



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

8701 S. Gessner, Suite 630
Houston, TX 77074

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

February 4, 2020

Brad Barron
President and Chief Executive Officer
NuStar Energy L.P.
19003 IH-10 Frontage Road
San Antonio, Texas 78257

CPF 4-2020-5005

Dear Mr. Barron:

From August 9, 2019 through December 17, 2019, 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 (U.S.C.) reviewed an Integrity Management (IM) notification submitted on July 19, 2019, by NuStar Pipeline Operating Partnership L.P. (NuStar).

As a result of the review, it is alleged that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. § 195.452 Pipeline integrity management in high consequence areas.

(j) What is a continual process of evaluation and assessment to maintain a pipeline's integrity?

(1) General. After completing the baseline integrity assessment, an operator must continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area.

NuStar failed to continue to assess the line pipe at specified intervals and periodically evaluate the integrity of each pipeline segment that could affect a high consequence area after completing the baseline integrity assessment. NuStar is required to continue to assess its pipelines and periodically evaluate the integrity of its lines at intervals no longer than 5 years (68 months), as specified in § 195.452(j)(3). NuStar failed to assess its 4-inch Hermann anhydrous ammonia pipeline located in Hermann, Missouri within the required 5-year (not to exceed 68 months) interval.

On August 23, 2019, PHMSA confirmed that the last successful completed assessment (MFL) was performed on November 19, 2013, which would require NuStar to complete its next assessment no later than November 18, 2018. NuStar has not completed the required assessment.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to 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. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved for the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$10,300 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$10,300

Proposed Compliance Order

With respect to item number 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to NuStar. 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 Enforcement 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. 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. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2020-5005** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Mary I. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

cc: Gary Koegeboehn, Vice President Operations, NuStar Pipeline Operating Partnership, L.P.,
19003 IH-10 West, San Antonio, Texas 78257

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to NuStar Pipeline Operating Partnership L.P (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 NuStar's failure to conduct a continual assessment of its 4-inch Hermann anhydrous ammonia pipeline located in Hermann Missouri, NuStar must conduct an assessment of the 4-inch line within 90-days of the issuance of a Final Order. NuStar must submit evidence of the completion of the assessment to PHMSA for verification
2. 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 Mary McDaniel, Director, Southwest 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.