



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 South Gessner, Suite 1110
Houston, TX 77074

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 24, 2012

Mr. Jerry Ashcroft
Vice President, Field Operations
Buckeye Partners, L.P.
Five TEK Park
9999 Hamilton Boulevard
Breiningville, PA 18031

CPF 4-2012-5015

Dear Mr. Ashcroft:

Between April 25 and July 14, 2011, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code was onsite and inspected your pipeline facilities in El Paso, TX.

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 violation(s) are:

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

(c) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(5) Analyzing pipeline accidents to determine their causes.

Buckeye did not follow their procedures to conduct an analysis of the pipeline accident that was discovered in January 2011 on Tank 1001 to determine the cause of the accident.

In January 2011, Buckeye's personnel noticed a small stain at the bottom of Tank 1001. After investigating the source of the stain, it was determined to be product leaking out of Tank 1001. The tank had to be placed out of service to conduct testing in order to find the source of the leak. On January 26, 2011 and February 10, 2011, a Helium Leak Test and Magnetic Particle Inspection (MT) were conducted to find the source of the leak on the bottom of Tank 1001. The leak was a small pinhole leak that was very difficult to find. The MT performed found a crack like feature at the shell/bottom weld. There is no evidence or documents of an analysis being performed to find the root cause of the crack like feature.

Buckeye's procedures, '2. Internal Release Investigation Procedures' and '2.2 Medium Level' require that all DOT written reportable product release be investigated for the root cause of the incident. Buckeye did not perform the root cause analysis.

2. §195.54 Accident reports.

(a) Each operator that experiences an accident that is required to be reported under §195.50 shall as soon as practicable but not later than 30 days after discovery of the accident, prepare and file an accident report on DOT Form 7000-1, or a facsimile.

Buckeye failed to report a pipeline accident, which met the requirements of §195.50(e), which occurred in January 2011 on Tank 1001 within 30 days after discovery of the accident.

In January 2011, Buckeye's personnel noticed a small stain at the bottom of Tank 1001. After investigating the source of the stain, it was determined to be product leaking out of Tank 1001. The tank had to be placed out of service to conduct testing in order to find the source of the leak. On January 26, 2011 and February 10, 2011, a Helium Leak Test and Magnetic Particle Inspection (MT) were conducted to find the source of the leak on the bottom of Tank 1001. The leak was a small pinhole leak that was very difficult to find. The MT performed found a crack like feature at the shell/bottom weld. The cost associated with these activities exceeded the reportable criteria of \$50,000 per §195.50.

Buckeye's procedure, '1. Release Notification Procedure, 1.1.2.2,' states that within 30 days of a DOT reportable release, Buckeye shall file an accident report on DOT Form 7000-1. At the time of the inspection a report had not been filed.

3. §195.52 Telephonic notice of certain accidents.

(a) At the earliest practicable moment following discovery of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in §195.50, the operator of the system shall give notice, in accordance with paragraph (b) of this section, of any failure that:

(3) Caused estimated property damage, including cost of cleanup and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000;

Buckeye did not give notice at the earliest practicable moment after discovery of a release of hazardous material, which caused estimated property damage, including cost of cleanup and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding \$50,000.

In January 2011, Buckeye's personnel noticed a small stain at the bottom of Tank 1001. After investigating the source of the stain, it was determined to be product leaking out of Tank 1001. The tank had to be placed out of service to conduct testing in order to find the source of the leak. On January 26, 2011 and February 10, 2011, a Helium Leak Test and Magnetic Particle Inspection (MT) were conducted to find the source of the leak on the bottom of Tank 1001. The leak was a small pinhole leak that was very difficult to find. The MT performed found a crack like feature at the shell/bottom weld. The cost associated with these activities exceeded the reportable criteria of \$50,000 per §195.50.

Buckeye's procedure, '1. Release Notification Procedure, 1.1.2.1,' states that at the earliest practicable moment following discovery of a release meeting the criteria, local management shall notify the National Response Center by telephone. At the time of the inspection a report had not been filed.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$36,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$20,000
2	\$16,200

Warning Items

With respect to item 3 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 these item(s). Be advised that failure to do so may result in Buckeye Partners being subject to additional enforcement action.

Proposed Compliance Order

With respect to items 1 and 2, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Buckeye Partners, LP. 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. Be advised that all material you submit in response to this enforcement action is subject to being 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 4-2012-5015** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: *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, LP a Compliance Order incorporating the following remedial requirements to ensure the compliance of Buckeye Partners, LP with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to the pipeline accident that was discovered in January 2011 on Tank 1001, Buckeye Partners, LP must perform a root cause analysis to determine the cause of the accident, to comply with §195.402(c)(5).
2. In regard to Item Number 2 of the Notice pertaining to the pipeline accident that was discovered in January 2011 on Tank 1001, Buckeye Partners, LP must prepare and file an accident report on DOT Form 7000-1 to the Pipeline and Hazardous Material Safety Administration, to comply with §195.54(a).
3. Buckeye Partners, LP should complete items 1 and 2 within 90 days of receipt of the Final Order.
4. It is requested (not mandated) that Buckeye Partners, LP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley, Director, Southwest 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.