



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**

June 11, 2012

Mr. Thomas S. Collier,  
VP, Performance Assurance & Asset Integrity  
Buckeye Partners, L.P.  
Five TEK Park  
9999 Hamilton Boulevard  
Breinigsville, PA 18031

**CPF 1-2012-5010**

Dear Mr. Collier:

From December 13 – 17, 2010, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Buckeye Partners, L.P.'s (Buckeye) Public Awareness Program in Breinigsville, Pennsylvania.

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

**1. §195.440 Public awareness**

**(c) The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.**

Buckeye failed to follow the general program recommendation, including specific program documentation and recordkeeping requirements of American Petroleum Institute (API) Recommended Practice (RP) 1162.

Buckeye did not document the requirements prescribed in Section 7.1(g) of API RP 1162.

Buckeye did not document the criteria for program improvement based on the results of the evaluation in its *Public Education Program Manual, All Sections Issued: 5/06, Section K- Program Evaluation*. There was no documentation on how Buckeye determines the changes and/or modifications to its program based on the results and findings of its effectiveness evaluation.

Furthermore, Buckeye did not record key program elements to demonstrate the level of implementation. Pursuant to Section 7.2 of API RP 1162, “[r]ecord keeping should include... c. [a]ll program evaluations, including current results, follow-up actions and expected results.”

According to a Buckeye representative, a four-year effectiveness evaluation was held on June 24, 2010 and participants discussed effectiveness ideas. A copy of the meeting notes were provided to a PHMSA representative. The meeting notes consisted of random topics and had no record of findings, conclusions, or results. Also, there was no documentation on whether or not program improvement(s) would be implemented. Additionally, Buckeye’s *Public Education Program Manual, All Sections Issued: 5/06, Section K- Program Evaluation* provided a list of questions to be used in the evaluation process; however, answers transcribed into the meeting notes had insufficient details to provide meaningful conclusions.

Therefore, Buckeye failed to demonstrate compliance with the specific program documentation and recordkeeping requirements of API RP 1162.

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 and has recommended that you be preliminarily assessed a civil penalty of **\$17,500** as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$ 17,500

Proposed Compliance Order

With respect to item 1 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 submit all correspondence in this matter to Byron Coy, PE, Director, PHMSA Eastern Region, 820 Bear Tavern Road, Suite 103, W. Trenton, NJ 08628. Please refer to **CPF 1-2012-5010** on each document you submit, and please whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to [Byron.Coy@dot.gov](mailto:Byron.Coy@dot.gov). Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

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 Partners, L.P. (Buckeye) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Buckeye with the pipeline safety regulations:

1. In regards to Item Number 1 of the Notice pertaining to Buckeye's failure to follow the general program recommendation, including specific program documentation and recordkeeping requirements of American Petroleum Institute (API) Recommended Practice (RP) 1162, Buckeye shall review its June 24, 2010 four-year effectiveness evaluation meeting notes. Based on that review, Buckeye must provide the following:
  - Documentation of criteria for program improvement based on the results of the evaluation.
  - Records of current results, follow-up actions, and expected results.

Then, Buckeye must perform the following in reference to the above:

- a) If any improvement(s) are identified, Buckeye must implement those improvement(s) in accordance with its written Public Awareness Program; or
  - b) Buckeye must provide justification why improvement(s) have not been or will not be implemented.
2. Buckeye must provide a summary report that must include documentation and records mentioned in Item 1 (above), and a timeframe when improvements will be implemented, if any, within 90 days after receipt of a Final Order.
  3. 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 Byron Coy, 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.