



RPRA Use of Administrative Penalty Revenues

Consultation Report

February 20, 2025

Table of Contents

- Executive Summary..... 3**

- Introduction 4**
 - About RPRA..... 4**
 - Principles for public consultation 5**

- Consultation 6**
 - Process 6**
 - What we heard 6**

- Conclusion 10**

- Appendix A: Stakeholders that submitted feedback..... 11**

- Appendix B: Webinar questions and answers 12**

Executive Summary

This report details the Resource Productivity and Recovery Authority's (RPRA) consultation process, feedback received, and how RPRA considered the feedback in its decision-making on determining how revenues from administrative penalties will be used and managed.

Questions about this report can be emailed to consultations@rpra.ca.

From February 12 to March 27, 2024, RPRA consulted stakeholders on a proposal for RPRA's use of administrative penalty revenues.

All feedback from the consultation was considered in developing the RPRA *Use of Administrative Penalty Revenues Policy*.

The policy was approved on February 20, 2025. RPRA posted the policy to its website on March 5, 2025, and stakeholders were notified the same day.

The following provisions and principles make up RPRA's *Use of Administrative Penalty Revenues Policy*:

Principle/Provision	Description and rationale
1. RPRA will not set annual revenue targets for potential administrative penalty revenues and will only budget administrative penalty revenues collected in previous years.	<ul style="list-style-type: none">• No target for potential administrative penalty revenues helps ensure the independence of compliance decision making.• RPRA will seek board approval for the use of administrative penalty revenues collected, which will be consulted on during the annual business planning, budgeting and fee-setting processes.
2. Administrative penalty revenues collected, including interest, will be held in a segregated account, invested in accordance with RPRA's Investment Policy, and publicly reported in RPRA's annual report.	<ul style="list-style-type: none">• Segregated accounts support the tracking and reporting of administrative penalty revenues.• Segregated funds will be able to earn interest.• Public reporting of administrative penalty revenues helps ensure transparency and accountability.
3. The proposed use and allocation of collected administrative penalty revenues will be consulted on and determined during RPRA's fee-setting process.	<ul style="list-style-type: none">• Producer responsibility program registrants and stakeholders will be consulted during the fee-setting process to ensure transparency on the use of administrative penalty revenues in accordance with this policy.
4. Administrative penalty revenues may be used to create incentives to comply with producer responsibility programs.	<ul style="list-style-type: none">• Applies the principles of risk-based compliance to incentivize compliance, consistent with s.10.5 of RPRA's Operating Agreement with the

	Minister of the Environment, Conservation and Parks.
5. Administrative penalty revenues may be used to offset RPRA’s annual producer responsibility programs’ revenue requirements.	<ul style="list-style-type: none"> • Administrative penalty revenues may be used to reduce revenue requirements of producer responsibility programs during the annual budget and fee-setting processes. • Administrative penalty revenues may be allocated among producer responsibility programs based on each program’s share of the budgeted cost recovery target. • Administrative penalty revenues may be used to directly offset the costs of administering an administrative penalty. • Only producer responsibility program registrants will benefit from administrative penalty revenues.
6. Up to 10% of administrative penalty revenues may be used to support RPRA’s First Nations initiatives.	<ul style="list-style-type: none"> • These revenues may be used to support outreach and engagement with Ontario’s First Nations communities to support recycling and waste management initiatives. • Support RPRA’s First Nations engagement strategy • Aligns with key recommendations of the Truth and Reconciliation Commission of Canada

Introduction

About RPRA

RPRA is the regulator created by the Ontario government to enforce the requirements of the [Resource Recovery and Circular Economy Act, 2016](#) and the [Waste Diversion Transition Act, 2016](#) (WTDA), and their associated regulations.

Under the [Resource Recovery and Circular Economy Act, 2016](#) (RRCEA) and the [Administrative Penalties Regulation](#) (AP Regulation) issued under the RRCEA, RPRA has the power to impose monetary administrative penalties for certain contraventions under the RRCEA and its associated regulations.

Any obligated person who fails to comply with requirements identified in the schedules to the AP Regulation may be subject to an administrative penalty. This includes both corporations and

individuals.

RPRA has published an [Administrative Penalties Guideline](#) to explain what administrative penalties are, how the AP Regulation works, and the criteria the Registrar or Deputy Registrar will use when making decisions about administrative penalties.

The purpose of an administrative penalty is to ensure compliance and/or to prevent economic benefit from the contravention.

The penalty amount is divided into two components: the base penalty amount and the economic benefit penalty amount.

The base penalty is subject to a maximum amount set out in the regulation. The economic benefit penalty has no pre-set maximum because it is intended to recover whatever costs were delayed or avoided, or whatever gains were accrued by the person or business subject to the penalty. These two components of the penalty, taken together, help ensure that a regulated entity cannot gain a competitive advantage in the market by choosing not to comply.

Under the regulation, the total amount of a penalty (the base amount combined with the economic benefit amount) cannot exceed \$1 million per contravention per person or business.

Additionally, a person or business cannot be subject to more than \$1 million in penalties in the same year for the same continuing contravention.

The regulation, however, does not specify how funds collected through administrative penalties will be used.

At its February 2022 meeting, the RPRA board passed a resolution committing the organization to the following:

- Consult on the purposes for which administrative penalty funds may be used
- A key principle of the consultation will be that the administrative penalty funds collected will be used to reduce future costs that would otherwise have been incurred by producers through RPRA fees.

Principles for public consultation

RPRA's consultations are guided by the following best practice principles developed by the Organization for Economic Cooperation and Development (OECD):

Inclusiveness and openness: Engage broadly with a wide variety of stakeholders, provide clear and understandable information, and make the consultation process accessible, comprehensible, and responsive.

Timeliness: Engage stakeholders early before decisions are made and provide regular opportunities for engagement on key program and policy matters.

Accessible and cost-effective: Consider a variety of tools and methods to gather feedback that promotes efficient and cost-effective consultations.

Balance: Provide opportunities for diverse perspectives and opinions to be heard and

considered.

Transparent: Record feedback, report back a summary to stakeholders, and synthesize feedback into programs and policies as appropriate.

Evaluation: Demonstrate the impact of public consultations on program delivery and policy development.

Consultation

Process

From February 12 to March 27, 2024, RPRA consulted with stakeholders on a proposal for the use of administrative penalties. A [dedicated webpage](#) was created on RPRA's website with background information on the consultation, registration link for the webinar, and presentation materials.

On February 12, 2024, RPRA provided notification of the launch of the consultation to industry associations, RRCEA registrants, producer responsibility organizations (PROs), industry associations and other potentially impacted stakeholder groups via email, including how to participate in the consultation. Registrants and stakeholders were invited to submit feedback via email or by attending a consultation webinar held on March 5, 2024.

What we heard

RPRA received 28 submissions from registrants and stakeholders via email and formal letters. A list of stakeholders that provided formal feedback as part of the consultation is provided in **Appendix A**.

RPRA also received 38 questions and comments during the consultation webinar held on March 5, 2024. The questions and comments posed during the consultation webinar along with RPRA's responses are provided in **Appendix B**.

A summary of the feedback received during the consultation is provided in Table 1 below. Further details related to expression of support for different uses of administrative penalty revenues collected by RPRA are provided in the section below.

Table 1: Summary of stakeholder preferences for RPRA's use of administrative penalties

Expressed support for using administrative penalties:	Number of stakeholders supporting	Stakeholder type
Offset registry fees	16	10 producer businesses, 4 producer industry associations and 2 PROs
Fund education and awareness	6	4 producer businesses, 1 producer industry association and 1 municipality

Fund operation and enhancements to common collection systems	7	4 producer businesses, 2 PROs 1 producer industry association
Increase RPRA compliance and enforcement resources	4	3 Municipalities and 1 producer business
Use administrative penalty revenues to offset PRO material management costs	4	4 PROs
Create an Innovation Fund to support research and investment in Ontario's resource recovery system	2	Service provider industry association and 1 producer business
Transfer administrative penalty revenues to provincial treasury	1	Producer industry association
Create a grant for First Nation registrants to support operation and management of regulated materials	1	RPRA staff person

Use administrative penalty revenue to offset registry fees

Most of the stakeholder feedback received during the consultation supported RPRA's proposal to use administrative penalty revenues to reduce the costs of the producer responsibility program from which the AP was issued.

Most of the stakeholders that supported this approach were obligated producers and industry associations representing obligated producers.

Consultation feedback also noted the following:

- Many stakeholders provided feedback in support of ensuring collected funds are only used to offset registry fees of the program from which the administrative penalty was issued.
- Some stakeholders expressed concerns that contravening businesses may benefit from the fee reduction and suggested that businesses issued an administrative penalty not be eligible for reduced RPRA program fees.
- Some stakeholders suggested that administrative penalty revenues be applied as a credit to the accounts of compliant producers.
- Some stakeholders raised concerns that administrative penalty revenues raised potential conflicts of interest and RPRA should not be permitted to use administrative penalty revenues to fund its operations.

Use administrative penalty revenues for education and awareness

6 stakeholder feedback submissions expressed support for RPRA using administrative penalty

revenues to support education and awareness.

Most of the stakeholders that supported this approach were producers.

Detailed feedback in support of using administrative penalty revenues for education and awareness include:

- Using administrative penalty revenues to enhance registrant training materials to support communicating regulatory requirements and best practices to ensure compliance.
- Using administrative penalty revenues for education and awareness campaigns, focused both on registrants and the public.

Use administrative penalty revenues to increase RPRA compliance and enforcement resources

Four stakeholder feedback submissions expressed support for using administrative penalty revenues to invest in greater compliance and enforcement activity.

The stakeholders that supported using administrative penalty revenues for this purpose were all producers.

Detailed feedback in support of using administrative penalty revenues in this way included:

- Use administrative penalty revenues to support RPRA's enforcement activities to ensure greater compliance.
- Increasing compliance resources (permanent or short-term) to reduce free riders.
- Use administrative penalty revenues to increase performance verification and auditing of reported information.

Use administrative penalty revenues to offset PRO material management costs

Four stakeholder feedback submissions expressed support for transferring the economic benefit portion of administrative penalty revenues to PROs to offset material management costs.

The stakeholders that supported using administrative penalty revenues for this purpose were all PROs.

Detailed feedback in support of transferring funds to PROs include:

- In the event of a PRO contravention and an administrative penalty being issued, the economic benefit portion of the administrative penalty should be transferred to those PROs within the program that had been operating in compliance as compensation for the cost of collection and management of materials that should have been funded by the non-compliant PRO and their producer clients.
- The economic benefit portion of an administrative penalty should be distributed to each of the compliant PROs and their producer clients based on market share.

Fund operation and enhancements to common collection systems

Seven stakeholder feedback submissions expressed support for using administrative penalty revenues to subsidize the operating cost of, or fund improvements to, common collection systems.

The stakeholders that supported this approach were producers and PROs.

Detailed feedback supporting the use of administrative penalty revenues to subsidize the cost of the operations and future enhancements to common collection systems include:

- In cases where a PRO or individual producer fails to contribute to the establishment of a common collection system or does not meet their management target, PROs and service providers incur the unfunded costs attributable to non-compliant businesses.
- Stakeholders supporting this use of administrative penalty revenues would like funds to be used to offset the administration costs of operating the common collection system related to the program in which the administrative penalty was issued.

Create an innovation fund to support research and investment in Ontario's resource recovery system

Three stakeholder feedback submissions expressed support for using administrative penalty revenues to create an innovation fund to support research and investments to enhance resource recovery systems.

The stakeholders that supported this approach were service providers, producers and PROs.

Detailed feedback in support of using administrative penalty revenues to create an innovation fund include:

- Creation of an industry innovation fund for producers and service providers to apply for financial support.
- Administrative penalty revenues could be used for industry-led research, to support improvements to existing collection and processing systems and technology, to invest in new and innovative recycling infrastructure, and to create better commodity markets with a goal of increasing resource recovery and reducing system costs.

Transfer administrative penalty revenues to provincial treasury

A stakeholder representing a producer industry association expressed support for transferring all revenues collected through the issuance of administrative penalties to the provincial treasury.

The stakeholder expressed concerns that the collection and use of administrative penalty revenues by RPRA creates a conflict of interest as RPRA would be incentivized to issue administrative penalties to generate revenues. The stakeholder proposed that any revenues collected be transferred to the province.

Create a grant for First Nation registrants to support operation and management of regulated

materials

A stakeholder suggested that a portion of the administrative penalty revenues collected be used to create a grant envelope to provide financial support to First Nation communities. The grant would support their operations and management of RRCEA regulated materials.

Conclusion

RPRA's *Use of Administrative Penalty Revenues Policy* was approved on February 20, 2025. RPRA posted the policy to its website on March 5, 2025, and stakeholders were notified the same day.

RPRA appreciates the thoughtful feedback provided during the consultation and carefully considered each submission in developing the *Use of Administrative Penalty Revenues Policy*.

The final policy generally reflects much of the stakeholder feedback received and is consistent with the RPRA board's February 2022 resolution committing the organization to use administrative penalty revenues to reduce future costs that would otherwise have been incurred by producers.

However, several specific proposals were rejected, including one of the key features of the consultation proposal – apply administrative penalty revenues to offset costs from the producer responsibility program from which it was issued. This decision was taken to ensure non-compliant registrants do not unduly benefit from their own administrative penalty.

Proposals to use administrative penalties revenues to fund education or awareness programs, or compliance activities, were also rejected because communication and compliance are core mandate activities, which would effectively be funded in part through AP revenues that are used to offset producer responsibility program costs. It would also be challenging to establish and sustain specific initiatives based on inconsistent administrative penalty revenues. Instead, by using administrative penalty revenues to generally offset producer responsibility program costs, those funds will be used for communications and compliance activities that are a core part of RPRA's ongoing operations.

Stakeholder suggestions to use revenues collected from administrative penalties to offset PRO material management costs and create an innovation fund to support research and investment in Ontario's recycling system were declined because they are not aligned with RPRA's mandated role to enforce the province's circular economy laws.

The stakeholder suggestion to transfer administrative penalty revenues to the Ontario government was not adopted in the proposed policy because RPRA's Operating Agreement (Schedule E) already has a provision for the Minister to direct RPRA to make payments to defray Crown costs for administering the Acts and their regulations, including oversight of RPRA.

The recommendation to institute a grant program for First Nation registrants to support operation and management of regulated materials was adapted in the policy's provision by allowing up to 10% of administrative penalty revenues to be used to support RPRA's First Nations initiatives. This provision supports RPRA's initiatives to engage with First Nations communities on Ontario's circular

economy initiative and aligns with key recommendations of the Truth and Reconciliation Commission of Canada.

Finally, stakeholder concerns that RPRA is conflicted in issuing administrative penalties because it is incentivized to issue administrative penalties to generate revenue was addressed in the policy provision that commits RPRA to not set annual revenue targets for potential administrative penalty revenues. The provision allows RPRA to only budget administrative penalty revenues collected in previous years. Additionally, because RPRA operates on a not-for-profit basis and is primarily funded through registrant fees, the incentive to generate revenues through administrative penalties is negated. RPRA's compliance function operates independently from the rest of the organization and the Registrar exercises independent statutory authority in compliance decisions.

Appendix A: Stakeholders that submitted feedback

RPRA received 27 written submissions by the following stakeholders, including joint submissions:

- Aviva Canada
- Wakefield Canada Inc.
- FGF Brands
- Takeda Canada Inc.
- NICA-Power Battery Corp.
- Lactalis Canada Inc.
- Circular Materials
- HelloFresh Canada
- VistaPrint
- STANPRO (Standard Products Inc)
- City of Ottawa
- GE Lighting
- Electronics Product Stewardship Canada
- Electro-Federation Canada
- Signify
- Automotive Materials Stewardship
- Tires and Rubber Association of Canada
- Canadian Consumer Specialty Products Association
- YESS-E360S
- RPRA Staff Member
- Niagara Region
- Waste to Resource Ontario (W2RO)
- Product Care Recycling
- Food, Health & Consumer Products of Canada (FHCP)
- City of Toronto

- Ryse Solutions
- Coke Bottling Canada

Appendix B: Webinar questions and answers

Below are the questions received during the consultation webinar and RPRA’s responses.

Some questions were edited for length and clarity.

Question	RPRA Response
Is RPRA intended to be a not-for-profit (cost neutral) organization?	<p>Yes, RPRA operates as a cost-recovery organization.</p> <p>RPRA charges fees to registrants to cover its costs related to compliance and enforcement activities for the producer responsibility programs, for building and operating the registry portals for each RPRA program and providing support to registry users.</p>
<p>If a producer is issued an administrative penalty, can the producer be directed to take action?</p> <p>And if they do not, will they receive additional administrative penalties?</p>	<p>The administration of administrative penalty is outside of the scope of this consultation.</p> <p>We recommend you review RPRA’s Administrative Penalties Guideline for details on how administrative penalties are administered.</p>
Who approves RPRA’s budget?	<p>Every year, RPRA undertakes a business planning process where we seek advice from RPRA’s advisory councils on our strategic priorities and resourcing plan. The draft businesses plan is reviewed by the ministry for six weeks. The business plan, including RPRA’s budget and forecasts for the business planning period are then approved by the RPRA board. Finally, the approved businesses plan is submitted to the Ministry prior to posting publicly.</p> <p>RPRA’s budget does not include a revenue target related to collection of administrative penalty revenues.</p>
Can the administrative penalty revenues be distributed to PROs to offset the system costs?	<p>The RRCEA and Administrative Penalties Regulation do not prescribe how RPRA will use funds collected from administrative penalties.</p> <p>The goal of this consultation is to solicit stakeholder feedback</p>

	<p>on how the collected administrative penalty revenues will be used.</p> <p>Creative ideas about how administrative penalty revenues could be used are welcomed for RPRA's consideration.</p>
<p>Regarding the base penalty amount and the economic benefit portion of the penalty, has there been thoughts about treating these separately in terms of how RPRA may use these funds?</p>	<p>There are two elements to an administrative penalty. The first is the base fine and the regulation provides guidance on the base fine amounts. The regulation also provides guidance on how the Deputy Registrar and Registrar will use this guidance to set a reasonable fine.</p> <p>The economic benefit portion is the benefit received by the non-compliant party by contravening the requirements of the regulation.</p> <p>The RRCEA and Administrative Penalties Regulation do not prescribe how RPRA will use funds collected from administrative penalties.</p>
<p>How much is going to be collected? Do we have a ballpark number to help us understand how this will bring down overall costs for producers?</p>	<p>RPRA will not be setting a revenue target for administrative penalties, therefore we cannot predict how the application of administrative penalties will impact program fees in the future.</p>
<p>Have you considered using the funds collected to somehow be put towards purchasing performance credits?</p>	<p>We have not considered this approach; however we appreciate the feedback and will document it.</p>
<p>Could APs be used to fund MECP oversight and compliance (i.e. enforcement of those not registering on RPRA) so that the registry pool is bigger, and costs can be reduced?</p>	<p>The AP Regulation relates to the RRCEA programs, in which RPRA is responsible for compliance and enforcement.</p> <p>For the digital reporting service programs (HWP and Excess Soils), the compliance and enforcement responsibilities remain with the ministry. RPRA does not have the power to issue APs to registrants of the digital reporting service programs. For these programs, RPRA plays a supporting role in building and operating the digital registries that enable regulated persons to comply with the reporting requirements of each program, and to support users of the new registry.</p>
<p>Assuming RPRA will begin undertaking prosecutions for contraventions as part of its</p>	<p>Thank you for providing this feedback.</p> <p>We will document your comments and consider them in the</p>

<p>progressive compliance program, and there will be costs associated with this, can APs go into a fund to cover these compliance costs? Otherwise, I would assume prosecution costs will be treated as a "program" expense and producers will bear the costs for prosecutions.</p>	<p>consultation and development of the final policy.</p>
<p>A possible issue RPRA may run into is collecting more APs than the RPRA portion of fees. Having a policy on how they can be allocated back to offsetting program costs would likely be prudent.</p>	<p>Thank you for providing this feedback.</p> <p>We will document your comments and consider them in the consultation and the development of the final policy.</p>
<p>Since we are talking about APs now, do you know if the overall collection has improved as compared to prior to having RPRA? Do you have any data for this?</p>	<p>This is not within the scope of this consultation.</p>
<p>Is it possible to re-invest some of the dollars back into ensuring compliance - i.e. hiring more RPRA compliance officers to collect more revenue from free riders?</p>	<p>RPRA does not dedicate compliance officers to individual programs.</p> <p>During the annual business planning process, RPRA develops a resourcing plan to determine if we have the right number of resources to fulfil our mandate, including compliance and enforcement. If it is determined that there is a need for more compliance officers, RPRA will propose an increase in resources for this area of our service delivery for the RPRA board's consideration.</p>
<p>Can you confirm that this discussion around APs does not apply to the Excess Soil registry program?</p>	<p>Yes, this consultation does not include programs outside of producer responsibility programs. Administrative penalties do not apply to the HWP and Excess Soil programs.</p>
<p>Could RPRA potentially factor the suppressed fee into the AP? That way it maximizes the amount used to offset producers' cost who were in compliance?</p>	<p>Thank you for providing this feedback.</p> <p>We will document your comment and consider it in the consultation and development of the final policy.</p>