



ADMINISTRATIVE PENALTY ORDER

Issued under section 89 of the
Resource Recovery and Circular Economy Act, 2016, c 12, Sched 1

TO: Mike English
Panasonic Canada Inc.
5770 Ambler Drive
Mississauga, Ontario, L4W 1T3

Served by email to: michael.english@ca.panasonic.com

ORDER NO.: RPRA-0032

I, Marisa Luff, am issuing this Administrative Penalty Order because I am of the opinion that Panasonic Canada Inc. ("Panasonic" or the "Registrant") has contravened the *Resource Recovery and Circular Economy Act, 2016* (the "Act") or the regulations.

Excerpts of the Act and the *Administrative Penalties Regulation* (the "Administrative Penalties Regulation") made under the Act relating to administrative penalty orders are attached. The third-party report developed for RPRA that informed the calculation of the economic benefit amount has also been provided to Panasonic.

CONTRAVENTION

I am of the opinion that Panasonic has contravened the following provision(s): Section 12(1) of O. Reg. 30/20: BATTERIES.

DESCRIPTION OF THE CONTRAVENTION

The Registrant supplies batteries to consumers in Ontario and is a producer under O. Reg. 30/20 ("Batteries Regulation"). The Registrant supplied a quantity of primary batteries into Ontario in 2019, 2020 and 2021, resulting in a minimum management requirement in the primary batteries category for 2023. The Registrant failed to meet its 2023 minimum management requirement for primary batteries in accordance with s. 13(2), as required by s. 12(1) of the Batteries Regulation.

ADMINISTRATIVE PENALTY AMOUNT: \$781,725.72

CONSIDERATION OF REGISTRANT'S REQUEST

1. Panasonic was issued a Notice of Intention to Issue an Administrative Penalty Order ("Notice of Intention") on March 10, 2025, pursuant to s. 3(1) of the Administrative Penalties Regulation.
2. On March 31, 2025, Panasonic submitted a request to consider information pursuant to s. 4 of the Administrative Penalties Regulation.

3. Subsection 4(1) of the Administrative Penalties Regulation requires me to consider the following information, as submitted by Panasonic:
 1. Any additional information related to the contravention.
 2. Any information relevant to the Registrar or Deputy Registrar's determination of the proposed base penalty amount or the proposed amount for economic benefit.
 3. Information about any actions the person has taken to remedy the contravention since it occurred.
4. Pursuant to s. 5(1) of the Administrative Penalties Regulation, after receiving such a request, I am required to:
 - (a) consider any information contained in a request received; and
 - (b) decide whether or not to issue an order to the person in respect of the contravention.
5. Pursuant to s. 6(1)(b)(iii), my consideration and decision are set out below. My reasons for decision first consider information relevant to the contravention. Second, I consider information relevant to each of the three factors that are used to determine the base penalty, as assessed in the Notice of Intention:
 - i. The contravention's impact, if any, on RPRA's ability to carry out its objects.
 - ii. The contravention's impact, if any, on resource recovery and waste reduction of a class of materials designated for the purposes of section 60 of the Act.
 - iii. With respect to the person who carried out the contravention,
 - A. The person's history, if any, of complying or not complying with the *Waste Diversion Transition Act, 2016* or its regulations or with the *Resource Recovery and Circular Economy Act, 2016* or its regulations, and
 - B. Any information available to the Registrar regarding whether the person has remedied the contravention or is in the process of remedying the contravention, and how quickly the contravention was or is being remedied.

I will then address the economic benefit amount, as assessed in the Notice of Intention.

Contravention

6. I remain of the opinion that Panasonic Canada Inc. has contravened the following provision:
 1. Section 12(1) of O. Reg. 30/20: BATTERIES
7. On April 30, 2024, Panasonic's Producer Responsibility Organization ("PRO") submitted a 2023 performance report on behalf of Panasonic, indicating that Panasonic had achieved a recovery rate for primary batteries of 16% against a requirement of 40%.
8. In its request, Panasonic submits that RPRA should consider the recent amendments to the Batteries Regulation in deciding whether to issue this Administrative Penalty Order. The

amendments to the Batteries Regulation combine the recovery requirements for primary and rechargeable batteries, effective for the 2025 performance year. Panasonic submits that RPRA should consider the intent behind the amendments and not issue an administrative penalty.

9. Panasonic did not make any submissions indicating the government's intent behind the amendments other than stating that the "enactment of this amendment is effectively an acknowledgment by the legislature that separate 40% targets for each category of batteries was unattainable." The fact that the government recently revised management targets and combined the targets for primary and rechargeable batteries is not evidence in itself that the target for primary batteries in effect for the 2023 year was unattainable or unfair, and I am therefore not convinced that the requirement in force for the 2023 year should not be applied to Panasonic's performance.
10. Given the changes are not retroactive, I remain of the opinion that Panasonic contravened s. 12(1) of the Batteries Regulation for the 2023 year. Panasonic also submits that because RPRA reported that the overall recovery rate for primary (single use) batteries in 2023 was 22.03%, that shows that a 40% recovery rate was unattainable or "impossible to achieve." However, I note the following:
 1. The 22.03% recovery rate published by RPRA represents the amount of recovered primary batteries claimed by producers or PROs on their behalf for the 2023 performance year – it does not represent the total amount of Ontario primary batteries that were collected and managed by service providers in 2023.
 2. Panasonic provides no evidence that it was not possible for it or its PRO to have increased its recovery rate through changes to its collection or management systems (e.g., by increasing collection sites).
 3. Panasonic provides no evidence that it was not possible to have increased its recovery rate by contracting with other service providers to improve its collection or management system.

Base penalty

11. In accordance with the Administrative Penalties Guideline, I have applied the first two base penalty factors using an impact scale: "The greater the impact of the contravention on the ability of RPRA to carry out its purposes, and on resource recovery and waste reduction, the greater the penalty will be (up to the maximum amounts in the regulation)."

Factor i. The contravention's impact, if any, on RPRA's ability to carry out its objects.

12. The Notice of Intention assessed the contravention as low (10/30).
13. Panasonic submitted that its failure to comply did not impact RPRA's ability to carry out its objectives because "RPRA's duties include ensuring compliance by obligated parties with their responsibilities as set out in the regulations, which provides it with authority to investigate

contraventions and take enforcement action where necessary to achieve compliance.” Panasonic submitted that a failure to comply with any provision of the Act does not impact RPRA’s ability to carry out this objective and, “instead, it is for this very purpose that RPRA is provided with these resources.”

14. The assessment undertaken for this factor reflects the resources and efforts expended to attempt to bring Panasonic into compliance for failure to manage its minimum requirement in 2023. Panasonic’s failure to comply does impact RPRA’s ability to carry out its overall compliance objectives because it diverts not unlimited resources from other important compliance activities.
15. Panasonic also commented on the report developed by RPRA that informed the calculation of the estimated cost of managing batteries: because Panasonic disagrees with the estimated cost, “this report was not an efficient use of the RPRA’s resources for which Panasonic should not bear the cost.” Commissioning this report is an example of RPRA resources that are required to enforce the Batteries Regulation. That Panasonic disagrees with the findings of the report is not relevant to this fact.
16. Panasonic further noted that RPRA did not allege obstruction or uncooperative conduct with any compliance actions.
17. The assessment of impact as “low” reflects that RPRA does not allege that the Registrant conducted itself in an obstructive or uncooperative manner
18. After considering Panasonic’s submission, I confirm no adjustments to this factor and confirm the factor remains 10/30.

Factor ii. The contravention’s impact, if any, on resource recovery and waste reduction of a class of materials designated for the purposes of section 60 of the Act.

19. The Notice of Intention assessed the contravention as high (30/30).
20. I am guided by the Administrative Penalties Guideline which states that “[g]enerally speaking, the greater the amount of material impacted by the contravention, the greater the impact on resource recovery or waste reduction, and the higher the assessment on the impact scale.”
21. Panasonic submits that it holds a moderate rather than significant proportion of the batteries market in Canada. I accept that the amount of material impacted by Panasonic’s noncompliance in Ontario 2023 is moderate and not significant.
22. Panasonic submits that excess managed tonnage of primary batteries unclaimed by producers remained in the market. Panasonic submits that because “all” end-of-life batteries were collected and managed by a third party, even though ultimately unclaimed by producers, the provincial interest has been achieved despite Panasonic’s contravention.

23. In accordance with the principles of individual producer responsibility, each producer is responsible for managing a required minimum amount of end-of-life material. Failure to do so impacts the system of resource recovery and waste reduction and unequally distributes this responsibility. For Panasonic to argue that because another entity managed the materials it was supposed to have managed there is therefore no impact on resource recovery and waste reduction misses the point of the regulatory scheme. Even if it was true that “all” end of life batteries in Ontario were collected and managed, Panasonic’s failure to take responsibility for its portion of the total had a significant impact on resource recovery under the Act, which makes brand holders like Panasonic responsible for the management of products they are associated with.
24. Regarding this factor, Panasonic’s submission also noted alleged flaws in the regulatory scheme, including the multi-PRO and for-profit model and an “unachievable” management requirement for primary batteries.
25. I am not swayed by these arguments. Panasonic submitted no evidence that the management requirement for primary batteries was unachievable or that it could not have done more to increase its recovery rate. Second, citing the behaviour of other market participants does not explain why it was not possible for Panasonic to pursue other ways to achieve compliance, such as implementing changes to its collection and management system during the performance year.
26. Panasonic submits that its PRO acquired a limited amount of additional managed primary battery tonnage on Panasonic’s behalf since the reporting of 2023 performance data on April 30, 2024. The acquired tonnage increased Panasonic’s recovery rate for primary batteries from 16% to 19%, against a regulatory requirement of 40%.
27. I accept that the amount of material impacted by the contravention has been slightly lessened and that the contravention’s impact on resource recovery and waste is moderate rather than significant so I determine that there should be a reduction to 20/30 for this factor.

Factor iii. A. History of the Registrant’s compliance with the *Waste Diversion Transition Act, 2016* or its regulations or with the *Resource Recovery and Circular Economy Act, 2016* or its regulations.

28. The Notice of Intention proposed that the impact of the producer’s past noncompliance was low (5/20).
29. Panasonic submits that its late filing of a few reports is “trite” in this context and should not be given any weight with respect to this factor. But reporting obligations are a key part of the regulatory framework RPRA administers, and failure to report on time has an impact on RPRA’s efficient use of resources, timely public reporting, and effective compliance activity. RPRA acknowledged in the Notice of Intention that most of the Registrant’s reports have been submitted on time, which is reflected in assessing the impact on this factor as “low.”

30. Panasonic disagrees with RPRA's assessment of its failure to meet the best efforts requirement in the Batteries Regulation with respect to 2022 performance. However, I am not revisiting the previous assessment that Panasonic, either on its own or through its PRO, failed to make best efforts to meet the management requirement in 2022. Panasonic's failure to meet the best efforts requirement for management of primary batteries in 2022 was communicated to Panasonic by RPRA on February 16, 2024, and it is a factor in determining historical compliance.
31. Panasonic further submitted that it and its PRO were provided with no notice or correspondence regarding its failure to meet the 2023 minimum management requirement for primary batteries. The communications between RPRA and Panasonic, as well as between RPRA and its PRO, are detailed in the Inspection Report which was appended to the Notice of Intention. RPRA did in fact communicate with the Registrant several times prior to issuing the Notice of Intention. RPRA notified Panasonic of the following:
- a. RPRA notified Panasonic of its 2023 recovery requirement for primary batteries upon submission of its 2022 battery supply report in October 2022.
 - b. Upon submission of its 2023 performance report by its PRO in April 2024, RPRA notified Panasonic of the availability of a report indicating whether it had met its recovery requirement for primary batteries.
 - c. RPRA notified Panasonic of its failure to meet its 2023 primary batteries recovery requirement, in an email from RPRA on February 25, 2025, two weeks prior to the issuance of the Notice of Intention.
32. After considering Panasonic's submission, I confirm no adjustments to this factor and confirm the factor is 5/20.

Factor iii. B. Any steps taken or not taken to remedy the contravention.

33. The Notice of Intention assessed the impact of Panasonic's failure to take steps to remedy the contravention as high (20/20).
34. As indicated above, Panasonic's submission noted that its PRO acquired a limited amount of additional managed primary battery tonnage on Panasonic's behalf since the reporting of 2023 performance data on April 30, 2024. The acquired tonnage increased Panasonic's recovery rate for primary batteries from 16% to 19%, against a regulatory requirement of 40%. I accept that Panasonic's PRO's purchase of additional managed primary battery tonnage is a step taken to remedy the contravention.
35. Panasonic's submission also noted that its PRO acquired a significant amount of additional managed rechargeable battery tonnage on Panasonic's behalf since the reporting of 2023 performance data on April 30, 2024. The acquired tonnage increased Panasonic's recovery rate for rechargeable batteries from 48% to 224%, against a regulatory requirement of 40%. As the contravention at hand relates to the recovery of primary batteries, this acquired tonnage does not reduce my assessment of this factor.

36. Panasonic submitted that its PRO had made “efforts to try to purchase...credits” held by a service provider. To demonstrate these efforts, Panasonic submitted one email thread, between its PRO and the service provider, with its PRO’s first response being on April 8, 2024, 21 days before the performance reporting deadline, and one email thread between the PRO and the service provider, from March 28, 2025. The first email thread did not include an offer to purchase available tonnage.
37. I accept that Panasonic’s PRO, on Panasonic’s behalf, made efforts to purchase additional managed tonnes of primary batteries in March 2025, nearly a year after the 2023 performance report was submitted to RPRA and 15 months after the 2023 performance year had ended. Panasonic submits that the behaviour of other service providers made it impossible for Panasonic to remedy the contravention. I do not accept this submission. Panasonic is individually responsible for its resource recovery obligation under the relevant legislation, and it does not provide evidence that it was impossible for it or its PRO, to increase its recovery rate.
38. In addition, there are ways to achieve compliance other than by purchasing tonnage, such as implementing changes to the collection and management system during the performance year.
39. Panasonic’s submission noted the efforts that its PRO has implemented on its behalf to comply with the Batteries Regulation. I accept that its PRO made additional efforts by making investments in public education and promotion and its collection system.
40. After considering this information, I determine that there should be a reduction to 15/20 for this factor.

Economic benefit

41. The Notice of Intention assessed the economic benefit penalty at \$772,016.53.
42. The Administrative Penalties Guideline states that the Registrar or Deputy Registrar will consider the following factors when determining the economic benefit penalty:
1. Costs that the person avoided by failing to comply with the provision.
 2. Costs that the person delayed by delaying compliance with the provision.
 3. Gains that the person has accrued by failing to comply with the provision.
43. With respect to the costs that Panasonic avoided by failing to comply with the provision, Panasonic submitted that it and its PRO had “limited engagement” with the report prepared for RPRA by a third party that informed the calculation of the economic benefit amount.
44. In fact, Panasonic’s PRO was requested to provide input into the report and declined to do so.

45. With respect to the costs that Panasonic avoided by failing to comply with the provision, Panasonic submits that Panasonic has not received a benefit, because if its PRO purchases additional managed tonnage of primary batteries on its behalf, Panasonic will not be required to pay its PRO for those credits. It further notes that Panasonic has paid all of its invoices to its PRO.
46. The Registrant's payment of fees to its PRO is not relevant to the economic benefit it accrued by not fulfilling its minimum management requirement for primary batteries. Whatever amount Panasonic paid its PRO, the shortfall in management performance is still the Registrant's individual responsibility. The economic benefit calculation estimates the amount the Registrant could have paid to avoid the shortfall in managed tonnage.
47. Panasonic further submitted that the estimated cost to manage primary batteries in the Notice of Intention is too high and does not reflect true economic benefit because its PRO was able to purchase additional tonnage for lower rates. Panasonic did not provide details of the terms of these transactions and indicated that there was no further tonnage to be obtained at the lower price.
48. The estimated cost used to calculate the economic benefit is based on the cost to manage primary batteries during the 2023 performance period, not on private market negotiations for the purchase of tonnage after the 2023 performance period had ended.
49. Panasonic also submitted that the proposed the economic benefit should be reduced to reflect the fact that "only 22.03% of primary batteries supplied in 2023 were available for collection/recovery".
50. As already noted above, Panasonic's interpretation of the publicly posted recovery rate of 22.03% is flawed. This rate reflects the recovery achieved by producers or PROs on their behalf and does not encompass performance in the battery program that remains unclaimed by producers or PROs. Additionally, as already noted, the published recovery rate does not mean that additional recovery was not possible in 2023.
51. After considering Panasonic's submission, I confirm no adjustment to the estimated cost of managing primary batteries and determine the economic benefit amount is \$681,725.72, taking into account the additional primary battery recovery tonnage obtained.
52. With respect to gains that Panasonic accrued by failing to comply, Panasonic submitted that the application of interest should begin on April 30, 2024, as there was the possibility to purchase additional recovered primary batteries until the performance reporting deadline for the 2023 performance period. I confirm that interest on the economic benefit amount begins to accrue immediately following the performance period to which it relates because the contravention relates to recovery that occurred during the 2023 calendar year.

53. After considering Panasonic's submission, I confirm no adjustments to be made to the application of interest on the economic benefit, beginning on January 1, 2024, immediately following the end of the 2023 performance period.
54. In addition to addressing the factors set out above, Panasonic also submitted that it should not be required to pay an administrative penalty because it is "punitive."
55. The Administrative Penalties Regulation at s. 7(4) states that if, after determining the administrative penalty amount, the Registrar or Deputy Registrar determines that, due to its magnitude, the imposition of the administrative penalty is punitive in nature having regard to all the circumstances, the Registrar or Deputy Registrar shall reduce the amount such that the imposition of the administrative penalty is consistent with the purposes set out in s. 89(1) of the Act.
56. Subsection 89(1) of the Act states that an administrative penalty may be imposed for one or more of the following purposes:
 1. To ensure compliance with this Act and the regulations.
 2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of contravening a provision of this Act or of the regulations.
57. Panasonic submitted that the administrative penalty is punitive because it punishes Panasonic for failing to meet targets that were impossible to achieve, and which it made every attempt to achieve.
58. Panasonic does not provide evidence to support these submissions. Panasonic included supporting documentation by its PRO, which stated that the PRO achieved a year-over-year increase in battery collection from 2022 and 2023, listing investments in the collection system and promotion and education activities. However, as explained above, there is no indication in Panasonic's submission that further improvements were "impossible," or that increased performance was unachievable.
59. Panasonic further submits that RPRA's exercise of discretion on every factor of the base penalty favours a penalty near the maximum, thus shifting the administrative penalty into the realm of punitive. This is not accurate: two of the four factors were assessed as low impact. Moreover, I have decided to lower the assessed points for the other two factors in response to Panasonic's submissions, as set out above.
60. The amount of the base penalty reflects the objective of deterring noncompliance with the Batteries Regulation. A base penalty of \$100,000 is not out of proportion to the amount required to achieve regulatory purposes. The noncompliance was substantial in this case: Panasonic ultimately achieved a recovery rate for primary batteries of 19% against a regulatory requirement of 40%. And the base penalty is substantially less than the maximum allowed for this contravention. A lower amount risks giving producers an incentive to avoid compliance on a fundamental resource recovery obligation

61. The economic benefit portion of the penalty is intended to remove the economic benefit of noncompliance and level the playing field with other registrants. It is not intended to be punitive. Moreover, Panasonic submitted that it agreed to reallocate some of its managed primary batteries tonnage to shield other producers from enforcement action. Panasonic voluntarily accepted the consequence of increasing its tonnage shortfall, which is reflected in the amount of economic benefit Panasonic is ordered to pay.
62. Panasonic also submitted that the administrative penalty is punitive because of the stigma it says will be associated with the publication of this Order. The Act requires that Orders issued pursuant to s. 89 are posted on the Registry, and I do not find the penalty is punitive merely because it is made public. Rather, the goal of transparency with respect to the publication of AP orders furthers RPRA's objective of deterring noncompliance with the regulatory scheme.
63. Having regard to all the circumstances, I confirm that the amount of the administrative penalty reflects the objective of deterring noncompliance with the Batteries Regulation and of preventing the Registrant from deriving an economic benefit from the noncompliance.

AMOUNT OF THE ADMINISTRATIVE PENALTY

I have determined the following administrative penalty amount is appropriate and reflects the fact that the contravention has not been fully remedied.

ADMINISTRATIVE PENALTY AMOUNT: \$781,725.72

Calculated as follows:

Base penalty: \$100,000

Economic benefit amount: \$681,725.72

Total: \$781,725.72

Subsection 12(1): Failure to establish and operate a system for managing batteries

Base Penalty: \$100,000.00

The base penalty is determined by multiplying the applicable base penalty amount by the total number of assessed points.

The maximum base penalty amount for contravening s. 12(1) is \$200,000. The factor assessment total is 50. The applicable base penalty is therefore multiplied by 0.50 for a total of \$100,000.

The following factors were considered in determining the base penalty amount:

Factor	Considerations	Factor points available	Assessment of Impact	Assessed points
i. The contravention's impact, if any, on RPRA's ability to carry out its objects.	Compliance with management obligations is a fundamental outcome of the regulatory scheme. When producers fail to meet their management obligations, RPRA is required to analyze a significant amount of data and to expend considerable resources to determine the magnitude of and to address the contravention. This, in turn, reduces the overall resources available to RPRA to perform the duties and exercise the powers given to RPRA under this Act, in fulfilment of its objects.	30	Low	10
ii. The contravention's impact, if any, on resource recovery and waste reduction of a class of materials designated for the purposes of section 60 of the Act.	<p>The Registrant's failure to manage batteries compromises the provincial interest in having a robust system of resource recovery and waste reduction. In particular, it fails to:</p> <ul style="list-style-type: none"> • protect the natural environment and human health; • minimize the generation of waste; • fairly allocate responsibility for the batteries to the persons who are most responsible for their design; • minimize the need for waste disposal; • minimize the environmental impacts that result from waste disposal; • increase the reuse and recycling of waste; and • increase opportunities and markets for recovered resources. <p>Failure to meet management obligations impacts the public's overall trust in the circular economy regulations and creates an uneven playing field for producers.</p>	30	High	20

Factor	Considerations	Factor points available	Assessment of Impact	Assessed points
	<p>The Registrant's noncompliance with its battery management obligations represents a moderate proportion of the battery market in Ontario.</p> <p>The Registrant has acquired a small amount of additional tonnage of managed primary batteries to partially remedy the contravention.</p>			
<p>iii. A. History of the Registrant's compliance with the <i>Waste Diversion Transition Act, 2016</i> or its regulations or with the <i>Resource Recovery and Circular Economy Act, 2016</i> or its regulations.</p>	<p>The Registrant registered as a battery producer on time. The Registrant submitted majority of its batteries supply and performance reports on time. The Registrant met the best efforts requirement for the rechargeable battery category and did not meet the best efforts requirement for the primary battery category in the 2022 performance year.</p> <p>The Registrant registered as a blue box producer on time. The Registrant submitted all its blue box supply reports on time.</p> <p>The Registrant registered as an ITTAV producer on time. The Registrant submitted the majority of its ITTAV supply and performance reports on time.</p>	20	Low	5
<p>iii. B. Any steps taken or not taken to remedy the contravention.</p>	<p>The Registrant has acquired a small amount of additional tonnage of managed primary batteries to partially remedy the contravention.</p>	20	High	15
Factor assessment total		100		50
Total Calculated Base Penalty				Factor assessment x \$200,000 = \$100,000

Economic Benefit: \$681,725.72

a) Costs that the person avoided incurring by failing to comply with the provision:

The Registrant has avoided the costs of fulfilling its 2023 primary battery management requirement. The amount of the costs the Registrant avoided is determined by multiplying the estimated cost of managing primary batteries by the difference between the Registrant's minimum management requirement for primary batteries and the actual weight of primary batteries the Registrant managed in 2023.

Calculation:

[Estimated cost of managing primary batteries] x [producer management requirement – actual management, in tonnes]

b) Gains that the person has accrued by failing to comply with the provision:

By not incurring the costs associated with complying with its battery management obligations, the Registrant is assumed to have accrued a benefit equivalent to the Bank of Canada policy interest rate on the estimated amount of avoided costs. This benefit continues to accrue until the contravention is remedied or this Order is issued. As of the date of this Order, the benefit has accrued for 484 days (i.e., from the end of the 2023 performance year: January 1, 2024).

Calculation:

[Estimated amount of delayed costs] x [interest rate] x [days]

REQUIRED ACTION

Within 30 days from the date of this Order, Panasonic Canada Inc. is required to take the following action:

1. Remit payment of the Administrative Penalty to RPRA via EDI/EFT, Online Bill Payment, or Cheque. Email payment details, including the Order Number listed above and amount paid, to registry@rpra.ca.

EDI/EFT:

Information will be provided separately.

Online Bill Payment:

Using the bill payment functionality, log into your bank account, go to the bill payment section, and choose to add a payee. Search for and select "RPRA" as the payee. Once "RPRA" is selected, enter the Order Number listed above.



Cheque:
Remit to: Resource Productivity & Recovery Authority

APPEAL OF ADMINISTRATIVE PENALTY ORDER

You have the right to appeal this Order to the Ontario Land Tribunal. To appeal, you must serve written notice of your intention to appeal on the Deputy Registrar who made the Order, and on the Tribunal, within **15 days** of being served with this Order, as follows:

Deputy Registrar
RPRA
registry@rpra.ca

and

Ontario Land Tribunal
655 Bay Street, Suite 1500
Toronto, ON M5G 1E5
Phone: 416-212-6349 | 1-866-448-2248
Website: www.olt.gov.on.ca

The notice of appeal must state the portions of the Order in respect of which the hearing is required and the grounds on which the applicant intends to rely at the hearing.

FAILURE TO PAY AN ADMINISTRATIVE PENALTY

If you fail to pay this Administrative Penalty Order, the RPRA may file the Order with a local registrar of the Superior Court of Justice and the Order may be enforced as if it were an order of the court.

PUBLICATION OF ORDER

This Order will be posted on the Resource Productivity and Recovery Registry on RPRA's website in accordance with section 51 of the Act.

ORDER ISSUED ON APRIL 28, 2025

Original signed by:

Marisa Luff
Deputy Registrar, RPRA

EXCERPT OF THE *RESOURCE RECOVERY AND CIRCULAR ECONOMY ACT, 2016*

ADMINISTRATIVE PENALTIES

Administrative penalties

89 (1) An administrative penalty may be imposed under this section for one or more of the following purposes:

1. To ensure compliance with this Act and the regulations.
2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of contravening a provision of this Act or of the regulations.

Order by Registrar or Deputy Registrar

(2) The Registrar or a Deputy Registrar may, subject to the regulations, issue an order requiring a person described in subsection (3) to pay an administrative penalty to the Authority if the Registrar or Deputy Registrar is of the opinion that the person has contravened,

- (a) subsection 41 (5);
- (b) a requirement under subsection 50 (4) to file information, reports, records or documents that are complete and accurate;
- (c) subsection 68 (3);
- (d) subsection 75 (1);
- (e) section 79; or
- (f) a provision of this Act or of the regulations that is prescribed for the purposes of this section.

Same

(3) An order may be issued under subsection (2),

- (a) to a person required to pay a fee under subsection 41 (5);
- (b) to a person required under Part IV to carry out a responsibility under that Part;
- (c) to a person who fails to respond to an inquiry made under section 79;
- (d) to a person prohibited from marketing a product under subsection 75 (1); or
- (e) to a prescribed person.

Limitation

(4) An order under subsection (2) shall be served not later than one year after the day on which evidence of the contravention first came to an inspector's attention.

Orders not to be issued to directors, officers, employees or agents

(5) If a person who is required to comply with a provision of this Act or of the regulations is a corporation, an order under subsection (2) shall be issued to the corporation and not to a director, officer, employee or agent of the corporation.

Amount of penalty

(6) The amount of the administrative penalty for each day or part of a day on which a contravention occurred or continues to occur shall be determined by the Registrar or a Deputy Registrar in accordance with the regulations.

Contents

(7) An order under subsection (2) shall be served on the person who is required to pay the administrative penalty and shall,

- (a) contain a description of the contravention to which the order relates, including, if appropriate, the date of the contravention;
- (b) specify the amount of the penalty;
- (c) give particulars respecting the time for paying the penalty and the manner of payment; and
- (d) provide details of the person's right to require a hearing under section 91.

Absolute liability

(8) A requirement that a person pay an administrative penalty applies even if,

- (a) the person took all reasonable steps to prevent the contravention; or
- (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.

Same

(9) For greater certainty, nothing in subsection (8) affects the prosecution of an offence.

Payment prevents conviction

(10) A person who pays an administrative penalty in respect of a contravention and has remedied the contravention shall not be convicted of an offence under this Act in respect of the same contravention.

Failure to pay administrative penalty when required

90 (1) If a person who is required to pay an administrative penalty fails to comply with the requirement, the Authority may file the order that requires payment with a local registrar of the Superior Court of Justice and the order may be enforced as if it were an order of the court.

Same

(2) Section 129 of the *Courts of Justice Act* applies in respect of an order filed under subsection (1) and, for that purpose, the date on which the order is filed is deemed to be the date of the order that is referred to in that section.

EXCERPT OF THE ADMINISTRATIVE PENALTIES REGULATION MADE UNDER THE RESOURCE RECOVERY AND CIRCULAR ECONOMY ACT, 2016

Issuing of order

6. (1) Without limiting the contents required under subsection 89 (7) of the Act, an order shall,
- (a) specify the provision that the person has contravened and describe the contravention, including the day, days or parts of days on which the contravention occurred;
 - (b) set out the final amount of the administrative penalty, and as part of specifying the final amount of the administrative penalty, specify the final base penalty amount and the final amount for economic benefit, including,
 - i. a description of the manner in which the final base penalty amount was determined,
 - ii. a description of the calculations, variables and assumptions that led to the determination of the final amount for the economic benefit, and
 - iii. any consideration given by the Registrar or Deputy Registrar to any request made under section 4;
 - (c) give particulars respecting the time for paying the penalty and the manner of payment; and
 - (d) provide details of the person's right to require a hearing under section 91 of the Act.
- (2) A single order may require a person to pay an administrative penalty in respect of one or more contraventions.

Administrative penalty amount, general

7. (1) Subject to subsections (2), (3) and (4), the administrative penalty amount under subsection 89 (2) of the Act in respect of a contravention shall consist of the following, determined in accordance with this Regulation:

- 1. A base penalty amount.
- 2. An amount for economic benefit.

(2) The administrative penalty amount in respect of a person's contravention of a provision set out in Schedule 1 shall not exceed \$1 million.

(3) The administrative penalty amount in respect of a contravention of a provision set out in Schedule 2 shall not exceed \$1 million minus the total amount of any administrative penalties in respect of the contravention of the same provision by the same person in the previous 365 days.

(4) If, after determining the administrative penalty amount in respect of a contravention in accordance with subsections (1), (2) and (3), the Registrar or Deputy Registrar determines that, due to its magnitude, the imposition of the administrative penalty is punitive in nature having regard to all the circumstances, including any other administrative penalty amounts in respect of contraventions under the same order, the Registrar or Deputy Registrar shall reduce the amount such that the imposition of the administrative penalty is consistent with the purposes set out in subsection 89 (1) of the Act.

Base penalty amount, determination

8. (1) For the purposes of setting out the proposed base penalty amount in a notice under subsection 3 (1) and the final base penalty amount set out in an order under subsection 6 (1), the Registrar or Deputy Registrar shall determine the base penalty amount in accordance with the following rules:

1. The Registrar or Deputy Registrar shall consider the following factors:
 - i. The contravention's impact, if any, on the Authority's ability to carry out its objects.
 - ii. The contravention's impact, if any, on resource recovery and waste reduction of a class of materials designated for the purposes of section 60 of the Act.
 - iii. With respect to the person who carried out the contravention,
 - A. the person's history, if any, of complying or not complying with the Waste Diversion Transition Act, 2016 or its regulations or with the Resource Recovery and Circular Economy Act, 2016 or its regulations, and
 - B. any information available to the Registrar regarding whether the person has remedied the contravention or is in the process of remedying the contravention, and how quickly the contravention was or is being remedied.
2. For a contravention of a provision set out in Schedule 1, the base penalty amount shall not exceed the applicable maximum base penalty amount, as set out in the applicable Table to Schedule 1.
3. For a contravention of a provision set out in Schedule 2, the following rules apply:
 - i. The daily base penalty amount shall not exceed the applicable maximum daily base amount, as set out in the applicable Table to Schedule 2 and shall be multiplied by the number of full or partial days during which the contravention continued before it was remedied.

ii. The base penalty amount in respect of a contravention shall not exceed the applicable maximum total base penalty amount, as set out in the applicable Table to Schedule 2, minus the total of any base penalty amounts included in administrative penalties that were imposed in respect of a contravention of the same provision by the same person in the previous 365 days.

(2) For the purposes of paragraph 3 of subsection (1), a contravention of a provision set out in Schedule 2 that requires a person to do something within a particular time period shall be considered to have been remedied when the person has done it, even if the person has done it after it was required to be done.

Amount for economic benefit, determination

9. The Registrar or Deputy Registrar shall consider the following factors when determining, with respect to a contravention of a provision set out in Schedule 1 or 2, the proposed amount for economic benefit to be set out in a notice under subsection 3 (1) and the final amount for economic benefit to be set out in an order under subsection 6 (1):

1. Costs that the person avoided incurring by failing to comply with the provision.
2. Costs that the person delayed incurring by delaying compliance with the provision.
3. Gains that the person has accrued by failing to comply with the provision.

Determination of final administrative penalty amount

10. (1) The Registrar or Deputy Registrar shall, when determining the final administrative penalty amount to be set out in an order, reapply sections 8 and 9 and redetermine the base penalty amount and amount for economic benefit if the Registrar or Deputy Registrar considers it to be appropriate based on any additional information now available to the Registrar or Deputy Registrar that was not available at the time of giving the notice under subsection 3 (1), which may include information regarding the continuation of the contravention following the giving of the notice.

(2) In making the determinations under subsection (1), the Registrar or Deputy Registrar shall consider any information contained in a request received under section 4.