



**Wednesday, June 21, 2023**

**UNDERSTANDING ONTARIO'S  
PRODUCER RESPONSIBILITY  
REGULATORY FRAMEWORK  
RPRA CIRCULAR ECONOMY LEARNING SERIES**



**RPRA**  
Resource Productivity  
& Recovery Authority

**Cameron Parrack**  
Manager of Programs  
and Stakeholder Relations  
RPRA

# Agenda

Time	Activity	Speakers
1:05 to 1:10 p.m.	Introduction	<ul style="list-style-type: none"><li>• Frank Denton, CEO, RPRA</li></ul>
1:15 to 2:45 p.m.	Panel Discussion: How the Ministry of the Environment, Conservation and Parks, Competition Bureau and RPRA work together	<ul style="list-style-type: none"><li>• Mary Cummins, Registrar, RPRA</li><li>• Charles O'Hara, Director, Resource Recovery Policy Branch, Ontario Ministry of the Environment, Conservation and Parks;</li><li>• Étienne Tremblay-Guérin, Senior Competition Law Officer, Competition Bureau Canada;</li></ul>
2:45 to 3:00 p.m.	Break	
3:00 to 4:30 p.m.	RPRA's approach to compliance	<ul style="list-style-type: none"><li>• Ellen White, Manager of Compliance and Strategy, RPRA;</li><li>• Mary Cummins, Registrar, RPRA</li></ul>
	Closing	<ul style="list-style-type: none"><li>• Mary Cummins, Registrar, RPRA</li></ul>



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# Frank Denton

## CEO, RPRA



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**Cameron Parrack**  
Manager of Programs  
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**Charles O'Hara**

**Director**

**Resource Recovery Policy Branch,  
Ontario Ministry of the Environment,  
Conservation and Parks**

# Ontario's Approach to Producer Responsibility

Charles O'Hara

Director, Resource Recovery Policy Branch

June 21, 2023

# Ontario's Approach to Producer Responsibility

Ontario's approach to producer responsibility places regulated obligations on individual producers and builds in choice and flexibility in an open market.

## **Outcome-based regulations**

- Regulations set meaningful collection and diversion outcomes – but leaves it to producers to decide how to meet them.

## **Producers have choice**

- Competitive market for Producer Responsibility Organizations (PROs) - no government approval, no “locked-in” plans.

## **Strong oversight for a level playing field**

- Resource Productivity and Recovery Authority – independent oversight with compliance tools.

## **Low-burden, data-driven approach to compliance**

- Annual report on supply and management outcomes – low burden way to ensure compliance and over time helps assess the effectiveness of the regulations.



# Elements in Producer Responsibility Regulations

## **Who is a producer?**

- Regulations set a hierarchy to determine who is the producer

## **Who else is involved?**

- Producer responsibility organizations (PROs), processors, haulers help producers meet obligations

## **What gets recycled?**

- Each regulation clearly defines regulated materials
- Producers are required to meet specified diversion outcomes (e.g., targets)
- Regulations set out what counts as diversion (e.g. recycling, reuse) and what doesn't (e.g. landfilling, incineration, energy-from-waste)

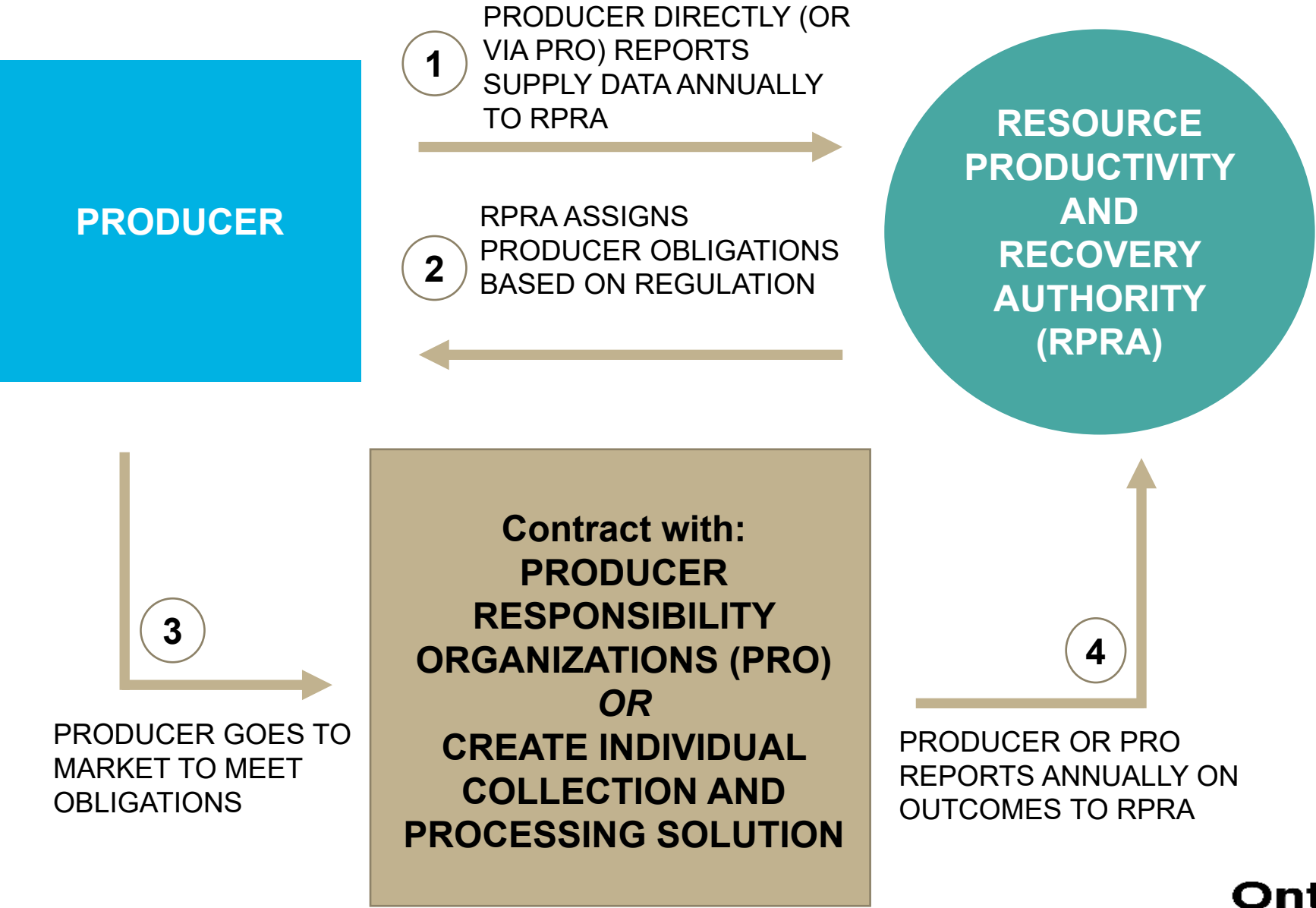
## **How is it collected?**

- Producers must establish and operate a collection system that meets accessibility requirements

## **How do they get enforced and drive results?**

- Parties must register, report, verify, and audit to facilitate compliance and enforcement
- Digital registry facilitates reporting

# How Producers Fulfill Responsibilities Under the RRCEA



# Status of Current Producer Responsibility Regulations

Ontario has taken steps to transition all the existing waste diversion programs to the producer responsibility framework.

- **Tires**
  - Transitioned on January 1, 2019
- **Batteries**
  - Transitioned on July 1, 2020
- **Electrical and electronic equipment (EEE)**
  - Includes audio-visual equipment, lighting products
  - Transitioned on January 1, 2021
- **Hazardous and special products (HSP)**
  - Includes pesticides, solvents, fertilizers, oil filters, oil containers, antifreeze, refillable and non-refillable pressurized containers, and mercury-containing products
  - Transitioned on October 1, 2021
- **Blue Box**
  - Will transition between July 1, 2023, and December 31, 2025

# Implementation and Operation

- The regulations are now all finalized with Tires, Batteries, EEE and HSP operating and blue box in an implementation stage.
- Producer responsibility organizations are developing and operating systems to collect and manage regulated materials on behalf of producers.
- What does this mean?
  - Producers are responsible for:
    - Meeting collection, management, and promotion and education outcomes
    - Registering and reporting with RPRA as required
  - Service providers, such as PROs, haulers and processors, are responsible for:
    - Providing services under contract to producers and others
    - Registering and reporting with RPRA as required

# Role of the Ministry

- Responsibility for the policy framework lies with the government.
- The government is responsible for:
  - Making legislation and regulations
  - Communicating policy intent
  - Monitoring implementation and feedback
- The ministry's role in implementation is helping stakeholders understand the “why” of the regulations:
  - Explaining the intent of the act and the regulation
  - Understanding the rationale behind requirements
  - Clarifying how regulatory outcomes forward the public interest

# Role of RPRA

- Responsibility for overseeing the regulations lies with RPRA.
- RPRA is responsible for:
  - Providing guidance about the act and regulations
  - Operating a registry to accept registrations and data from producers, processors, and other service providers
  - Providing compliance and enforcement of regulatory requirements
- RPRA has a compliance team to help producers, processors, and others understand the “who”, “what”, “when”, and “how”, including:
  - Definitions, outcomes, and requirements
  - Procedural steps, including reporting, verification, auditing
  - Timelines for registration and data submission

# THANK YOU

**Charles O'Hara**  
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For more information on Ontario's framework, visit:

<https://www.ontario.ca/page/waste-management>



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**Étienne Tremblay-Guérin**  
Senior Competition Law Officer  
Competition Bureau Canada





Competition Bureau  
Canada

Bureau de la concurrence  
Canada

# Competition Act and Ontario EPR

RPRA Learning Series

Canada 

# Agenda

- The Competition Bureau – Mandate & Structure
- What is an “abuse of dominance”?
- Overview of Section 79 of the Competition Act
  - Market power
  - Practice of anti-competitive act
  - Effect on competition
- How to communicate with the Bureau



# Enforcement Activities



## Cartels

Did competitors agree to fix prices, allocate/restrict markets or rig bids?



## Deceptive Marketing Practices

Is a firm's marketing message misleading or false in a material way?



## Mergers

Is a merger likely to lead to substantial anti-competitive harm in a market?



## Monopolistic Practices

Is a dominant player causing anti-competitive harm by abusing its market power?

- **Out of scope for monopolistic practices:**
  - Mere exercises of market power
  - Taking action against a company just because it is big

# S.79 of the Competition Act

Where, on application by the Commissioner, the Tribunal finds that

(a) one or more persons substantially or completely control, throughout Canada or any area thereof, a class or species of business,

(b) that person or those persons have engaged in or are engaging in a practice of anti-competitive acts, and

(c) the practice has had, is having, or is likely to have the effect of preventing or lessening competition substantially in a market,

the Tribunal may make an order prohibiting all or any of these persons from engaging in that practice.



# Communication with the Bureau

Investigations require a great understanding of the market and its competitive dynamics

Calls, meetings and written submissions are crucial information gathering steps

[etienne.tremblay-guerin@cb-bc.gc.ca](mailto:etienne.tremblay-guerin@cb-bc.gc.ca)

- 873-455-2185





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# Mary Cummins

## Registrar, RPRA

# Administrative Authorities like RPRA



## How does RPRA operate?

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### As a regulator, RPRA is:

- An Administrative Authority – compliance decisions are independent from Government
- Accountable to the Minister of the Environment, Conservation and Parks as per legislation and Operating Agreement
- Skills-based board, no stakeholder representation – Minister appoints 5 of 11; Ministry observer
- Responsible for interpreting, communicating about and enforcing regulations
- Funded through fees charged to obligated parties
  - Currently fees are applied to producers; could be broadened in future
  - No government funding



# RPRA's role as a regulator

- RPRA **does not** determine policy or write regulations
  - Our role is to implement and enforce regulations under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA)
  - We do not have the authority to change a regulation
- RPRA **does not** arrange for the collection or recycling of end-of-life products or materials in Ontario
  - Producers are responsible for establishing collection and management systems to meet their requirements in the regulation
  - Most producers will work with PROs (or producer responsibility organizations) who will establish these systems on behalf of multiple producers
- RPRA **does not** set or collect environmental fees to cover the cost of collection and management systems



# Panel Discussion

# Panel Discussion

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## Moderator:

- Cameron Parrack, Manager of Programs and Stakeholder Relations, RPRA

## Panelists:

- Charles O'Hara, Director, Resource Recovery Policy Branch, Ontario Ministry of the Environment, Conservation and Parks
- Étienne Tremblay-Guérin, Senior Competition Law Officer of the Competition Bureau Canada
- Mary Cummins, Registrar, RPRA



**Break**



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**Cameron Parrack**  
Manager of Programs  
and Stakeholder Relations  
RPRA



**Our approach to compliance**

# Objectives today



How the team assess  
compliance priorities



How the team determines  
what compliance tools  
to use



How compliance  
decisions are made



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**Ellen White**

**Manager of Compliance and Strategy**

**RPRA**






**Our approach to compliance:  
How RPRA assesses  
compliance priorities and risk**



**Does RPRA  
make decisions  
at random?**



**Shouldn't  
everybody be  
treated the  
same way?**



**Why is RPRA  
picking on me  
and not my  
competitors?**

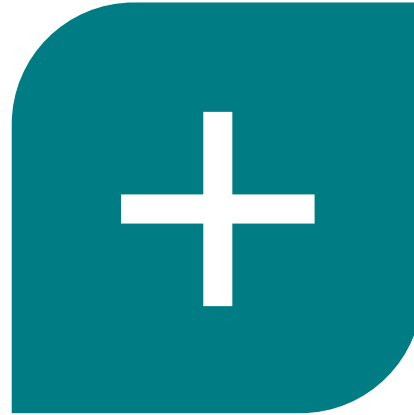
# Why do we need a risk-informed approach?

- Consistent with our values:
  - Accountability
  - Fairness
  - Integrity
  - Collaboration
- Limited resources
- Focus on outcomes

# How do we define risk?



The likelihood of an obligated party failing to meet their responsibility



**AND**



The consequences on the system outcomes

## Circular economy objectives

- Reduce waste
- Increase resource recovery
- Enable effective systems
- Create conditions for sustainable end markets



## System outcomes

- Fewer landfills
- Less use of new material
- More innovation
- Better products
- More competition
- Stimulate economy

# Which case is the bigger priority?

1



**Rick's Retro TV Co.**

## **Did not submit supply report**

- Producer with small management target
- Has a PRO who reports their performance each year

2



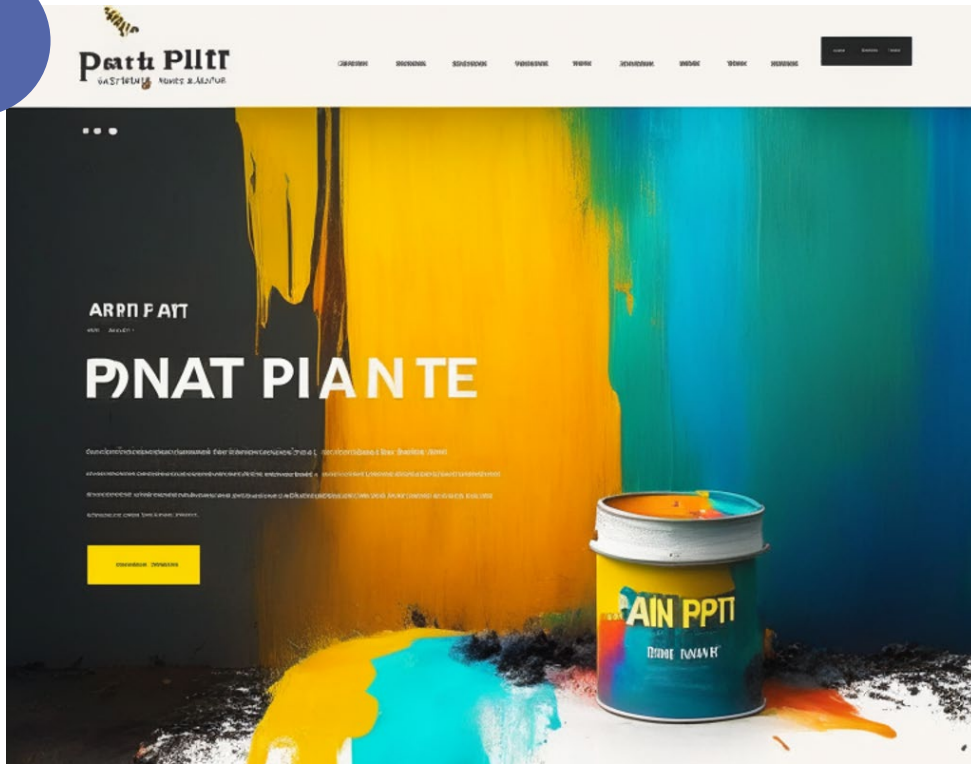
**Mega PRO Inc.**

## **Failed management requirement for all their producers**

- Clients have 70% of all supply weight
- Submitted performance report on time

# Which case is the bigger priority?

1



BestPaint.com

## Not Registered

- Direct-to-consumer website
- Large producer

2



Paint Pals Ontario

## Not Registered

- Based in Ontario
- Small producer





# Which case is the bigger priority?

1



#1 Light Depot

One collection site not recording when large quantities of lighting dropped off.

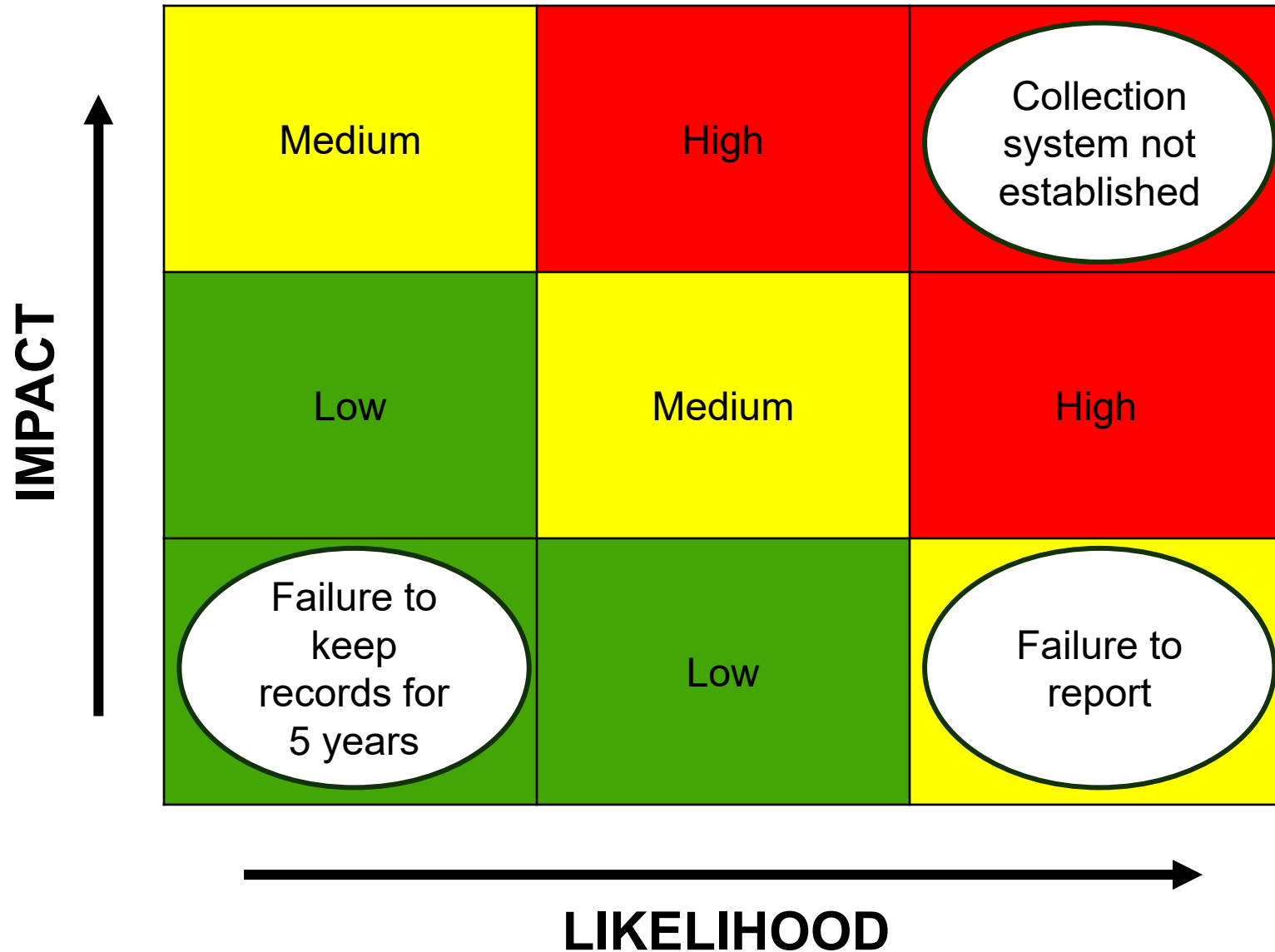
2



Lights R Us

A chain of collection sites charging consumers to drop off light bulbs.

# RPRA's compliance risk matrix



# RPRA's compliance risk matrix cont.

## Contributing factors:

- Amount of material (tonnage)
- Compliance history
- Severity of contravention

IMPACT

The diagram is a 3x3 risk matrix. The vertical axis is labeled 'IMPACT' with an upward arrow. The horizontal axis is labeled 'LIKELIHOOD' with a rightward arrow. The matrix cells are colored as follows: Top-Left (Yellow, Medium), Top-Middle (Red, High), Top-Right (Red, High), Middle-Left (Green, Low), Middle-Middle (Yellow, Medium), Middle-Right (Red, High), Bottom-Left (Green, Low), Bottom-Middle (Green, Low), Bottom-Right (Yellow, Low). Three callout ovals are positioned to the right of the matrix, each pointing to a specific cell: the top oval points to the top-right cell, the middle oval points to the middle-right cell, and the bottom oval points to the bottom-right cell.

Medium	High	High
Low	Medium	High
Low	Low	Low

Large producer never reports + no collection

Large producer never reports

Small producer has no collection system

LIKELIHOOD



## What's next?

- Enhancing our risk model
- Working with thought leaders in public risk
- Moving towards data-driven risk analysis
- Finding efficiency through automation



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# Mary Cummins

## Registrar, RPRA



**Our approach to compliance:  
RPRA's compliance tools**

**We focus on the objectives of the law combined with risk-based targeting**

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# 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 Teams' 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@rprra.ca](mailto:registry@rprra.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 revealed, RPRA will consider alternatives
  - A 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
  - A 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





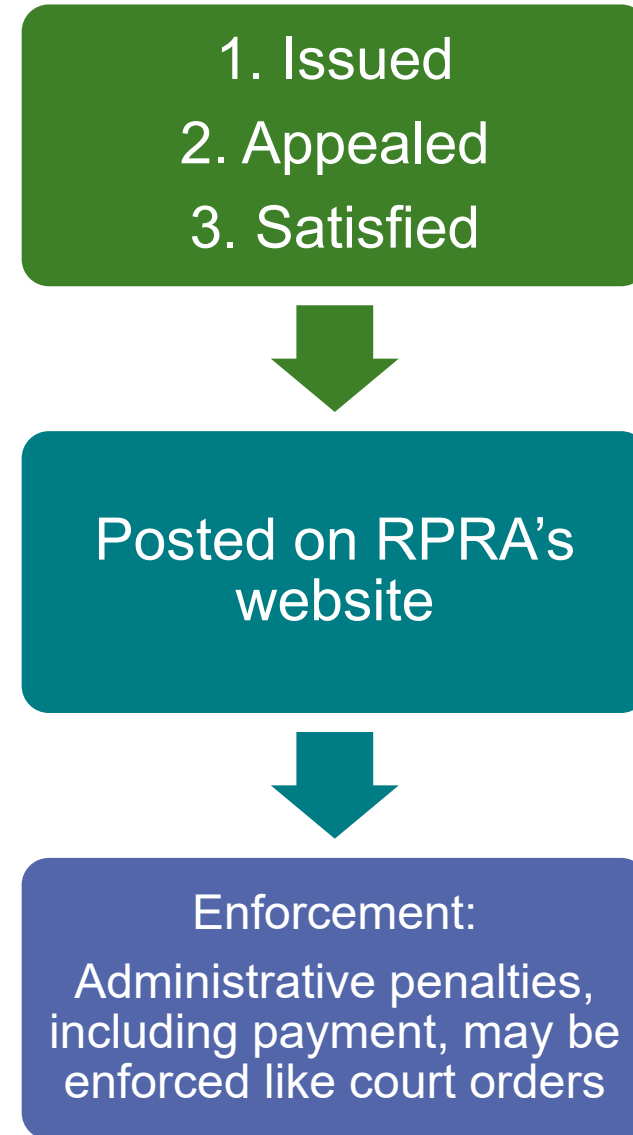
# Compliance Tools:

## Administrative penalties procedures

- One-year time 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



# Steps taken after issuing an Order



**RPRA's goal is to  
achieve compliance.**



# Let's work together to achieve the goal of compliance



Independent statutory decisions



Clarifications – request for clarification policy



Getting feedback from those we regulate  
- Collaborating to achieve compliance



Q&A

A top-down view of a person's hands typing on a silver laptop keyboard. The person is wearing a white shirt and a black fitness tracker on their left wrist. A semi-transparent white horizontal band is overlaid across the middle of the image, containing the text "Share your feedback" in a bold, purple font. To the right of the laptop, a black smartphone is lying vertically on the wooden desk surface.

**Share your feedback**



**Thank you for  
participating!**