Healthcare Distribution Alliance

HEALTH DELIVERED

June 15, 2026

Mr. Chris Fredley
SWM Program Rule Coordinator
Washington Department of Ecology
Solid Waste Management Program
Attn: Recycling Reform Act Rulemaking
300 Desmond Drive SE
Lacey, WA 98503

Re: Comments on Proposed Chapter 173-950 WAC – Recycling Reform Act

Dear Mr. Fredley:

On behalf of the Healthcare Distribution Alliance (HDA), the national trade association representing healthcare wholesale distributors, thank you for the opportunity to provide comments on the proposed rule implementing Washington's Recycling Reform Act (Chapter 70A.208 RCW).
HDA supports Washington's goals of improving recycling systems, reducing waste, and increasing material recovery. However, we are concerned that the proposed rule would improperly narrow the statutory exemption for packaging associated with FDA-regulated pharmaceuticals, biologics, vaccines, medical devices, dietary supplements, and other healthcare products by treating secondary and tertiary healthcare packaging as covered material.

The Legislature established broad exemptions for healthcare-related packaging.

RCW 70A.208.020(19) defines "exempt materials" as "materials, or any portion of materials" that qualify for specified exemptions. The statute expressly exempts packaging for products regulated by the U.S. Food and Drug Administration, including drugs, biologics, vaccines, medical devices, dietary supplements, associated components, consumable medical equipment, and veterinary products. Notably, the statute exempts "packaging for" these healthcare products and does not distinguish among primary, secondary, or tertiary packaging.

The proposed rule creates new packaging classifications that are not found in the statute by defining "primary packaging," "secondary packaging," and "tertiary packaging." The rule further provides that covered material includes "secondary and tertiary packaging associated with exempt primary packaging." This provision effectively narrows the healthcare exemption enacted by the Legislature by limiting exempt healthcare packaging to primary packaging while expressly bringing secondary and tertiary healthcare packaging into the producer responsibility program.

This approach is inconsistent with both the text and intent of Chapter 70A.208 RCW. The Legislature chose broad language when it exempted "materials, or any portion of materials" and "packaging for" FDA-regulated healthcare products. Had the Legislature intended to limit the exemption to primary packaging only, it could have done so expressly. Instead, the statute contains no distinction among packaging layers and provides no basis for excluding secondary and tertiary healthcare packaging from the exemption.

By creating packaging categories not found in statute and using those categories to narrow a legislative exemption, the proposed rule expands producer obligations beyond what the Legislature authorized. As drafted, the rule would create uncertainty regarding the treatment of healthcare packaging, increase compliance burdens across the healthcare supply chain, and undermine the predictability that healthcare manufacturers, distributors, and providers require to maintain safe and efficient operations.

The proposed rule also raises significant healthcare delivery concerns.

FDA-regulated pharmaceuticals, biologics, vaccines, medical devices, and other healthcare products require highly specialized packaging systems to ensure patient safety and product integrity. Every participant in the healthcare supply chain has a shared responsibility to ensure these products are delivered safely, securely, and without interruption.

In practice, that responsibility depends not only on immediate product containers, but also on the secondary and tertiary packaging that protects products during storage and transportation. Such packaging commonly includes insulated shippers, gel packs, temperature-control materials, cushioning for glass vials and injectable products, tamper-evident packaging, protective containers, and other specialized materials designed to prevent contamination, damage, counterfeiting, and temperature excursions.

These materials are not incidental packaging. They are critical components of healthcare distribution systems and are frequently necessary to maintain compliance with federal requirements governing product safety, storage, handling, and transportation.

Subjecting these materials to producer reporting obligations, fee structures, and other compliance requirements would impose substantial administrative burdens on healthcare supply chain participants while providing little meaningful environmental benefit. These requirements could also create incentives to alter packaging systems that were designed specifically to protect patient safety and maintain product quality.

The proposed rule may also jeopardize continuity of care.

Healthcare packaging serves essential functions that directly support sterility, traceability, temperature stability, tamper resistance, safe handling, and product efficacy. Secondary and tertiary packaging frequently provides the protections necessary to prevent damage and preserve product integrity throughout the distribution process. Regulatory requirements that increase costs, create operational complexity, or disrupt distribution systems can ultimately affect patient access to critical medications, vaccines, biologics, and medical devices. This risk is particularly significant for temperature-sensitive products and therapies that depend on specialized shipping and storage systems.

For these reasons, HDA respectfully urges the Department to revise the proposed rule to ensure that all packaging associated with statutorily exempt FDA-regulated healthcare products, including primary, secondary, and tertiary packaging necessary for the safe storage, handling, transportation, and distribution of those products is treated as exempt material consistent with Chapter 70A.208 RCW.

Specifically, HDA urges the Department to **remove proposed WAC 173-950-030(a)(vi),** which designates "secondary and tertiary packaging associated with exempt primary packaging" as covered material, and to clarify that packaging associated with products exempted under RCW 70A.208.020(19) remains exempt regardless of packaging tier.

Thank you for your consideration of these comments. We appreciate the Department's engagement with stakeholders and would welcome the opportunity to discuss these issues further, please feel free to contact me any time at LLindahl@hda.org or (303) 829-4121.

Sincerely,

Leah Lindahl
Vice President, State Government Affairs
Healthcare Distribution Alliance