



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

1200 New Jersey Avenue, SE
Washington, DC 20590

**VIA EMAIL TO: ccsmith@buckeye.com, whollis@buckeye.com, and
cpankowski@buckeye.com**

Mr. Clark C. Smith
Chairman, President, & Chief Executive Officer
Buckeye Partners, LP
Five TEK Park
9999 Hamilton Boulevard
Breinigsville, Pennsylvania 18031

Re: CPF No. 1-2020-6001

Dear Mr. Smith:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$209,002. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated February 19, 2020. This enforcement action is now closed. Service of the Final Order by e-mail is effective upon the date of mailing as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety, PHMSA
Mr. Bill Hollis, Executive Vice President, Buckeye Services, Buckeye Partners, LP
Ms. Claudia Pankowski, Director of Regulatory Compliance, Buckeye Partners, LP

VIA EMAIL – CONFIRMATION OF 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. 1-2020-6001
)	
Respondent.)	
)	

FINAL ORDER

From July 23 - 26, 2018, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS) and the Florida Public Services Commission, responded to and conducted an investigation into an accident that occurred on Buckeye Partners, LP’s (Buckeye) Florida Everglades hazardous liquids pipeline in Miami, Florida. Buckeye operates approximately 6,000 miles of pipeline and stores and transports refined petroleum products from the Midwestern to the Eastern part of the U.S.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated January 21, 2020, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Buckeye had violated 49 C.F.R. § 195.402(a) and proposed assessing a civil penalty of \$209,002 for the alleged violation. The warning items required no further action, but warned the operator to correct the probable violations or face possible future enforcement action.

Buckeye responded to the Notice by letter dated February 12, 2020 (Response). The company did not contest the allegation of violation and paid the proposed civil penalty of \$209,002. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make a finding of violation and to issue this final order without further proceedings. Respondent also submitted a statement concerning one of the warning items.

FINDING OF VIOLATION

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

¹ Buckeye Partners, LP, website, *available at* <https://www.buckeye.com/AboutUs/tabid/54/Default.aspx> (last accessed Mar. 23, 2020)

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a), which states:

§ 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 system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its manual of written procedures for conducting normal operations and maintenance activities. Specifically, Buckeye failed to follow Sections 6.3.2 and 6.3.3 of its Damage Prevention Procedure Manual, dated December 29, 2017, by failing to utilize the conductive method to locate its pipeline, and failing to use a probe to search for and verify the pipeline's location after it had electronically located the line. The locating and subsequent marking of Buckeye's Florida Everglades Pipeline was performed in response to multiple one-call tickets requested on June 15 and July 18, 2018, by a third-party contractor for a water-line installation.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.402(a) by failing to follow its own manual of written procedures for conducting normal operations and maintenance activities.

This finding of violation will be considered a prior offense 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.² 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; 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 \$209,002 for the violation cited above.

² These amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223.

Item 1: The Notice proposed a civil penalty of \$209,002 for Respondent's violation of 49 C.F.R. § 195.402(a), for failing to follow its manual of written procedures for conducting normal operations and maintenance activities. Buckeye neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$209,002 for violation of 49 C.F.R. § 195.402(a).

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 **\$209,002**, which amount was paid in full by wire transfer on February 19, 2020.

WARNING ITEMS

With respect to Items 2 and 3, the Notice alleged probable violations of Part 195, but identified them as warning items pursuant to § 190.205. The warnings were for:

49 C.F.R. § 195.404(a)(1)(vi) (**Item 2**) — Respondent's alleged failure to maintain current maps and records of its pipeline system, including the location of its pipeline rights-of-way; and

49 C.F.R. § 195.410(a)(1) (**Item 3**) — Respondent's alleged failure to place and maintain line markers in sufficient number over a buried pipeline so that its location could be accurately known.

In its Response, Buckeye requested withdrawal of Item 3, contending that it had complied with the procedures in its Damage Prevention Program. Respondent's response is noted, however, under § 190.205, PHMSA does not adjudicate warning items to determine whether a probable violation occurred nor does it make any findings regarding the merits of the operator's response. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this order are effective upon service in accordance with 49 C.F.R. § 190.5.

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued