



## RHODE ISLAND

### DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

OFFICE OF LAND REVITALIZATION & SUSTAINABLE MATERIALS MANAGEMENT

235 Promenade Street, Providence, Rhode Island 02908

#### **2nd RAWP COMMENT LETTER**

**File No. SR-28-0143**

December 9, 2025

Richard Land (Special Master)  
Chase Ruttenburg & Freedman, LLP  
1 Park Row, Suite 300  
Providence, RI 02903

AARE, LLC (Owner)  
c/o Richard Nicholson, Esq.  
Nicholson & Associates, LLP  
9 Thurbers Blvd., Suite D  
Smithfield, RI 02917

Rhode Island Recycled Metals, LLC (Operator)  
c/o Richard Nicholson, Esq.  
Nicholson & Associates, LLP  
9 Thurbers Blvd., Suite D  
Smithfield, RI 02917

RE: Remedial Action Work Plan (RAWP) – 2nd Comment Letter  
Rhode Island Recycled Metals, LLC  
434 Allens Avenue, Providence, RI  
Plat Map 47 / Lot 601  
Plat Map 55 / Lot 10

Dear Attorney Land:

The Rhode Island Department of Environmental Management's (the Department) Office of Land Revitalization and Sustainable Materials Management (LRSMM) has reviewed the RAWP Addendum/Response to Department Comments Letter (*Response to RAWP Comments*) for the above referenced property (the Site), which was submitted on November 3, 2025, by CMG Environmental, Inc., in accordance with 250-RICR-140-30-1, Section 1.10 of the Department's Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases (the Remediation Regulations).

After careful review of the *Response to RAWP Comments*, the Department requires a response to the attached comments, questions, and concerns about the submittal, which must be fully addressed in writing to receive a Remedial Approval Letter. The deadline for response is January 13, 2025.

If you have any questions regarding the above requirements or would like the opportunity to meet with Department personnel, please contact Jenna Giguere, Esq.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ashley Blauvelt', with a long horizontal flourish extending to the right.

Ashley L. Blauvelt, P.E.  
Environmental Engineer IV  
Office of Land Revitalization &  
Sustainable Materials Management

## DEPARTMENT COMMENTS

December 9, 2025

*Response to RAWP Comments, dated November 3, 2025*

Rhode Island Recycled Metals

434 Allens Avenue

Providence, Rhode Island

### 1. Engineered Controls

- a. The *Response to RAWP Comments* notes that “*specific designs related to ... the engineered barriers will be provided and stamped in forthcoming DiPrete Engineering submittal to RIDEM,*” and “*Further details regarding the cap designs will be provided by DiPrete Engineering as part of stormwater permit submittals and will be stamped by a licensed P.E. when they become available.*” The specifications for the engineered controls must be supported by a design engineering report that details the Site-specific considerations that are incorporated. The Remedial Action Work Plan cannot be considered for approval without the supporting engineering report.
- b. Please update the “Cap Specifications” detail drawings (Attachment C) to be consistent with the above-referenced engineering report. Ensure that all potential engineered barriers are included and that the drawings are prepared under the supervision of and stamped by a Rhode Island Registered Professional Engineer, in accordance with § 1.10.10(A)(5) of the Remediation Regulations.
- c. Section 3.3 of the Construction Soil Management Plan (C-SMP) states “*Existing concrete and building foundations that are in good condition will remain in place to serve as an impervious engineered barrier.*” Unless existing concrete pads meet the minimum specifications for new concrete cover, it must be replaced in accordance with the approved engineered controls. Existing building foundations may remain as is as long as the structure atop a foundation remains. Please revise all statements throughout the RAWP which state or indicate that *current or existing concrete slabs will/may serve as a cap for portions of the Site*, to state instead that:

“Existing concrete pads which do not meet the minimum specifications for new concrete cover, must be replaced in accordance with the approved engineered controls. Existing building foundations may remain as is as long as the structure atop a foundation remains.”
- d. Repeated references are made to “Department Presumptive Remedies” for engineered controls. For clarity, the Department does not have formal “Presumptive Remedies.” There is a set of minimum encapsulation specifications often referred to as “two feet of clean soil or equivalent” that can apply to most site remediation sites, though not all. It is important to understand that due to the heavy industrial use of this Site and the materials handled every day, there is a need for a more durable cap to protect the underlying soils and groundwater from a potential future release and to ensure that the

underlying soils remain in place, secured by a cap constructed to withstand long-term heavy use on a coastal property. The common capping specifications or “presumptive remedies” do not apply to this Site due to the inherent increased risk of a future release common of scrap metal recycling and the challenges associated with coastal erosion. As such, please ensure that the revised and final Remedial Action Work Plan contains no mentions or references to “presumptive remedies.”

## 2. Hazardous Material & Substance Management

- a. The response provided in the *Response to RAWP Comments* to Department Comment 6.b. states that:

“... the materials currently handled by RIRM do not include Hazardous Substances and are not in liquid form so further releases are not likely whether before, during or after cap construction. Every incoming load of metal to be recycled is inspected by RIRM before being accepted in order to prevent importing hazardous materials at the Site. Therefore, there is no incremental risk of a hazardous material release ...”

On separate Site visits in 2024 (April and July), Department personnel documented the presence of oil sheening at the Site as well as improper storage/disposal of regulated materials (lead-acid batteries, used-oil filter). This demonstrates that it is impractical to rely on a plan based solely on preventing the import of hazardous materials. It is imperative that the Remedial Action Work Plan and its Construction Soil Management Plan account for all fate and transport mechanisms, identifying the potential sources for on-going and/or new releases before and during construction.

- b. Handling liquid wastes – whether intentionally or not – is not the only means of a potential hazardous material release. Fugitive dust that consists, in part, of particulate matter generated from jurisdictional surficial soils may result in an accidental release of hazardous material. This can occur during soil disturbance, wind generated dust, soil inadvertently transported by vehicles/equipment improperly decontaminated prior to leaving the Site, and/or unforeseen events such as fires and severe weather events. If sources and methods of potential hazardous material releases are not acknowledged or understood, it may be difficult to identify and respond to an accidental release in a timely manner when one occurs.
- c. Based on the above comment response, the Department cannot consider or approve a plan that involves implementing the Remedial Action Work Plan while the metals recycling business operates at the same time.

## 3. RAWP Schedule

The *Response to RAWP Comments* states “Ultimately, the potential for phasing of construction at the RIRM Site will be resolved under jurisdiction of the courts and the RAWP will be amended if required or as applicable.” The January 10, 2025 Providence Superior Court Order mandates that:

“Within thirty (30) days after final approval of the Plan by RIDEM and other required environmental regulatory agencies (including RIRM’s application for a RIPDES permit), RIRM shall terminate operations at the Premises, and shall thereafter commence implementation of approved plans.”

The Remedial Action Work Plan must be implemented in accordance with the Superior Court Order, otherwise, it cannot be approved by the Department.

#### 4. Construction Operating & Monitoring Logs

- a. The *Response to RAWP Comments* states “*Throughout the period of construction, RIRM Management will continue to collect dust monitoring data and report the data to the Special Master on a monthly basis as required by the Court Order.*” The Court Order only pertains to the Interim Measures and does not limit the Department’s regulatory authority under § 1.11.1(D) of the Remediation Regulations to “issue conditions to the Remedial Action Approval when the Director finds that those conditions are necessary to protect human health and the environment.” The data reported, and frequency of reporting outlined in the Court Order is not appropriate for active construction, particularly at a Site in which soil/material containing Hazardous Materials will be disturbed and managed.
- b. As stated previously, construction operating and monitoring logs shall be submitted to the Department as part of weekly progress reports. Progress reports should include air monitoring data, daily watering logs, weather, and summary of work completed that day.
- c. During implementation of the RAWP, air monitoring data shall be submitted as previously specified by the Department:

“In accordance with § 1.10.3(A)(3) of the Remediation Regulations, the Department is requiring that air monitoring data for particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>) be submitted to the department for the duration of all construction activities, i.e., the period during which any soils at the Site are exposed uncovered and/or being disturbed. Upon approval of the RAWP, fence line air monitoring (upwind and downwind) data shall, at a minimum, contain the average air concentrations of PM<sub>1</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub> for every hour, 24 hours per day, until the construction of the engineered controls are completed in full.”

#### 5. Soil Management Procedures

- a. There are several instances in the C-SMP referring to “*.. procedures for managing jurisdictional soil in the unlikely event that excess soil requires off-site disposal or reuse.*” Please delete the words “*or reuse*” in all instances in which it appears as the offsite reuse of jurisdictional soil is prohibited. All soil at the site is presumed jurisdictional.

- b. Section 3.2 of the C-SMP states:

“If a stockpile exceeds 20 cubic yards in volume and will remain in place for an extended period of time (presumed to be longer than 2 weeks), that stockpile must be covered with 6-millimeter polyethylene sheeting to prevent erosion of the pile and mitigate the possibility of fugitive dust.”

Please revise this statement to state that “*All stockpiles of any volume* must be covered with 6-millimeter polyethylene sheeting *at the end of every workday* to prevent the erosion of the pile and mitigate the possibility of fugitive dust.” Please also revise the statement in Section 3.4 of the C-SMP that instructs jurisdictional soil “*be secured with caution tape or snow fence*” to make clear it must be covered with 6-mil poly cover.

## 6. Contingency Plan

- a. The “Site-Specific Contingency Plan” submitted as Attachment E is not sufficient. The Remedial Action Work Plan is being prepared under 250-RICR-150-30-1, the Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases, not OSHA. § 1.10.13(A) of the Remediation Regulations states that:

“The Remedial Action Work Plan shall include a Contingency Plan which clearly explains the procedures to be followed and the Persons to be notified in the event of an unexpected incident involving Hazardous Materials at the Contaminated-Site.”

A Site-Specific Contingency Plan is required with or without the presence of Hazardous Waste as soils at the Site contain jurisdictional concentrations of Hazardous Materials. Such material, as defined by § 1.4(A)(33) of the Remediation Regulations, require strict management for the protection of human health and the environment, and likewise, emergency protocols are necessary during construction when the risk of exposure to soils containing Hazards Materials is the greatest. The Department will not approve a Remedial Action Work Plan without a sufficient Site-Specific Contingency Plan.

- b. Emergency Phone Numbers: Add State and/or local government emergency contacts such as the RIDEM Office of Emergency Response.
- c. Standard safety measures and procedures should be outlined, including, but not limited to, immediate and subsequent notifications and actions in the event Site personnel/workers identify potential/suspected hazardous waste, presence of unexpected visual and/or odors, ensure all personnel onsite are informed to avoid direct contact with Site soils and dust and skin, perform basic handwashing prior to eating, drinking, smoking, or leaving the Site, outline decontamination procedures for worker PPE and all construction equipment and vehicles to prevent the off-Site migration of jurisdiction material, etc.

7. Once all pieces of the Remedial Action Work Plan have been submitted, Department comments addressed, and revisions completed, the Department will request that a final version of the revised Remedial Action Work Plan shall be submitted to the Department for approval.
8. Please submit a second RAWP addendum that addresses the above-mentioned comments on or before January 13, 2025.