



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  
and  
PROPOSED CIVIL PENALTY**

**EXPRESS OVERNIGHT MAIL**

November 28, 2011

J.R. Bluntzer, Sr.  
Vice President of Operations  
NuStar Terminals Operations Partnership, L.P.  
2330 N. LOOP 1604 West  
San Antonio, TX 78248

**CPF 1-2011-5011**

Dear Mr. Bluntzer,

Between April 19 and April 23, 2010, representatives from the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected NuStar Terminals Operations Partnership L.P.'s (NuStar) ST Linden Terminal in Linden, New Jersey.

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. § 195.404 Maps and records.**
  - (b) Each operator shall maintain for at least 3 years daily operating records that indicate-**
    - (1) The discharge pressure at each pump station; and**

NuStar failed to maintain daily operating records from 2008 through 2010 that indicated the discharge pressure at each pump station during normal and abnormal operations at the Linden Terminal. A PHMSA representative reviewed NuStar's Pipeline Certificate form and identified missing or incomplete data. NuStar's Pipeline Certificate form is used to manually record the start time and intervals. NuStar failed to

record the discharge pressure at all the time intervals noted on the form on the Pipeline Certificate forms dated 8/8/08, 5/18/09, 12/26/09, and 12/27/09, and 3/30/10.

It is important to note that upon further review, a PHMSA representative discovered that the discharge pressure records were not only incomplete, but more importantly the chosen time interval for collecting pressure data during normal and abnormal operation, did not provide for an adequate record of discharge pressure.

**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.**

NuStar failed to maintain fifty-one (51) right-of-way (ROW) inspection records for at least 2 years. Pursuant to §195.412(a), each operator shall, at intervals not exceeding 3 weeks, but at least 26 times each calendar year, inspect the surface condition on or adjacent to each pipeline right-of-way. A PHMSA representative requested NuStar personnel to provide ROW records for the second quarter of the calendar year 2008 through the second quarter of calendar year 2010. NuStar could only produce a single ROW record for an inspection that took place on 11/10/2009.

**3. §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.**

NuStar failed to maintain inspection records for seventeen (17) mainline valves located at the Linden Terminal for at least 2 years. Pursuant to §195.420(b), an 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. NuStar personnel provided a list (*below*) of mainline valves; however, no records of inspections conducted on those valves were available for calendar years 2008 and 2009.

Line Segment	Valve Name
LIN-STA-10	1. MBV20 2. MBV30 3. MBV40
Buckeye Transfer	4. MBVM10 5. LTV20 6. MBVM20 7. LTV10
Marine to Inland #1	8. MBV10 9. MBV30
Marine to Inland #2	10. MBV10 11. MBV20 12. MBV30
Marine to Inland #3	13. MBV10 14. MBV20 15. MBV30
Marine to Inland #4	16. MBV20 17. MBV30

**4. §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.**

NuStar failed to maintain records of inspections and tests performed on firefighting equipment at the Linden Terminal for at least 2 years. 49 CFR Part 195.430(a) requires operators to ensure firefighting equipment is in proper operating condition at all times. During the inspection, NuStar personnel stated that a field storage tank located in the firehouse at the Linden Terminal was used for fighting fires. NuStar personnel could not produce any records that verified the field storage tank at Linden Terminal was in proper operating condition to fight fires.

**5. §195.573 What must I do to monitor external corrosion control?**

**(a) Protected pipelines. You must do the following to determine whether cathodic protection required by this subpart complies with 195.571:**

**(1) Conduct tests on the protected pipeline at least once each calendar year, but with intervals not exceeding 15 months. However, if tests at those intervals are impractical for separately protected short sections of bare or ineffectively coated pipelines, testing may be done at least once every 3 calendar years, but with intervals not exceeding 39 months.**

NuStar failed to conduct tests on cathodically protected pipeline at the required interval. At the time of the inspection, NuStar provided corrosion control records that showed it conducted a cathodic protection (CP) survey on its protected pipelines on 1/10/2008 and the next CP survey was conducted on 9/11/2009. While NuStar completed the tests once each calendar year, the time frame between 1/10/2008 and 9/11/2009 exceeded the maximum of 15 months interval as prescribed in §195.573(a)(1). Additionally, NuStar personnel confirmed that the corrosion control records documented the dates the CP surveys were conducted. Therefore, the records verified that the pipeline system at Linden Terminal had in fact been tested at an interval exceeding 15 months.

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 and has recommended that you be preliminarily assessed a civil penalty of \$85,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$10,700
2	\$24,100
3	\$24,100
5	\$26,700

Warning Item

With respect to item 4, 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 NuStar 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 send your correspondence to Byron Coy, Director, PHMSA Eastern Region, 820 Bear Tavern Road, **Suite 103**, West Trenton, NJ 08628 and please refer to **CPF 1-2011-5011**. For each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

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

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*