



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

Office of the  
Secretary

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**SECRETARY'S ORDER TO CEASE AND DESIST**

Pursuant to 7 *Del. C.* § 6018

**Order No. 2022-WH-0026**

*Via Personal Service*<sup>1</sup>:

**Facility Owner/Operator**

Delaware Auto Salvage, Inc.  
469 Old Airport Road  
New Castle, Delaware  
Attn: Ron Bennett

*Via Certified Mail:*

**Property Operator**

415 Old Airport, LLC  
4 Star Point, Suite 204  
Stamford, CT 06902

*Via Personal Service*<sup>1</sup>:

**Facility Owner/Operator**  
**Registered Agent**

Joseph W. Benson, P.A.  
1701 North Market Street  
Wilmington, Delaware 19802

*Via Personal Service*<sup>1</sup>:

**Property Operator Registered Agent**

Corporation Service Company  
215 Little Falls Drive  
Wilmington, DE 19808

This is to notify Delaware Auto Salvage, Inc., facility operator and/or owner, and 415 Old Airport, LLC., property owner, collectively referred to as "Respondents" that the Secretary of the Delaware Department of Natural Resources and Environmental Control ("Department") has found Respondents in violation of 7 *Del. C.* Chapter 60 and 7 *Del. Admin. C.* §1301, Delaware's *Regulations Governing Solid Waste* ("DRGSW"). Accordingly, the Department is issuing this Secretary's Order to Cease and Desist, pursuant to 7 *Del. C.* §6018.

<sup>1</sup> All service made in person was effected by a DNREC Environmental Crimes Unit Officer.

## BACKGROUND

1. The Secretary of the Department is responsible for the protection of the public health and safety, and the health of organisms and the environment from the effects of the improper, inadequate, or unsound management of solid wastes, by establishing a program of regulation over the storage, transportation, handling, and disposal of solid wastes, and to assure the safe and adequate management of solid wastes within the State of Delaware, pursuant to the authority set forth in 7 *Del. C.* Chapter 60.
2. On December 8, 2022, the Department received a complaint that a truck hauling a roll-off container was observed dumping trash onto the ground at the property located at 469 Old Airport Road, New Castle, Delaware.
3. On December 15, 2022, the Department conducted a compliance inspection to assess the operation on the 469 Old Airport Road, New Castle, Delaware property and to determine if Respondents were in compliance with 7 *Del. C.* Chapter 60 and DRGSW.

## APPLICABLE REGULATORY CITATIONS

1. Section 3 of DRGSW, specifically the definition of “Solid Waste” states in part:  
*“Solid Waste” means any garbage, refuse, rubbish, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities,...*
2. Section 3 of DRGSW, specifically the definition of “Solid Waste Management” or “Management”:  
*...means the systematic administration of the activities which provide for the collection, source separation, storage, transportation, processing, treatment, or disposal of solid waste.*
3. Section 3 of DRGSW, specifically the definition of “Transfer Station”:  
*...means any facility where quantities of solid waste delivered by vehicle are consolidated or aggregated for subsequent transfer by vehicle for processing, recycling, or disposal.*

4. Section 3 of DRGSW, specifically the definition of “Transportation”:  
*... means the movement of solid waste by air, rail, water, over the roadway, or on the ground.*
  
5. Section 3 of DRGSW, specifically the definition of “Vehicle”:  
*... means a motorized means of transporting something. “Vehicle” includes both the motorized unit and all containerized units of a conveyance attached thereto.*

### **FINDINGS**

Upon the Department’s information and belief, the Department has concluded Respondents are in violation of 7 Del. C. Chapter 60 and DRGSW, including, but not limited to:

**1. Section 6003(a)(4) of Title 7:**

*(a) No person shall, without first having obtained a permit from the Secretary, undertake any activity:...*

*(4) In a way which may cause or contribute to the collection, transportation, storage, processing, or disposal of solid wastes, regardless of the geographic origin or source of such solid wastes...*

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**DRGSW Section 4.1.1.1**

*No person shall engage in the construction, operation, material alteration, or closure of a solid waste facility, unless exempted from these regulations under subsection 2.3, without first having obtained a permit from the Department.*

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**DRGSW Section 4.5.1**

*Any person desiring to construct or operate a transfer station must submit a letter of intent to the Department. For proposed facilities, the letter shall narrate the projected design and usage of the facility; provide a tentative schedule for construction and startup, and summarize the applicant’s experience and training with transfer station operations. For existing facilities, the letter shall state the reason for the application submittal and include a narration about design, usage, and schedule only if new construction is proposed. After submitting the Letter of Intent, the applicant shall submit the following:*

*4.5.1.1 A Solid Waste Management Facility Application, provided by the Department...*

During the December 15, 2022, compliance inspection, Department representatives observed a pile of solid waste on the ground at Respondent's 469 Old Airport Road, New Castle, Delaware facility. A facility representative stated that various commercial, roofing, and construction and demolition solid wastes were brought to the property with the intent that it would be sent off-site for disposal in the future. Receiving a solid waste for the purpose of consolidating or aggregating the waste for subsequent disposal elsewhere, meets the definition of a solid waste transfer station. At all times relevant hereto, neither Delaware Auto Salvage, Inc. nor 415 Old Airport, LLC was permitted to operate a transfer station at 469 Old Airport Road, New Castle, Delaware. Failing to submit a letter of intent to operate a transfer station is a violation of DRGSW Section 4.5.1. Failing to submit the required permit application to construct a solid waste transfer station is a violation of DRGSW Section 4.5.1.1. Commencing operation of a transfer station without first having obtained the required permit are violations of 7 Del. C. §6003(a)(4) and DRGSW Section 4.1.1.1.

**ORDER**

IT IS HEREBY ORDERED, based on the foregoing findings and pursuant to the authority vested in the Secretary by 7 Del. C. §6018, that Respondents:

1. Cease and desist receiving, consolidating, or aggregating solid wastes until compliance is achieved at the location of 469 Old Airport Road, New Castle, Delaware;
2. Remove and properly dispose of all existing solid wastes that have been consolidated and aggregated at the location of 469 Old Airport Road, New Castle, Delaware; and

3. Provide the Department copies of weigh tickets, bills of lading, or other Department-approved documentation demonstrating proper disposal of the consolidated and aggregated solid wastes.

The Department reserves the right to take additional enforcement actions regarding these or other violations at the site, including but not limited to one or more of the following: an action under 7 *Del. C.* § 6005(b)(1), seeking penalties for past violations; an action under 7 *Del. C.* § 6005(b)(2), seeking penalties for continuing violations; an action in the Court of Chancery pursuant to 7 *Del. C.* §6005(b)(2), seeking a temporary restraining order or an injunction; and the imposition of civil penalties and recovery of the Department's costs and attorney's fees pursuant to 7 *Del. C.* §§6005(b)(3) and (c)(1).

If you have any questions, please contact Devera B. Scott, Deputy Attorney General, at (302) 395-2648.

Date: 12/16/22

  
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Shawn M. Garvin, Secretary

cc: Devera B. Scott, Deputy Attorney General