

October 27, 2022

Notice of Compliance Requirement

To: Battery Producer

The Resource Productivity and Recovery Authority (RPRA) has determined that your company is out of compliance with s.14 (Management of batteries) of Ontario Regulation 30/20 (the Batteries Regulation) issued under the *Resource Recovery and Circular Economy Act, 2016* (RRCEA), which among other things, requires producers to use processors registered with RPRA in order to meet their resource recovery requirements.

Immediate action is required.

Background

Following a commercial dispute between Call2Recycle Canada Inc. (Call2Recycle), a battery Producer Responsibility Organization (PRO), and Raw Materials Company Inc. (RMC), a battery processor, which led to a significant reduction in the number of used battery collection sites in Ontario, RPRA initiated on April 14, 2022, an inspection to determine battery producers' compliance with regulatory requirements under the Batteries Regulation.

[On September 9, 2022](#), RPRA announced that producers relying on Call2Recycle to satisfy their requirements to establish and operate a compliant used battery system in Ontario under the Batteries Regulation were noncompliant with the requirements of Part III (Collection of Batteries), s. 9-11 of the regulation, which outlines requirements for producers to establish and operate a used battery collection system.

Call2Recycle has, on behalf of their client producers, submitted an updated list of collection sites to address the s.9-11 noncompliance and RPRA is currently reviewing the sites to determine whether they meet the collection system requirements in the Batteries Regulation.

In addition to the inspection of the Used Battery Collection System, RPRA's Compliance and Enforcement Team undertook an inspection of RMC, following allegations by Call2Recycle that certain battery processors were operating out of compliance with the Batteries Regulation.

[On October 6, 2022](#), RPRA provided an inspection update and confirmed that the inspection found no evidence of RMC improperly handling or reporting of batteries collected from outside Ontario for the purposes of meeting resource recovery requirements under the Batteries Regulation. The inspection team also found no evidence of double counting of resource recovery performance under the Batteries Regulation and Ontario Regulation 522/20 (the Electrical and Electronic Equipment Regulation) also issued under the RRCEA. RPRA inspectors observed comprehensive quality assurance controls throughout RMC's operations.

The inspection initiated on April 14, 2022, has also identified that Call2Recycle, along with all other battery PROs, have been using unregistered battery processors to meet their producer clients' resource recovery requirements in contravention of s. 14 (b) of the regulation. Battery PROs have been made aware of this fact but have not rectified this noncompliance on behalf of their producer clients. It is the responsibility of battery producers to ensure the processors they are relying on to meet their resource recovery requirements are registered with RPRA, unless those processors are subject to the small processor registration exemption.

Unless a processor is subject to the small processor registration exemption, Producers, or PROs on their behalf, can only rely on the following battery processors registered with RPRA to meet their 2020, 2021 and 2022 management requirements:

1. Battery Solutions LLC
2. Laurentide Re-Sources Inc – *as of October 26, 2022*
3. Li-Cycle Corp
4. Raw Materials Company Inc.
5. Retrieval Technologies Ltd.

This list is subject to change. A current list is maintained [here](#) on RPRA's website.

Producers cannot count used batteries processed by an unregistered processor that is required to register with RPRA to meet their management requirements. If an unregistered processor that is required to be registered is subsequently registered with RPRA, then only those used batteries processed while the processor is registered with RPRA can be used to meet a producer's resource recovery requirements. This requirement has been communicated to all battery PROs.

As per the RRCEA and the Batteries Regulation, producers are individually accountable for meeting regulatory requirements and cannot assign their obligations to another party, including a PRO. As such, all battery producers using a PRO to meet their regulatory requirements are noncompliant with s. 14 (b) of the Batteries Regulation.

Noncompliant producers may be subject to the following enforcement actions:

- Compliance orders, including requiring you to comply with any directions to remedy the noncompliance
- Fines, including recovering any economic benefit that resulted from the noncompliance, if the Administrative Penalties Regulation proposed under the RRCEA is finalized
- Prosecution

Any orders issued related to this matter will be publicly disclosed, as required under the RRCEA, on RPRA's website. This includes public disclosure of the producer's company name.

To avoid possible enforcement action, you must immediately take the required actions identified below.

Compliance Requirement

Pursuant to sections [79](#), [99\(4\)](#) and [99\(5\)](#) of the *Resource Recovery and Circular Economy Act, 2016 (RRCEA)*, you are required to provide the following information to RPRA via email (registry@rpra.ca) no later than the date indicated below.

1. **Current used batteries management system – Due 5:00 PM, November 3, 2022**
 - Identify all haulers and processors currently being used in your management system, including the address, phone number and account number.
 - A sorting facility does not count as a processor. Under the Batteries Regulation a processor is a person who processes the batteries into recovered resources for the purposes of making new products or packaging, enriching soil, or as aggregate (up to 15% limit permitted).
 - When identifying processors, you must include all processors in your system, including all downstream processors (i.e., processors that receive materials derived from batteries for further processing).
2. **January 1, 2022, to September 30, 2022 used batteries tonnage – Due 5:00 PM, November 3, 2022**
 - Identify the total tonnage picked up from collection sites in your collection system for each month from January 1, 2022, to September 30, 2022.
 - Identify the total used batteries tonnage sent to each processor, including downstream processors (if applicable), in your management system for each month from January 1, 2022, to September 30, 2022, separately for each battery type (rechargeable and single-use) and by chemistry. This must include the tonnage sent to unregistered processors.
 - Identify this same information for October 2022 and each subsequent month 15 calendar days following the end of the month (i.e., October 1 to October 31 is due to RPRA November 15, 2022, and each subsequent month thereafter).
3. **July 1, 2020, to December 31, 2021 used batteries tonnage – Due 5:00 PM, November 24, 2022**
 - Identify the total tonnage picked up from collection sites in your collection system for each month from July 1, 2020, to December 31, 2021.
 - Identify the total used batteries tonnage sent to each processor, including downstream processors (if applicable), in your management system for each month from July 1, 2020, to December 31, 2021, separately for each battery type (rechargeable and single-use) and by chemistry. This must include the tonnage sent to unregistered processors.
 - Any tonnage that was sent to an unregistered processor and incorrectly reported toward a producer's management requirements for 2020 and 2021 by PROs will be removed from producers' reported performance. RPRA will inform producers of any compliance implications, including under sections 13 of the Batteries Regulation.

The information being required should be available from your PRO or PROs and can be submitted by the PRO or PROs on your behalf. However, it is your responsibility as a producer to provide accurate information and otherwise comply with the requirements of the Batteries Regulation. Furthermore, you should be aware that it is an offense under the RRCEA to submit false or misleading information to the Authority, including when that information is being submitted by an agent such as a PRO acting on your behalf.

Should you have any questions, you may contact Addison Veres, Inspector, RPRA at registry@rpra.ca.



Addison Veres, Inspector, Compliance Operational Lead

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 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.