

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

EDWARD MOTOR CO INC.  
dba STAR STOP

LIS 16 - 040  
AFIN: 26-00365

NOTICE OF VIOLATION

TO: MR. ED TALLACH  
EDWARD MOTOR COMPANY, INC.  
306 AIRPORT ROAD  
HOT SPRINGS, AR 71913

NOTICE is hereby given that the Director of the Arkansas Department of Environmental Quality (hereinafter "ADEQ or Department") has determined that there are reasonable grounds to believe that Edward Motor Company, Inc., dba Star Stop, (hereinafter "Respondent"), has committed the following violations of the Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC") Regulation 12: Storage Tanks. (All Code of Federal Regulations [hereinafter "C.F.R.,"] references contained herein are incorporated by reference in APC&EC Reg.12.104.) This Notice of Violation (hereinafter "NOV") is issued pursuant to the authority of Ark. Code Ann. § 8-7-801 *et seq.* and in accordance with the requirements of APC&EC Regulation 7 and APC&EC Regulation 8.

PROPOSED FINDINGS OF FACT

1. Respondent owns two (2) underground storage tanks (hereinafter "USTs") located at Star Stop, 2355 E. Grand Ave, Hot Springs, Garland County, Arkansas (hereinafter "the site").

2. On September 8, 2015, a Department inspector received a telephone complaint. The complainant stated that there was a tank closure taking place at the site by an individual who was unlicensed by the Department to close UST systems.

3. The Department inspector drove to the site. Upon arrival, the inspector confirmed a tank closure was in progress and there was a strong odor of gasoline at the site, but no evidence of spilled liquid in the area of the excavation.

4. After leaving the site, the inspector met with Mr. Edward Tallach, owner/operator of the facility. Mr. Tallach informed the inspector that he had hired a Mr. James E. Burkes to conduct the UST closure at the site.

5. The Department inspector received a phone call from Mr. Burkes, stating that he did not perform the closure for Mr. Tallach. The inspector was informed by Mr. Burkes that Mr. Harris Gates had been hired to close the tanks.

6. A review of Department records indicates that neither Mr. Burkes nor Mr. Gates is licensed by the Department to close UST systems in the state of Arkansas. It is a violation of APC&EC Regulation 12.504(A)(1) for a person to close a UST unless the person is, or employs, an individual licensed by the Department to perform such work.

7. A review of Department records revealed the Respondent did not provide a thirty (30) day notice of closure for the UST. It is a violation of 40 C.F.R. § 280.71, as incorporated by APC&EC Reg. 12.104(A)(1), for owners/operators to fail to provide a thirty (30) day notice of closure to the Department of their intent to permanently close a UST.

8. Further review of Department records revealed written correspondence between Respondent and the Department occurred during August, 2013. The correspondence revealed Respondent was informed by a Department inspector that statutory and regulatory procedures

require a contractor licensed by the Department to close the UST system, and the Department must receive a thirty (30) day notice of closure.

**PROPOSED CIVIL PENALTY ASSESSMENT**

1. For the violation hereinabove described in paragraph six of the proposed findings of fact, a civil penalty in the amount of Fifteen Thousand Four Hundred Dollars and Zero Cents (\$15,400.00) is proposed to be assessed against Respondent.
2. For the violation described in paragraph seven of the proposed findings of fact, a civil penalty in the amount of Four Hundred Fifty Dollars and Zero Cents (\$450.00) is proposed to be assessed against Respondent.
3. For all the violations hereinabove described, Respondent shall pay a civil penalty in the total amount of Fifteen Thousand Eight Hundred Fifty Dollars (\$15,850.00) as provided by Ark. Code Ann. § 8-7-806 and Chapter Nine of APC&EC Regulation 12.
4. Payment of the proposed civil penalty shall be due within the timeframe specified in the final order, shall be made payable to the Arkansas Department of Environmental Quality, and mailed to the attention of the Fiscal Division, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.2.

**PROPOSED CORRECTIVE ACTION**

1. Respondent will comply with APC&EC Reg. 12.504(1) wherein he will hire a contractor licensed by the Department to perform proper closure sampling and submit a closure excavation assessment in accordance with 40 C.F.R. § 280.72. Respondent will also provide notice of scheduled closure sampling to ADEQ prior to the sampling being performed. The closure


assessment must be provided to ADEQ within 30 days of the effective date of the final order in this matter.

2. This NOV does not purport in any way to relieve Respondent of its responsibilities for obtaining any necessary permits; nor does it exonerate any past, present, or future conduct except as expressly addressed herein.

3. Nothing in this NOV shall be construed as a waiver by ADEQ of its authority to recover from any responsible party costs incurred for undertaking corrective action in connection with the sites described herein, nor of its authority over violations not specifically addressed herein.

**THEREFORE, TAKE NOTICE THAT:**

If Respondent wishes to dispute the allegations or the proposed civil penalty assessment or corrective action, Respondent must file a written request for a hearing with the Secretary of the Arkansas Pollution Control and Ecology Commission, 101 E. Capitol, Suite 205, Little Rock, Arkansas 72201, **within twenty (20) calendar days** of the receipt of this NOV or the allegations herein will be deemed proven. Upon timely filing a written response that is compliant with APC&EC Regulation 8, Respondent will be entitled to an adjudicatory hearing upon the allegations and other matters stated in the Notice of Violation. If no timely request for a hearing is filed with the Secretary of the APC&EC, the Director may issue an Administrative Order affirming the allegations as Findings of Fact, assessing the civil penalty, and ordering the corrective action as stated herein.

  
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**BECKY W. KEOGH, DIRECTOR**  
**ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY**

5-09-2014  
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**DATE**