



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

Craig Nicol
Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
BUCKEYE PARTNERS, LP
FOR
THE BUCKEYE TERMINALS, LLC CHESAPEAKE TERMINAL
Registration No. 60920**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Buckeye Partners, LP, regarding the Buckeye Terminals, LLC Chesapeake Terminal, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Buckeye" means Buckeye Partners, LP, a limited partnership authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Buckeye is a "person" within the meaning of Va. Code § 10.1-1300.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Facility" means the Buckeye Terminals, LLC Chesapeake Terminal facility, located at 1070 Oil Terminal Road in Chesapeake, Virginia.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "Permit" means a State Operating Permit to operate a bulk petroleum storage and distribution Facility, which was issued under the Virginia Air Pollution Control Law and the Regulations to Buckeye on February 9, 2016.
10. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
11. "TRO" means the DEQ Tidewater Regional Office located in Virginia Beach, Virginia.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Buckeye owns and operates the Facility in Chesapeake, Virginia. The Facility is the subject of the Permit, which allows Buckeye to operate a bulk petroleum storage and distribution Facility. The Facility is subject to truck loading rack emission controls and limits under 40 CFR 60, Subpart XX, Standards of Performance for Bulk Gasoline Terminals, and 40 CFR 63, Subpart BBBB, National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities. The loading rack emission control unit is equipped with a vapor collection system to collect volatile organic compound ("VOC") vapors from gasoline and denatured ethanol load-outs at the truck loading rack and vent the collected vapors to a VOC control device. The VOC control device is a vapor combustion unit ("VCU") monitored by a flame sensing device.
2. By email dated February 23, 2017 and letter dated March 7, 2017, Buckeye submitted to DEQ a Malfunction Notification ("Notification") and subsequent Malfunction Report ("Report"). The Notification and Report informed DEQ that the VCU did not operate for

an approximate period of two hours. During that period, according to Buckeye, three trucks loaded 25,374 gallons of gasoline for a total loading time of 29 minutes. The accepted emission factor is 0.0051 pounds of VOCs emitted per gallon of gasoline loaded. Therefore, the excess uncontrolled VOC emissions generated during this time without the VCU operating are calculated to be 129 pounds of VOCs.

3. Condition 5 of the Permit requires that Buckeye operate a vapor collection system to collect VOC vapors from gasoline and denatured ethanol load-outs at the truck loading rack and vent collected vapors to a VOC control device.
4. Condition 16 of the Permit requires that VOC emissions from the operation of petroleum product storage tanks and loading operations not exceed the specified limits (i.e. 6.8 pounds per hour for truck loading).
5. 9 VAC 5-170-160(A) provides that the Board may impose conditions upon permits and other approvals which may be necessary to carry out the policy of the Virginia Air Pollution Control Law.
6. Va. Code § 10.1-1322(A) states that pursuant to the regulations adopted by the Board, permits may be enforced under the provisions of this chapter and failure to comply with any condition of a permit shall be considered a violation of this chapter.
7. On March 27, 2017, based on the evaluation and follow-up information, the Department issued Notice of Violation No. ATRO000615 to Buckeye for the violations described in paragraphs C(2) through C(6), above.
8. On March 31, 2017, Buckeye responded to the NOV. Buckeye indicated that it disabled the truck loading rack during non-business hours until the malfunction on the pilot flame was corrected.
9. Based on the results of the email dated February 23, 2017 and letter dated March 7, 2017 submitted by Buckeye, the Board concludes that Buckeye has violated Permit conditions 5 and 16, Va. Code § 10.1-1322(A), and 9VAC5-170-160(A), as described in paragraphs C(2) through C(6), above.
10. Buckeye has submitted documentation that verifies that the violations described in paragraphs C(2) and C(6), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Buckeye Partners, LP, and Buckeye Partners, LP agrees to pay a civil charge of \$9,537.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Buckeye shall include its Federal Employer Identification Number (FEIN) 23-3045458 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Buckeye shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Buckeye for good cause shown by Buckeye, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. ATRO000615 dated March 27, 2017. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Buckeye admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Buckeye consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Buckeye declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Buckeye to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the

Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Buckeye shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Buckeye shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Buckeye shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

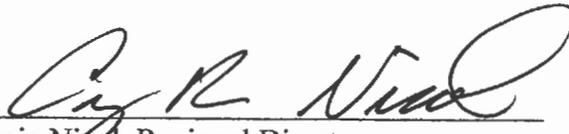
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Buckeye. Nevertheless, Buckeye agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Buckeye has completed all of the requirements of the Order;
 - b. Buckeye petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or

- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Buckeye.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Buckeye from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Buckeye and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Buckeye certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Buckeye to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Buckeye.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Buckeye voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 10 day of May, 2017.

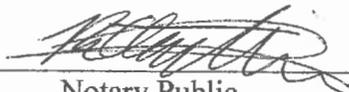

Craig Nicol, Regional Director
Department of Environmental Quality

Buckeye Partners, LP voluntarily agrees to the issuance of this Order.

Date: 5/8/17 By: Michael Litton Younce, Partner
(Person)
Buckeye Partners, LP

Commonwealth of Virginia
City/County of Fairfax

The foregoing document was signed and acknowledged before me this 8th day of May, 2017, by Michael Litton Younce, Partner, on behalf of Buckeye Partners, LP, a partnership.


Notary Public
7600579
Registration No.

My commission expires: 03/31/2018

Notary seal:

