



U.S. Department  
of Transportation

Pipeline and Hazardous  
Materials Safety  
Administration

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

JUN 17 2013

Mr. Clark Smith  
President & Chief Executive Officer  
Buckeye Partners, LP  
One Greenway Plaza  
Suite 600  
Houston, TX 77046

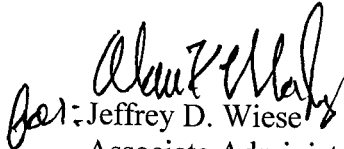
**Re: CPF No. 3-2013-5001**

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 \$47,800. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated February 5, 2013. This enforcement action is now 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. Thomas S. (Scott) Collier, Director, Performance Assurance, Buckeye Partners, LP,  
Five TEK Park, 9999 Hamilton Boulevard, Breinigsville, PA 18031  
Mr. Dave Barrett, Central Region Director, OPS  
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**



**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b), which states:

**§ 195.420 Valve Maintenance.**

- (a) . . .
- (b) Each operator shall, at intervals not exceeding 7 ½ months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

The Notice alleged that Respondent violated 49 C.F.R. § 195.420(b) by failing to inspect each mainline valve to determine that it is functioning properly, at an interval not exceeding 7 ½ months, but at least twice each calendar year. Specifically, the Notice alleged that Buckeye failed to inspect three mainline valves near the East Chicago Junction within the 7 ½ month interval required by the regulation.

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. § 195.420(b) by failing to inspect each mainline valve, at an interval not exceeding 7 ½ months and at least twice each calendar year.

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 \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. 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; the Respondent's ability to pay the penalty 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 \$47,800 for the violation cited above.

**Item 1:** The Notice proposed a civil penalty of \$47,800 for Respondent's violation of 49 C.F.R. § 195.420(b), for failing to inspect each mainline valve to determine that it is functioning properly, at an interval not exceeding 7 ½ months, but at least twice each calendar year. Buckeye neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. As this item constitutes a repeat violation<sup>2</sup> of the

<sup>2</sup> Notice of Probable Violation and Proposed Civil Penalty (Notice), at 2. The items repeated were cited in separate enforcement actions, CPF 3-2008-5004 (Item 2) and CPF 1-2011-5002 (Item 2).

penalty assessment in this case reflect the repeated nature of this kind of violation on Respondent's pipelines. By regularly assessing mainline valves, operators can reduce the risks of malfunction and prevent accidents. While Buckeye was aware of the regulatory requirement, the Respondent exceeded the inspection interval on three separate occasions. When the history of repeat violations is considered along with the violation in this enforcement action, the proposed civil penalty becomes appropriate in this context. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$ 47,800 for violation of 49 C.F.R. § 195.420(b).

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$47,800**.

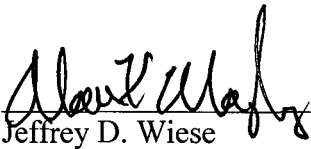
### WARNING ITEM

With respect to Item 2, the Notice alleged a probable violation of Part 195 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

49 C.F.R. § 195.569 (**Item 2**) — Respondent's alleged failure to examine an exposed portion of pipeline for evidence of external corrosion if the pipe is bare or the coating is deteriorated.

Buckeye presented information in its Response showing that it has taken certain actions to address the cited item. If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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

for:   
 Jeffrey D. Wiese  
 Associate Administrator  
 for Pipeline Safety

**JUN 17 2019**  
 Date Issued