**Canadian Propane Association Submission on Proposed Administrative Penalties Regulation for Hazardous and Special Products – November 18, 2021**

Please find below the Canadian Propane Association’s input on behalf of our members regarding the proposed administrative penalties regulation (ERO – 19-0045) for hazardous and special products (HSP) under the Resource Recovery and Circular Economy Act, 2016 (RRCEA).

Despite the Resource Productivity and Recovery Authority’s repeated statements in webinars and meetings this year that they would be using communication and education tools to ensure regulatory compliance with the new HSP regime, the proposed regulation recommends extensive and excessive fines to be levied on individuals and businesses captured under the HSP Regulation (O. Reg.449/21)

Category E propane marketers are required to do two things: register with the Authority; and collect and manage refillable propane cylinders they market in the province. Our comments on the proposed regulation pertain to these obligations and associated penalties only.

The penalties proposed for Category E HSP are excessive given refillable propane cylinders are an important contributor to Ontario’s circular economy realizing an enviable 90 per cent reuse/recycle rate. Unlike most other product categories covered by the RRCEA regulations and proposed regulations, refillable propane cylinders are designed and manufactured to be used multiple times over many decades. The proposed $1 million maximum penalty per infraction does not align with contravening elements of refillable propane cylinder collection and management.

Specific concerns and suggestions for improvement in the proposed administrative penalties regulation include:

1. Defining “best efforts” of parties to remedy potential regulatory contraventions currently proposed to be at the discretion of the Registrar/Deputy Registrar (Part III, 11);
2. Provide the rationale for assigning a 15-day timeframe for notice recipients to respond to the RPRA;
3. Preference for a sliding scale for fines levied based on the extent of the infraction within a category. For example, submission of collection records with a missing date or incomplete field, should be fined a lesser amount than outdated or inaccurate collection information; and
4. Penalty amounts should align with the potential environmental impact of the infraction, rather than solely with the Authority’s ability to carry out its obligations. Propane, for example, dissipates into the atmosphere when released with no environmental damage. This may not be the case for other HSP fuels and gases. The penalties should reflect the properties of each product class to damage the environment if not managed properly.

Thank you for the opportunity to comment on the proposed administrative penalties regulation. We trust this input will be considered in the development of the final regulatory regime and impacted industry partners will be advised on its status in a timely manner.