



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

901 Locust Street, Suite 480  
Kansas City, MO 64106

## **WARNING LETTER**

**VIA ELECTRONIC MAIL TO:** [Brad.Barron@nustarenergy.com](mailto:Brad.Barron@nustarenergy.com) and  
[gary.koegeboehn@nustarenergy.com](mailto:gary.koegeboehn@nustarenergy.com)

November 22, 2021

Mr. Brad Barron  
President and Chief Executive Officer  
NuStar Pipeline Operating Partnership, L.P.  
19003 IH-10 West  
San Antonio, Texas 78257  
RE: NuStar Logistics, L.P.

**CPF 3-2021-092-WL**

Dear Mr. Barron:

From February 24, 2020, through December 9, 2020, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS) Central Region, pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected procedures, facilities, and records relevant to the NuStar\_Southwest\_Proucts system of NuStar Logistics, L.P. (NuStar) in Texas, Oklahoma, New Mexico, and Colorado.

As a result of the inspection, it is alleged that NuStar has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item(s) inspected and the probable violation(s) are:

**1. § 195.264 Impoundment, protection against entry, normal/emergency venting or pressure/vacuum relief for aboveground breakout tanks.**

**(a) . . .**

**(b) After October 2, 2000, compliance with paragraph (a) of this section requires the following for the aboveground breakout tanks specified:**

**(1) For tanks built to API Spec 12F, API Std 620, and others (such as API Std 650 (or its predecessor Standard 12C)), the installation of impoundment must be in accordance with the following section of NFPA-30 (2012 edition)(incorporated by reference per §195.3);**

**(i) Impoundment around a breakout tank must be installed in accordance with section 22.11.2.**

NuStar failed to satisfy the requirements of NFPA-30, Section 22.11.2 as required by § 195.264(b)(1)(i). During the inspection, PHMSA observed that the impoundment area for Tanks 300M1 and 300M2 at Nustar’s Ringgold, Oklahoma facility failed to have an intermediate dike, be subdivided, or have a drainage channel. Section 22.11.2 of NFPA-30 (incorporated by reference), requires that each diked area containing two or more tanks shall be subdivided, preferably by drainage channels or at least by intermediate dikes, to prevent minor spills from a tank from endangering adjacent tanks within the diked area. NuStar therefore failed to comply with the regulatory requirements.

After PHMSA discovered the deficiency, NuStar corrected the issues by installing an intermediate dike to incorporate an impoundment subdivision, which was completed on October 1, 2020.

**2. § 195.307 Pressure testing aboveground breakout tanks.**

**(a) . . .**

**(d) For aboveground atmospheric pressure breakout tanks constructed of carbon and low alloy steel, welded or riveted, and non-refrigerated tanks built to API Std 650 or its predecessor Standard 12 C that are returned to service after October 2, 2000, the necessity for the hydrostatic testing of repair, alteration, and reconstruction is covered in section 12.3 of API Standard 653 (incorporated by reference, see §195.3).**

NuStar’s Tank 80M-3 located in El Paso, Texas underwent major repairs and was returned to service without hydrotesting or meeting all the requirements of Section 12.3.2 of API 653, titled, “When Hydrostatic Testing is Not Required”. Specifically, Tank 80M-3 was returned to service without a hydrotest exemption study by an engineer prior to being placed into service. Section 12.3.2.2 of API 653 requires that a and b below must be satisfied:

“a). The repair has been reviewed and approved by an engineer experienced in storage tank design in accordance with API Std 650. The

engineer must concur in writing with taking the hydrostatic testing exemption.

b). The tank owner/operator has authorized the exemption in writing.”

NuStar therefore failed to comply with the regulatory requirements.

In late 2016 and early 2017, Tank 80M-3 underwent major repairs. The repairs included a new 1/4-inch lap welded A-36 single bottom with a 36-inch wide 3/8-inch butt welded annular ring, a new 48-inch bottom sump, and the re-installation of a shell door sheet. The tank was filled with product on January 11, 2017. Powers Engineering and Inspection performed a post repair inspection for El Paso Tank 80M-3 on March 28, 2017.

**3. § 195.404 Maps and records.**

(a) . . .

**(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.**

*§ 195.432 Inspection of in-service breakout tanks.*

(a) . . .

*(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 satisfy the requirements of API 653, Section 13.2, as required by § 195.432(b). Specifically, NuStar failed to provide records that indicated what repairs or alterations were completed for Wason Facility Tank 100, El Paso Facility Tank 80M3, Clawson Facility Tank 55M1, and Grapevine Facility Tank 20M3, performed in 2013, 2016, 2016, and 2017, respectively. NuStar did not begin documenting repair and alteration recommendations and suggestions stemming from API 653 inspection reports until 2019. NuStar therefore failed to comply with the regulatory requirement in 2013, 2016, and 2017.

4. **§ 195.432 Inspection of in-service breakout tanks.**

(a) . . .

(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 satisfy the requirements of API 653, Section 6.3.2, as required by § 195.432(b). Section 6.3.2 of API 653 requires that an external inspection must be conducted at least every 5 years. During the inspection, PHMSA reviewed records provided by NuStar for Tank 100 at the Wasson, Oklahoma facility. An external API 653 tank inspection was performed by Rosen on February 5, 2020. The previous external API 653 tank inspection was performed on March 5, 2013, which extended beyond the 5-year inspection interval. NuStar therefore failed to comply with the regulatory requirements.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

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 correct the item(s) identified in this letter. Failure to do so will result in NuStar Logistics, L.P. being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 3-2021-092-WL**. 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).

Sincerely,

Gregory A. Ochs  
Director, Central Region, OPS  
Pipeline and Hazardous Materials Safety Administration

cc: Gary Koegeboehn, VP of Pipeline Operations, [gary.koegeboehn@nustarenergy.com](mailto:gary.koegeboehn@nustarenergy.com)