



U.S. Department  
of Transportation  
Pipeline and Hazardous Materials  
Safety Administration

1200 New Jersey Ave., SE  
Washington, DC 20590

**SEP 13 2010**

Mr. Todd Denton  
Vice President, Operations  
NuStar Pipeline Operating Partnership, LP  
P.O. Box 781609  
San Antonio, TX 78278

**Re: CPF No. 3-2008-5013**

Dear Mr. Denton:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and determines that NuStar Pipeline Operating Partnership, LP, has completed the actions specified in the Notice to comply with the pipeline safety regulations. Therefore, this case is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. David Barrett, Director, Central Region, PHMSA

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0039 0669]**

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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<b>In the Matter of</b> )	
)	
<b>NuStar Pipeline Operating</b> )	<b>CPF No. 3-2008-5013</b>
<b>Partnership, LP,</b> )	
)	
<b>Respondent.</b> )	
_____ )	

**FINAL ORDER**

On August 4-8 and 18-21, 2008, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of NuStar Pipeline Operating Partnership, LP (NuStar or Respondent), in Missouri, Nebraska and Iowa. NuStar operates over 2,260 miles of anhydrous ammonia pipeline in seven states.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated December 12, 2008, a Notice of Probable Violation and Proposed Compliance Order (Notice).<sup>1</sup> In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that NuStar had violated 49 C.F.R. § 195.401(b), and proposed ordering Respondent to take certain measures to correct the alleged violation. The Notice also proposed finding that Respondent had committed certain other probable violations of 49 C.F.R. Part 195 and warning Respondent to take appropriate corrective action or be subject to future enforcement action.

NuStar responded to the Notice by letter dated January 9, 2009 (Response). The company did not contest the allegation of violation but provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

**FINDING OF VIOLATION**

In its Response, NuStar did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

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<sup>1</sup> The Notice was erroneously addressed to "NuStar Pipeline Operating Partnership, LLC," instead of the correct entity, "NuStar Pipeline Operating Partnership, LP." The latter responded to the Notice and is the proper party to which this Final Order is issued.

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 195.401(b), which states:

**§ 195.401 General requirements.**

(a) . . . .

(b) Whenever an operator discovers any condition that could adversely affect the safe operation of its pipeline system, it shall correct it within a reasonable time. However, if the condition is of such a nature that it presents an immediate hazard to persons or property, the operator may not operate the affected part of the system until it has corrected the unsafe condition.

The Notice alleged that Respondent violated 49 C.F.R. § 195.401(b) by failing to correct an unsafe condition within a reasonable time. During inspections in 2004 and 2007, PHMSA identified a section of an exposed pipeline span that was being placed under stress by a concrete cap. The Notice alleged that the concrete cap was resting on the pipeline due to erosion. Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.401(b) by failing to correct an unsafe condition that could adversely affect the operation of its pipeline system.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

**COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 1 in the Notice for a violation of 49 C.F.R. § 195.401(b). Under 49 U.S.C. § 60118(a), each person who engages in the transportation of hazardous liquids or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

With respect to the violation of § 195.401(b) (**Item 1**), Respondent remediated the unsafe condition. Respondent removed the concrete cap that was resting on the pipeline and then inspected the line and found that no repairs were necessary. Respondent recoated the exposed portion of the pipeline and placed markers at either end of the exposure. Respondent also provided PHMSA with photographs of these safety improvement, as well as documentation of the associated costs.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

**WARNING ITEMS**

With respect to Items 2 and 3, the Notice alleged probable violations of Part 195 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 195.583(a) (**Item 2**) — Respondent's alleged failure to inspect portions of onshore pipeline exposed to the atmosphere for evidence of atmospheric corrosion within the required 39-month maximum allowable inspection interval. Specifically, the Notice alleged that eight inspections of Respondent's pipeline in Missouri exceeded the 39-month maximum allowable inspection interval by two months; and

49 C.F.R. § 195.589(c) (**Item 3**) — Respondent's alleged failure to maintain records of required inspections. Specifically, the Notice alleged that NuStar did not maintain records of internal inspections of spools of pipe when they were removed from the pipeline.

NuStar presented information in its Response showing that it had taken certain actions to address the cited items. Accordingly, having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 195.583(a) (Notice Item 2) and 49 C.F.R. § 195.589(c) (Notice Item 3) have occurred, and Respondent is hereby advised to correct such conditions. In the event that OPS finds a violation of these provisions in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.



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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

SEP 13 2010

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Date Issued