

Consultation on the Use of Administrative Penalties Collected by RPRA

March 5, 2024



Consultation Scope

The purpose of this consultation is to gather feedback from stakeholders on the proposed use of administrative penalties collected by RPRA.

The [Administrative Penalties Regulation](#) issued under the [Resource Recovery and Circular Economy Act, 2016](#) (RRCEA) does not prescribe how RPRA can use funds collected from administrative penalties. RPRA is seeking stakeholder feedback on the proposed use of collected funds to determine how they will be used.

The consultation period will be 45 days from **February 12, 2024, to March 27, 2024.**

Questions or comments can be submitted to consultations@rpra.ca at any time.

What is RPRA?

The Resource Productivity and Recovery Authority (RPRA) is the regulator mandated by the Government of Ontario to enforce the province's circular economy laws.

RPRA administers the [Resource Recovery and Circular Economy Act, 2016](#) (RRCEA) and the [Waste Diversion Transition Act, 2016](#) (WDTA), and their associated regulations.

The WDTA and RRCEA outline the legislative framework for winding up and transitioning legacy waste diversion programs to a new producer responsibility regulatory framework for waste diversion and resource recovery.

The new regulatory framework requires producers to be individually accountable and financially responsible for their products and packaging once consumers dispose of them.

Separate from its role as a regulator, RPRA is also mandated to build and operate digital reporting services on behalf of the Government of Ontario, as directed by the Minister of the Environment, Conservation and Parks.

RPRA is a cost-recovery organization and **does not** receive any government funding. RPRA funds its activities through fees charged to regulated parties.

The Administrative Penalties Regulation

The RRCEA and the [Administrative Penalties Regulation](#) provide RPRA with the power to impose administrative penalties (APs) to enforce compliance with the regulatory requirements.

Administrative penalties are monetary penalties that RPRA can impose for certain contraventions under the RRCEA and its regulations.

In accordance with the RRCEA, administrative penalties are:

- issued by RPRA's Registrar or Deputy Registrar
- required to be publicly disclosed

All APs issued will be posted to RPRA's [Compliance Orders and Administrative Penalties webpage](#) as required under S. 51(1) of the RRCEA.

Schedules 1 and 2 of the AP Regulation set out the base amounts for contraventions.

The AP Regulation also allows RPRA to calculate the value of the economic benefit derived from the related non-compliance and add it to the base penalty amount to a maximum amount of \$1M.

Application of Administrative Penalties

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

Administrative penalties help:

- (1) Deter non-compliance
- (2) Ensure that there is a level playing field in Ontario for businesses that have waste reduction or resource recovery obligations
- (3) Protect the provincial interest in having a system of resource recovery and waste reduction.

Parties subject to APs will receive a Notice of Intention from the Registrar or Deputy Registrar prior to the penalty being issued. The recipient of a notice will have the opportunity to request that the Registrar or Deputy Registrar consider additional information before they decide to issue the Administrative Penalty Order.

RPRA does not have revenue targets for collecting administrative penalties.

AP Funds collected will be held in a segregated account and will be reported through RPRA's annual report.

The regulation does not specify how funds collected through administrative penalties are to be used.

Commitment to consult and use AP funds to reduce program costs

- 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’
 - ‘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.’
- RPRA’s CEO and Board Chair subsequently communicated the Board resolution to the Minister and Ministry staff, as per the resolution:
 - ‘Chair and CEO are directed to communicate this decision to MECP and the Minister, as appropriate.’

How other Ontario regulators use AP funds

Electrical Safety Authority

- Education initiatives on compliance
- Consumer Awareness
- Education initiatives targeting the public

Financial Services Regulatory Authority

- Fund research or educational initiatives
 - Must make all reasonable effort to use AP funds in relation to the specific regulated sector that the AP was administered to

Ontario One Call

- Fund promotion and education
- Fund improvements to technical services
- Fund operations of the Corporation
- Fund administration of system of administrative penalty

Retirement Homes Regulatory Authority

- APs collected are allocated to an emergency fund that benefits residents and retirement homes

How should RPRA use AP funds?

Proposal: Use AP funds to reduce costs for the program from which the AP was issued.

Examples include:

- If \$100k is collected from an AP issued to a registrant in the tires program, then apply the amount to the tires program budget and thereby reduce tires program fees for all tires program registrants.
- If \$100k is collected from an AP issued to a registrant in the batteries program, apply the funds to reduce direct costs in the batteries program, such as making a prepayment for the batteries registry portal or apply the funds to the costs of future batteries registry portal enhancements, thereby reducing batteries program costs, and thereby reducing batteries program fees for all batteries program registrants.

Consultation Questions for Stakeholders

In providing your feedback, RPRA would be interested in hearing your views on the following:

1. Do you support using AP funds collected to reduce program fees for the program from which the AP was issued?
2. Do you have any other suggested uses for AP funds collected by RPRA?

If you have proposed alternative uses for administrative penalties collected by RPRA please submit your feedback to consultations@rpra.ca

Providing Feedback

- Feedback on the proposal for RPRA's use of administrative penalties can be submitted to consultations@rpra.ca
- The deadline to submit your feedback is **March 27, 2024**
- For more information on this consultation, please visit our [consultation webpage](#)
- RPRA will consider all feedback received during the consultation
 - Stakeholder feedback will be summarized in a report that will be posted to RPRA's website following the consultation period
 - RPRA's Board of Directors will consider all stakeholder feedback in approving a policy on the use of AP funds
 - Consultation participants will be notified when the proposal is approved