



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**

September 12, 2013

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

CPF 1-2013-5019

Dear Mr. Collier:

During the week of September 24-28, 2012, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected your hazardous liquid pipeline transmission system in between New Haven, Connecticut and Springfield, Massachusetts.

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. §195.49 Annual report.

Each operator must annually complete and submit DOT Form PHMSA F 7000-1.1 for each type of hazardous liquid pipeline facility operated at the end of the previous year. An operator must submit the annual report by June 15 each year, except that for the 2010 reporting year the report must be submitted by August 15, 2011. A separate report is required for crude oil, HVL (including anhydrous ammonia), petroleum products, carbon dioxide pipelines, and fuel grade ethanol pipelines. For each state a pipeline traverses, an operator must separately complete those sections on the form requiring information to be reported for each state.

Buckeye failed to submit an accurate annual report. Specifically, in the 2011 Annual Report (Exhibit A-2), Buckeye Partners, L.P. (Buckeye) erroneously stated its number of breakout tanks in Massachusetts. In a review of the Annual Report data tendered to PHMSA for calendar year 2011, Buckeye reported six

breakout tanks in Massachusetts. During the inspection, it was discovered that Buckeye operated four breakout tanks in Massachusetts, as corroborated in a January 4, 2013 email response to PHMSA (Exhibit A-3) wherein Buckeye stated that in 2011, it operated 4 breakout tanks in Massachusetts.

2. §195.428 Overpressure Safety Devices and Overfill Protection Systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

Buckeye failed to inspect and test five control valves on its Jet Lines during calendar year 2011. The records provided by Buckeye indicate that the valves were inspected in 2010 and again in 2012.

Location of Control Valve	Test Dates, None in 2011
E. Hartford Terminal	10/12/10, 1/3/12
Melrose Jct. - 6" 600#	10/13/10, 1/3/12
Rocky Hill - 6" 600#	10/26/10, 1/3/12
Wethersfield Daniels - 6" 600#	11/2/10, 1/3/12
Wethersfield Daniels - 6" 600# Global	11/2/10, 1/3/12

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 (ROW) at intervals not exceeding 3 weeks, but at least 26 times each calendar year. During the inspection, the inspector observed two areas in the ROW, obscured by the foliage canopy, resulting in inability of the aerial observer to effectively survey the pipeline. The areas were in an HCA or an HCA could affect area in Wallingford, Connecticut and Chicopee, Massachusetts, as shown on photos taken during the inspection. In addition, the aerial patrol sheets indicated that the ROW was experiencing foliage encroachment on April 25, 2012. 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 \$69,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
Item 2	\$ 27,000
Item 3	\$ 42,100

Warning Item

With respect to item 1, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to item 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. All material you submit in response to this enforcement action may be 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.

In your correspondence on this matter, please refer to **CPF 1-2013-5019** and for each document you submit, 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,

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 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 in the vicinity of the Center Street crossing in Wallingford, Connecticut and the Nova valve site in Chicopee, Massachusetts.
2. All documentation demonstrating compliance with item 1 outlined in this Compliance 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.
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.

¹ 49 C.F.R. 195.412(a).