATION COUNSEL
KANSAS CORPORATION COMMISSION
1500 SW ARROWHEAD RD
TOPEKA, KS 66604
a.latif@kcc.ks.gov

BRETT D WARSTLER, MANAGING MEMBER
WARSTLER WORLDWIDE, LLC.
D/B/A WARSTLER EXCAVATING
6014 SE Hwy Alt 69
Riverton, KS 66770
warstlerexcavating@dishmail.net

/S/ DeeAnn Shupe

DeeAnn Shupe