



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

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

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

OVERNIGHT EXPRESS MAIL

February 07, 2012

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

CPF 1-2012-5002

Dear Mr. Ashcroft:

From June 15 to 19, 2009, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected Buckeye Partners, L.P.'s (Buckeye) pipeline and facilities in New Haven, Connecticut.

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 violations are:

1. §195.589 What corrosion control information do I have to maintain?

(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 Secs. 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.

Buckeye failed to maintain records of each atmospheric corrosion inspection, as required by §195.583(a), for at least 5 years.

During the inspection, a PHMSA representative requested Buckeye personnel to provide records of atmospheric corrosion inspections for the New Haven facility. However, Buckeye personnel could not provide any records of atmospheric corrosion inspections at the time of the inspection.

2. §195.404 Maps and Records.

**(c) Each operator shall maintain the following records for the periods specified;
(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.**

Buckeye failed to maintain records of each overpressure safety device inspection and test as required by §195.428(a), for at least 2 years from 2007 through the PHMSA inspection performed in 2009.

During the field inspection at Ludlow Tank Farm, a PHMSA representative observed that there were three (3) breakout tanks. Each of these breakout tanks has a thermal relief valve at an inlet and at the outlet, totaling six (6) thermal relief valves. The PHMSA representative requested Buckeye personnel to provide records of the overpressure safety device inspection and test pursuant to §195.428(a). However, Buckeye personnel could not produce any records or documentation at the time of the inspection.

3. §195.430 Firefighting equipment.

Each operator shall maintain adequate firefighting equipment at each pump station and breakout tank area. The equipment must be-
(a) In proper operating condition at all times;

Buckeye failed to maintain firefighting equipment in proper operating condition at all times at the Ludlow Tank Farm.

During the field inspection at Ludlow Tank Farm, a PHMSA representative observed that the lever on the nozzle of a foam hose was in a peculiar position. The lever was used to start and stop flow from the nozzle. The PHMSA representative requested a Buckeye representative to demonstrate how to operate the firefighting equipment for the purpose of fighting fires. The Buckeye representative could not move the lever because it was jammed, which made the firefighting equipment inoperable.

4. §195.589 What corrosion control information do I have to maintain?

(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 Secs. 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.

Buckeye failed to maintain a record of an internal inspection, required by §195.579(c), or a record control measures or that corrosion requiring control measures does not exist.

A pipeline replacement project was conducted on September 18, 2008, at Waterfront Street. Under §195.579(c), whenever you remove pipe from a pipeline, you must inspect the internal surface of the pipe for evidence of corrosion. Buckeye did not have written documentation that an inspection had been performed. Buckeye indicated that an internal inspection was performed and that the existing pipe was in good condition, but provided no records.

5. §195.404 Maps and Records.

**(c) Each operator shall maintain the following records for the periods specified;
(3) A record of each inspection and test required by this subpart shall be maintained for at least 2 years or until the next inspection or test is performed, whichever is longer.**

Buckeye failed to maintain records of Right-of-Way (ROW) inspections, required by §195.412(a), for at least 2 years.

Buckeye's procedures for ROW inspections, *D-02-Pipeline Right of Way*, established several methods (primarily walking and flying) to inspect the ROW. Additionally, *D-02-Pipeline Right of Way* refers to ROW inspections shall be inspected within the time frequency listed on the Comprehensive Scheduling Chart in *Section D-01*. The chart recites the requirement prescribed in §195.412(a).

A PHMSA representative requested a Buckeye representative to provide records of ROW inspections for the entire pipeline from New Haven, Connecticut, to Ludlow Station in Massachusetts, in accordance to its procedure, *D-02-Pipeline Right of Way*. The Buckeye representative produced an incomplete work order list from 2/18/2009 to 5/21/2009 for walking the line that had no information regarding the surface conditions on or adjacent to each pipeline ROW. Furthermore, the aforementioned list showed a segregated section of the facility rather than the entire facility.

PHMSA found this list to be inadequate for ROW inspection records; therefore, Buckeye did not comply with §195.404(c)(3).

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 violations and has recommended that you be preliminarily assessed a civil penalty of \$67,900 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$11,800
2	\$18,800
4	\$11,800
5	\$25,500

Proposed Compliance Order

With respect to items 2 and 5 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Buckeye. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Warning Item

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 this item. Be advised that failure to do so may result in Buckeye being subject to additional enforcement action.

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.

Please address your correspondence to Byron Coy, PE, Director, PHMSA Eastern, 820 Bear Tavern Rd, Suite 103, Bear Tavern Rd, W. Trenton, NJ 08628. Please refer to **CPF 1-2012-5002** and for each document you submit, please provide a (signed) copy in electronic format whenever possible. Smaller files may be emailed to Byron.Coy@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office

Sincerely,

Byron Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *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 L.P. (Buckeye) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Buckeye with the pipeline safety regulations:

1. Regarding Item Number 2 of the Notice pertaining to §195.404(c)(3), all thermal relief valves at Ludlow Tank Farm must be inspected and tested, as prescribed in §195.428(a), within 60 days after receipt of the Final Order.
2. Regarding Item Number 5 of the Notice pertaining to §195.404(c)(3), Buckeye must inspect the surface condition on or adjacent to each pipeline right-of-way, for the entire pipeline from New Haven, Connecticut, to Ludlow Station in Massachusetts, as prescribed in §195.412(a), within 90 days after receipt of the Final Order.
3. Buckeye must record all inspections and tests set forth in the items of the compliance order. This must be done in accordance to the regulation and Buckeye's Operation and Maintenance Manual, if applicable.
4. Buckeye must make all records and/ documentation available for review by the Director upon request.
5. Buckeye must provide a summary report to demonstrate compliance with all the above items to the Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration, 820 Bear Tavern Rd, Suite 103, West Trenton, NJ 08628 within 120 days after receipt of the Final Order.
6. It is requested (not mandated) that Buckeye maintains documentation of the safety improvement costs associated with fulfilling this Compliance Order and submits the total to Director. 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.