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

1200 New Jersey Avenue, SE
Washington, DC 20590

September 26, 2025

VIA ELECTRONIC MAIL TO: karl.fails@sunoco.com

Karl Fails, EVP-COO
NuStar Pipeline Operating Partnership, L.P.
8111 Winchester Drive
Dallas, TX 75225

Re: CPF No. 3-2024-008-NOPV

Dear Mr. Fails:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one of the allegations of violation, makes other findings of violation, assesses a reduced civil penalty of $72,400, and specifies actions that need to be taken by NuStar Pipeline Operating Partnership, L.P. to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 CFR § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

LINDA GAIL DAUGHERTY
Digitally signed by LINDA GAIL DAUGHERTY
Date: 2025.09.24 18:34:32 -04'00'

Linda Daugherty
Acting Associate Administrator
for Pipeline Safety

Enclosure

cc: David Barrett, Acting Director, Central Region, Office of Pipeline Safety, PHMSA
Gary Koegeboehn, Vice President – Pipeline Operations, NuStar Pipeline Operating Partnership, L.P., gary.koegeboehn@sunoco.com
Rich Pepper, Senior Director HES and Counsel, NuStar Pipeline Operating Partnership, L.P., richard.pepper@sunoco.com

Kellie Seiter, Manager, Pipeline Safety, NuStar Pipeline Operating Partnership, L.P., kellie.seiter@sunoco.com

CONFIRMATION OF RECEIPT REQUESTED

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

In the Matter of	)	
	)	
NuStar Pipeline Operating Partnership, L.P., a subsidiary of Sunoco LP,	)	**CPF No. 3-2024-008-NOPV**
	)	
Respondent.	)	

FINAL ORDER

From February 28, 2022, through June 15, 2023, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), investigated a reportable accident on NuStar Pipeline Operating Partnership, L.P.'s (NuStar or Respondent) 10-inch anhydrous ammonia pipeline system in Union County, Arkansas. On February 27, 2022, NuStar's 249-mile, 10-inch anhydrous ammonia pipeline system ruptured due to circumferential stress corrosion cracking (SCC) and released 2,278 barrels of anhydrous ammonia, polluting a nearby waterway. NuStar operates about 10,000 miles of pipeline and 64 terminal and storage facilities that store and distribute crude oil, refined products, renewable fuels, ammonia, and specialty liquids in the United States, Canada, and Mexico.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated October 25, 2024, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 CFR § 190.207, the Notice proposed finding that NuStar had committed three violations of 49 CFR Part 195 and proposed assessing a civil penalty of $161,800 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

NuStar responded to the Notice by letter dated November 22, 2024 (Response). After Central Region and NuStar held informal consultation, NuStar submitted a supplemental response (Supplemental Response) on February 21, 2025. Respondent contested one of the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 CFR Part 195, as follows:

Item 1: The Notice alleged that Respondent violated 49 CFR § 195.52(a)(3), which states:

> **§ 195.52 Immediate notice of certain accidents.**
> (a) *Notice requirements.* At the earliest practicable moment following discovery, of a release of the hazardous liquid or carbon dioxide transported resulting in an event described in § 195.50, but no later than one hour after confirmed discovery, the operator of the system must give notice, in accordance with paragraph (b) of this section of any failure that:
> (1) . . . .
> (3) Caused estimated property damage, including cost of cleanup and recovery, value of lost product, and damage to the property of the operator or others, or both, exceeding $50,000;

The Notice alleged that Respondent violated 49 CFR § 195.52(a)(3) by failing to give notice at the earliest practicable moment following discovery, of a release of the hazardous liquid transported resulting in an event described in 49 CFR § 195.50, but no later than one hour after confirmed discovery of any failure that caused estimated property damage exceeding $50,000. Specifically, the Notice alleged that NuStar failed to report the February 27, 2022 anhydrous ammonia pipeline accident within one hour of confirmed discovery.

Respondent did not contest Item 1. Accordingly, I find that Respondent violated 49 CFR § 195.52(a)(3).

Item 2: The Notice alleged that Respondent violated 49 CFR § 195.52(c), which states:

> **§ 195.52 Immediate notice of certain accidents.**
> (a) . . . .
> (c) Calculation. A pipeline operator must have a written procedure to calculate and provide a reasonable initial estimate of the amount of released product.

The Notice alleged that Respondent violated 49 CFR § 195.52(c) by failing to have a written procedure to calculate and provide a reasonable initial estimate of the amount of released product. Specifically, the Notice alleged that NuStar's procedure failed to include a calculation method that did not require visual confirmation of the leak or physical measurement of product released.

Respondent did not contest Item 2. Accordingly, I find that Respondent violated 49 CFR § 195.52(c).

Item 3: The Notice alleged that Respondent violated 49 CFR § 195.452(h)(4)(iv), which states:

> **§ 195.452 Pipeline integrity management in high consequence areas.**
> (a) . . . .
> (h) *What actions must an operator take to address integrity issues?* —
> (1) . . . .
> (4) *Special requirements for scheduling remediation* —
> (i) . . . .
> (iv) *Other conditions.* In addition to the conditions listed in paragraphs (h)(4)(i) through (iii) of this section, an operator must evaluate any condition identified by an integrity assessment or information analysis that could impair the integrity of the pipeline, and as appropriate, schedule the condition for remediation. Appendix C of this part contains guidance concerning other conditions that an operator should evaluate.

The Notice alleged that Respondent violated 49 CFR § 195.452(h)(4)(iv) by failing to evaluate any condition identified by an integrity assessment or information analysis that could impair the integrity of the pipeline, and as appropriate, schedule the condition for remediation. Specifically, the Notice alleged that NuStar failed to evaluate and remediate an anomaly with 30% external metal loss (2020 condition) identified by inline inspection on March 11, 2020, that was at or near rupture location of the February 27, 2022 anhydrous ammonia pipeline accident.

NuStar contested Item 3 in its Response, arguing it evaluated the 2020 condition and determined it was not an immediate repair condition, 60-day condition, or 180-day condition per 49 CFR § 195.452(h)(4)(i)-(iii). NuStar also provided a comprehensive summary of its investigation into the 2020 condition, including procedural improvements to detect and remediate similar defects.

In particular, NuStar determined that the 2020 condition was not an immediate repair condition because the metal loss was less than 80%, 49 CFR § 195.452(h)(4)(i)(A), and the predicted burst pressure (2,239.5 pounds per square inch gauge (psig)) was greater than the maximum operating pressure (MOP) (1,340 psig), 49 CFR § 195.452(h)(4)(i)(B). In addition, NuStar determined that the 2020 condition was not a 180-day condition because the safe calculated operating pressure (1,612.5 psig) was greater than MOP (1,340 psig), 49 CFR § 195.452(h)(4)(iii)(D), and it was not general corrosion and had less than 50% predicted wall loss, 49 CFR § 195.452(h)(4)(iii)(E) and (F).

The 2020 condition was not identified as a dent, potential crack indication, corrosion of or along a longitudinal seam weld, a gouge or groove greater than 12.5% of nominal wall thickness, and not identified as requiring immediate action, therefore 49 CFR § 195.452(h)(4)(i)(C), (D), (E), 195.452(h)(4)(ii)(A), (B), 195.452(h)(4)(iii)(A), (B), (C), (G), (H), and (I) were not applicable.

In addition to immediate repair, 60-day, and 180-day conditions, section 195.452(h)(4)(iv) requires operators to evaluate "other conditions" from an integrity assessment "that could impair the integrity of the pipeline, and as appropriate," to schedule the condition for remediation. Therefore, a plain language reading indicates that section 195.452(h)(4)(iv) is only applicable if a condition "could impair the integrity of the pipeline."

I find that the evidentiary record failed to establish how the 2020 condition "could impair the integrity of the pipeline." The Notice and Pipeline Safety Violation Report implied that the 2022 accident was prima facie evidence that the 2020 condition "could impair the integrity of the pipeline" because the failure occurred at or near the 2020 condition. I find that unpersuasive.

Section 195.452(h)(4) prescribes a schedule to evaluate and remediate certain conditions to prevent pipeline failures; therefore, a pipeline failure itself cannot be a predicate that triggers evaluation and remediation under this section.[1] To sustain this allegation, the evidentiary record must contain information demonstrating that the 2020 condition "could impair the integrity of the pipeline," beyond noting that an accident occurred near the 2020 condition. The 2020 condition was one of 237 anomalies with 30% metal loss or greater identified on March 11, 2020. However, there is no evidence in the record to suggest that NuStar knew or should have known before the accident that the 2020 condition was unique from the other 236 anomalies such that it "could impair the integrity of the pipeline." As noted in its Response, NuStar evaluated the 2020 condition against applicable criteria in section 195.452(h)(4)(i)-(iii) and found it was not an immediate repair condition, 60-day condition, or 180-day condition, and the Notice did not allege that the 2020 condition falls within one of the categories of conditions in 49 CFR Part 195 Appendix C, as referenced in section 195.452(h)(4)(iv).

In addition, even if the record contained evidence to suggest that the 2020 condition "could impair the integrity of the pipeline," there is no evidence in the record that demonstrates NuStar acted unreasonably in failing to schedule the 2020 condition for remediation, or that the 2020 condition should have been remediated prior to the accident.

In sum, because the evidentiary record failed to identify any information available to NuStar before the accident indicating that the 2020 condition was unique from the other 236 anomalies with 30% metal loss or greater such that it "could impair the integrity of the pipeline," I find that NuStar did not violate 49 CFR § 195.452(h)(4)(iv).

Based upon the foregoing, I hereby order that Item 3 be withdrawn.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

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[1] *See* ExxonMobil Pipeline Co. v. United States Dep't of Transportation, 867 F.3d 564, 577–78 (5th Cir. 2017) ("The fact that the Mayflower release occurred, while regrettable, does not necessarily mean that ExxonMobil failed to abide by the pipeline integrity regulations in considering the appropriate risk factors. If it did, then an operator that experiences a seam-related pipeline leak on its pipeline system could never escape liability under pipeline integrity regulations, thus nullifying the regulations and creating a strict-liability regime that Congress has not authorized. *See generally* 49 U.S.C. § 60101 *et seq*. The unfortunate fact of the matter is that, despite adherence to safety guidelines and regulations, oil spills still do occur.").

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty exceeding $200,000 per violation for each day of the violation, with a maximum administrative civil penalty exceeding $2,000,000 for any related series of violations.[2]

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 CFR § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require.

The Notice proposed a total civil penalty of $161,800 for the violations cited above. Effective May 20, 2025, PHMSA revised its proposed civil penalty calculation policy to use the version of the Civil Penalty Worksheet in effect when the alleged violation occurred. The new policy reduces the total proposed civil penalty in this case to $150,200.

Item 1: The Notice proposed a civil penalty of $68,800 for Respondent's violation of 49 CFR § 195.52(a)(3), for failing to give notice at the earliest practicable moment following discovery, of a release of the hazardous liquid transported resulting in an event described in 49 CFR § 195.50, but no later than one hour after confirmed discovery of any failure that caused estimated property damage exceeding $50,000. The new policy for calculating a proposed civil penalty reduces the proposed civil penalty for this item to $63,900. NuStar argued that the penalty should be reduced for two reasons. First, NuStar argued its existing procedures warranted an adjustment in culpability. Second, NuStar argued it should receive a good faith credit because it shut down the pipeline out of an abundance of caution, and not because it "confirmed discovery" of a reportable accident.

With respect to culpability, the Pipeline Safety Violation Report indicated that NuStar "failed to comply with an applicable requirement." Operators may receive a reduced civil penalty under culpability if the operator finds the non-compliance and begins addressing the cause of the non-compliance before PHMSA learns of the violation. NuStar did not suggest it found the non-compliance before PHMSA. I therefore find no reason to adjust the culpability.

With respect to good faith, the Pipeline Safety Violation Report indicated that NuStar "did not have a reasonable justification for its non-compliance." Operators may receive a reduced civil penalty due to good faith if the operator had a reasonable justification for its non-compliance. For instance, a good faith credit may be warranted if the operator's interpretation of the requirement was reasonable, or the operator failed to achieve compliance for reasons such as unforeseeable events/conditions that were partly or wholly outside its control. NuStar did not

[2] These amounts are adjusted annually for inflation. *See* 49 CFR § 190.223 for adjusted amounts.

argue that its non-compliance was due to unforeseeable events/conditions that were partly or wholly outside its control. Instead, NuStar argued a good faith credit is warranted because it did not confirm discovery of a reportable accident with the initial leak alarm at 3:50 a.m. and that "it was unclear to NuStar that an event described in [49 CFR] § 195.52(a) had occurred when the SCADA system first detected pressure and flow deviations." NuStar misinterpreted the allegations in the Notice. The Notice alleged that "NuStar confirmed discovery [at] 4:53 a.m.," based on a preliminary evaluation of information available to the operator at that time, such as the leak alarm, steady pressure loss, valve closures, emergency response activation, and the average cost of past accidents. I therefore find a good faith credit is not warranted.

In a recommendation for final action submitted pursuant to 49 CFR § 190.209(b)(7), the Director recommended reducing the penalty, with respect to gravity, to reflect that pipeline safety was minimally affected by the violation. Based upon the foregoing, I assess Respondent a reduced civil penalty of $36,200 for violation of 49 CFR § 195.52(a)(3).

Item 2: The Notice proposed a civil penalty of $68,800 for Respondent's violation of 49 CFR § 195.52(c), for failing to have a written procedure to calculate and provide a reasonable initial estimate of the amount of released product. The new policy for calculating a proposed civil penalty reduces the proposed civil penalty for this item to $63,900. NuStar argued it should receive a good faith credit because its procedure provided effective guidance on estimating potential release quantities but acknowledged that the "initial reported release volume was inaccurate."

With respect to good faith, the Pipeline Safety Violation Report indicated that NuStar "did not have a reasonable justification for its non-compliance." Operators may receive a reduced civil penalty due to good faith if the operator had a reasonable justification for its non-compliance. For instance, a good faith credit may be warranted if the operator's interpretation of the requirement was reasonable, or the operator failed to achieve compliance for reasons such as unforeseeable events/conditions that were partly or wholly outside its control. NuStar did not argue that its non-compliance was due to unforeseeable events/conditions that were partly or wholly outside its control. Instead, NuStar argued a good faith credit is warranted because it was "uncertain" if a release had occurred and therefore "delayed completing the associated calculations." NuStar's argument, however, ignored the main allegation in Item 2 that NuStar failed to have a written procedure to calculate and provide a reasonable initial estimate of the amount of released product. Because NuStar did not provide a reasonable justification for its deficient procedure I find a good faith credit is not warranted.

In a recommendation for final action submitted pursuant to 49 CFR § 190.209(b)(7), the Director recommended reducing the penalty, with respect to gravity, to reflect that pipeline safety was minimally affected by the violation. Based upon the foregoing, I assess Respondent a reduced civil penalty of $36,200 for violation of 49 CFR § 195.52(c).

Item 3: The Notice proposed a civil penalty of $24,200 for Respondent's alleged violation of 49 CFR § 195.452(h)(4)(iv). Since this alleged violation has been withdrawn, the proposed penalty is not assessed.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a reduced total civil penalty of **$72,400**.

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. Federal regulations (49 CFR § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 CFR § 901.9 and 49 CFR § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 in the Notice for violations of 49 CFR §§ 195.52(a)(3) and 195.52(c), respectively. 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. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 CFR § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of 49 CFR § 195.52(a)(3) (**Item 1**), Respondent must, within **60 days** of receipt of the Final Order, submit to the Director, Central Region, a revised *Procedure 207 Pipeline Safety Accident Reporting* that includes clear guidance on the estimation of total property damage indicated by a release of materials that may be reportable. The revised procedure shall:

    a. Include a definition of confirmed discovery that does not depend on visual estimation;

    b. Include definitions for emergency situations and significant events, such as a rupture detected by SCADA, and provide appropriate criteria and time frames for evaluating each situation to determine if it is immediately reportable; and

    c. Include a method considering each relevant factor for property damage included in PHMSA F 7000-1 Part D.8.

2. With respect to the violation of 49 CFR § 195.52(c) (**Item 2**), Respondent must,

within **60 days** of receipt of the Final Order, submit to the Director, Central Region, a revised *Procedure 209 Initial Estimate of Product Released from a Pipeline Facility* to provide for a reasonable calculation of the volume of a release. The revised procedure shall:

a. Include a method of calculation for all hazardous commodities transported by NuStar that addresses how to initially estimate a leak, rupture or rapid discharge of product indicated by SCADA or a leak detection system; and

b. Prescribe a volume to be reported for purposes of the PHMSA regulations that is in gallons or barrels.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties exceeding $200,000, as adjusted for inflation (*see* 49 CFR § 190.223 for adjusted amounts), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 CFR § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 CFR § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon service in accordance with 49 CFR § 190.5.

LINDA GAIL DAUGHERTY Digitally signed by LINDA GAIL DAUGHERTY Date: 2025.09.24 18:36:38 -04'00'

September 26, 2025

Linda Daugherty
Acting Associate Administrator
for Pipeline Safety

Date Issued