



THE BUREAU OF
**PLANNING &
SUSTAINABILITY**

September 9, 2026

Oregon Department of Environmental Quality (DEQ)
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232-4100
rethinkrecycling@deq.oregon.gov

Re: CAA 2025 Annual Report Public Comment

Dear DEQ,

Thank you for the opportunity to submit comments on Circular Action Alliance's (CAA) 2025 Annual Report. Staff at the City of Portland, Bureau of Planning and Sustainability (BPS), appreciate all the great work that CAA has put into the RMA implementation to make this first-in-the-nation packaging, printed paper and single-use service ware extended producer responsibility program successful. We humbly offer the following comments:

- **Delayed responsible end market (REM) disposition reporting.** We acknowledge the complexity of this reporting and the DEQ's deferral of disposition reporting requirements. We look forward to the beginning of REM disposition reporting to provide transparency to the Oregon recycling system.
- **Convenience.** We look forward to additional depots opening in Portland, particularly those that enhance convenience geographically across the city and for apartment residents, specifically East Portland. We also would prioritize maintaining momentum towards the addition of materials to the USCL, which ensures a dramatically higher level of convenience.
- **Glass collection compliance.** CAA's annual report noted its alternative compliance request which would allow reduced glass collection at PRO depots in communities with on-route glass collection.



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portland.gov/bps
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We support this request based on cost-effectiveness but note that proposed glass rules will likely reduce producer investment in separated glass collection, despite the overall recycling system benefits of the preventing broken glass shards from contaminating other materials. Because of this, we advocate for DEQ to periodically revisit the allocation of responsibilities for glass collection.

- **Tribal consultation.** We support CAA's engagement with, and the expansion of recycling access in, Tribal communities across the state. Especially TSWAN who has recently been a regular attendee of the AOR conference.
- **Eco-modulation bonus.** Only one producer qualified for Bonus A in the first program year. We'd like to highlight the report's recognition that producers struggled to participate in the eco-modulation bonus program and support the effort to offer more options and set the incentives closer to cost recovery. We support further exploration of adjustments and approaches that increase participation in components of RMA that can encourage packaging innovations that reduce lifecycle impacts.

We look forward to continuing to work with DEQ and CAA to support implementation of the RMA in 2026/ 2027. Thank you for your consideration of these comments.

Sincerely,



Jane Comeault
Waste Reduction Policy Coordinator
Bureau of Planning and Sustainability
City of Portland





Submitted electronically to: rethinkrecycling@deq.oregon.gov

September 10, 2026

Ms. Leah Feldon
Director
Oregon Dept. of Environmental Quality
700 NE Multnomah Street
Portland, OR 97232

Subject: Comments of National Association of Wholesaler-Distributors on the 2025 Annual Report of Circular Action Alliance

Dear Ms. Feldon:

On behalf of the National Association of Wholesaler-Distributors (“NAW”), I submit these comments on the CAA Annual Report 2025, submitted by Circular Action Alliance Oregon LLC (“CAA”) on July 1, 2026 (the “Annual Report”). Oregon law requires the Department of Environmental Quality (“DEQ”) to approve only annual reports that satisfy ORS 459A.887. These comments identify material information that CAA should be required to provide before DEQ approves the Annual Report.¹

Executive Summary

NAW supports the inclusion of additional detail in CAA’s Annual Report compared with its earlier financial report (for 2023–2024). But the information provided confirms rather than resolves NAW’s concerns regarding fee-setting, cost allocation, and protections for Oregon producers. CAA recognized \$167.9 million in producer-fee revenue against only \$56.5 million in reported total expenditures—including approximately \$9.7 million in costs incurred before 2025—and ended the year with \$111.4 million in operating and earmarked reserves. Those results, together with large variances between budgeted and actual amounts across core program categories and CAA’s claimed discretion to delay credits over multiple years, raise serious questions about whether Oregon producers were charged amounts reasonably related and proportional to the costs attributable to their covered products.

¹ NAW submits these comments in addition to its January 5, 2026 comments on CAA’s 2023-2024 Annual Financial Report and without waiving any claim, defense, argument, or request for relief in *National Association of Wholesaler-Distributors v. Feldon et al.*, No. 3:25-cv-01334-SB (D. Or.), or any other proceeding. Nothing in this letter should be construed as limiting or precluding NAW’s claims in any manner.

CAA also has not provided the complete and reconciled accounting needed to evaluate those charges or demonstrated that the Annual Report satisfies all requirements of the Oregon’s Plastic Pollution and Recycling Modernization Act, ORS 459A.860–459A.975 (the “Act”). In particular, related to ORS 459A.887, the Annual Report scatters payment information among invoices, recognized expenses, accruals, commitments, and prior-period costs without consistently distinguishing amounts actually paid or mapping CAA’s reported figures to the applicable statutory categories. Similar gaps remain regarding CAA’s approach toward shared service allocations (i.e., among states in which it operates), the inputs used to calculate material-specific fee rates, producer billing adjustments and overpayments, and several express statutory reporting elements.

DEQ should therefore decline to approve the Annual Report unless CAA submits a public supplement that, at minimum, (i) reconciles producer fees, expenditures, and reserves; (ii) substantiates Oregon-specific and shared-service costs; (iii) provides the required accounting of 2024 costs and a complete statutory-category accounting for the 2025 reporting year; and (iv) discloses information sufficient to evaluate CAA’s fee calculations and claims of proportionality.

The information provided in the Annual Report also demonstrates that CAA should be required to establish a timely and enforceable process for returning or crediting amounts not needed for documented program obligations, as well as meaningful producer-facing procedures for correcting producer reports and resolving potential overlap in reporting.

Background on NAW

NAW is the “national voice of wholesale distribution,” an association comprised of employers of all sizes and national, regional, state, and local line-of-trade associations spanning the \$8 trillion wholesale distribution industry that employs over six million workers in the United States. Approximately 35,000 enterprises with almost 150,000 places of business in all 50 states and the District of Columbia are affiliated with NAW, including companies distributing in Oregon who are impacted by the Act.

Most wholesaler-distributors are small-to-mid-sized private companies with minimal in-house legal and compliance resources as compared to larger corporations. While only a few have recognized name brands (unlike the manufacturers and retailers which are their supply-chain partners), many do have name brands for the products they distribute.

Wholesale distribution’s role in the economy is often underestimated, but the industry represents approximately one-third of U.S. gross domestic product and a key component of our economic supply chain. Wholesaler-distributors are recognized as essential critical infrastructure, as they provide manufacturers with the ability to grow and develop their business. Additionally, distributors simplify logistics and create efficiency for buyers by providing product expertise and services.

Discussion of Comments

1. CAA Should Reconcile Its Charges and Provide a True-Up Payment to Producers.

CAA describes its 2025 fee revenue as “sufficient” because it recognized \$167.9 million in producer-fee revenue against \$56.5 million in reported expenditures, including certain startup costs.² Collecting sufficient fees is a statutory floor—not the only standard governing CAA’s fees. Fees must also be proportional to the costs attributable to the covered-product types, materials, and formats being charged.³ The Annual Report fails to meet those requirements.

Foremost, the magnitude and breadth of variances in CAA’s budgeted and actual expenditures raise serious questions about whether CAA’s 2025 fee schedule was reasonably calibrated to the costs attributable to the covered-product types, materials, and formats being charged. At a minimum, the Annual Report does not provide the category-level cost and allocation information needed to demonstrate compliance with ORS 459A.884. Numerous actual expenditures substantially exceeded budgeted amounts.⁴ CAA acknowledges that it used high-end forecasts, assumed capital down payments that were not required, included a 15% contingency that proved unnecessary, received fewer reimbursement requests than projected, and benefited from lower recurring costs and stronger commodity values.⁵

CAA also reports that it included \$16.4 million in 2025 producer fees for start-up costs while identifying only \$12.978 million in start-up costs incurred during 2022-2025. It characterizes the resulting difference as immaterial relative to total fees billed and states that the amount will be held in reserves and considered in future rates.⁶ Combined with the overcharges described above, this makes light of CAA’s statutory obligations and demonstrates a lack of seriousness in setting fees to reflect appropriate and *proportionate* charges, particularly where no individual producer had a meaningful opportunity to review the underlying costs or allocation. DEQ should exercise oversight and require true-up payments to producers to refund the highly disproportionate amounts that CAA has overcharged Oregon producers.

Furthermore, CAA divides its \$111.4 million reserve balance into \$60.2 million of operating reserves and \$51.2 million of earmarked reserves, stating that the operating reserve is intended to reach six months of projected 2027 variable operating costs and that unspent earmarked funds generally will reduce fees for the affected categories. Going farther, CAA also states that it reserves discretion to spread credits over a two- to three-year horizon for purposes of “fee stability,” and its own projections show approximately \$44 million of earmarked funds remaining at the end of 2026.⁷ CAA’s assumed discretion to defer credits over a two- to three-year period creates a substantial risk of shifting costs among reporting years and producer cohorts, particularly if the producers and material volumes funding the program change over time. CAA should not be allowed to overcharge current-year producers in this manner—at minimum, it should be required

² Annual Report at 145.

³ ORS 459A.884(1).

⁴ For example, CAA budgeted \$12.1 million for local-government collection-services expansion but reported \$233,077 in actual costs; \$20.7 million for PRO materials management but reported \$2.7 million; \$3.3 million for special-material investments but reported approximately \$2,000; \$10 million for education and outreach but reported \$3.8 million; \$12.2 million for shared-service costs but reported \$3.1 million; and \$9.5 million for bad debt but reported approximately \$584,000. Annual Report at 63.

⁵ *Id.* at 64–66.

⁶ *Id.* at 145.

⁷ *Id.* at 67–68.

to demonstrate the continuing need for each retained amount and to preserve the connection between each balance and the producers (and related material categories) from which it was collected.

DEQ should require CAA to provide the following details to support its expenditures:

- A line-item schedule that distinguishes cash payments, contractual commitments, uncommitted amounts, and amounts that have been accrued but not invoiced (or internally earmarked). For earmarked balances, the originating fee categories and intended activity/recipient should be provided. CAA should also provide an expected payment date and state the basis for concluding that the amount remains necessary to accrue at present.
- A schedule demonstrating how CAA will apply excess category-specific collections and uncommitted balances as refund payments to producers in proportion to fees paid, enforceable by DEQ.
- A prohibition on additional reserve collections unless CAA demonstrates a documented shortfall after accounting for existing balances and updated cost forecasts. DEQ should also provide procedures limiting excess reserve collections.

In addition, the financial information provided is confusing and requires the reader to shift between multiple tables and reconcile different amounts. CAA should provide a single, transparent synopsis distinguishing pertinent information such as current-year expenses, startup costs (previous and current periods), cash payments and accruals, producer adjustments, overpayments, operating reserves, and earmarked reserves.

2. CAA Has Not Provided a Complete Cost Accounting.

Further to the above, the Annual Report, including the “additional financial information” in Appendix N, lacks sufficient explanation of CAA’s costs and expenditures, reserve funds, and committed/uncommitted and earmarked amounts. The financial schedules report deferred revenue from producer overpayments without providing a complete reconciliation of how those amounts relate to fees collected, retained, and available for future program obligations.⁸ Two related but distinct requirements are implicated.

First, OAR 340-090-0850 requires the 2025 Annual Report to include an addendum providing a “complete accounting” of costs incurred in 2024 relating to the activities described in ORS 459A.887(2)(e)–(i). Appendix N reports CAA’s 2024 costs only as direct costs and indirect costs allocated to Oregon. It does not allocate those amounts among the statutory PRO functions, identify the payees or services involved, or otherwise provide an activity-level accounting. Even if DEQ treats CAA’s earlier 2023–2024 financial report as incorporated into Appendix N, the information remains seriously deficient for the reasons described in NAW’s January 5, 2026 comments.

Second, ORS 459A.887(2)(e)–(i) independently requires the Annual Report to provide a complete accounting or specified summaries for distinct categories of payments during the reporting year. Although CAA provides some potentially responsive information, that information is scattered throughout the Annual Report and does not consistently identify amounts actually paid for each statutory category. For example, Appendix D reports approximately \$1.488 million in local-government invoices but approximately \$8.247 million in recognized expenses, largely reflecting

⁸ See, e.g., Annual Report at 137, 140.

accruals, without clearly identifying the amount actually paid. The Annual Report likewise points to broad internal expense categories rather than providing a discrete and complete summary of “all other payments” under ORS 459A.887(2)(i).

As a result, DEQ, producers, and the public cannot determine whether CAA has fully reported the required payments or, in particular, whether overlapping figures have been identified and reconciled. DEQ should require CAA to supplement the Annual Report with both the complete 2024 accounting required by OAR 340-090-0850 and a reconciled accounting for the 2025 reporting year that clearly maps CAA’s costs and payments to each applicable provision of ORS 459A.887(2)(e)–(i). CAA should also provide a balance-sheet and reserve accounting that explains the relationship among the items discussed in the Financing section and Appendix N of the Annual Report.

These omissions are especially significant for wholesalers and distributors. Modern supply chains create recurring questions regarding producer identity, duplicate reporting, covered-product classifications, exemptions, and products subsequently moved outside Oregon. ORS 459A.869(3)–(4) expressly provides that a producer is not required to pay fees for covered products for which another person has registered as the responsible producer. CAA should therefore also maintain a confidential process capable of identifying and resolving overlapping claims and payments without disclosing another producer’s proprietary information.

3. CAA’s Shared-Services Allocations Remain Insufficiently Transparent.

The Annual Report provides a useful clarification that “CAA Oregon was allocated 20% of CAA costs, based on a steady-state 2027 program size estimate, to cover Oregon costs incurred for the period 2023 to 2025, which included program start-up costs.”⁹ CAA states that the shared costs include “personnel staff, contractors, consultants, systems implementation costs (inclusive of IT development and ongoing portal costs), external communications, consumer education and more” and that allocation percentages will change as additional state programs emerge.¹⁰ Nonetheless, the disclosure of only the allocation percentage does not allow producers or DEQ to determine whether the allocation is reasonable.

The provided information neither allows producers to determine the full range of shared services (i.e., what are the “and more” services being referred to) nor allows them to assess the basis for the allocation (i.e., whether 20% is an appropriate allocation). For example, the Annual Report does not disclose the projected costs used for each state or the amount assigned to each national function, and it does not permit the reconciliation of forecasted allocations to the services that Oregon producers and consumers actually received. The missing information creates an ongoing risk that Oregon producers will fund systems and personnel principally needed for later-starting or larger programs.

CAA also states that Oregon Responsible End Market (REM) information will inform a future National Materials Strategy addressing investments for all EPR states.¹¹ Oregon producers should not fund national activities except to the extent CAA demonstrates an Oregon-specific benefit and applies a documented, equitable, and *verifiable* allocation.

⁹ Annual Report at 69.

¹⁰ *Id.*

¹¹ *Id.* at 31.

4. The Accountant's Report Does Not Resolve Transparency Concerns.

NAW recognizes that Appendix M includes Oregon-specific supplementary schedules subjected to procedures by Grant Thornton LLP. The inclusion of this audit report is appropriate; however, it does not resolve the issues identified above regarding the insufficiency of information contained in the Annual Report. It also does not demonstrate that any costs are legally allowable, attributed to Oregon, or proportional under the requirements discussed above. The consolidated financial statements and complete notes on which the opinion was based should also be reproduced in the Annual Report.

DEQ should require an Oregon-specific compliance audit or mandatory procedures for addressing both CAA's shared services cost allocations and the allowability of costs, as well as its internal controls over category-specific funds and reserves. A financial-statement audit does not substitute for DEQ oversight regarding whether CAA has provided a "complete accounting" and satisfied its other statutory and regulatory financial obligations, nor does it verify that Oregon producers were charged correct and proportionate amounts for Oregon program obligations.

5. CAA's Disclosed Fee Information Remains Inadequate.

A troubling absence of detail remains in CAA's discussion of its financing and fee structure. The Annual Report presents a six-step conceptual process, republishes the 2025 fee schedule, and outlines seven principles for "one fair fee system."¹² Although the Annual Report provides a general description of the fee-setting process, it does not disclose sufficient category-level information to test or independently reproduce CAA's assertion that the schedule satisfies ORS 459A.884. CAA still fails to provide the underlying data needed to reproduce a single rate. NAW incorporates by reference its January 5, 2026 comments concerning CAA's fee-setting methodology and model.

In the Annual Report, CAA states that "CAA Oregon's 2025 producer fees were calculated in accordance with Oregon law" including that cost boundaries prevent cross-subsidization between categories of materials.¹³ But the Annual Report provides no category-level financial information to test that assertion. For example, it does not disclose the category-specific supply denominators or CAA's cost indices and assumptions. CAA's mere assertion that it complies with the law is insufficient for DEQ and others—including producers—to exercise necessary and appropriate oversight.

As NAW has previously commented, the confidential fee-setting appendix to CAA's Program Plan compounds the problem. DEQ and producers receive the rates and an invoice but cannot inspect or independently test the model used to determine them. The Annual Report should not be approved as an adequate description of how the fee schedule satisfies ORS 459A.884 when it includes only generalized principles such as "fairness" and "clarity."

¹² Annual Report at 57-61.

¹³ *Id.* at 61.

6. Several Statutory Reporting Elements Require Supplementation and Reconciliation.

In addition to the deficiencies discussed above, DEQ should instruct CAA to revise the Annual Report to comply with ORS 459A.887 concerning the following specific reporting elements:

- *Fee adjustments.* ORS 459A.887(2)(s) requires the number of producers receiving each type of fee adjustment and the amount of covered products, by material and format, for which each adjustment was received. The Annual Report states only that one producer qualified for Bonus A and submitted two reports, with the adjustment to appear on a later invoice. Annual Report at 62. To the extent additional information is missing due to the early nature of implementing the bonus (i.e., because no covered fee adjustments have been made), DEQ should clearly state that CAA must, in future reports, identify the aggregate quantity, material, format, and value of adjustments, which may be supplied in nonconfidential form.
- *“Other” program payments.* ORS 459A.887(2)(i) requires a summary of all other payments made to satisfy CAA’s statutory obligations. CAA directs readers to the broad discussion beginning at page 64, which identifies expense categories but does not consistently identify payees, services, or amounts actually paid (as distinct from accrued expenses). Appendix D separately identifies certain local-government and processing-facility recipients, but those payments principally correspond to subsections (2)(e) and (g) and do not account for the full universe of “other” payments under subsection (2)(i). CAA should provide sufficient payee, functional, and accounting detail to establish the Oregon nexus, nature, and reasonableness of the payments reported under subsection (2)(i).
- *Fee collections.* ORS 459A.887(2)(k)(B) requires disclosure of fees collected pursuant to the membership fee schedule. The Annual Report, on the other hand, presents amounts invoiced and revenue recognized under GAAP, neither of which necessarily equals cash collected. Given the receivable, adjustment, and overpayment balances, CAA should clearly state the amount of cash collected during 2025 and reconcile it to invoices, receivables, late fees, overpayments, refunds, credits, and recognized revenue.
- *Quarterly disposition reports.* Appendix L states that DEQ deferred full disposition reporting and that CAA has been submitting abbreviated quarterly reports for PRO-managed materials. Annual Report at 56, 132. The Appendix does not summarize the abbreviated reports or identify the disposition data actually available. CAA should provide or summarize each abbreviated report, specify the information omitted under the deferral, and identify a firm schedule for complete reporting.
- *Aggregate producer-fee and market-share information.* The public report provides several aggregate producer figures but does not clearly identify information required by ORS 459A.887(3)(b) regarding aggregate summaries. CAA should provide an express subsection (3)(b) table, and DEQ should confirm that it received and found complete the separate confidential addendum required by subsection (3)(a). DEQ should disclose the basis for its determination and non-identifying summarized information to the maximum allowable extent.

7. CAA Should Improve and Report on Services For Its Member Producers.

The Annual Report provides substantial detail regarding CAA's engagement with local governments and service providers, but comparatively little information regarding its performance for the producers required to fund and participate in the program.

CAA should report, in aggregate, the following information to assist producers with identifying and resolving common issues as well as to assist DEQ and producers with understanding and evaluating CAA's administration of the Oregon program:

- producer-support inquiries by subject;
- response and resolution times;
- supply-report corrections requested, approved, denied, and pending;
- disputed invoices and any resulting changes;
- disputes regarding producer identity/responsibility and duplicate-reporting, and any action taken thereon;
- audit notices and findings;
- late fees and liquidated damages assessed and waived;
- matters referred to DEQ, mediations, and arbitrations.

These metrics can be provided without identifying individual producers.

Governance transparency is also necessary. The Annual Report does not identify the Oregon Board of Directors' meetings, actions/approvals, conflict-of-interest procedures, or the applicable internal controls.¹⁴ DEQ should require CAA to identify this information and update it in conjunction with each annual report, at minimum.

Conclusion

NAW respectfully requests that DEQ decline to approve the Annual Report unless CAA submits a public supplement resolving the foregoing issues. CAA collected vastly more than it spent during the reporting period, and it still has not supplied the category-level accounting and allocation data necessary for DEQ or producers to determine whether the charges were accurate and proportional. NAW further requests an opportunity for public review and comment on CAA's supplemental submission.

Sincerely,



Brian Wild
Chief Government Relations Officer
National Association of Wholesaler-Distributors

¹⁴ Annual Report at 5.



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September 10, 2026

Oregon Department of Environmental Quality
Recycling Modernization Act / Producer Responsibility Program
Submitted via email to: RethinkRecycling@deq.oregon.gov

RE: Public Comment on the Circular Action Alliance 2025 Annual Report (Plastic Pollution and Recycling Modernization Act, ORS 459A.842–459A.902)

To the Oregon DEQ Recycling Modernization Act Team and the Oregon Recycling System Advisory Council:

Kemin Industries, Inc. ("Kemin") submits this comment on the 2025 Annual Report filed by Circular Action Alliance ("CAA"), Oregon's approved Producer Responsibility Organization ("PRO") under the Plastic Pollution and Recycling Modernization Act ("RMA"). Kemin supports Oregon's goal of building a more effective, equitable recycling system. As a producer with obligations under the RMA, however, Kemin has significant, ongoing concerns about the compliance burden the program places on producers and about the one-sided terms of the CAA Producer Participant Agreement that producers must sign in order to comply with the law.

1. The compliance burden on producers is substantial, and the Annual Report does not give producers enough visibility into how their fees are being used.

The Annual Report reflects that CAA enrolled over 2,900 producers and reported approximately 409,000 tons of covered material in the program's first partial year (program launch was July 1, 2025). The report also states that 2025 program costs came in lower than initially projected because of implementation timelines rather than a reduction in scope, with significant spending planned for 2026–2027.

Kemin's concerns:

- Producers are funding a program whose cost trajectory is described only in general terms. The Annual Report should break out actual versus projected costs by category (administration, collection infrastructure, education, reserves) so producers can evaluate whether fees are being set and spent reasonably.
- Kemin's own experience illustrates the problem. Kemin's Oregon-bound packaging is almost entirely industrial and business-to-business — bulk containers, drums, and shipping materials delivered to commercial customers rather than retail packaging sold to consumers. Even so, registration, material characterization, and fee calculation consumed well over 300 hours of internal legal and regulatory staff time, supplemented by outside law firms. Three tasks drove most of that burden: deriving material-by-material packaging weights that industrial producers do not track at the unit level the way consumer-goods companies do; determining which industrial and transport packaging falls within the

program's scope in the first instance; and allocating material to Oregon, where existing systems track sales to distributors rather than the ultimate destination of the packaging. Kemin's final fee figure for the 2025 program year remains unresolved, which is itself a reflection of how difficult the underlying data is to produce.

- The compliance timeline and penalty structure leave little room for good-faith administrative error. Under the RMA, failing to register or join a PRO is a Class 1 violation carrying fines of up to \$25,000 per day, which we believe pushes producers toward accepting whatever terms CAA offers rather than negotiating them.

2. The CAA Producer Participant Agreement is, in substance, a non-negotiable contract of adhesion, and several of its terms favor CAA at producers' expense.

Because Oregon law requires producers to join CAA (the state's only approved PRO) or face the penalties described above, producers have no real alternative but to sign CAA's standard Producer Participant Agreement (PPA). Based on our review of the PPA several provisions concern us:

- No right to negotiate. Section 12 states that no additional terms proposed by a producer, orally or in writing, become part of the agreement. Combined with the statutory penalty for not joining a PRO, producers have no practical leverage to modify unfavorable terms.
- Unilateral fee changes. Section 3.3 allows CAA to change Producer Fees "from time to time" on 90 days' notice. Producers receive notice, not a right to object to or arbitrate a disputed rate.
- Unilateral amendment rights. Section 14 allows CAA to amend the agreement when it "reasonably determines" an amendment is necessary for legal compliance, effective automatically on notice. Producer feedback is considered but is expressly non-binding.
- Asymmetric audit rights. CAA may require producer data to verify fees owed, but the agreement does not give producers a corresponding right to audit CAA's fee calculations, fund allocation, or use of producer-paid fees.
- One-sided liability and warranty terms. CAA disclaims essentially all warranties regarding the programs it administers and caps its own liability at roughly one year of the fees a producer has paid, while producers remain fully liable for the accuracy of their reported data and for their fee obligations.
- Illusory exit. A producer's practical ability to walk away from the agreement is not a real option, since remaining a covered producer under Oregon law without PRO membership exposes the company to the per-day penalties described above. Termination "rights" on paper do not offset a legal mandate to remain a member.

We recognize CAA is a private nonprofit operating under a state-approved program plan, not a state agency, and that some of these terms may reflect standard commercial practice for an organization managing pooled producer funds. Our concern is narrower: because Oregon law leaves producers no meaningful alternative to signing this agreement, DEQ's review and approval process is the only practical check on its fairness, and we believe that review should include minimum baseline protections for producers.

3. Requested action.

Kemin respectfully asks DEQ, in connection with its review of the 2025 Annual Report and its ongoing oversight of CAA as Oregon's approved PRO, to:

1. Require CAA's future annual reports to include a detailed, itemized breakdown of actual versus projected costs, fee revenue, and reserve balances, so producers can evaluate whether fees are reasonable and well managed.
2. Condition continued PRO approval on the Producer Participant Agreement including a genuine dispute or objection process for fee changes, not notice alone.
3. Require the agreement to give producers audit or reporting rights into CAA's use of producer fees that are at least proportionate to the audit rights CAA holds over producer data.
4. Evaluate whether the statutory penalty structure (up to \$25,000 per day for non-registration) is appropriately calibrated for good-faith administrative delays or disputes, as opposed to willful non-compliance.
5. Establish an exemption or reduced-burden compliance pathway for producers whose Oregon-bound packaging is primarily industrial or business-to-business rather than consumer-facing, including simplified material characterization and a permitted estimation methodology for Oregon allocation where unit-level destination data does not exist.

Kemin appreciates DEQ's work to build a functioning, producer-funded recycling system and its commitment to hearing from producers as part of this review. We would welcome the opportunity to discuss these concerns further before DEQ finalizes its review of the 2025 Annual Report.

Thank you for your consideration.

Sincerely,



Elizabeth A. Nelson
Chief Legal Officer
Kemin Industries, Inc.

Electronic Record of Contracts

This document was generated as a record of certain contracts created, accepted and stored electronically.



Summary of Contracts

This document contains the following contracts.

Title	ID
Other (Oregon DEQ and Kemin)	0efcec94-d016-40a7-b337-f7a7c9f337f7

Contract signed by:

Elizabeth A. Nelson		Signer ID:	c908c3a9-894b-4bb2-a3d1-9e8f0115278f
		Email:	libby.nelson@kemin.com
Date / Time:	Sep 10, 2026 at 8:36 PM UTC		
IP Address:	216.205.127.28		
User Agent:	Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/152.0.0.0 Safari/537.36		

From: [Chieko Yoshihara](#)
To: [RethinkRecycling * DEQ](#)
Subject: Public comment on CAA annual report
Date: Thursday, August 6, 2026 1:45:06 PM

[You don't often get email from chiekoyo@mac.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Thank you for implementing EPR in Oregon. I hope to see a reduced landfill waste of packaging in the near future. Keep on your great work!

Chieko Yoshihara

Sent from my iPad



August 24, 2026

To: Oregon Department of Environmental Quality (DEQ)

RE: Circular Action Alliance's 2025 Annual Report

To whom it may concern:

Thank you for the opportunity to submit comments on behalf of Upstream regarding Circular Action Alliance's (CAA) 2025 annual report for the Plastic Pollution and Recycling Modernization Act (RMA). Upstream is a US-based non-profit and leading change agency for the reuse movement in the US and Canada. We accelerate the transition from our current throw-away economy to one that is regenerative, circular and equitable by normalizing reuse, growing and supporting the reuse industry, and creating an enabling policy environment for reuse.

Planning for RecycleOn Centers to Collect Reusables:

We appreciate the significant efforts of CAA in compiling this first annual report and are happy to see that 20 PRO depots, or RecycleOn Centers, were opened within the first six months of the program and that these collection points are being utilized by the public for recycling. **However, packaging EPR programs like Oregon's can also drive widespread adoption of reuse systems, particularly through utilizing depots like the RecycleOn Centers to support the collection of reusable packaging.**

In CAA's program plan, it is noted that *"CAA will consider how PRO collection points could potentially serve as collection points for reusable or refillable packing..."*. In order to leverage PRO depots and collection events as return locations for reusable packaging, these collection points must be set up to handle cash so that returnable reusable containers with deposits on them can be redeemed for their deposit value. **As CAA continues to make investments into the expansion of RecycleOn Centers in Oregon, CAA should be planning for and ensuring these depots can accommodate an increasing market share of reusable packaging and reimburse citizens for reusables subject to deposits that are returned at these locations.**

Additionally, the Oregon Beverage Recycling Cooperative (OBRC) depots already have experience accepting reusable beverage containers. **We strongly encourage CAA to expand the scope of your contractual relationship with OBRC so that the same suite of materials may be returned at any depot**

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in the state, regardless of whether it is recyclable, reusable, or covered under the Bottle Bill or EPR program.

Program Plan Budget Transparency:

The RMA requires that producers pay into a Waste Prevention and Reuse Fund, which allocates funding to the Material Impact Reduction and Reuse (MIRROR) Program that will provide state-run grants or loans for projects that reduce the environmental impacts of covered materials through means beyond recycling and recovery, including waste prevention and reuse. The amount CAA has contributed to the MIRROR Program in a given year should be explicitly acknowledged and transparently reported. **CAA should separately identify the portion of the program budget that was contributed to the MIRROR Program in Table 15 - either as a standalone line item or in the comments column of a broader budget category.**

Thank you again for the opportunity to comment on CAA's annual report on the RMA. For any questions, please feel free to contact me at melissa@upstreamolutions.org. We look forward to continuing to work directly with DEQ and CAA staff to support the incorporation of reuse in Oregon's packaging EPR program.

Sincerely,

Melissa Jung
Senior Policy Officer
Upstream

August 17, 2026

Materials Management Program
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Re: Comments on Circular Action Alliance Oregon's 2025 Annual Report (Recycling Modernization Act)

Dear Materials Management Program Staff:

The Window and Door Manufacturers Association (WDMA) submits these comments on Circular Action Alliance Oregon's (CAA) 2025 Annual Report for the July 1–December 31, 2025, period. WDMA's members ship windows, doors, and skylights into Oregon in significant volumes of corrugated, foam, film, and transport packaging, and those meeting the producer definition carry substantial obligations under the Recycling Modernization Act (RMA). We support the goals of the RMA and an adequately funded, transparent, and accountable system, and we recognize that 2025 was a six-month build year devoted to contracting, planning, and initial funding. In that spirit, four areas would benefit from additional clarification before the report is approved: how reserves are classified and trued up against future fees; how material-specific fees are shown to be proportional to CAA's costs; and how the fee schedule and first-year performance data are presented.

I. Reserve classification and the annual true-up.

CAAs approved 2025 budget contemplated roughly \$188.9 million, \$145.5 million in program expenses and \$43.4 million in operating reserves. CAA recognized \$167.9 million in producer-fee revenue, while producer invoices net of adjustments totaled \$185.6 million; actual program expenditures were \$56.5 million.¹ Because spending and system build-out lagged the collection schedule, reserves reached \$111.4 million (\$60.2 million operating and \$51.2 million earmarked) against the \$43.4 million planned.² Individual lines show how early the build-out remains: Local Government Collection Services Expansion was budgeted at \$12.1 million against \$233,077 spent.³ The report distinguishes operating reserves from earmarked reserves and identifies mechanisms for applying excess funds against future producer fees, including a projected credit of approximately \$44 million in remaining earmarked funds against 2027 producer fees. However, it does not further distinguish which portions of the earmarked balances are contractually committed from amounts that are planned but not yet committed, and it allows the full credit associated with an earmarked surplus to be deferred beyond the immediately following financial year. Greater clarity regarding the amount and timing of reserve balances expected to reduce future producer fees would help producers understand how excess collections will be reconciled..⁴ Appendix N separately reports an approximately \$8.99 million deferred-revenue balance that CAA attributes to producer overpayments; the report would be clearer if it explained when and how those overpayments will be credited or refunded and how investment income reported by CAA Oregon is accounted for in future fee-setting or producer credits.⁵

II. Proportionality of material-specific fees.

Under the 2025 fee schedule, several nonaccepted materials relevant to protective packaging carry high per-pound rates, including Wood and Other Organic Materials at 106.0¢, PS (#6) Colored

¹Circular Action Alliance Oregon, *2025 Annual Report* (covering July 1–December 31, 2025), sec. 5.3, tbl. 15.

²*2025 Annual Report*, sec. 5.3.2, tbls. 15–16.

³*2025 Annual Report*, tbl. 15.

⁴*2025 Annual Report*, sec. 5.3.2.1.

⁵*2025 Annual Report*, app. N.

Expanded/Foamed at 140.0¢, and Plastic Laminates and Other Flexible Plastic at 114.0¢⁶ WDMA recognizes that ORS 459A.884 requires the average nonaccepted-material fee to exceed the accepted-material average, and that these fees need not correspond dollar-for-dollar to a service received. The statute still requires fees to be proportional—or, for nonaccepted materials, approximately proportional—to the financial obligations attributable to each material type and format. The report does not yet include enough detail for producers to see how these rates meet that standard. Protective packaging for large, heavy, glazed products serves essential damage-prevention functions, with no commercially viable substitutes at scale for many applications. Only one producer qualified for eco-modulation Bonus A during the reporting period, which suggests the incentive was difficult to assess in its first year.⁷

III. Transparency of the fee-setting methodology.

CAA’s own “Clarity” principle commits it to communicating its fee methodology, and the report would advance that goal by including the cost indices and category-level reconciliation that show how program costs, material supply, and reserves produce final rates.⁸ As published, the report does not explain, for example, why polypropylene film is assessed at 114.0¢ per pound while polyethylene film is assessed at 55.0¢.⁹ Table 12 appears to omit the ‘Clear/Natural’ and ‘Pigmented/Color’ descriptors from two HDPE (#2) bottles, jugs, and jars categories, causing the 6.0¢ and 14.0¢ rows to appear duplicative; restoring those descriptors and cross-referencing the applicable reporting-category definitions would resolve the confusion.¹⁰ Separately, CAA allocates roughly 20 percent of national CAA costs to Oregon under a methodology overseen by its national finance function; because producers cannot currently see the underlying national shared-cost pool, state-by-state program-cost inputs, and calculations necessary to independently reproduce the roughly 20 percent allocation.¹¹

IV. Context for first-year performance data.

The reported 24.73 percent overall contamination rate of sampled materials is based on 554 audits, 544 of them from the Portland metropolitan area, and therefore should not yet be treated as a representative statewide performance measure.¹² The 17.05 percent plastics recycling rate relies on 2022 DEQ data that predates the program, with program-year data not expected until 2028.¹³ A defensible USCL diversion rate could not yet be calculated for 2025.¹⁴ Because producers will fund much of the first plan period before certain program-year metrics come online, the report would be clearer if it distinguished pre-program baselines from actual RMA performance and noted when each metric will become available.

V. Requested clarifications.

Before approving the 2025 Annual Report, WDMA respectfully asks DEQ to direct CAA to:

1. for each earmarked reserve line, identify amounts contractually committed versus planned but not yet committed, and reconcile those amounts to projected expenditures and future producer-fee credits; and explain how the operating-reserve balance and target are reflected in future fee-setting, including any amount expected to reduce future fees;

⁶2025 Annual Report, tbl. 12.

⁷2025 Annual Report, sec. 5.2.1.

⁸2025 Annual Report, sec. 5, fig. 1.

⁹2025 Annual Report, tbl. 12.

¹⁰2025 Annual Report, tbl. 12.

¹¹2025 Annual Report, sec. 5.3.3.

¹²2025 Annual Report, sec. 3.1.3.

¹³2025 Annual Report, sec. 3.3.5.4.

¹⁴2025 Annual Report, sec. 3.1.5.

2. explain the disposition of the approximately \$8.99 million deferred-revenue balance attributed to producer overpayments, including the procedure and timeline for applying credits or refunds; and explain how CAA Oregon's reported investment income is accounted for in future fee-setting, reserves, producer credits, or refunds;
3. publish a nonconfidential reconciliation of cost pools, numerical material cost indices and allocation drivers, aggregate material-category supply volumes, reserve loading, and shared-services allocation sufficient to permit DEQ and producers to assess how the fee schedule complies with ORS 459A.884;
4. provide independent verification specifically of the national shared services allocation methodology, state-by-state inputs, and controls against cost-shifting among state programs, or identify the procedures in the existing independent audit that tested those matters;
5. correct Table 12 to distinguish the two HDPE (#2) bottles, jugs, and jars categories shown at different rates and cross-reference the applicable reporting-category definitions; and
6. distinguish pre-program baselines, preliminary or partial results, normalized estimates, and actual program-year measures; prominently identify geographic limitations wherever contamination results are presented; and provide a crosswalk between the contamination-audit approach described in the approved program plan and the adaptations implemented in 2025, including any effects on representativeness, comparability, or data quality.

As prospective matters for the appropriate plan-amendment or rulemaking process, WDMA encourages DEQ to establish clear safeguards for producer-funded balances: a presumption that annual surpluses not needed for near-term committed costs will promptly reduce future fees; objective reserve standards with a defined ceiling or heightened-approval threshold; transparent treatment of investment income; a clear adjustment and refund process, including cash refunds where invoice credits are impractical; and eco-modulation submission periods long enough for producers to complete the required analysis and documentation.

WDMA supports a well-funded, effective, and accountable recycling system. Producer fees should remain tied to demonstrated program needs and the financial obligations attributable to covered materials, supported by transparent cost allocation, and subject to timely reconciliation when collections exceed those needs. As the first U.S. statewide packaging-and-paper EPR program to launch, Oregon is setting important precedents on reserves, refunds, cost allocation, fee-setting, and transparency. WDMA does not expect steady-state performance after six months, but we do expect a clear, verifiable, and disciplined financial and governance framework from the outset. Addressing these issues early will strengthen accountability, producer confidence, and the long-term credibility and durability of the RMA. We appreciate the Department's consideration and welcome continued engagement with DEQ and CAA as the program matures.

Respectfully submitted,

Window and Door Manufacturers Association