

November 19, 2021

Dale Gable
Ministry of the Environment, Conservation and Parks
Resource Recovery Policy Branch
40 St. Clair Avenue West, 8th floor
Toronto, ON
M4V 1M2

Send Via Email: Dale.Gable@Ontario.Ca
And submitted online via Environmental Registry of Ontario (ERO)

Dear Dale Gable,

Re: ERO-019-0045 Administrative Penalties Regulation made under the Resource Recovery and Circular Economy Act, 2016

The Ontario Federation of Agriculture (OFA) is the largest general farm organization in Ontario, proudly representing more than 38,000 farm family members across the province. OFA has a strong voice for our members and the agri-food industry on issues, legislation and regulations governed by all levels of government. We are dedicated to ensuring the agri-food sector and our rural communities are included, consulted and considered in any new and changing legislation that impacts the sustainability and growth of our farm businesses.

Ontario's diverse and innovative agri-food sector is a powerhouse for the province – growing and producing more than two hundred farm and food products, fuelling our rural communities and driving the provincial economy by generating more than 860,000 jobs and contributing over \$47 billion to Ontario's annual GDP. We are the leading agricultural advocate for Ontario farmers, their businesses and their communities.

We are pleased to provide comments from an agricultural and rural Ontario perspective on the proposed Administrative Penalties Regulation under the Recovery and Circular Economy Act. OFA supports MECP commitments to design environmental enforcement tools that hold regulated parties in contravention of legislation and regulations accountable for non-compliance.

We note that in the draft regulations the Maximum Base Penalty Amounts for Corporations has been set at five times the Maximum Base Penalty Amounts for Individuals. When imposing penalties, we recommend the Ministry consider the size of the corporation when determining the appropriate penalty amount. Many small businesses in Ontario, including tens of thousands of farm businesses, have incorporated for a variety of reasons. The size of many of these incorporated farm businesses are similar to the size of other farm businesses which operate as either individual sole proprietorships or farm partnerships.

In addition to proposed Registrar or Deputy Registrar penalty determination powers, OFA supports enabling the administration to address the inconsistency of penalty assessments for small, incorporated businesses compared to significantly larger corporations. This would better align small business penalty assessments with more comparable individual assessments in terms of business size and influence.

Considering the potential for a considerable number of new participants during the transition to the Individual (waste) Producer Responsibility model, we recommend reinforcing education as a first step prior to penalty for a non-continuing (non-willful contravention) category of offences.

Regarding not issuing penalties under the “best efforts” provisions in Section 11 of the proposed Regulation, we recommend additional information be made available to inform participants of what information the Registrar or Deputy Registrar would consider as fulfilling a requirement to “make best efforts to do something”, in their determination to not issue an administrative penalty in respect of a contravention.

We also recommend the Authority make more information available related to an “appropriate amount of time to become compliant,” and parameters around how and when the Authority will apply per-day penalties for continued non-compliance.

We support a model where non-compliance and financial benefit penalty revenues offset other waste stream management cost obligations. To ensure transparency and accountability, we support reporting penalties on the Authority’s public website and the requirement that the Authority annually report to the public on the use of revenue from administrative penalties.

The transition to Individual Producer Responsibility is a challenge for regulators, stakeholders and the public. We look forward to continued engagement with the Ministry and RPRA as regulations and legislation develop.

Sincerely,



Peggy Brekveld
President

cc OFA Board of Directors