

A Progressive Approach to Compliance

January 25, 2024



Agenda

1. Risk-based compliance approach
2. RPRA's compliance tools
3. Summary of Blue Box obligations
4. Free riders



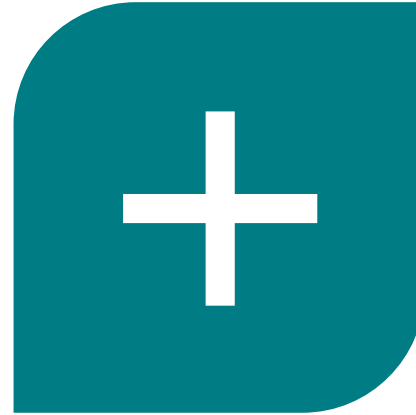
Risk-based compliance approach



How do we define risk?



The likelihood of an obligated party failing to meet their responsibility

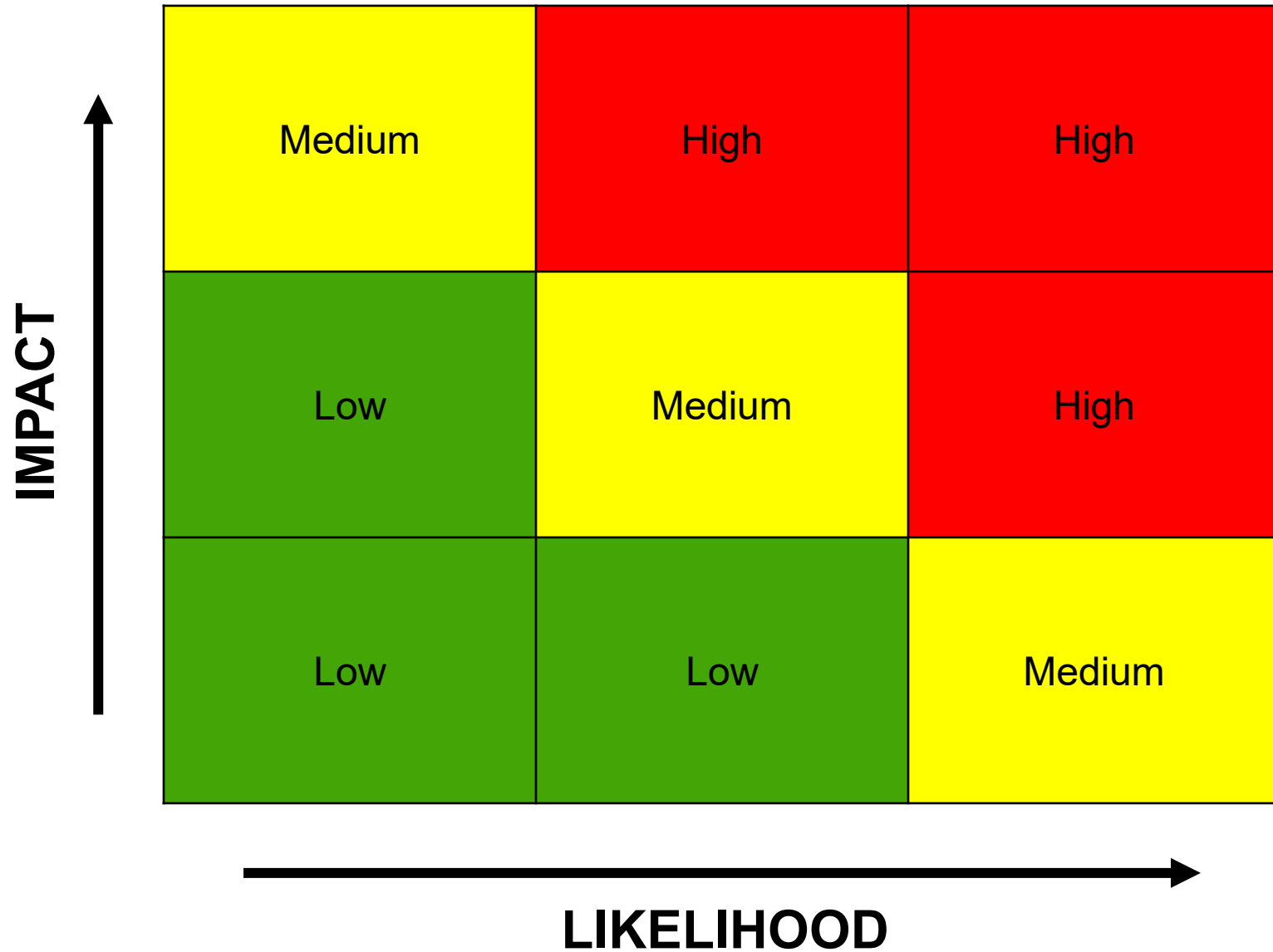


AND



The consequences on the system outcomes

RPRAs compliance risk matrix



Why do we need a risk-informed approach?

- Consistent with our values:
 1. Accountability
 2. Fairness
 3. Integrity
 4. Collaboration
- Limited resources
- Focus on outcomes

Compliance tools



A progressive approach

Tools used to achieve compliance:

1. Proactive education and awareness

2. Inspections and audits

3. Communication to address noncompliance

4. Compliance order

5. Administrative penalty order

6. Prosecution

Compliance Tools



Proactive education and awareness



Inspection



Communications to address noncompliance



Compliance Tools: **Proactive education and awareness**

The Compliance Team's focus throughout the process is to advise and support businesses.



Compliance Tools: Inspection

Like other regulators, RPRA's Inspectors have powers to enter a place and conduct an inspection (or audit) and to compel responses to inquiries for the purpose of determining compliance.

Jun 1, 2023 Latest News

Registrar's Statement: Blue Box producers must sign up with a producer responsibility organization or establish their own collection system before July 1, 2023

In less than four weeks, starting on July 1, 2023, communities in Ontario will start to transition their municipal Blue Box programs to the new producer operated and funded Blue Box system.



Notice of Compliance Requirement Month, Day, Year

TO: Company X
AND TO: Representative Y

COMPLIANCE REQUIREMENT

I require you to provide me with the following information, no later than 5:00 p.m., Month Day, Year:

- 1.
- 2.
- 3.

Please provide this information electronically to registry@rpra.ca. Given the nature of the information, please take appropriate steps to ensure its safe delivery.

STATUTORY REFERENCES

Resource Recovery and Circular Economy Act, 2016, S.O. 2016, c. 12, Sched. 1:

Section 79 – An inspector may require the production of records or data, on paper or electronically.

Section 47(2) – The Registrar and the Deputy Registrar are inspectors by virtue of their office.

Section 99(4) – No person shall refuse to provide information required for the purpose of this Act or the regulations to the Registrar, a Deputy Registrar, or an inspector.

Section 99(5) – Failure to comply with section 99(4) is an offence.

Compliance Tools: Communications to address noncompliance

1. Registrar statements
2. Notice of compliance requirement
3. Compliance notice



Compliance order



Administrative penalty order



Prosecution

Compliance Tools

Compliance Tools:

Compliance order

- If noncompliance is determined, RPRA will first consider alternatives
 - E.g., warning letter, compliance notice
- Require the person to remedy the contravention
- Can be issued by an Inspector, Deputy Registrar, or Registrar



Compliance Tools:

Compliance order procedure

- Before issued, the file is reviewed by management
- Reviewed upon request
- Right to appeal to the Ontario Land Tribunal



Compliance Tools: Administrative penalties

- If noncompliance is revealed, RPRA will consider alternatives
 - E.g., warning letter, compliance notice or compliance order
- Prevent a person from deriving economic benefit as a result of breaching the Act or regulations
- Require a person to pay a monetary amount to RPRA - Absolute liability
- Can be issued by the Deputy Registrar or Registrar



Compliance Tools:

Administrative penalties procedures

- One-year period from date it comes to the attention of inspector
- Base penalty plus economic benefit
 - Economic benefit not punitive
- Notice must be issued before final decision
- Right to appeal to the Ontario Land Tribunal
- Non-payment may be filed with Superior Court of Justice



Summary: Blue Box Obligations



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- **Register** with RPRA and **report** annually
- Establish and operate **collection systems** for Ontario
- Establish and operate **promotion and education system**
- Meet **management requirements**

The Blue Box Regulation is an individual producer responsibility framework

Free riders



What is a free rider?

1. Have not registered or reported to RPRA or have done so incorrectly
2. Have not established a collection and management system (if they are required to)
 - Some producers do not have this obligation
 - Producers must identify who their PRO is to RPRA
3. Are not operating a collection and management system (if they are required to)

What is RPRA doing about free riders?

- Free riders are a compliance priority for RPRA
 - Registration, correct reporting, establishing a collection and management system and associated promotion and education system
- High priority producers
- Moving to enforcement (using Compliance Risk Framework)
- Collaborating with industry
- Investigative techniques

Applying the compliance risk matrix

