



U.S. Department
Of Transportation
**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

Overnight Express Mail

October 18, 2011

Jerry Ashcroft
Vice President of Field Operations
Buckeye Partners, L.P.
Five TEK Park
9999 Hamilton Boulevard
Breinigsville, PA 18031

CPF 1-2011-5010

Dear Mr. Ashcroft:

On April 28, 2008, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code conducted an on-site investigation into an accident that occurred on April 21, 2008, at Buckeye Partner, L.P.'s (Buckeye) Booth Station in Boothwyn, Pennsylvania. Buckeye notified the National Response Center (NRC Report 868592) of the accident which involved a failure of a breakout tank (Tank 1) bottom, releasing approximately 2,142 gallons of Fuel Oil into the dike containment area of Tank 1.

On February 1, 2008, Buckeye performed an API 653 Out-of-Service inspection on Tank 1. In order to conduct repairs on Tank 1 bottom, holes were drilled to allow gas testing of the atmosphere below the tank bottom. A number of holes (1/4" diameter) were drilled randomly on the tank bottom. Prior to returning the tank to service, these holes were then to be repaired by welding patch plates over them. Buckeye failed to patch one hole, which resulted in a release of product when the Tank was returned to service.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

- 1. §195.402 Procedural manual for operations, maintenance, and emergencies.**
 - (a) General. Each operator shall prepare and follow for each pipeline system a manual of**

written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a pipeline commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(3) Operating, maintaining, and repairing the pipeline system in accordance with each of the requirements of this subpart and subpart H of this part.

Buckeye's procedural manual for operations and maintenance did not include a process for ensuring that all holes drilled in preparation for tank bottom repair were patched prior to returning the tank to service. An accident occurred due to the failure to patch one hole.

During the PHMSA investigation, Buckeye explained that the holes were drilled in the bottom of Tank 1 to monitor the atmosphere below the tank bottom before conducting the repair work needed as a result of a recent inspection. However, Buckeye could not provide PHMSA representative with the number of holes drilled or the process used to ensure that each hole was patched prior to returning the tank to service. Based on Buckeye's *Safety Manual, Section B-07*, and conversations with company personnel, it is clear that Buckeye did not require monitoring of the number of holes drilled on the tank bottom. Failure to have procedures for ensuring that the holes drilled were patched prior to returning the tank to service resulted in the accident that occurred on April 21, 2008.

2. §195.505 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

Buckeye's Qualification Program failed to ensure through evaluation that an individual performing a covered task was qualified. Buckeye could not produce records or any other documentation to demonstrate compliance with the requirement of section 195.505(b).

Buckeye personnel indicated that welding was an Operator Qualified (OQ) covered task performed at the facility. During the inspection, a PHMSA representative noted that welding was performed on the bottom of Tank 1. According to Buckeye personnel, the welder was welding patches over tank bottom holes that were drilled during the repair process on Tank 1.

After the inspection, the PHMSA representative requested Buckeye personnel to provide a copy of qualification records of the welder; however, Buckeye personnel could not produce any records verifying that the individual was qualified¹ to perform the covered task of welding on tanks. Buckeye personnel stated that the individual was not Operator Qualified (OQ) to perform welding on a tank. In addition, Buckeye indicated that the individual performing the covered task of welding on a tank was not directed and /or observed by a qualified individual.

¹ C.F.R §195.503 Definitions. *Qualified* means that an individual has been evaluated and can: (a) Perform assigned covered tasks and (b) Recognize and react to abnormal operating conditions.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of **\$141,200** as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$100,000
2	\$41,200

Proposed Compliance Order

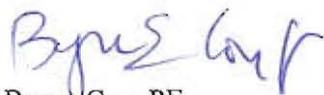
With respect to items 1 and 2 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Buckeye. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

Please address your correspondence to Byron Coy, PE, Director, PHMSA Eastern, 820 Bear Tavern Rd, Suite 103, Bear Tavern Rd, W. Trenton, NJ 08628. Please refer to **CPF 1-2011-5010** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Byron Coy, PE
 Director, Eastern Region
 Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Buckeye Partner, L.P. (Buckeye) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Buckeye with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to 195.402(c)(3), Buckeye did not include a process for ensuring that all holes drilled during the tank bottom repair were patched prior to return to service. Therefore, Buckeye must implement procedures that include, but are not limited to documenting the number and location of holes drilled in the tank bottom and verification that a tank is safe to return to service.
2. In regard to Item Number 2 of the Notice pertaining to 195.505(b), Buckeye's Qualification Program failed to ensure that an individual performing a covered task was qualified. Therefore, Buckeye must address welding on breakout tanks in its Qualification Program and provide appropriate qualification methodologies and training to ensure that individuals performing the covered task are qualified.
3. Buckeye must complete the requirements outlined in items 1 and 2 above such that these items would apply to all of Buckeye's breakout tanks.
4. All documentation demonstrating compliance with each of the items outlined in this order must be submitted within **90** days after receipt of a Final Order to the Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, Suite 103, 820 Bear Tavern Road, West Trenton, NJ 08628.
5. It is requested (not mandated) that Buckeye maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.