

Kubota North America (Steven Day)

Dear Washington Department of Ecology,

Thank you for the opportunity to provide feedback on the pending permanent regulations around Washington's Recycling Reform Act. This process is critical for producers to understand their obligations and the potential impacts on their respective business within the state of Washington and is unfortunately excessively vague and lacks appropriate due process based on the current proposed timelines.

Regarding Section 173-950-100:

The proposed rule differs significantly from the legislation, as shown in the comparison table. The statute explicitly applies the July 1, 2026 deadline for producers to "be a member of a producer responsibility organization (PRO) registered in this state..." Other responsibilities in subsequent paragraphs (finance a statewide program, pay fees...) are not specified as being due by July 1. The draft rule language puts the July 1 date at the top and then sets forth requirements that are not set forth in the enabling legislation. Specifically, the draft rule applies requirements to that date ("be a member in good standing... fulfilling the membership requirements... paying the required fees...") which are not legislatively mandated nor in good faith should the July 1 deadline apply to these requirements. This draft rule language applies an interpretation of the legislation that raises the July 1 requirements on producers beyond what was clearly communicated in the legislation. This interpretation is concerning because it comes from rules that will not be promulgated until after the July 1 deadline. Furthermore, this deadline comes before the program plan is due (October 1, 2028) and years before it is enforceable through market exclusion (March 1, 2029).

Kubota recommends modifying the draft rules to require reporting no earlier than May 29th, 2028, which follows the same timeline that other states have, where producers are not required to report data until the same year that the Program Plan is submitted by the PRO. Any earlier requirements put onto producers by the PRO are not legislatively supported and should not be enforced by the Washington DOE.

Thank you for your consideration.

Sincerely,
Steven Day on behalf of Kubota North America

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