



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

January 25, 2013

Thomas S. Collier
Vice President, Performance Assurance & Asset Integrity
Buckeye Partners, L.P.
Five TEK Park
9999 Hamilton Blvd
Breinigsville, PA 18031

CPF 1-2013-5003

Dear Mr. Collier:

On August 23 and 24, 2011, inspectors from the New York State Department of Public Service (NYSDPS), acting as agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected the Buckeye Partners, L.P.(Buckeye) pipeline facilities in Auburn, NY.

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. § 195.410 Line markers.**
 - (a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:**
 - (1) Markers must be located at each public road crossing, at each railroad crossing, and in sufficient number along the remainder of each buried line so that its location is accurately known.**

Buckeye failed to adequately place and maintain line markers in sufficient quantity so that the buried pipeline location is accurately known.

At a location north from the intersection of John Glenn Boulevard and Buckley Road, between mileposts MP2 and MPE on line LP806BW, the line markers were not in sufficient number along the buried pipeline so that its location is accurately known.

On the north side of Warners Road, there were line markers on each side of the road in the public ROW, however there were no line markers in sufficient number beyond the road crossing of the Buckeye right-of-way (ROW) at MP 14.2 on line AB802VB to accurately determine the location of the buried Buckeye pipeline.

After exiting the Warners Road crossing, Buckeye personnel indicated that the buried pipeline continued due north from the Warners Road crossing to beyond a railroad crossing. However, the Buckeye maps that were used during the NYSDPS inspection indicated that the buried pipeline changed direction eastwardly through the front yards of two homes, and eastwardly again beyond the homes before turning north to cross railroad tracks. The location of the buried pipeline at the railroad crossing as indicated by the Buckeye map and as stated by Buckeye personnel differed by over 1,000 feet. The Buckeye personnel agreed that the location of the pipeline markers in the field did not match the pipeline location as indicated on the Buckeye map.

The NYSDPS inspectors visited the two locations noted above. The NYSDPS observed the conditions along the ROW and took photographs, and compared Buckeye map information and line marker locations regarding the location of the buried pipeline facilities.

2. § 195.410 Line markers.

(a) Except as provided in paragraph (b) of this section, each operator shall place and maintain line markers over each buried pipeline in accordance with the following:

(2) The marker must state at least the following on a background of sharply contrasting color:

(i) The word “Warning,” “Caution,” or “Danger” followed by the words “Petroleum (or the name of the hazardous liquid transported) Pipeline”, or “Carbon Dioxide Pipeline,” all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch (25 millimeters) high with an approximate stroke of 1/4 inch (6.4 millimeters).

(ii) The name of the operator and a telephone number (including area code) where the operator can be reached at all times.

Buckeye failed to maintain three (3) line markers over Buckeye buried pipeline in accordance with the regulation. The surface of the line markers had deteriorated to the point that there was no legible wording on the line markers to convey the line marker information and wording required by the regulation. The wording “Caution,” or “Danger” followed by the name of the hazardous liquid transported, along with the name of the operator was either missing or completely illegible on the pipeline markers.

The NYSDPS inspectors observed the conditions along the ROW and took photographs of the line markers showing the deteriorated surface conditions. The first two observed line markers were located north of John Glenn Boulevard in Liverpool, NY between MP2 and MP3 on line LP806BW. The third line marker was observed on the west side of Breed Road in Camillus, NY at about MP 12.5 on line AB802VB.

This violation is a repeat violation of Item 3 of CPF# 3-2007-5026.

3. § 195.412 Inspection of rights-of-way and crossings under navigable waters.

(a) Each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface conditions on or adjacent to each pipeline right-of-way. Methods of inspection include walking, driving, flying or other appropriate means of traversing the right-of-way.

Buckeye failed to adequately inspect the surface conditions on or adjacent to each pipeline right-of-way at intervals not exceeding 3 weeks, but at least 26 times each calendar year.

NYSDPS inspection indicated that the operator failed to adequately inspect the surface condition on or adjacent to each pipeline ROW. Buckeye used aerial patrols to inspect the pipeline ROW. Walking patrols were not used. Buckeye failed to maintain and clear the ROW of excessive vegetation growth, including the extent of the tree canopy, to create conditions suitable for the aerial patrol inspection method that they were using. It appeared that there has been uncontrolled growth on some parts of the ROW for a long enough period to allow low growing plants and shrubs to take hold and grow to a height of more than 5 feet. These conditions were observed along the ROW between Buckley Road and Morgan Road, about a ¼ mile in length.

The NYSDPS inspectors observed the conditions along the ROW and took photographs. Buckeye personnel stated that the aerial inspection method was the only inspection method used to inspect the surface conditions along the ROW.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$102,800 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$25,000
2	\$51,600
3	\$26,200

Proposed Compliance Order

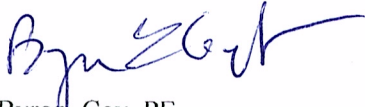
With respect to item numbers 1, 2, and 3 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Buckeye. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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 1-2013-5003** 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. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Byron Coy".

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

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

Cc: Kevin Speicher, NYSDPS

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 regard to Item Number 1 of the Notice pertaining to Buckeye's failure to properly install and maintain line markers in sufficient quantity and location so that the location of the buried pipeline is accurately known, Buckeye must re-check and ensure the accurate location of the buried pipeline at the road crossing and along the right-of-way (ROW), for all buried pipelines under the responsibility of Buckeye in a 5 mile radius of the road crossing; and, then install as necessary the appropriate line markers.
2. In regard to Item Number 2 of the Notice pertaining to Buckeye's failure to maintain line markers as that required line marker information is legible, Buckeye must ensure the adequate conditions of all line markers within a 10 mile radius of the two locations noted in this item.
3. In regard to Item Number 3 of the Notice pertaining to Buckeye's failure to adequately inspect the surface conditions on or adjacent to each pipeline ROW, Buckeye must implement one or more appropriate method(s)¹ that will allow an adequate inspection of the pipeline ROW between Buckley and Morgan Roads, about ¼ mile long.
4. All documentation demonstrating compliance with each of the items outlined in this order must be submitted to the Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, 820 Bear Tavern Rd, Suite 103, West Trenton, NJ 08628 within 120 days after receipt of the Final Order.
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 Byron E. Coy, P.E., Director, Eastern, 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.

¹ 49 C.F.R. 195.412(a)