

**01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

**001 DIVISION OF QUALITY ASSURANCE AND REGULATIONS**

**Chapter 360: RESPONSIBILITIES OF MANUFACTURERS, DISTRIBUTORS, DEALERS, INITIATORS OF DEPOSIT, CONTRACTED AGENTS AND REDEMPTION CENTERS UNDER THE RETURNABLE BEVERAGE CONTAINER LAW.**

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**SUMMARY:** The purposes of these rules are to clarify responsibilities of manufacturers, dealers, distributors, initiators of deposit, contracted agents, and redemption centers for the pickup and sorting of empty beverage containers and establish a time for payment of deposits, refunds and handling charges under the Returnable Beverage Container Law.

These rules also govern items affected by expansion of the Maine Beverage Container Law (32 M.R.S.A., Chapter 28, Sections 1861-1872).

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**1. Definitions**

- A. Unless the context otherwise indicates, the definitions contained in 32 M.R.S.A. Sec. 1862 also apply to the defined words and phrases as used in this chapter.
- B. As used in this chapter and unless the context otherwise indicates, the following words and phrases shall have the following meanings:
  - (1) "Beverage" means beer, ale or other drink produced by fermenting malt, spirits, wine, wine coolers, soda or noncarbonated water, and all nonalcoholic carbonated or noncarbonated drinks in liquid form and intended for internal human consumption.

The term "beverage" excludes the following:

- (a) A liquid which is (i) a syrup, (ii) in a concentrated form or (iii) typically added as a minor flavoring ingredient in food or drink, such as extracts, cooking additives, sauces or condiments;
- (b) A liquid which is a drug or infant formula as defined by the Food, Drug and Cosmetic Act. (21 U.S.C. sections 321(g)(1) and (z));
- (c) A liquid which is designed and consumed only as a nutrition supplement and not as a beverage;
- (d) Products frozen at the time of sale to the consumer, or, in the case of institutional users such as hospitals and nursing homes, at the time of sale to such users;
- (e) Products designed to be consumed in a frozen state;

- (f) Instant drink powders.
- (g) Seafood, meat or vegetable broths, or soups, but not juices;
- (h) Maine produced apple cider;
- (i) Milk and dairy derived products.
- (2) "Brand" means the designation of product as determined by a separate label and/or Universal Product Code.
- (3) "Commissioner" means the Commissioner of the Department of Agriculture, Conservation Food, and Rural Resources Forestry.
- (4) "Contracted Agent" means a public or private company or individual who enters into an agreement with the initiator of deposit to pick up empty beverage containers from redemption centers and dealers.
- (5) "Dealer" means a ~~person~~ business entity that ~~who~~ sells, offers to sell or engages in the sale of beverages in a beverage container to a consumer, ~~including, but not limited to, an operator of a vending machine containing beverages in beverage containers~~ from a retail Food Establishment licensed by the Department of Agriculture, Conservation & Forestry as defined in ~~MRS-22 M.R.S.A., section 2152~~ or an Eating Establishment licensed by the Department of Health & Human Services as defined MRS 22, section 2491.
- (6) "Initiator of Deposit" means a business entity, either a manufacturer, distributor, or seller ~~that who~~ is licensed by the Maine Department of Agriculture, Conservation Food & and Forestry Rural Resources to initiate deposits on beverage containers with labels properly registered under 32 M.R.S.A. section 1865 subsection 3 and meeting the deposit requirements enumerated in 32 M.R.S.A. section 1863-A.
- (7) "Kind" means the general composition of a beverage container, such as plastic, glass or metal.
- (8) "Member Dealer" means any dealer who is included in the license approving a local redemption center as issued by the Commissioner.
- (9) "Milk and dairy-derived products means whole milk, skim milk, cream, low-fat milk, or any combination and includes other products of which the single largest ingredient is whole milk or milk fat or milk with varying percentages of milk fat.
- (10) "Paper or cardboard container" means a container which is composed of at least 80 percent by volume of paper material and does not require a deposit.

- (11) "Private Label" means the label on a beverage container which is manufactured for exclusive sale or use by a retailer, organization or entity.
- (12) "Redemption Center" means any place of business ~~that~~ which accepts empty returnable beverage containers from either consumers or from dealers, or both, and ~~that~~ which is licensed by the Maine Department of Agriculture, Food & Rural Resources, Division of Quality Assurance and Regulations as a redemption center.
- (a) Reverse Vending Machines are considered to be a Redemption Center if they are used as "stand alone" devices and not as a part of a licensed Redemption Center.
- (b) If a reverse vending machine is used as a "stand alone" device and not as part of a licensed redemption center, it will be the responsibility of the lessee or device owner to license the location as a redemption center as required in 32 M.R.S.A. section 1871-A.
- (13) "Retailer" means a dealer ~~that~~ who sells, offers, or exposes for retail sale, beverages in beverage containers.
- (14) "Reverse Vending Machine" or "RVM" means an automated device that uses a laser scanner, microprocessor, or other technology to accurately recognize the Universal Product Code (UPC) on containers and accumulates information regarding containers redeemed, thereby enabling the RVM to accept containers from redeemers and to issue script for their refund value.
- (15) "Shell" means the standard trade package made of fiberboard, wood or plastic designed for packaging, carrying or transporting glass or plastic beverage containers.
- (16) "Shipping carton: means the standard trade package made of cardboard or other material designed for packaging, carrying or transporting all types of beverage containers, and includes plastic bags used for the return of such containers.
- (17) "Size" means the liquid content of a beverage container, such as 500 ~~ml.~~ml. 2 liter.
- (18) "Type" means the unique physical design or construction of a beverage container, such as a flip top container.
- (19) "Universal Product Code or UPC Code" means a standard for encoding a set of lines and spaces that can be scanned and interpreted into numbers to identify a product. Universal Product Code may also mean any accepted industry barcode which replaces the UPC code including but not limited to Universal Product Code (UPC), EAN and other codes that may be used to identify a product.

## 2. **Licensing of Redemption Centers**

- A. All redemption centers within the State of Maine must be licensed with the Maine Department of Agriculture, ~~Food & Rural Resources~~ Conservation and Forestry prior to beginning operation. Applications for approval of redemption centers shall be filed with the Department, ~~a~~ A \$50.00 annual license fee shall accompany each application. Redemption centers must be inspected by the Department of Agriculture, ~~Food & Rural Resources~~ Conservation and Forestry and meet all applicable requirements prior to licensure.
- B. Applications shall be made on Department forms entitled "Food and Fuel Application" and "Redemption Center License Application-Addendum" and shall supply the information requested thereon.
- C. The Commissioner may approve an application for a redemption center if he finds that the center will provide a convenient service for the return of empty beverage containers, has agreements with local retailers (dealers), and meets all other licensing requirements enumerated in these rules and 32 M.R.S.A. section 1867. In making this determination with respect to an existing center, the Commissioner may consider its compliance with the requirements of this chapter and the quality of the service provided.
- D. Redemption centers shall apply to the Commissioner for approval of any additional retailers/dealers obtained after the then-current annual license has been issued. The Commissioner's decision shall be made according to the criteria set forth in subsection C above.
- E. —All licenses are subject to suspension or non-renewal for good cause shown, including but not limited to unsafe practices, falsification of reports, or serious or continued violation of "this subchapter" (subject to the Maine Administrative Procedures Act).
- F. The Commissioner may approve only one application for a redemption center license in a municipality with a population of 5,000 or less.
- G. Any redemption center destroyed as a result of a catastrophic event, such as a fire, flood or other natural disasters, may rebuild and obtain a license to operate a redemption center on the same property or open a redemption center in an already~~other~~ existing structure within the same municipality as the original redemption center. The replacement redemption center need not comply with 32 M.R.S.-A. §Section 1871-A subsection 3, soas long as it is available for in operation within six (6) months of the catastrophic event.
- H. Agreements to serve local dealers shall be in writing and shall state the name and address of the dealer to be served and, the distance from the dealer to the redemption center.~~and~~ The agreements must be signed by both parties. For purposes of compliance with section 2. C. of these rules, only local dealers with a permanent presence in a "brick and mortar" retail Food Establishment or Eating Establishment will be considered for an approved agreement.
- I. After a license has been issued to a redemption center, the owner shall apply to the Department for approval of any additional dealers not named in the application. The Commissioner's decision as to whether such dealers may be member dealers shall be made according to the criteria set forth in subsection C and D above.

- J. All licenses are subject to suspension or non-renewal for good cause shown, including but not limited to unsafe practices, falsification of reports, or serious or continued violation of "this subchapter" (subject to the Maine Administrative Procedures Act).

### 3. Licensing of Initiators of Deposit

- A. All Initiators of Deposit distributing or selling beverages in the State of Maine must be licensed with the Maine Department of Agriculture, ~~Food & Rural Resources~~ Conservation and Forestry prior to beginning operation. Applications for approval of Initiators of Deposit, with the exception of small brewers and vintners who produce no more than 50,000 gallons of its product or a bottler of water who annually sells no more than 250,000 containers each containing no more than one gallon of its product, and a small beverage manufacturer whose total production of all beverages from all combined manufacturing locations is less than 50,000 gallons annually shall be filed with the Department, ~~and~~ A \$500.00 annual license fee shall accompany each application.
- (1) Applications for approval of Initiators of Deposit of small brewers and vintners who produce no more than 50,000 gallons of its product or a bottler of water who annually sells no more than 250,000 containers each containing no more than one gallon of its product shall be filed with the Department, ~~and~~ A \$50.00 annual license fee shall accompany each application.
  - (2) Applications for approval of Initiators of Deposit of small beverage manufacturers whose total production of all beverages from all combined manufacturing locations is less than 50,000 gallons annually shall be filed with the Department, and A \$50.00 annual license fee shall accompany each application
- B. Applications shall be made on a Department form entitled "Beverage Container Licensing/Label Registration" and shall supply the information requested thereon.
- C. Initiators of Deposit shall annually provide current lists of beverages on which they initiate deposit.
- D. Initiators of deposit must notify the Department of Agriculture, ~~Food & Rural Resources~~ Conservation and Forestry whenever products on which they initiate deposits are added or discontinued.

### 4. Licensing of Contracted Agents

- A. All Contracted Agents operating in the State of Maine must be licensed with the Maine Department of Agriculture, ~~Food & Rural Resources~~ Conservation and Forestry prior to beginning operation. Applications for approval of Contracted Agents shall be filed with the ~~Department,~~ Department, ~~and~~ A \$500.00 annual license fee shall accompany each application.

- B. A Contracted Agent ~~is~~ shall be required to perform all of the pickup functions of the initiator of deposit with whom they contract unless expressly exempted in the contractual agreement between the initiator and the Contracted Agent.
- C. Applications shall be made on a Department form entitled "Beverage Container Licensing/Label Registration" and shall supply the information requested thereon.
- D. Contracted Agents shall annually provide current lists of Initiators of Deposit with whom they have contracts and beverage containers which they pick up.
- E. Contracted Agents shall notify the Department of Agriculture, ~~Food & Rural Resources~~ Conservation and Forestry whenever Initiators of Deposit with whom they have contracts and/or beverage containers which they pick up are added or discontinued.

#### 5. **Registration of Beverage Container Labels**

- A. Registration of beverage container labels must take place at the manufacturer level. ~~However, or,~~ if the beverage container has a "private label", the brand owner shall be responsible for label registration.
- B. Any beverage, with the exception of wine, requiring a deposit and refund value as enumerated in 32 M.R.S.A. section 1863-A must have affixed, a label that is registered with the Maine Department of Agriculture, ~~Food & Rural Resources~~ Conservation and Forestry that bears a Universal Product Code, which shall be unique for each combination of kind, size, brand and flavor of beverage offered for sale in the State of Maine.
- C. Any wine requiring a deposit and refund value as enumerated in 32 M.R.S.A. section 1863-A must have affixed, a label that is registered with the Maine Department of Agriculture, ~~Food & Rural Resources~~ Conservation and Forestry.
- D. Wine and spirits, unless labeled by the manufacturer with the deposit and refund value, must be labeled ~~with~~ with by the use of a refund/deposit sticker ~~that~~ which clearly identifies the initiator of deposit and the refund value. Prior to the sale of a wine or spirit container to which a separate sticker stating the refund value is to be affixed, the manufacturer or initiator of deposit must submit a sample of the sticker to the Department of Agriculture, ~~Food and Rural Resources~~ Conservation and Forestry, Division of Quality Assurance and Regulations for approval. Placement, suitability and security of the mark will be examined.
- E. The registration of beer, wine and spirits beverage container labels shall be coordinated, to the maximum extent possible, to eliminate duplicate registration between the Department of Agriculture, ~~Food, and Rural Resources~~ Conservation and Forestry, the Department of Public Safety and the Bureau of Alcoholic Beverages and Lottery.
- F. The registration period for each beverage label shall be from January 1 to December 31 and applications for label registration shall be on forms ~~or~~ in an electronic format provided by the Department. Labels may be registered for a 1, 2, or 3 year period.

- G. If a Universal Product Code on a beverage container is changed during the registration period it will be considered to be discontinued and an application for registration of the label bearing the new UPC code and appropriate registration fee must be submitted to the Department.
- H. Fees: ~~for the~~
- (1) Wine labels: \$1.00 annually.
  - (2) All other beverage labels: \$ 4.00 annually.

## 6. Operation of Redemption Centers

- A. All empty beverage containers shall be separated from food products sold on the premises by a solid partition.
- B. Redemption centers shall be operated in such a manner as not to be a nuisance to the surrounding area and shall:
- (1) Have all necessary precautions to eliminate and protect against insect and rodent infestation inside and surrounding the premises.
  - (2) ~~Redemption centers when storing~~ Storage of unsorted and sorted beverage containers shall to protect beverage containers from adverse environmental conditions (i.e. rain, snow, mud etc.).
  - (3) Provide sanitary facilities to ensure adequate personal hygiene for employees, which comply with United States Department of Labor standards in 29 CFR, section 1910.141. Sanitary facilities include toilet, hand wash sink, approved septic system and hot and cold potable water under pressure.
    - A. A redemption center is exempted from the requirements of this subsection (32) if the redemption center is operated by the owner and immediate family members only and has ~~utilizes~~ no other ~~outside~~ employees.
  - (4) ~~Redemption centers that sell foods and/or beverages h~~ Hold a valid retail food establishment license issued by the Maine Department of Agriculture, Food, & Rural Resources Conservation and Forestry, Division of Quality Assurance and Regulations if foods or beverages are sold, and meet all applicable sanitation requirements if foods or beverages are sold.
  - (5) Comply with the inspection standards contained on the Department form entitled "Redemption Center Inspection." ~~These~~ which standards are incorporated herein by reference.
- C. Redemption centers shall be open for business (i.e., acceptance of empty beverage containers) a reasonable number of hours, the volume of returns and area population considered. Redemption centers shall post their hours of operation in a conspicuous place.

- D. The location of proposed and existing redemption centers shall be convenient to member dealers and their customers to be served.
- E. Redemption centers may charge a fee to members.
- F. A redemption center may pick up beverage containers from non-members.
- G. A redemption center shall tender beverage containers to a distributor or third party contracted agent by making reasonable accommodations that allows for the distributor or third party contracted agent to have ease of access to those beverage containers being tendered either or, in the event that storage is not convenient to the loading area, by assisting in the loading of the transportation vehicle by moving the properly sorted bags or boxes of containers to a predetermined loading area during pickup of said containers. ~~or making reasonable accommodations that allows for the distributor or third party contract agent to have ease of access to those beverage containers being tendered.~~

## 7. **Reverse Vending Machines**

- A. Reverse Vending Machines must identify, cancel, and destroy one-way deposit containers and reject refillable containers. Reverse Vending Machines shall collect accounting information for deposit and scrap settlement.
- B. Reverse Vending Machines must meet the requirements of CMR 306, (Regulations for Adoption of Type Evaluation of Weighing and Measuring Devices) and be designed to provide an accurate printed report containing all of the following:
  - (1) The number of containers placed in the reverse vending machine over a predetermined time period.
  - (2) The brand name of each beverage container placed in the reverse vending machine.
  - (3) The kind, size, and brand of each beverage container placed in the reverse vending machine.
- C. A reverse vending machine and any report that it provides are subject to inspection and audit by the Maine Department of Agriculture, Conservation and Forestry.
- D. Each distributor of beverage containers which have been processed through a reverse vending machine shall have the opportunity to pick up their share of scrap material, as determined from information gathered from the reverse vending machine.
- E. In a Reverse Vending Machine (RVM) System, the RVM provider shall be required to accumulate and maintain data to allow for geographical allocation of scrap pick-up equal to a distributor's share of containers.

## 8. Acceptance of Beverage containers by Distributors from Dealers and Redemption Centers

- A. A dealer or redemption center shall tender to a distributor only empty, unbroken and reasonably clean beverage containers of the kind, size and brand sold by the distributor, unless the containers have been processed through an approved reverse vending machine which meets the requirements of these rules. ~~(\*)Note: For purposes of this rule section, unbroken when used in reference to cans and plastic containers shall mean, not previously crushed prior to tendering back to a distributor.~~
- B. With the exception of beverages ~~containers~~ specifically exempted in ~~Definitions section 1. (B).~~ ~~—(1)~~ of this rule, a dealer or redemption center shall sort beverage containers by kind, size, and brand unless a mutually acceptable agreement, as described in section 11, is reached between the dealer or redemption center and the distributor.
- (1) Empty containers, unless they have been processed through an approved reverse vending machine ~~that~~ which meets the requirements of these rules, shall be tendered to the distributor in shells or shipping cartons provided by the distributor, or other containers mutually agreed upon by the distributor and retailer.
- C. Pick-up of such beverage containers from a dealer or local redemption center shall be the responsibility and expense of the distributor, unless the distributor has made other arrangements satisfactory to the dealer or redemption center for recycling or disposal of beverage containers.
- D. Containers may be sorted in any other manners that is consistent with section 11 of these rules ~~herein~~.

## 9. ~~Frequency of Pick-up by Distributors from Redemption Centers~~

~~Except for those initiators of deposit, distributors and 3<sup>rd</sup> party contracted agents covered under Sec. 1. 32 MRSA §1866, sub §5 (D), Each time the distributor makes a regularly scheduled delivery of beverages, he shall pick up beverage containers from licensed redemption centers designated to serve those dealers to whom that distributor has sold those beverages; and a distributor who is part of a qualified commingling agreement pursuant to 32 M.R.S.A. § 4, (c)C (1) is required to pick up beverage containers for all distributors who are members in the commingling agreement, each time the distributor makes a regularly scheduled delivery unless the local redemption center agrees otherwise; provided, hHowever, that where a distributor can affirmatively demonstrate to the Commissioner that the following conditions exist, a waiver may be granted:~~

- ~~A. The redemption center shall not request pickup of containers where the amount on hand is less than a combined total of 1,000 containers for which that distributor or contracted agent is responsible.~~

~~In order to be eligible for a waiver, the distributor or contracted agent must demonstrate that:~~

- ~~(1) The stops required under this rule yields, on the average, less than 1,000 containers for which the distributor is responsible; and~~
- ~~(2) Less frequent stops would alleviate an unreasonable financial or other hardship.~~

~~B. After a waiver is granted, a distributor or contracted agent shall continue to have the obligation to pick up containers from a licensed redemption center designated to serve those dealers to whom that distributor has sold those beverages, but only in accordance with the following:~~

- ~~(1) The distributor or contracted agent shall initiate pick up within one week of the request; and~~
- ~~(2) Pick up by the distributor or contracted agent shall be during the regular business hours of the redemption center, provided the redemption center is in operation at least 40 hours per week. Those redemption centers who conduct business less than 40 hours per week shall cooperate with a prearranged pickup time at the convenience of the distributor and shall allow for transportation delays.~~

## **9. Frequency of Pick-up by Distributors from Redemption Centers**

A. The initiator of deposit or initiators of deposit who are members of a commingling agreement and contracted agents representing an initiator of deposit shall pick up empty, unbroken and reasonably clean beverage containers of the particular kind, size and brand sold by the initiator from dealers to whom a distributor has sold those beverages and from licensed redemption centers designated to serve those dealers every 15 calendar days.

B. A redemption center after collecting 10,000 beverage containers belonging to an initiator of deposit or from the initiators of deposit who are members of a commingling agreement may request an additional pick up from the initiator of deposit or initiators of deposit who are members of a commingling agreement and contracted agents representing an initiator of deposit.

C. When a redemption center makes a request for beverage container pick up, the initiator of deposit or initiators of deposit who are members of a commingling agreement and contracted agents shall fulfill the request no later than two business days starting the day after the request was made.

## **10. Time for Payment by Distributors or Contracted Agent to Dealers and Redemption Centers**

A. The distributor or contracted agent shall pay the dealer or local redemption center all applicable refunds, deposits and handling charges no later than ten (10) business days after acceptance.

~~B. (1) If payment is made by mail, payment shall be deemed to take place upon mailing.~~

## **11. Private Contracts and Business Transactions**

These rules shall not be interpreted to prohibit any other arrangements for sorting, delivery, acceptance of payment or other matter related to beverage containers, when the arrangement is consistent with Title 32 M.R.S.A. Sec. 1861 *et seq.* and is mutually agreed upon in writing between the distributor and the dealer or redemption center, or reverse vending provider and the distributor and/or dealer or redemption center.

## 12. Refusing Payment When a Distributor Discontinues A Specific Beverage Product

Distributors, contracted agents, dealers, and redemption centers shall not refuse to pay the refund value of the returned beverage container as established by 32 M.R.S.A. Sec. 1863, as amended, except that distributors, dealers and redemption centers may refuse to pay such refund value in the following situations:

- A. A distributor may refuse to pay the refund value if the distributor has given notice, in writing, to dealers to whom the distributor sold similar beverage containers and the licensed redemption centers serving those dealers that the particular kind, size and brand offered for refund has been discontinued and at least 4 months have elapsed since the mailing of such notice;
- B. A dealer or redemption center may refuse to pay the refund value of beverages discontinued by a distributor in accordance with subsection (A) above, no sooner than 3 months after the distributor has mailed the notice required by subsection (A); and
- C. In no event shall a dealer or redemption center refuse to pay the refund value of discontinued beverages unless such dealer or redemption center shall have posted for at least 30 days a conspicuous notice advising consumers of the final date of acceptance.

## 13. Refund Value Initiation

Initiation of the deposit for non-refillable containers sold through distributorships which have no exclusive geographic area may take place at the manufacturer level at the manufacturer's discretion; otherwise initiation of the deposit shall take place at the distributor level. Initiators of Deposit must be licensed with the Maine Department of Agriculture, ~~Food & Rural Resources~~ Conservation and Forestry pursuant to 32 M.R.S.A. section 1871-A prior to distribution of any beverage requiring deposit within the State of Maine.

## 14. Clearly Defined Labeling Requirements

- A. Placement of label; method of labeling. On printed labels, the refund value and the word "Maine" or the abbreviation "ME" shall be clearly and conspicuously displayed on every beverage container using letters, numerals and symbols not less than 1/8 inch high in clear and prominent typeface and a color contrasting with its background. The refund value shall not be indicated on the bottom of the container.
  - (1) On metal beverage containers the refund value and the word "Maine" or the abbreviation "ME" shall be embossed, incised, or printed clearly and conspicuously on the top every beverage container using letters, numerals and symbols not less than 1/8 inch high.
- B. Approval of container labels. Prior to sale within the State, manufacturers or distributors must submit the entire label (including any printed material on the container) to the Department of Agriculture, ~~Food and Rural Resources~~ Conservation and Forestry, Division of Quality Assurance and Regulations for approval.

- C. Additionally, if a manufacturer directly prints, embosses, or incises the Maine redemption value on the beverage container, the manufacturer, or in the case of a private label, the brand owner, must submit such labeled container to the Department of Agriculture, Conservation and Forestry Food and Rural Resources Division of Quality Assurance and Regulations for approval. Placement suitability and security of the mark will be examined.
- D. With the exception of wine products, all beverage containers sold in the State of Maine shall bear a Universal Product Code (UPC) which shall be unique to each combination of beverage brand, kind, size and flavor.

15. **Exempt Facilities**

Apple cider and blueberry juice, ~~that~~which is produced in the State of Maine, is exempt from the required refund and deposit. Local producers bottling apple cider and blueberry juice in containers that do not bear a deposit/refund statement shall receive empty containers from consumers who voluntarily return them without deposit. The opportunity for consumers to return empty containers shall be conspicuously posted at the producer's place of business and ~~should~~will encourage the return of containers to the processor for recycling.

16. **Plastic Bag Specifications**

Plastic bags used to tender beverage containers by redemption centers to distributors or third party agents shall be of uniform dimensions that are 36 inches in width by 60 inches long with a minimum thickness of 1.2 mils (millionths of an inch) and with flat bottoms.

17. ~~47.~~ **Signs Conspicuously Posted**

- A. Each area of a redemption center where consumer's tender returnable containers must have a "Warning Sign" conspicuously posted with the required wording specified by 32 M.R.S. §Sec. 1866 (8). Warning signs shall be constructed of durable materials and printed in horizontal block form. Each letter of the warning sign shall be of bold type measuring a minimum of 1 inch in height.
- B. Member dealers shall conspicuously post the name and address of the local redemption center, which serves the dealer for purposes of redeeming returnable beverage containers of the kind, size and brand sold by the dealer.

18. **Audits**

- A. Initiators, distributors and third 3<sup>rd</sup> party contracted agents may conduct audits to determine accuracy of container counts for bags tendered as full bags by dealers and redemption centers.
- B. The audits must follow accepted ~~w~~Weights & ~~m~~Measures laws and procedures. Audits must follow the procedure for an audit test in NIST handbook 133, Checking the Net Contents of Packaged Goods, chapter 1, section 1.3.1. Audit Tests. No enforcement action may be taken on an audit test. If after the audit there is suspicion that the lot ~~under~~ tested is not in compliance, a full "Category A" sampling plan, following test procedures found in NIST Handbook 133, Chapter 4, test procedures for packages labeled by count, must be conducted before an enforcement action can be taken. Due to excessive variation for individual containers caused by residual liquids and

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foreign material the weight method of checking packages labeled by count is not acceptable and a physical count must be used.

- C. An enforcement action may only be taken on bags for which an accurate, consistent and verifiable full bag count has been established. ~~Due to industry established sorting methods which allow commingling of various container sizes it is impossible for the Department to establish these counts. Following Weights & Measures standards package quantity declarations of count require an accurate physical count. However, this does not preclude~~ Industry may negotiate and reach ~~from achieving an~~ agreements with ~~between~~ parties involved in these transactions that establish an ~~agreed upon~~ number agreed to by all parties that is acceptable as a full bag count ~~to both parties~~. These counts will only be deemed verifiable ~~provided~~ when sorting criteria does not introduce large uncertainties into the process, such as commingling of different sized containers into the same bags. Bag sorts that allow ~~such wide uncertainties and~~ variations in count may not be audited or checked for purposes of taking action on the final count for payment by the initiator, distributor or 3<sup>rd</sup> third party contracted agent.
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