



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 DELIVERY

September 10, 2015

Mr. John Roller
VP, Terminal Operations
NuStar Terminals Operations Partnership LP
19003 IH-10 West
San Antonio, TX 78257

CPF 1-2015-5015

Dear Mr. Roller:

On August 26 - 28, 2014, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code inspected NuStar Terminals Operations Partnership L.P. (NuStar) pipeline facility in Linden, New Jersey.

As a result of the inspection, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation is:

1. **§ 195.432(b) Inspection of in-service breakout tanks.**

(b) Each operator must inspect the physical integrity of in-service atmospheric and low-pressure steel above-ground breakout tanks according to API Std. 653 (except section 6.4.3, Alternative Internal Inspection Interval) (incorporated by reference, see §195.3). However, if structural conditions prevent access to the tank bottom, its integrity may be assessed according to a plan included in the operations and maintenance manual under §195.402(c)(3). The risk-based

internal inspection procedures in API Std. 653, section 6.4.3 cannot be used to determine the internal inspection interval.

NuStar failed to inspect the physical integrity of in-service atmospheric steel aboveground breakout tanks according to API Standard 653, incorporated by reference in §195.3(b)(19).

API Standard 653 “Tank Inspection, Repair, Alteration and Reconstruction” (3rd Edition) - Section 12.5, Measured Settlement During Hydrostatic Testing, paragraph 12.5.1.1 states, “Where settlement is anticipated, a tank receiving a hydrostatic test shall have the foundation checked for settlement.”

During the inspection, the PHMSA inspector reviewed Storage Tank Hydrostatic Test Records for breakout tank 32002, dated 2/19/2013, and for breakout tank 21408, dated 1/28/2014.

The records indicated that:

1. *“Tank 32002 had significant repairs after Internal Inspection. The outer 15 [feet] of floor plate was replaced, sand removed and replaced with grout . . .”*
2. *“Tank 21408 had extensive repairs completed to it after Superstorm Sandy. The Tank was air lifted, old bottom and concrete spacer was removed and pile cap rebuilt. Tank was lower back on to pile cap . . .”*

The records did not provide any information related to the requirements of API Standard 653 Section 12.5, such as:

1. Was an analysis performed indicating whether tank settlement was anticipated?
2. Were tank settlement measurements taken with the tank empty prior to conducting the hydrostatic test?
3. Were tank settlement measurements taken during hydrostatic testing?

The PHMSA inspector asked NuStar if there was any additional documentation related to tank settlement for the two tanks referenced above. NuStar’s Senior Manager (Environmental) stated that the only documentation NuStar had on the breakout tanks dating back to the 1/28/14 hydrotest of breakout tank 21408 and the 2/19/13 hydrotest of breakout tank 32002 were the Storage Tank Hydrotest Record documents that it had already provided.

In subsequent discussions, PHMSA asked if shell elevation measurements were conducted during the hydrostatic tests. NuStar stated *“Due to this hydrotest not being driven by new construction, the shell elevation measurements are not required (per API 653).”* Based on the extent and nature of the associated tank bottom repairs, NuStar should have anticipated the potential for settlement from hydrostatic testing and performed settlement measurements, but did not. Thus, NuStar failed to evaluate whether settlement was anticipated.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a 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 \$54,700 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$54,700

Proposed Compliance Order

With respect to item 1 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to NuStar Terminals Operations Partnership L.P. 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. All material you submit in response to this enforcement action may be 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 1-2015-5015** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Byron Coy, P.E.
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 NuStar a Compliance Order incorporating the following remedial requirements to ensure the compliance of NuStar with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to inspecting the physical integrity of in-service atmospheric steel above-ground breakout tanks, NuStar must develop procedures for assessing tank settlement. The proposed procedures should include examples of what the revised procedure must address, such as those noted below:
 - a. What criteria are used to determine if a settlement survey is required?
 - b. Who is responsible for determining if a settlement survey is required?
 - c. What documentation is required if the analysis indicates that a settlement survey is not required?
 - d. How is a settlement survey conducted, evaluated and documented?
2. NuStar must establish the procedures required in Item 1 above within 90 days after receipt of the Final Order, and then submit those procedures to PHMSA for review, possible revision and eventual approval by PHMSA.
3. NuStar must then apply those approved procedures to complete any related tank work necessary for Tank 21408 and Tank 32002, within 270 days after PHMSA approves the procedures as described in Item 2 above.
4. It is requested (not mandated) that NuStar maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, Director, Eastern 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.