

**SEPTEMBER 15, 2014**

Mr. Clark C. Smith  
President  
Buckeye Partners, LP  
One Greenway Plaza  
Suite 600  
Houston, TX 77046

**Re: CPF No. 3-2014-5003**

Dear Mr. Smith:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$271,300, and specifies actions that need to be taken by Buckeye Partners, LP, to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, dated May 5, 2014. When the terms of the compliance order have been completed, as determined by the Director, Central 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: Ms. Linda Daugherty, Director, Central Region, OPS  
Mr. Scott Collier, Buckeye Partners, LP  
One Greenway Plaza, Suite 600, Houston, TX 77046

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

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<b>In the Matter of</b>	)	
	)	
<b>Buckeye Partners, LP,</b>	)	<b>CPF No. 3-2014-5003</b>
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

Pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an investigation of an accident involving the pipeline system operated by Buckeye Partners, LP (Buckeye or Respondent), at Findlay Junction in Ohio. Buckeye owns and operates approximately 6,000 miles of hazardous liquid pipelines in the Northeast and Upper Midwest regions.<sup>1</sup>

The investigation arose out of Buckeye discovering a gasoline leak on Line 413 at the company's Findlay Junction facility near Findlay, Ohio on May 17, 2011(Accident). As a result of the investigation, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated March 28, 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 assessing a civil penalty of \$271,300 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 May 5, 2014 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$271,300, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent, or to those Items for which a penalty was proposed.

**FINDINGS OF VIOLATION**

In its Response, Buckeye did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

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<http://www.buckeye.com/BusinessOperations/PipelineTransportationOperations/tabid/584/Default.aspx> (last accessed August 19, 2014).

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.581(a), which states:

**§ 195.581 Which pipelines must I protect against atmospheric corrosion and what coating material may I use?**

(a) You must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

The Notice alleged that Respondent violated 49 C.F.R. § 195.581(a) by failing to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere. Specifically, the Notice alleged that Buckeye did not clean and coat a two-inch diameter steel riser pipe, which was connected to a buried twelve-inch pipe through an isolation valve, to protect against corrosion. The pipe was installed in 1997. According to a metallurgical analysis conducted after the Accident, the leak was caused by external pitting corrosion on the exterior of the two-inch uncoated pipe. In addition to the leaking corroded area, the metallurgical analysis documented many relatively large and deep pits on the riser, with the deepest pits being 71% of the nominal wall thickness. The two-inch riser pipe was installed in a vault that was exposed to the atmosphere with a soil-to-air interface present; therefore, the exceptions in § 195.581(c) do not apply.

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. § 195.581(a) by failing to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 195.583(b), which states:

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

(a) ...

(b) During inspections you must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

The Notice alleged that Respondent violated 49 C.F.R. § 195.581(b) by failing to properly monitor atmospheric corrosion control by giving particular attention to pipe at soil-to-air interfaces during inspections. Specifically, the Notice alleged that on August 4, 2010, Buckeye did not perform an adequate inspection of riser pipes exposed to the atmosphere in five vaults at the Findlay Junction facility. One of the riser pipes had a corrosion failure that resulted in the Accident. The August 4, 2010 inspection record indicated the “air-ground interface coating in good condition” and “no rust visible.” However, during the onsite failure investigation, less than a year later, PHMSA observed that none of the riser pipes in the five vaults at the Findlay Junction facility were coated and rust was visually present. According to the Notice, the metallurgical report of the failed riser pipe documented areas of thick corrosion deposits, deep pits, and no coating or paint present.

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. § 195.581(b) by failing to properly monitor atmospheric corrosion control by giving particular attention to pipe at soil-to-air interfaces during inspections.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 195.505(d), which states:

**§ 195.505 Qualification program**

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) ...
- (d) Evaluate an individual if the operator has reason to believe that the individual's performance of a covered task contributed to an accident as defined in Part 195; . . . .

The Notice alleged that Respondent violated 49 C.F.R. § 195.505(d) by failing to properly evaluate an individual who the company had reason to believe contributed to an accident through the performance of a covered task. Specifically, the Notice alleged that after the discovery of a leak caused by corrosion at the Findlay Junction facility, Buckeye failed to evaluate in a timely manner a single employee regarding performance of Task 001019, "Inspect Normally Exposed Pipe." On June 27, 2012, Buckeye completed its own accident investigation and concluded that an inadequate inspection of the covered task on August 4, 2010, was a causal factor in the pipe failure. As of June 24, 2013, the company had still failed to complete an evaluation of this employee.

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. § 195.505(d) by failing to properly evaluate an individual who the company had reason to believe contributed to an accident through the performance of a covered task.

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 \$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 \$271,300 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$123,800 for Respondent's violation of 49 C.F.R. § 195.581(a), for failing to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere. Buckeye neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$123,800 for violation of 49 C.F.R. § 195.581(a).

**Item 2:** The Notice proposed a civil penalty of \$100,000 for Respondent's violation of 49 C.F.R. § 195.583(b), for failing to properly monitor atmospheric corrosion control by giving particular attention to pipe at soil-to-air interfaces during inspections. Buckeye neither contested the allegation nor presented any evidence or argument justifying a reduction in the elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$100,000 for violation of 49 C.F.R. § 195.583(b).

**Item 3:** The Notice proposed a civil penalty of \$47,500 for Respondent's violation of 49 C.F.R. § 195.505(d), for failing to properly evaluate an individual who the company had reason to believe contributed to an accident through the performance of a covered task. Buckeye neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$47,500 for violation of 49 C.F.R. § 195.505(d).

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 **\$271,300**. As noted above, Buckeye has paid the full penalty amount by wire transfer dated May 5, 2014.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 2 and 3 in the Notice for violations of 49 C.F.R. §§ 195.583(b) and 195.505(d), 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 § 195.583(b) (**Item 2**), Respondent must re-inspect, within six months of the date of this Final Order, all facilities that were last inspected by employee number 4496, for atmospheric corrosion, using a different qualified individual who is knowledgeable about corrosion control. The operator must provide copies of the completed Triennial Visual Inspection forms or any form that is used to document these re-inspections, along with the associated individual's name and qualification information.
2. With respect to the violation of § 195.505(d) (**Item 3**), Respondent must re-

evaluate the employee who performed the covered task 001019, "Inspecting Normally Exposed Pipe" inspection on August 4, 2010, and submit the documentation of the re-evaluation within thirty (30) days of the date of this Final Order, verifying the individual's status related to this task and identify when the status change occurred.

3. It is requested that Buckeye maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Ms. Linda Daugherty, Director, Central 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.

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.

The 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