



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

RICHARDSON & ROBBINS BUILDING
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

OFFICE OF THE
SECRETARY

PHONE
(302) 739-9000

**NOTICE OF ADMINISTRATIVE PENALTY ASSESSMENT
AND SECRETARY'S ORDER**

Pursuant to 7 Del. C. §§ 6005(b)(2) and (b)(3)

Order No. 2026-WH-0013

Issued To:

**Facility Operator
Via Certified Mail, Return Receipt**

Donovan Salvage Works, Inc.
20262 Donovans Road
Georgetown, DE 19947
Attn: Michael Herbert

**Property Owner
Via Certified Mail, Return Receipt**

Herbert Holdings, LLC
P.O. Box 30
Georgetown, DE 19947
Attn: Michael Herbert, President

**Facility Operator Registered Agent
Via Certified Mail, Return Receipt**

Michael Herbert
P.O. Box 30
20262 Donovans Road
Georgetown, DE 19947

**Property Owner Registered Agent
Via Personal Service**

Harvard Business Services, Inc.
16192 Coastal Highway
Lewes, DE 19958

Dear Mr. Herbert:

This is to notify Donovan Salvage Works, Inc. ("Respondent" or "Donovan"), located at 20262 Donovans Road, Georgetown, Delaware 19947, that the Secretary of the Delaware Department of Natural Resources

and Environmental Control ("Department") has found Respondent in violation of 7 *Del. C.* Chapters 60 and 63; 7 DE Admin. Code § 1102, Permits; 7 DE Admin. Code § 1301, Delaware's "Regulations Governing Solid Waste" ("DRGSW"); 7 DE Admin. Code § 1302, Delaware's "Regulations Governing Hazardous Waste" ("DRGHW"); 7 DE Admin. Code § 7201, Delaware's "Regulations Governing the Control of Water Pollution" ("DRGCWP"); Scrap Tire Facility Permit DE-ST-000128-01; and Air Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT). Accordingly, the Department is issuing this Notice of Administrative Penalty Assessment and Secretary's Order ("Secretary's Order"), pursuant to 7 *Del. C.* § 6005.

BACKGROUND

Respondent operates a salvage yard at the above-referenced location in Georgetown, Delaware ("Site" or "Facility"). The tax parcel is owned by Herbert Holdings, LLC. The Facility contains an aluminum sweat furnace (the "Smelter") used to separate aluminum from other materials, as well as equipment used to remove vehicle fluids prior to salvaging, and used to process scrap metal. Certain operations occur within a pole building located at the Facility. The operations at the Facility are subject to environmental laws and regulations governing the management of solid waste, hazardous waste, air emissions, and stormwater management. As such, the Facility is also subject to compliance inspections.

On April 13, 2022, Department representatives conducted a multi-media compliance inspection¹ at the Facility and identified forty-five (45) violations of environmental laws and regulations. These violations were addressed via Notice of Violation 22-HW-14, Secretary's Order 2022-WH-0004, and Secretary's Order 2022-WH-0021. Secretary's Order 2022-WH-0021 included the assessment of a \$1,700,000 penalty for the identified violations.

On February 5, 2025, the Department and Donovan entered into a Conciliation Order by Consent, Secretary's Order 2025-WH-0009 ("Conciliation Order"). The Conciliation Order became effective on March 1, 2025, and included a total administrative penalty in the amount of \$1,000,000. The administrative penalty was to be paid as follows:

- \$125,000 by March 1, 2026.
- \$62,500 by March 1, 2027.
- \$62,500 by March 1, 2028.
- \$750,000 deferred penalty. The deferred penalty is to be paid by March 1, 2029. Alternatively, the Conciliation Order allowed the deferred penalty payment to be satisfied by completing the requirements in paragraphs 1 through 25 of the Conciliation Order, provided that "Donovan must not have accrued any additional material violations of law."

¹ A multi-media inspection is an inspection that evaluates compliance with multiple environmental programs, such as air, water, and waste regulations.

The Department negotiated this Conciliation Order in good faith, with the clear intent that Donovan would resolve its environmental compliance issues and not incur additional violations that have the potential to further harm human health and the environment. However, since the effective date of the Conciliation Order, the Department has determined that Donovan has incurred multiple additional material violations of law, which are the subject of this Order and detailed in the subsequent paragraphs.

On April 9, 2025, Department representatives conducted a multi-media compliance inspection of the Facility and identified twenty-eight (28) material violations of law. As a result of those findings, the Department issued Notice of Violation (NOV) 25-HW-03 on June 9, 2025.

On May 27, 2025, Department representatives conducted a partial compliance inspection related only to air permitting requirements and identified another five (5) material violations of law.

On February 26, 2026, Department representatives conducted another multi-media compliance inspection of the Facility and identified two (2) more material violations of law.

On March 12, 2026, the Department's counsel notified Donovan through its counsel that Department representatives had observed violations during the compliance inspection on February 26, 2026. Additionally, Donovan's counsel was reminded that Donovan is required to submit the following documents to demonstrate compliance with industrial stormwater provisions of DRGCWP in accordance with the Conciliation Order: (1) quarterly routine inspection reports; (2) comprehensive site evaluation

reports; (3) quarterly visual monitoring results; and (4) semi-annual analytical monitoring results.

On March 6, 2026, and April 6, 2026, Donovan submitted weekly routine inspection records, quarterly visual monitoring records and comprehensive site evaluation records for calendar years 2025 and 2026. In reviewing these records, the Department has concluded that Respondent's monitoring activities were not conducted in accordance with the DRGCWP, resulting in three (3) additional material violations of law.

FINDINGS OF FACT AND VIOLATION INCLUDING STATUTORY, REGULATORY AND PERMIT REQUIREMENTS

April 9, 2025, Compliance Inspection

1. DRGHW Section 279.22(c)(1) states:

“(c) Labels.

(1) Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words ‘Used Oil’.”

On April 9, 2025, Department representatives observed the following tanks or containers of used oil that were not labeled with the words “Used Oil”:

- a. An approximately 1,000-gallon aboveground storage tank containing used oil in the Smelter Staging Area. Despite Respondent previously demonstrating this tank was properly labeled in response to NOV 22-HW-14, Secretary's Order 2022-WH-0004, and

Secretary's Order 2022-WH-0021, the tank was no longer labeled on April 9, 2025.

- b. An approximately 750-gallon aboveground storage tank of used oil in the concrete containment area associated with the crushing pad. The tank was being used to collect skimmed used oil from the oil skimming device installed in the containment area. Despite Respondent previously demonstrating this tank was properly labeled in response to NOV 22-HW-14, Secretary's Order 2022-WH-0004, and Secretary's Order 2022-WH-0021, the tank was no longer labeled.
- c. A 65-gallon plastic drum containing used oil in the pole building in front of the smelter.
- d. Two (2) approximately 1,000-gallon aboveground storage tanks of used oil on a concrete pad behind the pole building to the east of the smelter building.
- e. Two (2) tanks that had been cut in half horizontally to collect used oil while draining vehicle fluids in the pole building to the east of the smelter building. The use of "half-tanks" had been addressed in prior NOVs and enforcement actions in 2016, 2018, and 2022, with Donovan assuring DNREC that "half-tanks" would no longer be used, instead only double-walled tanks would be used for storage of used oil. Despite repeated assurances by Respondent in 2016, 2018, and 2022 that "half-tanks" would not be used, they were once again observed in use on April 9, 2025.

- f. Two approximately 750-gallon aboveground storage tanks of used oil inside the pole building to the east of the smelter building. Despite installing two (2) tanks behind this building to store vehicle fluids, Respondent stated that the pumps associated with these tanks were not working. As such, Respondent placed two (2) approximately 750-gallon tanks inside the pole building to store used oil. Neither tank was labeled.

Failure to label a tank or container of used oil with the words "Used Oil" is a violation of DRGHW Section 279.22(c)(1).

On June 2, 2025, and July 8, 2025, Respondent submitted photographs demonstrating these tanks and containers were either properly labeled or no longer in use, correcting this violation to the Department's satisfaction.

2. DRGHW Section 279.22(b)(3) states:

"(b) Condition of units. Containers and aboveground tanks used to store used oil at generator facilities must be:

...

(3) Closed during storage, except when it is necessary to add or remove oil."

On April 9, 2025, Department representatives observed the following open tanks and/or containers of used oil while used oil was not being added or removed:

- a. An approximately 1,000-gallon aboveground storage tank containing used oil in the Smelter Staging Area.

- b. A 65-gallon plastic drum containing used oil in the pole building in front of the smelter.
- c. Two (2) tanks that had been cut in half horizontally to collect used oil while draining vehicle fluids in the pole building to the east of the smelter building. The use of "half-tanks" had been addressed in prior NOV's and enforcement actions in 2016, 2018, and 2022, with Donovan assuring DNREC that "half-tanks" would no longer be used, and instead only double-walled tanks would be used for storage of used oil. Despite repeated assurances by Respondent in 2016, 2018, and 2022 that "half-tanks" would not be used, they were observed in use on April 9, 2025.
- d. An approximately 750-gallon aboveground storage tank of used oil inside the pole building to the east of the smelter building. Department representatives observed a pump inside one of the "half-tanks" referenced in Paragraph c with a hose leading from the pump to the open 750-gallon used oil tank. The pump was not actively in use during the inspection.

Failure to keep a tank or container of used oil closed unless adding or removing used oil violates DRGHW Section 279.22(b)(3).

On June 2, 2025, and July 8, 2025, Respondent submitted photographs demonstrating these tanks and containers were either properly closed or no longer in use, correcting this violation to the Department's satisfaction.

3. DRGHW Section 273.9 defines "Lamp" as:

"'Lamp' also referred to as 'universal waste lamp' is defined as the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps."

DRGHW Sections 273.13(d)(1) and (2) state:

"(d) Lamps. A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

(1) A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

(2) A small quantity handler of universal waste must immediately clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or other

hazardous constituents to the environment under reasonably foreseeable conditions.”

On April 9, 2025, Department representatives observed a metal lighting fixture containing a high-mercury fluorescent lamp on the crushing pad. The lamp was crushed, creating the potential for the release of mercury to the environment.

Respondent is a small quantity handler of universal waste.² Pursuant to DRGHW Section 273.13(d)(1), a small quantity handler of universal waste must accumulate waste in a structurally sound container that is adequate to prevent breakage. Additionally, DRGHW Section 273.13(d)(2) requires Respondent to immediately clean up and contain any broken lamps in a manner designed to prevent releases of mercury to the environment. Respondent failed to accumulate the broken lamp in an appropriate container and failed to immediately clean up and contain the broken lamp as required by Sections 273.13(d)(1) and 273.13(d)(2).

Failing to properly place universal waste lamps in containers and clean up any releases from broken lamps violates DRGHW Sections 273.13(d)(1) and (2).

On June 2, 2025, Respondent submitted a written procedure addressing the management of universal waste lamps, correcting the violation to the Department's satisfaction.

² A small quantity handler of universal waste is a universal waste handler that does not accumulate more than 5,000 kilograms of universal waste at any time. (DRGHW Section 273.9, 2021).

4. DRGHW Section 273.9 defines "Universal Waste" and "Destination Facility" as:

"'Universal Waste' means any of the following hazardous wastes that are subject to the universal waste requirements of this Part 273:

...
(4) Lamps as described in §273.5"

"'Destination facility' means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in §273.13(a) and (c) and §273.33(a) and (c). A facility at which a particular category of universal waste is only accumulated, is not a destination facility for purposes of managing that category of universal waste."

DRGHW Section 122.2 defines "Disposal" as:

"'Disposal' means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on any land or water so that such hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater."

DRGHW Section 273.11(a) states in pertinent part:

"A small quantity handler of universal waste is:
(a) Prohibited from disposing of universal waste. . ."

DRGHW Section 273.60(a) states:

"Section 273.60 Applicability.
(a) The owner or operator of a destination facility (as defined in §273.9) is subject to all applicable requirements

of Parts 264, 265, 266, 268, 122, and 124 of these regulations, and the notification requirements under section 6307 of 7 Del.C., Chapter 63.”

DRGHW Section 122.1(c) states:

“(c) Scope of the hazardous waste permit requirement. DNREC requires a permit for the ‘treatment’, ‘storage’, and ‘disposal’ of any ‘hazardous waste’ as identified or listed in Part 261. The terms ‘treatment’, ‘storage’, ‘disposal’, and ‘hazardous waste’ are defined in Section 122.2. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to Section 265.115) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under Section 122.1(c)(5) and (6), or obtain an enforceable document in lieu of a post-closure permit, as required under (c)(7) of this section. If a post-closure permit is required, the permit must address applicable Part 264 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements of these regulations. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.”

7 Del. C. § 6307(b) states:

“Beginning 180 days after the effective date of regulations adopted for this purpose, no person shall construct, substantially alter, own or operate any hazardous waste treatment, storage or disposal facility or site, nor shall any person store, treat or dispose of any hazardous waste

without first obtaining a permit from the Secretary for such facility, site or activity, except that generators may accumulate hazardous wastes on site without a permit for such periods and upon such conditions as the Secretary may by regulation prescribe.”

On April 9, 2025, Department representatives observed the broken universal waste fluorescent lamps identified above. Universal waste is a subset of hazardous waste. Because Respondent failed to properly contain and clean up the broken lamps and instead left the lamp debris exposed on the concrete pad through rain events, Respondent discarded and disposed of hazardous waste on site. The disposal of universal waste by a small quantity handler of universal waste is prohibited by DRGHW Section 273.11. By disposing of universal waste, Respondent meets the definition of a destination facility in DRGHW Section 273.9. Requirements for destination facilities are found in DRGHW Part 273, Subpart E – Standards for Destination Facilities. Specifically, DRGHW Section 273.60(a) indicates that destination facilities are subject to all hazardous waste facility requirements, including the requirement to obtain a permit. Respondent has not obtained a hazardous waste facility permit.

Failure to obtain a hazardous waste facility permit violates DRGHW Section 122.1(c) or 7 *Del. C. § 6307(b)*.

Respondent was cited for this violation in NOV 22-HW-14, Secretary's Order 2022-WH-0004, and Secretary's Order 2022-WH-0021 related to broken mercury lamps observed in the rear of the property in the Railcar Deconstruction Area. In response to NOV 22-HW-14, Secretary's Order

2022-WH-0004, and Secretary's Order 2022-WH-0021, Respondent stated that it would no longer accept fluorescent lamps at the Facility. Despite that statement, Respondent was still accepting fluorescent lamps at the Facility on April 9, 2025. Paragraph 20 of the Conciliation Order requires Donovan to investigate the potential release of mercury in the Railcar Deconstruction Area. Given that Respondent continued to accept lamps and manage them improperly, causing broken lamps to be stored on the crushing pad, the area of the crushing pad also must be investigated for a release of mercury.

On June 2, 2025, Respondent submitted a written procedure addressing the management of universal waste lamps and acknowledged that the crushing pad area must also now be investigated for potential mercury releases, correcting the violation to the Department's satisfaction.

5. DRGHW Section 279.22(a) states:

"(a) Storage units. Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under Parts 264 or 265 of these regulations."

DRGHW Section 261.4(b)(13) states:

"Section 261.4 Exclusions.

...

(b) Solid wastes which are not hazardous wastes. The following solid wastes are not hazardous waste:

...

(13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D of this part if these oil filters have been gravity hot-drained using one of the following methods:

- (i) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
- (ii) Hot-draining and crushing;
- (iii) Dismantling and hot-draining; or
- (iv) Any other equivalent hot-draining method that will remove used oil."

On April 9, 2025, Department representatives observed several used oil filters on the crushing pad. The used oil filters had not been drained in accordance with DRGHW Section 261.4(b)(13). Several of the filters had visible used oil draining out of the filter onto the crushing pad. Used oil filters that have not been properly drained in accordance with DRGHW Section 261.4(b)(13) are required to be managed as used oil and must comply with Part 279 used oil standards. Donovan failed to put the used oil filters in an appropriate container and manage the used oil filters as used oil.

Failure to place used oil filters in an appropriate container violates DRGHW Section 279.22(a).

On June 2, 2025, Respondent submitted a written procedure addressing the management of used oil filters, correcting this violation to the Department's satisfaction.

6. DRGHW Section 273.13(e)(1) states:

"(e) Aerosol cans. A small quantity handler of universal waste must manage universal waste aerosol cans in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- (1) Universal waste aerosol cans must be accumulated in a container that is structurally sound, compatible with the contents of the aerosol cans, lacks evidence

of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions, and is protected from sources of heat.”

On April 9, 2025, Department representatives observed several aerosol cans on the crushing pad. A Donovan representative stated that the Facility does not accept aerosol cans and asserted that the aerosol cans were likely delivered and accepted while he was escorting Department representatives during the compliance inspection. According to the representative, he was unable to inspect incoming loads during that period because he was escorting Department staff throughout the Facility. However, based on the location of the aerosol cans in the pile on the crushing pad, it did not appear that they had been delivered that day. Rather than being located at the front of the pile with or near the material being dropped off that day, the aerosol cans were located further back in the pile, indicating they had been delivered before Department representatives had arrived. By accepting aerosol cans, Donovan is a small quantity handler of universal waste and is subject to the requirements of DRGHW Part 273. Donovan failed to properly place universal waste aerosol cans in a container upon acceptance at the facility.

Failure to accumulate universal waste aerosol cans in a container violates DRGHW Section 273.13(e)(1).

On June 2, 2025, Respondent submitted a written procedure addressing the management of universal waste aerosol cans, correcting this violation to the Department's satisfaction.

7. DRGHW Section 279.22(b)(2) states:

“(b) Condition of units. Containers and aboveground tanks used to store used oil at generator facilities must be:

...
(2) Not leaking (no visible leaks);”

On April 9, 2025, Department representatives observed an oil skimming device in operation in the concrete containment area associated with the crushing pad:



The oil skimming device has a tube that removes used oil from the surface of the water. The used oil is drained from the oil skimming device through a pipe to an approximately 750-gallon aboveground storage tank located in the containment area. The tank was open and completely full of skimmed used oil. The skimmed used oil entered one open port in the tank and overflowed out of a port on the opposite end of the tank. The used oil was then drained back into the same concrete containment area associated with the crushing

pad, only to be skimmed again, and released again. This created a circular route for the oil to travel rather than a route to remove and contain it.

Failing to keep the collected used oil contained in the tank violates DRGHW Section 279.22(b)(2).

Because the oily water in the containment area has sufficient used oil to recover and recycle, the oily water mixture is itself considered used oil. It is acceptable to allow used oil to temporarily collect in the containment area while operations are occurring in the area; however, the collected used oil must be pumped into a tank or container that can fully comply with DRGHW Part 279.

Donovan was notified in the 2022 Secretary's Orders that, at a minimum, the used oily water must be pumped into an appropriate tank or container at the end of each work shift to avoid storing used oil in the containment area. By accumulating used oil in the containment area, as opposed to pumping it into an appropriate tank or container at the end of each day, the concrete containment area meets the definition of a tank. Donovan not only failed to pump the contents of the concrete containment area into an appropriate tank daily, but the tank that is being used to collect skimmed used oil overflows back onto the concrete containment area negating any efforts to remove used oil from the structure.

On June 2, 2025, Donovan submitted a written procedure addressing the management of used oil containers, including steps to be taken to ensure tanks do not overflow. The specific violation of DRGHW Section 279.22(b)(2) has been corrected; however, the management of oily water in

the concrete containment area is still unresolved. Through the Conciliation Order, Respondent was afforded one (1) year to submit a surface impoundment improvement plan to address the proper management of the concrete containment area. The management of the concrete containment area is further discussed in Paragraph 35 of this Order.

8. DRGHW Section 273.15(a) states:

“(a) A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless the requirements of paragraph (b) of this section are met.”

On April 9, 2025, Department representatives observed a flammable storage cabinet used to store universal waste aerosol cans in the maintenance building. At the time of the inspection, the storage cabinet was full of universal waste aerosol cans, was labeled “Universal Waste – Aerosol Cans,” and was marked with an accumulation start date of June 12, 2022. As such, at the time of the inspection, the universal waste aerosol cans had been stored on site for nearly three (3) years.

Storing universal waste for longer than one (1) year violates DRGHW Section 273.15(a).

On June 2, 2025, Respondent submitted a written procedure addressing the management of universal waste and shipping records demonstrating that the aerosol cans that had been stored for longer than one

(1) year had been shipped off-site for disposal on May 30, 2025, correcting the violation to the Department's satisfaction.

9. DRGHW Section 273.14(f) states:

"(f) Universal waste aerosol cans (i.e., each aerosol can), or a container in which the aerosol cans are contained, must be labeled or marked clearly with any of the following phrases: 'Universal Waste – Aerosol Can(s),' 'Waste Aerosol Can(s),' or 'Used Aerosol Can(s).'"

On April 9, 2025, Department representatives observed nineteen (19) boxes of universal waste aerosol cans in the maintenance building near the above-referenced flammable storage cabinet. Each box contained twelve (12) waste aerosol cans. None of the boxes were labeled.

Failure to label containers of universal waste aerosol cans with one of the required phrases violates DRGHW Section 273.14(f).

On June 2, 2025, Respondent submitted a written procedure addressing the management of universal waste aerosol cans, correcting this violation to the Department's satisfaction.

10. Solid Waste Facility Permit DE-ST-000128-01, Section II.A.4 states:

"At no time shall the volume of tires stored in the scrap tire management facility exceed 901 square feet by 10 feet high."

On April 9, 2025, Department representatives determined that Respondent had accumulated scrap tire shreds and whole scrap tires at the Facility in excess of 901 square feet by 10 feet high:



The area of the Facility used to store scrap tires, pictured above, contains concrete barriers with an area equal to 901 square feet. However, at the time of the inspection, the tire shreds filled the entire area within the concrete barriers and were more than ten (10) feet high. Additionally, scrap tire shreds and a large number of whole tires were also stored outside the concrete barrier. As such, the storage exceeded the permitted storage volume of 901 square feet by ten (10) feet high.

Failing to comply with the permitted storage volume violates Permit DE-ST-000128-01, Section II.A.4

On September 30, 2025, Department representatives visited the Site and confirmed scrap tire shreds had been removed from the Site and the scrap tire facility was operating within permitted limits, correcting this violation to the Department's satisfaction.

11. Solid Waste Facility Permit DE-ST-000128-01, Section II.C.2 states:

"No scrap tires shall be stored outside of the scrap tire facility unless enclosed by a building."

On April 9, 2025, Respondent had scrap tires stored in two (2) locations separate from the permitted scrap tire facility. These locations included areas along the inside perimeter of the security fence and outside of the security fence near the entrance gate.

Storing scrap tires outside of the permitted scrap tire facility violates Permit DE-ST-000128-01, Section II.C.2.

On March 4, 2026, Respondent submitted a statement indicating that scrap tires will only be stored in the permitted scrap tire facility, correcting this violation to the Department's satisfaction.

12. Solid Waste Facility Permit DE-ST-000128-01, Section I.E.12 states:

"All employees who are to work in the scrap tire facility shall have received initial training as described in the relevant sections of the Operations Manual, including training on the procedures to be followed in the event of an emergency."

After the compliance inspection on April 9, 2025, Respondent emailed Department representatives to indicate that two (2) employees received training on the proper use of the tire shredder; however, they did not receive training on the relevant sections of the Facility's operations manual.

Failing to provide training to employees on the Facility's operation manual violates Permit DE-ST-000128-01, Section I.E.12.

On March 4, 2026, Respondent submitted training records, correcting this violation to the Department's satisfaction.

13. Solid Waste Facility Permit DE-ST-000128-01, Section IV.A.6 states:

"The owner/operator shall record and maintain onsite all data required by this permit for a minimum of three (3) years and the records shall be immediately provided to the Department upon request, including:

...

6. Documentation of inspections required by Section II.E. of this permit."

Solid Waste Facility Permit DE-ST-000128-01, Section II.E states:

"E. Operational Inspections

1. The owner/operator shall conduct monthly inspections of the scrap tire facility, with a record of the inspections maintained for a minimum of three (3) years. Inspections must, at a minimum, evaluate the following:
 - a. Presence of litter or unauthorized waste materials. All litter and unauthorized waste materials must be removed and properly disposed;
 - b. Fire break is free of combustible materials or if grass, it is regularly mowed;
 - c. Emergency equipment identified in the Operations Manual is available, accessible and in working condition; and
 - d. Perimeter fencing remains secure and in good repair.

2. Any deficiencies identified during the inspections required by this section, shall be recorded and the deficiency corrected within twenty-four (24) hours, unless written approval is obtained from the Department to extend the corrective measure deadline."

After the compliance inspection on April 9, 2025, Respondent emailed Department representatives to indicate that while visual inspections of the scrap tire facility are conducted daily, records of the inspections are not maintained. As a result, the required monthly inspection records could not be provided.

Failing to retain records of required inspections violates Permit DE-ST-000128-01, Section IV.A.6.

On March 4, 2026, Respondent submitted the documentation that monthly inspection records are now being maintained, correcting this violation to the Department's satisfaction.

14. Solid Waste Facility Permit DE-ST-000128-01, Section III.C states:

"The owner/operator shall report any instance of noncompliance with this permit to the CAPS within seven (7) calendar days of its discovery. The owner/operator shall take immediate action to correct the noncompliance or notify the Department pursuant to Section V of this permit, of its intent to close the scrap tire facility."

On April 9, 2025, Respondent was operating in violation of several conditions of the issued permit. Specifically, Respondent was in violation of Sections II.A.4 and II.C.2 (Violations 10 and 11 in this Order). Respondent

had been in continued non-compliance for at least seven (7) days and did not report its non-compliance.

Failing to notify the Department of non-compliance violates Permit DE-ST-000128-01, Section III.C.

On March 4, 2026, Respondent submitted a statement indicating that noncompliance will be reported within seven (7) days, correcting this violation to the Department's satisfaction.

15. 40 C.F.R. § 63.1506(a)(5) states:

"At all times, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source."

On April 9, 2025, Department representatives observed visible smoke and flames billowing from the aluminum sweat furnace door:



The sweat furnace is designed to fully contain its process during operation. The release of any smoke except from the stack, let alone flames, demonstrates Respondent is not operating and maintaining the aluminum sweat furnace in a manner consistent with good air pollution control practices for minimizing emissions and violates 40 C.F.R. § 63.1506(a)(5).

On May 5, 2025, the Department conducted an inspection and confirmed that this violation was corrected to the Department's satisfaction.

16. 40 C.F.R. § 63.1510(g)(1) and (2) state:

"Afterburner. These requirements apply to the owner or operator of an affected source using an afterburner to comply with the requirements of this subpart.

(1) The owner or operator must install, calibrate, maintain, and operate a device to continuously monitor and record the operating temperature of the afterburner consistent with the requirements for continuous monitoring systems in subpart A of this part.

(2) The temperature monitoring device must meet each of these performance and equipment specifications:

(i) The temperature monitoring device must be installed at the exit of the combustion zone of each afterburner.

(ii) The monitoring system must record the temperature in 15-minute block averages and determine and record the average temperature for each 3-hour block period.

(iii) The recorder response range must include zero and 1.5 times the average temperature established according to the requirements in § 63.1512(m).

(iv) The reference method must be a National Institute of Standards and Technology calibrated reference thermocouple-potentiometer system or alternate reference, subject to approval by the Administrator."

Respondent submitted a report dated March 31, 2025, which was received by the Department on April 8, 2025. The report indicated that the afterburner on the aluminum sweat furnace was operated without a proper data logger from March 18, 2025, through March 28, 2025.

Operating the aluminum sweat furnace without a proper data logger violates 40 C.F.R. § 63.1510(g)(1) and (2).

The March 31, 2025, report submitted by Respondent indicates the data logger issue was resolved on March 28, 2025, correcting this violation to the Department's satisfaction.

17. Condition 2.2 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:

"No person shall cause or allow the emission of visible air contaminants and/or smoke from a stationary or mobile source, the shade or appearance of which is greater than twenty (20%) percent opacity for an aggregate of more than three (3) minutes in any one (1) hour, or more than fifteen (15) minutes in any twenty-four (24) hour period."

On April 9, 2025, Department representatives observed visible emissions (100% opacity) billowing from the front of the building housing the aluminum sweat furnace, exceeding the emission limit related to opacity violates Condition 2.2 of Permit APC-2009/0060-CONSTRUCTION /OPERATION (Amendment 4) (MACT).

On May 5, 2025, the Department conducted an inspection and confirmed that this violation was corrected to the Department's satisfaction.

18. Condition 3.1.5 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:

"The owner or operator shall install, operate, and maintain an afterburner on the sweat furnace. The afterburner shall be maintained such that the three (3)-hour block average operating temperature of the afterburner is at or above 1,600°F (872°C) and the residence time is 0.8 seconds or greater. Satisfying the requirements of this Condition shall be considered sufficient to demonstrate compliance with the Dioxins/Furans emission limits of Condition 2.1.6. Thus,

no initial or subsequent performance test for the D/F emission limits of Condition 2.1.6 shall be required.”

Respondent submitted a report dated March 31, 2025, which was received by the Department on April 8, 2025. The report indicated that the afterburner on the aluminum sweat furnace was operated without a proper data logger from March 18, 2025, through March 28, 2025.

Operating the aluminum sweat furnace without a proper data logger violates Condition 3.1.5 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

The March 31, 2025, report submitted by Respondent indicates the data logger issue was resolved on March 28, 2025, correcting this violation to the Department's satisfaction.

19. Condition 3.1.9 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:

“The afterburner shall be operated in accordance with the Operation, Maintenance, and Monitoring (OM&M) Plan.”

Respondent submitted a report dated March 31, 2025, which was received by the Department on April 8, 2025. The report indicated that the afterburner on the aluminum sweat furnace was operated without a proper data logger from March 18, 2025, through March 28, 2025.

Operating the aluminum sweat furnace without a proper data logger in accordance with the Operation, Maintenance, and Monitoring Plan violates

Condition 3.1.9 of Permit APC-2009/0060-CONSTRUCTION /OPERATION (Amendment 4) (MACT).

The March 31, 2025, report submitted by Respondent indicates the data logger issue was resolved on March 28, 2025, correcting this violation to the Department's satisfaction.

20. Condition 3.1.11 of Permit APC-2009/0060-CONSTRUCTION/ OPERATION (Amendment 4) (MACT), states:

"The owner or operator shall install, calibrate, maintain, and operate a device to continuously monitor and record the operating temperature of the afterburner consistent with the requirements for continuous monitoring systems (CMS) in 40 CFR Part 63, Subpart A."

Respondent submitted a report dated March 31, 2025, which was received by the Department on April 8, 2025. The report indicated that the afterburner on the aluminum sweat furnace was operated without a proper data logger from March 18, 2025, through March 28, 2025.

Operating the aluminum sweat furnace without a proper data logger violates Condition 3.1.11 of Permit APC-2009/0060-CONSTRUCTION/ OPERATION (Amendment 4) (MACT).

The March 31, 2025, report submitted by Respondent indicates the data logger issue was resolved on March 28, 2025, correcting this violation to the Department's satisfaction.

21. Condition 3.1.12 of Permit APC-2009/0060-CONSTRUCTION/ OPERATION (Amendment 4) (MACT), states:

"The temperature monitoring device shall meet each of these performance and equipment specifications:

3.1.12.1 The temperature monitoring device shall be installed at the exit of the combustion zone of the afterburner.

3.1.12.2 The monitoring system shall record the temperature in 15-minute block averages and determine and record the temperature for each 3-hour block period.

3.1.12.3 The recorder response range shall include zero and 1.5 times the minimum average operating temperature of 1,600°F (0°F to 2,400°F).

3.1.12.4 The reference method shall be a National Institute of Standards and Technology calibrated thermocouple-potentiometer system, or alternate reference, subject to approval by the EPA Administrator."

Respondent submitted a report dated March 31, 2025, which was received by the Department on April 8, 2025. The report indicated that the aluminum sweat furnace was operated without a proper data logger from March 18, 2025, through March 28, 2025.

Operating the aluminum sweat furnace without a proper data logger violates Condition 3.1.12 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

The March 31, 2025, report submitted by Respondent indicates the data logger issue was resolved on March 28, 2025, correcting this violation to the Department's satisfaction.

22. Condition 3.2 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:

“At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall operate and maintain the facility, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Department which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the SS&M Plan), review of operation and maintenance records, and inspection of the source.”

On April 9, 2025, Department representatives observed visible smoke and flames leaking from the aluminum sweat furnace door. Emissions are not properly controlled due to observed damage to the door seal.

Failing to properly control emissions in a manner consistent with safety and good air pollution control practices violates Condition 3.2 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

On May 5, 2025, the Department conducted an inspection and confirmed that this violation was corrected to the Department's satisfaction.

**23. Condition 3.3 of Permit APC-2009/0060-CONSTRUCTION/
OPERATION (Amendment 4) (MACT), states:**

"All structural and mechanical components of the equipment or process covered by this permit shall be maintained in proper operating condition."

On April 9, 2025, Department representatives observed visible smoke and flames leaking from the aluminum sweat furnace door. Emissions are not properly controlled due to observed damage to the door seal.

Failing to ensure all structural and mechanical components are maintained in proper operating condition violates Condition 3.3 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

On May 5, 2025, the Department conducted an inspection and confirmed that this violation was corrected to the Department's satisfaction.

**24. Condition 3.7 of Permit APC-2009/0060-CONSTRUCTION/
OPERATION (Amendment 4) (MACT), states:**

"The owner or operator shall inspect the unit each day to ensure that the unit is in proper operating condition prior to beginning operations. This inspection shall include the door seal. The owner or operator shall address any operational issues prior to startup."

On April 9, 2025, Department representatives observed visible smoke and flames leaking from the aluminum sweat furnace door. Emissions are not properly controlled due to observed damage to the door seal.

Failing to ensure the aluminum sweat furnace was in good operating condition prior to startup violates Condition 3.7 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

On May 5, 2025, the Department conducted an inspection and confirmed that this violation was corrected to the Department's satisfaction.

25. Condition 3.13 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:

"The owner or operator shall ensure that the operators follow the manufacturer's recommendations for the operation and maintenance of the smelter and ancillary equipment. In addition, when equipment is not operating properly, the operator shall safely shut down the smelter and ancillary equipment and shall not restart the smelter until corrective actions have been completed."

On April 9, 2025, Department representatives observed visible smoke and flames leaking from the aluminum sweat furnace door. Emissions are not properly controlled due to observed damage to the door seal.

Failing to follow manufacturer's recommendations for the operation and maintenance of the smelter violates Condition 3.13 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

On May 5, 2025, the Department conducted an inspection and confirmed that this violation was corrected to the Department's satisfaction.

26. Condition 4.4 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:

"The owner or operator shall monitor the door seal of the furnace for opacity when the unit is in operation. If the opacity exceeds permitted limits, corrective actions shall be taken to reduce visible emissions."

On April 9, 2025, Department representatives observed visible smoke and flames leaking from the aluminum sweat furnace door. Emissions are not properly controlled due to observed damage to the door seal.

Failing to monitor the door seal for opacity and take corrective actions when permitted limits are exceeded violates Condition 4.4 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

On May 5, 2025, the Department conducted an inspection and confirmed that this violation was corrected to the Department's satisfaction.

27. Condition 5.3 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:

"The owner or operator shall maintain records of fifteen (15)-minute block average afterburner operating temperature, including any period when the average temperature in any three (3)-hour block period falls below 1,600°F (872°C) with a brief explanation of the cause of the excursion and the corrective action taken."

Respondent submitted a report dated March 31, 2025, which was received by the Department on April 8, 2025. The report indicated that the afterburner on the aluminum sweat furnace was operated without a proper data logger from March 18, 2025, through March 28, 2025.

Operating the aluminum sweat furnace without a proper data logger violates Condition 5.3 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

The March 31, 2025, report submitted by Respondent indicates the data logger issue was resolved on March 28, 2025, correcting this violation to the Department's satisfaction.

28. DRGCWP Section 9.1.2.3 states:

"Any person subject to this Subsection shall at all times properly operate and maintain all facilities, systems and practices of pollution control which are installed, or implemented to achieve compliance with the requirements of this Subsection and with the measures of the Storm Water Plan."

On April 9, 2025, Department representatives observed the following:

- a. Consistent trash and debris throughout the entire Facility.
- b. Engines, car parts, and aluminum scrap were piled onto a concrete pad just outside of the smelter area. Water was ponded in the concrete berm and there was evidence of oily water overtopping the berm around the pad. The impounded water appeared to be contaminated with oil/vehicle fluids. Additionally, the oil/water separator in this area was not functioning properly and, therefore, was not removing oil. BMPs of the concrete pad with surrounding berm are not being appropriately maintained and the berm is overtopping due to failure of proper operations and maintenance.

- c. The secondary containment wall within the vehicle preparation area (i.e. pole building) appeared to be compromised. The block work in the back left corner (when facing the building from the front) has degraded seams. It was observed that oily water was leaking through the wall in the back right corner and discharging to ground surface.

Poor housekeeping, improper implementation of BMPs, and failing to maintain areas with secondary containment are all in violation of DRGCWP Section 9.1.2.3.

On September 9, 2025, the Division of Water sent a letter to Donovan which acknowledged documentation submitted by Donovan that presumably intended to demonstrate compliance for the above violations identified in either NOV 25-HW-03 or Secretary's Order 2025-WH-0009. The submission consisted of illegibly handwritten receipts from Reyes and Son, who were contracted to repair the pole building (c. above). The Division of Water informed Donovan that the documentation was insufficient and, due to the documentation's lack of clarity, detail, and indecipherability, required resubmission of receipts regarding the work completed by Reyes and Son.

On September 15, 2025, Respondent submitted an email offering a narrative explanation that provided the requested minimum elements outlined in the Division of Water letter. However, the required action of resubmitting receipts was not satisfied, as Respondent explained that Reyes and Son does not offer invoices or work orders of their own. While the additional request of resubmission of receipts was not satisfied, the violation itself was corrected.

May 27, 2025, Compliance Inspection

**29. Condition 2.2 of Permit APC-2009/0060-CONSTRUCTION/
OPERATION (Amendment 4) (MACT), states:**

"No person shall cause or allow the emission of visible air contaminants and/or smoke from a stationary or mobile source, the shade or appearance of which is greater than twenty (20%) percent opacity for an aggregate of more than three (3) minutes in any one (1) hour, or more than fifteen (15) minutes in any twenty-four (24) hour period."

At the time of the inspection the visible emissions from the stack exceeded 20%. In addition, visible emissions exceeding 20% opacity were observed when materials were removed from the front of the furnace after a cycle was completed. The following table details opacity readings during the inspection:

Donovan Salvage Works, Inc. 5/27/2025 Inspection	
Observation Time	Opacity
9:30 AM	~5%
9:32 AM	10%
9:34 AM	10%
9:35 AM	15%
9:36 AM	~5%
9:40 AM	<5%
9:41 AM	10%
9:42 AM	15%
9:43 AM	50%
9:44 AM	35%
9:45 AM	25%
9:46 AM	35%
9:47 AM	35%

Donovan Salvage Works, Inc. 5/27/2025 Inspection	
Observation Time	Opacity
9:48 AM	15%
9:49 AM	~5%

The opacity readings identified above in bold font exceed the permitted emission limit.

Exceeding the emission limit related to opacity violates Condition 2.2 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

The opacity readings returned to permitted limits during the inspection, correcting this violation to the Department's satisfaction.

30. Condition 3.2 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:

"At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall operate and maintain the facility, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. Determination of whether such operation and maintenance procedures are being used will be based on information available to the Department which may include, but is not limited to, monitoring results, review of operation and maintenance procedures (including the SS&M Plan), review of operation and maintenance records, and inspection of the source."

At the time of the inspection, Department representatives observed that emissions from the furnace were not controlled due to the door not being fully closed during operation. The Department is unable to determine whether the Respondent has taken sufficient actions to reasonably prevent this from recurring on a daily basis.

Failing to operate equipment in a manner consistent with safety and good air pollution control practices violates Condition 3.2 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

On June 24, 2025, the Department reminded Respondent of the requirement to operate in compliance with permit requirements.

**31. Condition 3.7 of Permit APC-2009/0060-
CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:**

“The owner or operator shall inspect the unit each day to ensure that the unit is in proper operating condition prior to beginning operations. This inspection shall include the door seal. The owner or operator shall address any operational issues prior to startup.”

Department representatives observed evidence of flames and emissions leaking from the aluminum sweat furnace door that had not been properly closed, a clear indication that the system is not operating in proper condition.

Failing to inspect the unit each day to ensure it is in proper operating condition violates Condition 3.7 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

On June 24, 2025, the Department reminded Respondent of the requirement to operate in compliance with permit requirements.

**32. Condition 3.10 of Permit APC-2009/0060-CONSTRUCTION/
OPERATION (Amendment 4) (MACT), states:**

"The owner or operator shall assign two operators to the unit at all times. One operator will observe the unit to ensure that the burners stay lit, the afterburner temperature stays above the temperature requirement of 1,600°F, and that there are no other operational issues. The other operator may be outside preparing the next charge for the unit."

Department representatives observed that Respondent's Yard Manager was assisting the operator while Department staff were present. However, the Yard Manager's duties do not allow him to assist for the full daily shift. Another operator was not present at all times as required. The permit requires that two operators be present at all times, although one may be outside preparing the next charge. In this case, there was only one operator running the unit—the availability of the Yard Manager to assist the operator when not fulfilling other duties does not comply with the permit requirement to have two operators at all times. This was not resolved during the inspection, and the Department is unable to determine whether Respondent has taken sufficient action to ensure that two operators are assigned to the unit at all times.

Failing to ensure two operators are assigned to the unit at all times violates Condition 3.10 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

On June 24, 2025, the Department reminded Respondent of the requirement to operate in compliance with permit requirements.

33. Condition 3.13 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT), states:

“The owner or operator shall ensure that the operators follow the manufacturer’s recommendations for the operation and maintenance of the smelter and ancillary equipment. In addition, when equipment is not operating properly, the operator shall safely shut down the smelter and ancillary equipment and shall not restart the smelter until corrective actions have been completed.”

Department representatives reviewed a service report from the manufacturer’s technician. The technician noted that “operator running slighter larger loads of combustibles.” This indicates that the manufacturer’s recommendations are not being followed.

Failing to follow the manufacturer’s recommendations for operation of the unit violates Condition 3.13 of Permit APC-2009/0060-CONSTRUCTION/OPERATION (Amendment 4) (MACT).

On June 24, 2025, the Department reminded Respondent of the requirement to operate in compliance with permit requirements. The Department is unable to determine whether Respondent has taken sufficient actions to reasonably prevent this from recurring on a daily basis.

February 26, 2026, Compliance Inspection

34. 7 Del. C. § 6003(a)(2) states:

“Permit — Required.

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

...

(2) In a way which may cause or contribute to discharge of a pollutant into any surface or ground water; or”

DRGCWP Section 9.1.7.1 states:

“Discharges to a storm water system of anything other than storm water, except those discharges described in subparagraph (9.1.7.2) below, shall either be eliminated or in compliance with an appropriate individual NPDES permit.”

DRGHW Section 279.22(d) states:

“(d) Response to releases. Upon detection of a release of used oil to the environment that is not subject to the requirements of the Delaware Regulations Governing Underground Storage Tanks (UST) and which has occurred after the effective date of Delaware’s recycled used oil management program, a generator must perform the following cleanup steps:

- (1) Stop the release;
- (2) Contain the released used oil;
- (3) Clean up and manage properly the released used oil and other materials; and
- (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.”

On February 26, 2026, Department representatives observed a hose attached to a submersible pump inside the pole building to the east of the smelter building:



The floor of the pole building was dirty and partially covered in standing oily water. The hose ran through a hole in the rear wall of the building, with the open end of the hose laying on the concrete pad behind the building:



A Donovan representative stated that the pump was used to remove water from the floor of the pole building by discharging it onto the ground behind the pole building. Department representatives concluded the oily water would then run off into the creek behind the building. In other words, Donovan was intentionally releasing oily water into the environment.

Discharging oily water to the ground violates 7 *Del. C.* Chapter 60, DRGCWP Section 9.1.7.1, and DRGHW Section 279.22(d). It also constitutes a release of hazardous substances under the Hazardous Substances Control Act, 7 *Del. C.* Ch 91.

On March 12, 2026, Department counsel notified Respondent's counsel of the Department's observations regarding the hose, advising that any discharge of oil to the ground surface is a new violation and that the Department will pursue it as such. This violation has been corrected, confirmed by Division of Water staff during a site visit on March 24, 2026.

Unfortunately, this is not the first time Donovan released oily water from the pole building and into the environment.

About a decade prior, during a February 24, 2016, Facility inspection, Department representatives found that Donovan employees had intentionally created a hole in the wall of the pole building to allow oily water to discharge to the ground behind the building. The Department notified Donovan of the violation via NOV W-16-SDW-01 and Respondent repaired the wall of the building to prevent further discharges.

On April 13, 2022, Department representatives observed that Respondent had once again altered the pole building to allow for a release of oily water into the environment. In this instance, Donovan employees removed cinderblocks from the foundation of the pole building to allow oily water collected on the floor to drain out of the rear of the pole building and into the environment. Respondent was notified of this violation via NOV 22-HW-14, Secretary's Order 2022-WH-0004, and Secretary's Order 2022-WH-0021. In response to these actions, Respondent repaired the cinderblock foundation to prevent discharges to the ground.

Finally, on April 9, 2025, Department representatives observed that the cinderblock foundation of the pole building was compromised. Specifically, the back left corner (when facing the building from its open front) had degraded seams, allowing oily water to leak out of the back corner of the building and release into the environment. On June 18, 2025, Respondent submitted photographs showing the cinderblock wall had been repaired.

Despite being notified by the Department in 2016, 2022, and 2025 that draining oily water from the floor of the pole building to the ground outside is prohibited, in 2026, Respondent once again did so by creating the aforementioned hole in the side of its pole building through which it intentionally released oily water into the environment with a submersible pump and hose.

March 24, 2026, Site Walkthrough

35. DRGHW Section 279.1 states:

“‘Tank’ means any stationary device, designed to contain an accumulation of used oil which is constructed primarily of non-earthen materials, (e.g., wood, concrete, steel, plastic) which provides structural support.”

DRGHW Section 279.22(b) states:

“(b) Condition of units. Containers and aboveground tanks used to store used oil at generator facilities must be:

- (1) In good condition (no severe rusting, apparent structural defects or deterioration); and
- (2) Not leaking (no visible leaks); and
- (3) Closed during storage, except when it is necessary to add or remove oil.”

On April 13, 2022, Department staff conducted a multi-media inspection and observed two (2) concrete impoundments at the site::



The impoundments are used to collect fluids, such as oil, that are a result of the salvage process, and due to their impervious nature and outdoor location, they also collect water. Because the oily water collected in these impoundments has sufficient used oil to recover for recycling, the oily water mixture is considered used oil. As such, in Secretary's Order 2022-WH-0021, the Department cited both used oil tank violations in DRGHW (Violations 34

and 35 of that order), as well as surface water impoundment violations in DRGCWP (Violation 51 of that order).

In addressing the violations identified in Secretary's Order 2022-WH-0021, the Department and Respondent entered into the Conciliation Order. Because the violations relating to the impoundments spanned multiple programs, the Department agreed to allow Donovan to address these violations under DRGCWP. Specifically, Paragraph 8 of the Conciliation Order afforded Donovan one (1) year to submit a "surface impoundment improvement plan" for Department approval. In the interim, the Conciliation Order required Donovan to continue pumping the oily water out of the impoundment for off-site disposal.

The improvement plan was due on March 1, 2026, Respondent was granted a one-day extension, and the plan was submitted on March 2, 2026.

On March 24, 2026, Department staff met with Respondent and Respondent's consultant at the Facility to address the Department's questions related to the impoundments. During the walkthrough, Respondent and Respondent's consultant stated for the first time that the impoundments are not designed to collect surface water. Respondent's consultant confirmed this information in an email dated May 13, 2026.

As the impoundments are not surface water impoundments, they are not governed by DRGCWP (as those regulations address surface water). Therefore, the portion of the Conciliation Order addressing the impoundments under the DRGCWP is inapplicable. However, by accumulating used oil in the impoundments and not immediately pumping it

into an appropriate tank or container, the impoundments themselves meet the definition of a tank found in DRGHW Section 279.1 and therefore the impoundments are regulated by DRGHW as tanks.

Respondent had previously been advised that it is acceptable to allow used oil to temporarily collect in the impoundments while operations are occurring in the area. However, the used oil must: 1) be pumped into a tank or container that can fully comply with DRGHW Part 279, which includes the requirement tanks remain closed unless used oil is being added or removed; and 2) at a minimum that must be done at the end of each work shift. Otherwise, the impoundments would be "used to store oil" and would therefore be considered tanks.

Storing used oil in an open tank violates DRGHW Section 279.22(b)(3). Because oily water is continuously accumulated in the tanks, it is impossible to inspect the bottom or sides of the tank to determine if Respondent is also in violation of Sections 279.22(b)(1) and (2). This violation remains outstanding.

Quarterly Visual Monitoring and Comprehensive Site Evaluation Inspections

36. DRGCWP Section 9.1.4.3.1 states:

"9.1.4.3.1 Quarterly Visual Monitoring

All facilities required to monitor storm water discharges, must perform and document quarterly visual examinations of storm water discharges associated with industrial activities from each storm water outfall. The examination(s) must be made at least once in each of the following three-month periods: January through March, April through June,

July through September, and October through December. The examination must document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen and other obvious indicators of storm water pollution. The examination must be performed during daylight hours and must be made of samples collected within the first thirty (30) minutes of when runoff or snowmelt begins discharging from the facility. If no storm event resulted in runoff from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that no runoff occurred."

On March 6, 2026, and April 6, 2026, Respondent submitted Quarterly Visual Monitoring Reports for storm water discharges that had been conducted in 2025 and 2026. It is self-evident that monitoring storm water runoff requires storm water runoff to monitor. However, Respondent submitted monitoring reports for four (4) days when there was no storm water runoff: September 15, 2025; December 16, 2025; January 5, 2026; and April 6, 2026. Each report indicated that either the weather was sunny or cloudy, or that the area observed was dry. Accordingly, each quarter for a year Respondent conducted storm water runoff monitoring without any storm water runoff to monitor.

Failing to conduct quarterly visual monitoring within the first thirty (30) minutes when runoff or snowmelt begins discharging from the facility violates DRGCWP Section 9.1.4.3.1.

37. DRGCWP Section 9.1.5.7.4.2.5 states:

“Persons subject to this Part shall conduct comprehensive site evaluations. The comprehensive site evaluations shall be used to assess the effectiveness of the current SWP. The evaluation(s) are in addition to the periodic inspections required by this Part. The evaluations may substitute for a periodic inspection if it is conducted during the regularly scheduled periodic inspection.

Records of each evaluation shall be maintained, indicating the following: date and time of the inspection; person(s) responsible for conducting inspection; findings of the inspection; and any corrective actions taken. Persons subject to this Part must correct any deficiencies noted during the inspection as soon as practicable, but no later than 14 days after the inspection.”

On March 6, 2026, and April 6, 2026, Respondent submitted documentation of their Comprehensive Site Evaluations conducted on January 5, 2026, and April 6, 2026. The evaluation on April 6, 2026, noted evidence of spills and/or leaks in the “Outside Baler Tanks” area. Both the January 5, 2026, and April 6, 2026, reports identify signs of spills and/or leaks in the “Smelter and Tanks” area, which are deficiencies which must be corrected as soon as practicable. Neither report indicated that any corrective actions were necessary, nor did they indicate that any were completed.

Failing to correct deficiencies noted in the comprehensive site evaluations violates DRGCWP Section 9.1.5.7.4.2.5.

38. DRGCWP Section 9.1.5.7.4.1 states:

“9.1.5.7.4.1 Routine Inspections

The facility shall conduct routine inspections of the equipment and areas of the facility designated in the SWP. The SWP shall identify the frequency for which these inspections are conducted. At a minimum, routine inspections shall be conducted once per quarter. These inspections shall ensure the proper operation of plant equipment and storm water controls. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained with the SWP. Any deficiencies noted shall be corrected as soon as practicable, but no later than 14 days after the inspection."

On March 6, 2026, and April 6, 2026, the Respondent submitted documentation of their routine weekly inspections. Signs of spills and/or leaks were noted "from motors & transmissions" during inspections completed on the following dates: September 29, 2025; October 27, 2025; November 10, 2025; November 17, 2025; November 24, 2025; December 8, 2025; December 16, 2025; December 29, 2025; January 5, 2026; January 12, 2026; January 19, 2026; February 2, 2026; February 9, 2026; February 16, 2026; February 27, 2026; and March 2, 2026. However, no corrective actions were documented demonstrating these spills were cleaned up or that actions were taken to prevent future spills or leaks.

Failing to correct deficiencies noted in the comprehensive site evaluations violates DRGCWP Section 9.1.5.7.4.1.

CONCLUSIONS

Based on the foregoing, the Department has concluded that Respondent violated the above-cited regulatory provisions.

SECRETARY'S ORDER

As Respondent has failed to comply with the requirements cited above, and the Conciliation Order, the Department requires that Respondent shall demonstrate compliance with the applicable law to resolve the outstanding violations. Therefore, in consideration of the foregoing findings, notice is hereby given, pursuant to 7 Del. C. § 6005(b)(2), that Respondent shall achieve compliance by undertaking the following actions.

In a manner in full compliance with all applicable laws and regulatory requirements, Respondent shall within fourteen (14) days of receipt of this Order:

Hazardous Waste

1. Submit documentation demonstrating compliance with the requirement to adequately respond to all releases of used oil in accordance with DRGHW Section 279.22(d). Documentation shall include:
 - a. A written certification signed by Donovan management acknowledging that oily water cannot be discharged to the ground.
 - b. Training records for all Donovan staff demonstrating that each staff person has been notified that discharging oily water to the ground is prohibited. [Violation #36]

2. Documentation demonstrating compliance with the requirement that used oil tanks and containers must be closed unless adding or removing oil in accordance with DRGHW Section 279.22(b)(3). Because the tanks (i.e., containment impoundments) at the crushing pad and the smelter staging area cannot meet the regulatory requirements of DRGHW Part 279 because they cannot be closed, Donovan must submit a written procedure to describe how oily water will be removed from the tanks each working day and placed in tanks or containers that can comply with the used oil regulatory requirements. [Violation #37]

Water

3. Complete portions of May 11, 2026, Surface Impoundment Improvement Work Plan submitted by Brightfields that assures impoundments are not receiving oily stormwater run-on via sheetflow from the surrounding salvage yard. As documented in the May 11, 2026, plan this should include:
 - a. Cleaning and inspection of the existing concrete pads and curbing. Cleaning will be conducted by removing all materials, power washing the concrete while capturing the water from the power washing for proper disposal and inspecting the condition of the current concrete to determine if any repairs are required.
 - b. Detailed topographic and boundary surveying of the impoundment and surrounding area that includes:

- i. Current plan-view geometry and elevations of the liner, berms, and surrounding grades.
 - ii. Locations and elevations of inlets, outlets, overflow structures, and monitoring points, if any.
 - iii. Existing utilities and structures that may conflict with new curbing.
- c. Develop a base map with 1-foot contour intervals and a horizontal scale appropriate for design (e.g., 1 inch = 20–50 feet).
- d. Design and installation of perimeter curbing to control runoff and prevent stormwater intrusion and overtopping, as needed. The design will include elevated access to the impoundment areas for equipment utilized to manage the materials for recycling. This design may be similar in nature to a speed hump on a roadway.
- e. Work will be conducted under the direction of a Delaware-licensed Professional Engineer and a survey drawing package and design report/engineering drawings (plans, elevations and details) will be submitted for Department review.

Operation and maintenance requirements for the containment structures is covered under **Hazardous Waste Action #2** above since these structures will subsequently fall under DRGHW Part 279.

4. Submit Routine Inspections, Quarterly Visual Monitoring Reports, Benchmark Monitoring results, and Comprehensive Site evaluations to

the Department directly upon completion until the Department indicates in writing that submission is no longer required. Any deficiencies identified within these reports shall be addressed immediately upon discovery and documentation of corrective actions performed to address the deficiencies shall be submitted to the Department with the corresponding report. Quarterly Visual Monitoring and Benchmark Monitoring shall be performed during a rain event in accordance with DRGCWP. Immediately begin addressing deficiencies identified within these reports and submit documentation of completion of corrections to Department.

ASSESSMENT OF PENALTY

Pursuant to 7 *Del. C.* § 6005(b)(3), the Secretary may impose an administrative penalty of not more than \$10,000.00 for each day of violation occurring prior to July 16, 2025, and not more than \$40,000.00 for each day of violation occurring on or after July 16, 2025. This Order is written notice to Respondent that, based upon its findings, the Department is assessing Respondent an administrative penalty for the violations identified in this Assessment and Order. In assessing the administrative penalty, 7 *Del. C.* § 6005(b)(3) instructs the Secretary to consider the following factors: (1) the nature, circumstances, extent, and gravity of the violation, or violations; (2) the ability of the violator to pay; (3) any prior history of such violations; (4) the degree of culpability; (5) the economic benefit or savings (if any) resulting from each violation; and (6) such other matters as justice may require. A brief discussion of these factors is set forth below.

1. The Nature, Circumstances, Extent and Gravity of the Violation, or

Violations:

The nature, circumstances, extent, and gravity of the violations are significant. This Order identifies and describes thirty-eight (38) regulatory violations. Failing to ensure compliance with the regulatory requirements for the proper management of solid wastes and hazardous wastes and proper implementation of stormwater control and air emission control practices are all significant deviations from the regulatory requirements cited herein.

2. Respondent's Ability to Pay:

While the Department believes that Respondent may have limited ability to pay, the nature, circumstances, extent and gravity of Respondent's violations demand that a penalty be issued.

3. Prior History of Violations:

While Respondent has a significant history of non-compliance, Respondent's prior history of violations was not a factor in assessing the administrative penalty.

4. Degree of Culpability:

The degree of culpability is significant. Had Respondent employed reasonable oversight measures as the environmental law, regulations, and permits cited herein require, the violations would not have occurred.

5. Economic Benefit or Savings Resulting from the Violation(s):

With respect to the economic benefit, the record contains no information that Respondent incurred any meaningful economic benefit from the violations, and thus this was not a factor in the administrative penalty assessment.

6. Such Other Matters as Justice May Require:

Lastly, considering such other matters as justice may require, the Secretary has determined that the penalty assessed is proportional to the violations cited herein and has been calculated to deter Respondent, and those similarly situated, from engaging in future violations.

Pursuant to 7 *Del. C.* § 6005(b)(3), this is written notice to Respondent that on the basis of the above findings and factors, a multi-day administrative penalty of \$135,040.00 is assessed for the violations identified in this Order.

Respondent shall submit one check to the Department in the amount of \$135,040.00 to pay the administrative penalty within thirty (30) days from the receipt of this Assessment and Order. The check shall be made payable to the "State of Delaware" and shall be directed to: Enforcement Coordinator, DNREC-Office of the Secretary, 89 Kings Highway SW, Dover, Delaware 19901.

PUBLIC HEARING AND APPEAL RIGHTS

Pursuant to 7 *Del. C.* § 6008, any person whose interest is substantially affected by this action of the Secretary may appeal to the Environmental

Appeals Board within **twenty (20) days** of the receipt of the Secretary's Order. Respondent may also, pursuant to 7 *Del. C.* § 6005(b)(3), request a public hearing on the Secretary's Order within **thirty (30) days** of receipt of the Secretary's Order. A public hearing pursuant to 7 *Del. C.* § 6005(b)(3) would be conducted pursuant to 7 *Del. C.* § 6006, and the Secretary's Order following the hearing would be subject to appeal, pursuant to 7 *Del. C.* § 6008, by any person substantially affected.

Respondent is further advised that the above assessed administrative penalty shall be due and owing within thirty (30) days of Respondent's receipt of this Secretary's Order. In the event of nonpayment of the administrative penalty assessed above, and after Respondent has exhausted all legal appeals, if any, a civil action may be brought by the Secretary in Superior Court for collection of the administrative penalty, including interest, attorneys' fees and costs, and the validity, amount and appropriateness of such administrative penalty and/or costs shall **not** be subject to review pursuant to 7 *Del. C.* §§ 6005(b)(3) and (c).

To request a public hearing pursuant to 7 *Del. C.* § 6005(b)(3), please submit your request, in writing, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

To submit an appeal to the Environmental Appeals Board pursuant to 7 *Del. C.* § 6008, you must file your written statement of appeal and submit a

check, made payable to: "Environmental Appeals Board," for the \$50.00 filing fee, to:

Department of Natural Resources and Environmental Control
Office of the Secretary
Attn: Assistant to the Environmental Appeals Board
89 Kings Highway
Dover, DE 19901
Telephone: (302) 739-9000

For additional information on filing an appeal with the Environmental Appeals Board and what information you must include in your written statement of appeal, please refer to the Environmental Appeals Board Regulations, codified at 7 DE Admin. Code § 105.

The Department, to the extent necessary, reserves the right to take additional enforcement actions regarding these and other violations by Respondent, 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) & (c)(1). Nothing in this document shall be deemed to estop, or in any way preclude any additional enforcement action for these or any other violations, including administrative and civil penalties for each day of violation, or an action for the recovery of Department costs expended in abating these violations.

SECRETARY'S ORDER FOR COST RECOVERY

Pursuant to 7 *Del. C.* § 6005(c), Respondent is liable for all expenses incurred by the Department in abating the violations detailed in this Secretary's Order. "Such expenses shall include, but not be limited to, the costs of investigation, legal fees and assistance, public hearings, materials, equipment, human resources, contractual assistance and appropriate salary and overtime pay for all state employees involved in the effort notwithstanding merit system laws, regulations or rules to the contrary." (7 *Del. C.* § 6005(c)(1)).

The Department is not seeking costs from Respondents in this Order. Please be advised, however, this is not a waiver of the Department's right to cost recover for past costs. Further, additional costs, which you may be liable, may accrue through the exhaustion of Respondents appeal rights. The Department reserves the right to issue a detailed billing statement of all costs incurred and seek recovery of that amount.

PAYMENT

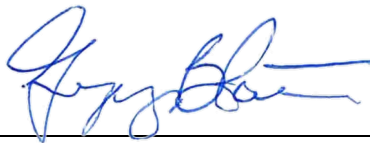
If Respondent does not wish to exercise its legal rights to a hearing or appeal, Respondent may pay the administrative penalty of \$135,040.00 prior to the end of the appeal period, in the manner described in the attached **"Waiver of Statutory Right to A Hearing."** By doing so, Respondent waives

the right to a hearing and the opportunity to appeal or contest this Secretary's Order.

If you have any questions, please contact or have your attorney contact Travis Groski, Deputy Attorney General, at (302) 484-8964.

June 20, 2026

Date



Gregory Patterson
Secretary
Delaware Department of Natural Resources
and Environmental Control

cc: Travis Groski, Deputy Attorney General
Devera Scott, Deputy Attorney General
Timothy Ratsep, Division Director
Angela Marconi, Division Director
Steven Smailer, Division Director
Michael Teichman, Esquire, Parkowski, Guerke & Swayze, P.A.

WAIVER OF STATUTORY RIGHT TO A HEARING

Donovan Salvage Works, Inc. hereby waives its right to a public hearing and its opportunity to appeal or contest this Secretary's Order, and agrees to the following:

1. **Donovan Salvage Works, Inc.** will pay the administrative penalty in the amount of \$135,040.00 by sending a check payable to the "State of Delaware" within thirty (30) days of receipt of this Assessment and Order. The check shall be directed to Enforcement Coordinator, DNREC-Office of the Secretary, 89 Kings Highway SW, Dover, Delaware 19901.

Donovan Salvage Works, Inc.

Date: _____

By: _____
(Signature)

Title: _____

Name: _____
(Print)