

**December 17, 2015**

Mr. Clark C. Smith  
President & CEO  
Buckeye Partners, LP  
One Greenway Plaza  
Houston, Texas 77046

**Re: CPF No. 1-2014-5007**

Dear Mr. Smith:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one allegation of violation in part, makes other findings of violation, assesses a reduced civil penalty of \$193,000, and specifies actions that need to be taken by Buckeye Partners, LP, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Eastern Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Byron Coy, PE, Director, Eastern Region, OPS  
Mr. Thomas S. (Scott) Collier, Vice President, Performance Assurance & Asset Integrity,  
Buckeye Partners, LP, Five TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA  
18031  
Ms. Claudia Pankowski, Director, Regulatory Compliance, Buckeye Partners, LP

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

In the Matter of	)	
	)	
Buckeye Partners, LP,	)	CPF No. 1-2014-5007
	)	
Respondent.	)	
	)	

**FINAL ORDER**

Between October 15, 2012, and April 10, 2014, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Buckeye Partners, LP (Buckeye or Respondent), in the Linden, New Jersey area. Respondent owns and operates liquid petroleum-product pipeline systems throughout the United States, with over 6,000 miles of pipeline. Respondent also owns approximately 100 liquid petroleum products terminals, with a storage capacity of more than 70 million barrels.<sup>1</sup>

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated November 19, 2014, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Buckeye had committed various violations of 49 C.F.R. Part 195 and proposed assessing a civil penalty of \$198,700 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Buckeye responded to the Notice by letter dated December 16, 2014 (Response). The company partly contested one of the allegations of violation, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced accordingly. Respondent did not request a hearing and therefore has waived its right to one.

**FINDINGS OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 195 as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a), which states:

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<sup>1</sup> Buckeye Partners, LP, website, available at <http://www.buckeye.com/BusinessOperations/tabid/56/Default.aspx> (last accessed October 1, 2015).

**§ 195.428 Overpressure safety devices and overflow 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.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to test certain 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. Specifically, the Notice alleged that Buckeye:

- (a) failed to test both the high and high-high level alarms on Tank 119 over two required intervals; and
- (b) failed to test the high and high-high level alarms on Tanks 135 and 156 over two required intervals.

In its Response, Buckeye did not contest the allegation in part (b) of Item 1, regarding Tanks 135 and 156, that it failed to test both alarms on these tanks during the specified interval. With regard to part (a), regarding Tank 119, Buckeye indicated that it had now located records for this tank, demonstrating that the annual tests had been done as required during the specified period, and included copies of these records with its Response.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.428(a), by failing to test both the high and high-high level alarms on Tanks 135 and 156 over two inspection intervals. I further find that Respondent was not out of compliance with respect to Tank 119. Based upon the foregoing, I hereby order that Part (a) of Item 1 be withdrawn.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b), which states:

**§ 195.432 Inspection of in-service breakout tanks.**

(a)...

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Standard 653 (incorporated by reference, *see* § 195.3). However, if structural conditions prevent access to the tank bottom, the bottom integrity may be assessed according to a plan included in the

operations and maintenance manual under § 195.402(c)(3).<sup>2</sup>

The Notice alleged that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Standard 653. Specifically, the Notice alleged that portions of the tank inspection forms involving the inspection of appurtenances, insulation, and tank paint coatings checklists were not completed.

In its Response, Buckeye did not contest the allegations in Item 2 of the Notice. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.432(b) by failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Standard 653.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 195.583(a), which states:

**§ 195.583 What must I do to monitor atmospheric corrosion control?**

(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore.....	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore.....	At least once each calendar year, but with intervals not exceeding 15 months.

The Notice alleged that Respondent violated 49 C.F.R. § 195.583(a) by failing to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every three calendar years, but with intervals not exceeding 39 months. Specifically, the Notice alleged that Buckeye failed to inspect piping located in three valve pits at the Flemington Pump Station during the company’s June 23, 2010 inspection of that facility.

In its Response, Buckeye did not contest the allegations in Item 3 of the Notice. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.583(a) by failing to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every three calendar years, but with intervals not exceeding 39 months.

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<sup>2</sup> Section 195.432 has subsequently been amended as of August 6, 2015 (80 FR 46848), but the former version that was in effect at the time of the alleged violation is the one applied and quoted here.

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 195.589(c), which states:

**§ 195.589 What corrosion control information do I have to maintain?**

(a) ...

(c) You must maintain a record of each analysis, check, demonstration, examination, inspection, investigation, review, survey, and test required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that corrosion requiring control measures does not exist. You must retain these records for at least 5 years, except that records related to §§195.569, 195.573(a) and (b), and 195.579(b)(3) and (c) must be retained for as long as the pipeline remains in service.

The Notice alleged that Respondent violated 49 C.F.R. § 195.589(c) by failing to maintain records of atmospheric corrosion inspections conducted on exposed pipe. Specifically, the Notice alleged that Buckeye's records of atmospheric corrosion inspections for facilities in Linden and Newark, New Jersey, were incomplete and did not have sufficient detail to demonstrate the adequacy of corrosion control measures.

In its Response, Buckeye did not contest the allegations in Item 4 of the Notice. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 195.589(c) by failing to maintain records of atmospheric corrosion inspections conducted on exposed pipe.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

### **ASSESSMENT OF PENALTY**

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>3</sup> In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$198,700 for the violations cited above.

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<sup>3</sup> The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any 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.

**Item 1:** The Notice proposed a civil penalty of \$77,700 for Respondent's violation of 49 C.F.R. § 195.428(a), for failing to test certain pressure control equipment on Tanks 119, 135, and 156 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.

With respect to part (a) of Item 1 regarding Tank 119, in its Response, Buckeye demonstrated that it was not out of compliance. As discussed above, this portion of Item 1 has been withdrawn, along with the associated penalty. With respect to part (b) of Item 1 regarding tanks 135 and 156, Buckeye neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. I therefore find that the penalty amount proposed in the Notice for part (b) is warranted, considering the nature, circumstances, and gravity of the violation and Respondent's culpability for the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a reduced civil penalty of \$72,000 for violation of 49 C.F.R. § 195.428(a).

**Item 2:** The Notice proposed a civil penalty of \$57,600 for Respondent's violation of 49 C.F.R. § 195.432(b), for failing to inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Standard 653. Buckeye neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. I therefore find that the penalty amount proposed in the Notice is warranted, considering the nature, circumstances, and gravity of the violation and Respondent's culpability for the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$57,600 for violation of 49 C.F.R. § 195.432(b).

**Item 3:** The Notice proposed a civil penalty of \$43,200 for Respondent's violation of 49 C.F.R. § 195.583(a), for failing to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every three calendar years, but with intervals not exceeding 39 months. Buckeye neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. I therefore find that the penalty amount proposed in the notice is warranted, considering the nature, circumstances, and gravity of the violation and Respondent's culpability for the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$43,200 for violation of 49 C.F.R. § 195.583(a).

**Item 4:** The Notice proposed a civil penalty of \$20,200 for Respondent's violation of 49 C.F.R. § 195.589(c), for failing to maintain records of atmospheric corrosion inspections conducted on exposed pipe. Buckeye neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. I therefore find that the penalty amount proposed in the Notice is warranted, considering the nature, circumstances, and gravity of the violation and Respondent's culpability for the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$20,200 for violation of 49 C.F.R. § 195.589(c).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$193,000**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$193,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 2, 3, and 4 in the Notice for violations of 49 C.F.R. §§ 195.432(b), 195.583(a), and 195.589(c), respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 195.432(b) (**Item 2**) pertaining to inspection of the condition of breakout tank paint coatings and appurtenances in accordance with API Standard 653 paragraph 6.3.1.3:
  - a. Buckeye must review its tank inspection procedures and revise them to fully address the requirements of API Standard 653. Specifically, the revisions must:
    - i. Identify and define the roles and responsibilities of all personnel involved in the process;
    - ii. Ensure that the disposition of all recommended repairs and monitoring is documented in writing and that reasons are given if recommended actions are delayed or deemed unnecessary; and
    - iii. Specify the actions to be taken by personnel when field conditions prevent the inspection of any item on the checklists (e.g., the Chime covered with soil or water);
  - b. For all breakout tanks at the Linden Station, Buckeye must conduct routine in-service inspections and remediate as necessary in accordance with the procedures modified pursuant to paragraph (a) above; and
  - c. Submit documentation demonstrating completion of the revisions and routine in-service inspections required by paragraphs (a)–(b) of this item to the Director within 90 days of receipt of this Order.

2. With respect to the violation of § 195.583(a) (**Item 3**) pertaining to atmospheric corrosion control, Respondent must:
  - a. Inspect the piping in the valve pits at the Flemington, NJ pump station;
  - b. Evaluate the piping to ensure that pipe integrity is suitable for the maximum operating pressure of the pipeline;
  - c. Inspect, clean and coat (as necessary) the piping according to 49 CFR Part 195 and Buckeye's procedures; and
  - d. Submit documentation demonstrating completion of the actions required by paragraphs (a)–(c) of this item to the Director within 60 days of receipt of this Order.
  
3. With respect to the violation of § 195.589(c) (**Item 4**) pertaining to the corrosion control procedures for exposed pipe, Respondent must:
  - a. Revise its corrosion control procedures to give detailed instructions for inspections of pipelines or portions of pipelines that are exposed to the atmosphere, and in particular must include pipe that is just below grade at soil-to-air interfaces. Specifically:
    - i. The procedures must provide a methodology for assessing the integrity of the underground portion of the soil-to-air interface when the visual inspection of the aboveground portion indicates bare pipe or damaged or disbonded coating; and
    - ii. The procedures must provide for grading the severity of atmospheric or galvanic corrosion. In Form B of Buckeye Corrosion Manual Procedure A-04: Visual Pipe Inspection (CFR Title 49: Parts 195.569, 195.581(c), 195.583(a), 195.583(c)) revised 9/2013, the terms “minor”, “moderate”, and “severe” are used to describe rust or pitting for the condition of aboveground piping, risers and pipe supports. The revised procedures must provide measurement parameters for these terms that allow the corrosion technician to distinguish between the severity ratings in order to properly classify corrosion severity and take appropriate remedial actions. The procedures must also specify timelines for addressing each severity rating;
  - b. Inspect all of the soil-to-air interfaces in the Linden, NJ facility, in accordance with the revised procedures that were not inspected within the time described in the regulations;
  - c. Clean and coat the exposed piping as necessary according to 49 CFR Part 195 and Buckeye's associated procedures; and
  - d. Submit documentation demonstrating completion of the actions required by paragraphs (a)–(c) of this item to the Director within 180 days of receipt of this Order.
  
4. Submit all documentation demonstrating compliance with each of the items outlined in this order to Byron Coy, Director, Eastern Region, Pipeline and Hazardous



Materials Safety Administration, Suite 103, Bear Tavern Road, West Trenton, NJ 08628 for review.

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 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 physical changes to pipeline facilities.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.243, Respondent has a right to submit a petition for reconsideration of this Final Order. Should Respondent elect to do so, the petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued