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September 1, 2026

Chris Fredley
Solid Waste Management Program Rule Coordinator
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Re: Recycling Reform Rulemaking – Chapter 173-950 WAC.

The Consumer Healthcare Products Association (CHPA) is the national trade association headquartered in Washington, D.C., representing manufacturers of over-the-counter (OTC) medications, dietary supplements, and OTC medical devices. CHPA submits these comments in response to the Department of Ecology's draft rule released for the August 19, 2026, Recycling Reform rule committee meeting.

The Draft Rule Correctly Applies the Statutory Exemption to the Full Packaging System

The Department's draft definitions of "packaging" and "exempt materials" draw no distinction among primary, secondary, and tertiary packaging. This is the correct reading of RCW 70A.208.020(19)(d), and CHPA urges the Department to carry this approach through to the final rule without modification.

The statute exempts "packaging for a product regulated as a drug, medical device, or dietary supplement" and expressly extends that exemption to "associated components." Nothing in that language limits the exemption to immediate or retail packaging. A rule that applies the exemption to the full packaging system, without artificially limiting it to primary packaging, faithfully implements the statute as written.

CHPA raised this interpretation in comments submitted to the Department in June 2026. The draft rule confirms that reading, and CHPA urges the Department to preserve it in the final rule.

CHPA Requests Explicit Confirmation in the Final Rule

To provide lasting regulatory certainty for consumer healthcare product manufacturers, we respectfully request that the Department confirm in the final rule that the exemption at RCW 70A.208.020(19)(d) applies to the entire packaging system for FDA-regulated drugs, medical devices, and dietary supplements, including all secondary and tertiary packaging components.

A clear statement in the rulemaking record will protect this interpretation from being revisited in future guidance, enforcement actions, or subsequent rulemaking.

CHPA thanks the Department for its careful attention to this issue and remains available to discuss these comments further.

Respectfully,

A handwritten signature in blue ink, appearing to read "Carlos I. Gutierrez". The signature is fluid and cursive, with the first name "Carlos" and last name "Gutierrez" clearly distinguishable.

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