

MDEP Concept Draft Language for Returnable Beverage Container Rule

1. Definitions (Summary: removes definitions that exist in statute; removes the definition of contracted agent; adds “drink”, which retains some of the exemptions previously provided by “beverage” but not all; adds new terms.)

As used in this chapter and unless the context otherwise indicates, the following words and phrases have the following meanings:

- A. “Beer” means malt liquor, as defined in 28-A M.R.S. § 2(18).
- B. “Closure device” means the part of the container that is removed to allow a consumer to drink a beverage.
- C. “Drink” means a liquid ready for consumption. Drink does not include a concentrate; an additive; or a liquid that is usually heated prior to consumption, including soups, broths, or infant formula.
- D. “EAN” means an International Article Number, previously called a European Article Number, 13-digit barcode.
- E. “Full-service redemption location” is a redemption center or redeeming dealer where an attendant or reverse vending machine is available to receive bulk loads of unsorted containers and a customer can receive cash for the redemption value of containers at the time of redemption.
- F. “Hub and Spoke” means a collection system in which redeemed beverage containers from multiple redemption center or redeeming dealer locations are brought to one or more centralized locations for processing or consolidation.
- G. "Liquor" has the same meaning as in [Title 28-A, section 2, subsection 16](#).
- H. "Low-Alcohol Spirits Product" has the same meaning as in [Title 28-A, section 2, subsection 16-A](#).
- I. "Malt Liquor" has the same meaning as in Title 28-A, section 2, subsection 18.
- J. "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.
- K. “Municipality” means a city, town, village or plantation with a population of more than 50 people, as identified in the most recent Maine Municipal Directory by the Maine Municipal Association.

- L. “Obligated dealer” means a dealer that is obligated to provide redemption services in accordance with 38 M.R.S. § 3106(1).
- M. “Operational Efficiency” means the ratio of revenue to costs for a total system.
- N. “Original agreement” means the commingling agreement on file with the Department at the time an initiator asks to join.
- O. “Process” means to break or crush beverage containers after redemption.
- P. "Product" means an item as determined by a separate label and/or Universal Product Code or International Article Number.
- Q. “Redeeming dealer” means a dealer redeeming beverage containers and tendering them to commingling groups or the commingling cooperative for pickup and payment in accordance with 38 M.R.S. § 3106(7 and 8-A).
- R. “Refillable beverage container” means a beverage container, the construction of which allows it to be refilled at least five times, and that, when redeemed in accordance with this chapter, is returned to any beverage manufacturer to be refilled with a beverage to the extent that current washing infrastructure allows.
- S. "Shipping receptacle" means the package used for packing redeemed beverage containers that have not been processed.
- T. "Size" means the liquid content of a beverage container.
- U. “Sort”, when used as a noun, means a set of beverage containers that are commingled when redeemed.
- V. "Universal Product Code" or “UPC" 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 including but not limited to Universal Product Code (UPC), EAN and other codes that may be used to identify a product.

2. Prohibitions (Summary: adds language clarifying that it is prohibited to sell a beverage in a beverage container if the registered initiator of deposit has not initiated a deposit on the container.)

A Manufacturer, Distributor, seller, or Dealer may not offer a Beverage for sale to consumers in this State:

- A. In a metal container designed or constructed so that part of the container is detachable for the purpose of opening the container without the aid of a separate can opener, except that nothing in this Subsection prohibits the sale of a container, the

only detachable part of which is a piece of adhesive-backed tape, a sanitary cover, or a screw-off bottle top;

- B. In a container composed of one or more plastics if the basic structure of the container, exclusive of the closure device, also includes aluminum or steel.
- C. In a beverage container, if the container label does not meet the standards in Section (labeling) and the label is registered with the Department in accordance with Section (label registration) of this chapter.
- D. In a beverage container, if the registered initiator of deposit has not initiated a deposit on the unit in accordance with section (initiating deposit).

Note: Appropriate refund value is governed by M.R.S. §3103. Low-alcohol spirits products must have a refund value of at least \$0.05.

3. Initiating Deposit (Summary: clarifies that it is illegal to sell a beverage if no deposit has been initiated; clarifies what is required to initiate a deposit; removes licensing requirement and fee language included in statute; removes language specifying who is responsible for registering labels; allows an alternative party to act as an initiator of deposit with Department approval; requires IODs to report the distribution networks for which they are reporting sales; clarifies Department auditing ability; enumerates (previously existing) initiator responsibilities; and allows the Department to obtain estimates of sales data if Maine specific data are not available).

- A. It is illegal to sell or offer for sale a beverage in a beverage container in or into the state on which a deposit is not initiated.
 - (1) Deposits must be charged to the entity buying a beverage and shown as a separate line item on the receipt or invoice.
 - (2) If a distributor brings a beverage in a beverage container into the state for which it was not charged a deposit by the initiator of deposit, the distributor must charge the deposit when selling the beverage and pass the deposit to the entity that initiates the deposit on that beverage.
- B. The entities responsible for initiating deposit are as follows.
 - (3) The Bureau of Alcoholic Beverages and Lottery Operations will initiate the deposit on Spirits.
 - ~~(4)~~ The manufacturer will initiate the deposit on beverages other than spirits when the beverages are not sold in or into Maine through geographically exclusive distributorships.

- (5) The distributor will initiate the deposit on beverages other than spirits when the beverages are sold in or into Maine through geographically exclusive distributorships except that, in the case of refillable beverage containers, the manufacturer may elect to be the initiator of deposit.

Note: "Manufacturer" means a person that:

- A. Sells or offers for sale a beverage in the State under the manufacturer's brand or label;
 - B. Licenses another person to sell or offer for sale a beverage in the State under the manufacturer's brand or label;
 - C. Imports into the United States for sale or offering for sale in the State a beverage that is manufactured outside of the United States by another person without a presence in the United States; or
 - D. Is an out-of-state wholesaler of liquor that holds a certificate of approval issued pursuant to Title 28-A.
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- (6) Notwithstanding sections (second and third above), another entity may initiate deposit if it proves, to Department satisfaction, that it is able to initiate deposit for all beverage containers of the product that are sold in or into the State.
- (7) When there is a change in the initiator of deposit, the original and new initiators of deposit will determine the date on which the new initiator of deposit will be responsible for pickup. In no case will the effective date occur more than 35 calendar days from the date the new initiator of deposit takes over sales for the brand.
- B. For all beverage containers for which it is the initiator of deposit, an initiator of deposit has the following responsibilities, which can be fulfilled directly, through the commingling group of which it is a member, through the commingling cooperative, or through another contracted party. The initiator of deposit is the entity ultimately responsible for:
- (1) Initiating the deposit for beverages sold in or into the state and informing distributors of the need to charge and pass back deposits when selling a beverage into the state;
 - (2) Picking up its beverage containers or its share of commingled beverage containers that have been prepared by obligated dealers and redemption centers in accordance with Section (pickup from RCs and redeeming dealers);
 - (3) Facilitating the recycling or refill of those containers;
 - (4) Paying the redeeming dealers and redemption centers handling fees for the handling of such beverage containers; and
 - (5) Reimbursing redeeming dealers and redemption centers for the deposits paid out on such beverage containers.
- C. Reporting requirements.

An Initiator of Deposit will annually and upon request, provide the Department, the commingling group of which it is a member, and the commingling cooperative a current list of Beverages on which it initiates deposit and notify the Department, the commingling group of which it is a member, and the commingling cooperative at least monthly of the addition and discontinuance of any Products on which it initiates deposit.

- (1) When an initiator of deposit changes its contracted agent or its participation in a commingling agreement, the initiator of deposit will provide redeeming dealers, redemption centers, and the Department with notice of any changes that affect container sorting or pickup requirements.
- (2) Initiators of deposit must annually report to the Department, on forms prescribed by the Department, the number of beverage containers sold and redeemed. Data on beverages sold must include a list of the distribution networks for which sales are being reported.
 - (a) The Department may audit data provided, in which case the initiator of deposit must substantiate reported data with paperwork showing the sales to each distribution network.
 - (a) If the initiator of deposit does not report sales for all distribution networks identified via distributor reporting, the initiator of deposit must provide and substantiate missing sales data within 90 days. If an IOD cannot provide and substantiate missing sales data within 90 days, it must:
 1. Separately estimate the number of beverage containers sold into Maine for each distribution network that may sell, offer for sale, or distribute for sale in or into the State, assuming equal per capita sales in each state included in the distribution area; and
 2. Report, for each distribution network, the distributor, the distribution area, and the total number of units distributed through that network.

If an initiator of deposit has Maine specific sales data for some sales distribution pathways it must report Maine specific sales for those distribution pathways for which it has state specific sales data in accordance with paragraph (a) and estimate the number of beverage containers sold through other pathways in accordance with paragraph (b).

- (b) If an initiator of deposit does not report Maine specific sales for all distribution networks, it is in violation of 38 M.R.S. § 3119 (1) and subject to penalties under 38 M.R.S. § 3111.

4. Dealer responsibility (Summary: new section that requires reporting on dealer compliance with 38 M.R.S. § 3106(1) and identification of distributors.)

Any dealer that is an obligated dealer or redeeming dealer must report annually to the Department, on a form provided by the Department, stating how it is providing for the redemption of beverage containers; providing a copy of a signed agreement with a redemption center, if applicable; and listing the distributors from which it buys beverages in beverage containers.

5. Licensing of Redemption Centers (Summary: removes licensing fee language that is in statute; removes some repetitive language; exempts redemption center applications from the requirement to file applications; clarifies licensing requirements and the manner in which an applicant can show compelling public need; and clarifies the manner and situations in which an application can be denied, suspended, or not renewed.)

- A. All applicants for a redemption center shall utilize forms provided by the Department and shall supply the information requested thereon.
 - (1) Applicants with a current redemption center license that are applying to continue operations at the same location must apply for a renewal.
 - (2) Applicants looking to open a new redemption center in a location where a redemption center is not currently operating must apply for a new redemption center.
 - (3) Applicants looking to change the ownership of an existing redemption center must apply for a license transfer.
 - (4) Applications for a new redemption center or license transfer do not require a notice of applications in accordance with Processing of Applications and Other Administrative Matters, 06-096 ch. 2 § 13, provided they send the notice to the municipality and any active redemption centers in the municipality and copy the Department. Applications for a renewal do not require any notice of applications in accordance with 06-096 ch. 2 § 13.
- B. The Commissioner may approve an application for a new Redemption Center or a license transfer if the Commissioner finds that the facility:
 - (1) Will provide a convenient service for the return of empty beverage containers;
 - (2) Has an agreement with at least one local dealer;
 - (3) Has sufficient, covered, secure storage to store enough sorted beverage containers to fill a tractor trailer or, if the redemption center expects to produce less than a tractor trailer's worth of material over a fifteen-day time-span, the anticipated volume of beverage containers based on the beverage container pickup requirements outlined in section 12;

- (4) Will be open for business for the acceptance of empty beverage containers from the public for a minimum of three days per week, one of which falls on a Saturday or Sunday, and will accept empty beverage containers a minimum of 20 hours per week;
 - (5) Has adequate area out of a public way to accommodate pickups by vehicles large enough to efficiently pick up the volume of containers produced while allowing for normal traffic flow and safe access for customers returning beverage containers;
 - (6) Meets the requirements under 38 M.R.S §3113(3); is proposed for a municipality with a population of less than 5,000 which has no licensed redemption center; or meets the requirements under 38 M.R.S §3113(4). The Department, in evaluating compelling public need, can consider, but is not limited to considering:
 - (a) Recognition of need from the municipal government in which it is located;
 - (b) Support from adjacent municipalities for additional redemption centers;
 - (c) Transient or seasonal population of the area;
 - (d) Whether the municipality is considered a primary, secondary, small, or specialized Maine service center as identified by the Department of Agriculture, Conservation, and Forestry's Municipal Planning Assistance Program; and
 - (e) Whether the redemption center will provide a redemption option that is not currently provided by existing redemption centers;
 - (7) Meets all other licensing requirements enumerated in this chapter, 06-096 C.M.R. ch. 2, and 38 M.R.S. §3109.
- C. In making a determination with respect to a renewal application, the Commissioner may consider past and current compliance with the requirements of this chapter; the quality of the service provided; prior provision of title, right, or interest; and past determinations of compelling need, in addition to those criteria enumerated in section B.
- D. Denials. The Department shall provide written notice when an applicant is denied a license. This notice must provide the reason or reasons for the denial or non-renewal of the license.
- E. All licenses are subject to suspension or non-renewal for good cause shown, including but not limited to unsafe or unsanitary practices; falsification of reports; failure to operate in accordance with the conditions of the license; repeatedly preparing shipping receptacles for pickup with fewer than the required number of beverage containers; and other serious or continued violations of this Chapter. Except in cases where there is an

immediate threat to human health or the environment, prior to suspension or non-renewal the Department shall:

- (1) Send notice of failure to comply with the rules and regulations outlined in 38 M.R.S. §§3101-3119 or this Chapter; and
- (2) Allow a licensee to submit a corrective action plan. A corrective action plan must be submitted within 30 days of the initial notice of failure to comply.
 - (a) The Department may approve the corrective action plan as submitted, approve the plan with required changes, or reject the plan.
 - (b) The Department may require the licensee to demonstrate implementation of an approved corrective action plan.
 - (c) If the licensee fails to submit a corrective action plan, if the Department rejects a corrective action plan, or if the Department determines that a licensee has failed to implement an approved corrective action plan, the Department shall suspend the license and deny any subsequent renewal application.

Note: Along with the right to file an appeal in accordance with the *Maine Administrative Procedure Act*, 38 M.R.S. §344(2-A) provides for appeal of a Department licensing decision to the Board of Environmental Protection: “Any person aggrieved by a final license or permit decision of the Commissioner may appeal that decision to the board. The filing of an appeal with the board is not a prerequisite for the filing of a judicial appeal.”

- F. Any operating Redemption Center destroyed as a result of a catastrophic event, such as a fire, flood or other natural disaster, may rebuild and obtain a license to operate a Redemption Center on the same property or open a Redemption Center in an already existing structure within the same municipality as the original Redemption Center. The replacement Redemption Center need not comply with 38 M.R.S. §3113(3), as long as it is in operation within six (6) months of the catastrophic event.
- G. Agreements to serve dealers must be in writing and must state the name and address of the dealer to be served and the distance from the dealer to the redemption center. The agreements must be signed by both parties. For purposes of compliance with Subsection 3(C) of this chapter, only dealers with a permanent presence in a “brick and mortar” retail food establishment (as defined in 22 M.R.S. §2152(7-A)) or eating establishment (as defined in 22 M.R.S. §2491(7)) will be considered for an approved agreement.

7. Contracted Agents (Summary: cut; some content exists in statute; some content moved to section about pick up from redemption centers and dealers.)

6. Refund Value, and Responsibility for Initiation of Deposit and Label Registration (Summary: cut because it all exists in statute.)

7. Distributor Requirements (Summary: clarifies distributor reporting to initiators of deposit, adds annual reporting on products sold; and allows a distributor to remedy unlawful sales through pickup and removal of product.)

- A. A distributor shall provide each initiator of deposit with all Product sales data necessary to comply with (Section Initiating deposit, reporting requirements).
- B. At the discretion of the Department, a distributor that has sold a beverage that is prohibited from sale by 38 M.R.S. § 3110 or 38 M.R.S. § 3107(3-B)(3)(I)(2) or is removed from sale in accordance with 38 M.R.S. § 3105(6) may avoid penalties levied in accordance with 38 M.R.S. § 3111 by collecting the products it should not have sold and removing them from the state.
- C. A distributors of beverages in beverage containers must report to the Department by March 1, annually, a list of products it sells in or into the state.

8. Labeling Requirements (Summary: Clarifies that labeling must be present on the container both when sold and after having been consumed; allows for the provision and approval of stickers for a commingling group; removes the requirement that a manufacturer provide evidence of product labeling to a distributor).

- A. The labeling required by M.R.S. 3105(1) must 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 labeling must be present and visible both when the container is full and when it is empty. Labels printed directly on the container must be printed on a smooth and even surface, and in a color that contrasts with the background both when the container is full and when it is empty.

On metal beverage containers the refund value and the word "Maine" or the abbreviation "ME" must be embossed, incised, or printed clearly and conspicuously on the top of each beverage container using letters, numerals, and symbols not less than 1/8 inch high. On metal beverage containers sold with a sanitary cover that obscures the redemption value on the top of the container, the refund value and the word "Maine" or the abbreviation "ME" must also be printed clearly on the container label using letters, numerals, and symbols not less than 1/8 inch high.

- B. For Wine and Spirit Products with labeling that does not include the required refund value, the Initiator of Deposit shall ensure that a Department-approved sticker that clearly identifies the commingling agreement in which the initiator of deposit participates and the deposit/refund value is affixed to the Product container. Prior to the sale of a Wine or Spirit container to which a separate sticker stating the refund value is to be affixed, the commingling group shall submit a sample of the sticker to the Department for approval. Approval will be based on the readability, suitability, and durability of the sticker. The Initiator of Deposit on other Products, other than Products in metal beverage containers, may seek approval to affix an approved refund value sticker to their Product for a limited time to allow product sale in Maine until the Product label can be modified to include the Maine deposit/refund value.
- D. All beverage containers sold in the State of Maine must bear a UPC or EAN that is scannable, remains attached to the beverage container after opening, and is unique to each combination of Beverage brand, beverage container material Type, Size and flavor. Malt liquors of the same Beverage brand may utilize one UPC for EAN for their seasonal products in the same beverage container material type and size.

9. Registration of Beverage Containers (Summary: moves label registration to the commingling cooperative, except in the absence of an approved plan; requires information on commingling group instead of pickup agent; limits the amount that can be charged for label registration.)

Each beverage container and its label must be registered with the commingling cooperative or, in the absence of an approved plan, the Department, prior to the Beverage being offered for sale in Maine and annually thereafter. Applications for registration must be on forms or in an electronic format provided by the commingling cooperative or the Department.

- A. Registrations must include:
 - (1) the Product name;
 - (2) the category of Beverage, as delineated in 38 M.R.S. § 3107(1-B)(3);
 - (3) the container Size;
 - (4) the container material Type,
 - (5) if glass, the color;
 - (6) the complete UPC or EAN, unless the product is a Wine product that is not labeled with a UPC or EAN; and
 - (7) the commingling group in which the product is included; and

- (8) if not submitted with a previous year's label registration, a copy or photograph of the beverage container label or a signed statement certifying that the beverage container being registered is marked with the deposit refund value in accordance with 38 M.R.S. §3103 and Section 8.
 - B. If a UPC or EAN on a beverage container is changed during the registration period, that Product will be considered discontinued and an application for registration of the Product label bearing the new UPC or EAN must be submitted prior to offering the Product for sale into Maine.
 - D. Fees for label registrations.
 - (1) Fees for label registration with the Department are as follows:
 - (a.) Wine containers: \$1.00 annually per label.
 - (b.) All other beverage containers: \$4.00 annually per label.
 - (2) Fees for registering a label with the commingling cooperative will not be more than \$4.00 annually.
- 10. Operation of Redeeming Dealers and Redemption Centers (Summary: removes some requirements already included in statute or required by other statutes or regulations; includes requirement from below that sorting be consistent with commingling group or cooperative requests; requires sortation of refillable beverage containers and allows sortation of glass by color under certain circumstances; warning sign language moved here from elsewhere in rule; changed to be consistent with statute in that no cash refund required for bag drop; clarifies the need for on-going and complete acceptance of beverage containers at redemption centers using RVMs; removal of the requirement that a redemption center location must be convenient; requires obligated dealers to label shipping receptacles with redemption location).**
- A. The redeeming dealer or Redemption Center operator will collect and store beverage containers in such a manner as not to cause a nuisance to the surrounding area, and shall:
 - (1) Take all necessary precautions to eliminate and protect against insect and rodent infestation inside and surrounding the premises.
 - (2) Store unsorted and sorted beverage containers separated from all food Products by a solid partition and in a building constructed properly to protect beverage containers from adverse environmental conditions (i.e. rain, snow, mud, etc.).

- (5) Maintain general surroundings free of litter, and debris.
- (5) Employ routine housekeeping practices to maintain an environment that is clean and orderly to discourage, identify, and eliminate rodents, insects and birds.
- (6) Follow all municipal codes and ordinances.

B. Redeeming dealers and redemption centers will provide sanitary facilities to ensure adequate personal hygiene for employees and which comply with United States Department of Labor standards in 29 C.F.R. §1910.141 as amended up to January 1, 2025. Sanitary facilities include toilet, hand wash sink, approved septic system, and hot and cold potable water under pressure. A redeeming dealer or redemption center is exempt from this requirement if operated by the owner and immediate family members only.

C. Redeeming dealers and redemption centers will submit to inspections by the Department.

D. Redeeming dealers and redemption centers will sort beverage containers in the manner described in an approved commingling cooperative plan, or, in the absence of an approved commingling cooperative plan, in a manner that is consistent with approved commingling agreements. Alternative sorting arrangements consistent with this chapter are permissible in the case of a mutually acceptable written agreement between the redeeming dealer or redemption center and the initiator of deposit, commingling group, commingling cooperative, or contracted agent.

- a. Sortation by size must commingle all sizes that can be sorted together while allowing for an accurate determination of container count with 97% accuracy. Further commingling by size is also allowed.
- b. Sortation by material type may include sortation of glass into clear, brown, and green/blue fractions if material is being marketed to glass-to-glass or refill applications.
- c. Sortation by material type must include segregation of refillable beverage containers.
- d. Sorts must maximize market value and enable material to be made into new beverage containers to the extent possible given statutory restrictions.

E. Redeeming dealers and redemption centers will conspicuously ~~p~~ Post a “warning” sign in each area where consumers tender returnable containers with wording specified by 38 M.R.S. §3106(10). Warning signs must be constructed of durable materials and printed in horizontal block form. Each letter of the warning sign must be written in bold-face type and measure a minimum of 1 inch in height.

- F. A redemption center or redeeming dealer may not refuse to accept from any consumer or dealer any empty, unbroken and reasonably clean beverage container of the type, size and brand sold in the State as long as the label for the beverage container is registered in accordance with Section 9 and may not refuse to pay the refund value of the returned beverage container. Redemption centers and redeeming dealers must:
- (1) Inspect each container to ensure it is a registered container unless the Cooperative has allowed otherwise in the cooperative plan; and
 - (2) If using reverse vending machines, assure the availability of the machine for use by consumers during normal business hours. The redeeming dealer or redemption center must provide an alternative redemption procedure and conspicuously post a sign directing consumers where to bring any valid beverage containers rejected by the RVM or that cannot be returned through an RVM due to a mechanical breakdown.
 - (3) Accept empty beverage containers during the hours proposed on their approved applications and post their hours of operation in a conspicuous place that can be seen from outside the redemption center.

Note: Hours during which redeeming obligated dealers must redeem containers are addressed in 38 M.R.S. §3106(4).

- E. Redemption centers may charge a fee to obligated dealers with which they have agreements in accordance with 38 M.R.S. §3106(1)
- H. A Redemption Center or redeeming dealer may pick up beverage containers from any dealer.
- I. A redeeming dealer or Redemption Center shall tender beverage containers to an initiator of deposit, commingling group, commingling cooperative, or pick-up agent by making reasonable accommodations that allow ease of access to those beverage containers being tendered 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 and packaged beverage containers to a predetermined loading area during pick-up of said containers.
- J. A redeeming dealer or redemption center shall tender to an initiator of deposit, commingling group, commingling cooperative, or pick-up agent only empty, unbroken, and reasonably clean beverage containers with legible labels, unless the containers have been processed through an approved reverse vending machine which meets the requirements of this Chapter. For purposes of this section, unbroken when used in reference to cans and plastic containers means not previously crushed prior to tendering back to an initiator of deposit or pick-up agent.

- K. Empty containers, unless they have been processed through an approved reverse vending machine that meets the requirements of this chapter, must be tendered to the initiator of deposit, commingling group, commingling cooperative, or pick-up agent in shipping receptacles provided or paid for by the initiator of deposit, commingling group, cooperative, or pick-up agent, as described in an approved commingling cooperative plan or in an approved commingling agreement in the absence of an approved commingling cooperative plan, or as mutually agreed upon by the initiator of deposit, commingling group, commingling cooperative, or pickup agent and the redeeming dealer or redemption center.
- (1) Redeeming dealers or redemption centers buying or otherwise providing their own shipping receptacles must use the same shipping receptacles specified by the commingling group, commingling cooperative, or pick-up agent.
 - (2) Redeeming dealers and redemption centers may not alter shipping receptacles.
 - (3) Redeeming dealers or redemption centers in need of shipping receptacles that communicate this need in accordance with an approved commingling cooperative plan or, in the absence of an approved plan, in accordance with a commingling agreement, at least 48 hours prior to a planned pickup, will be provided shipping receptacles to replace those being picked up and may request additional shipping receptacles based on increased volume over time or a pending event that will result in a temporary increase in volume.
- L. A redeeming dealer will label each shipping receptacle in a manner that identifies the redemption location.

Note: Labeling requirements for redemption centers are addressed in 38 M.R.S. §3109(5-B).

11. Reverse Vending Machines (Summary: added information on department approval of reverse vending machines, as required by 38 M.R.S. § 3102(19); added a process for determining whether material is devalued, as required by 38 M.R.S. § 3106(6))

- A. Requirements
- a. RVMs must count and identify the UPC of beverage containers while destroying a nonrefillable containers and either rejecting refillable containers or retaining refillable containers without damaging them. RVMs must collect accounting information for deposit and scrap settlement.

- b. RVMs must meet the requirements of 01-001 C.M.R. ch. 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:
 - (a) The number of containers placed in the RVM over an explicit predetermined time period.
 - (b) The Product name of each beverage container placed in the RVM.
 - (c) The material type, Size, and brand of each beverage container placed in the RVM.
- c. An RVM and any report that it provides are subject to inspection and audit by the Department.
- D. Each initiator of deposit, commingling group, commingling cooperative, or pick-up agent of beverage containers which have been processed through an RVM shall have the opportunity to pick up its share of scrap material, as determined from information gathered from the RVM.
- D. In an RVM System, the RVM provider shall be required to accumulate and maintain data to allow for geographic allocation of scrap pick-up
- E. Department approval of reverse vending machines.
 - a. The Department will approve reverse vending machines prior to use and will maintain a list of approved reverse vending machines. Reverse vending machines meeting the criteria above will be approved for use in the state.
 - b. Redeeming dealers and redemption centers looking to make use of a reverse vending machine will consult with the Department prior to buying or leasing a unit for program use to ensure the model and plan for use meet program requirements.
 - c. If a reverse vending machine is determined to devalue material in accordance with 3106 and section F of this rule, current units can continue to operate but no additional units may be approved for use in the state.
- F. Upon request by an initiator of deposit, commingling group, or the commingling cooperative, the Department shall determine whether a beverage container has been processed by a reverse vending machine in a manner that has reduced its recycling value below current market value for a nonrefillable beverage container or has prevented the reuse of a refillable beverage container.
 - a. Upon request, the Department will evaluate the relative price of materials that are processed through a reverse vending machine. Upon receiving such a request,

the Department will accept relevant information from the cooperative or commingling group requesting the evaluation, the dealers and redemption centers using the reverse vending machine, and any other interested parties for use in making this determination. The Department may consider but is not limited to considering:

- i. Whether buyers are willing to pay the same price for the processed material as for material otherwise processed through the program;
 - ii. If so, the number and availability of buyers willing to purchase the material at that price; and
 - iii. Any material specific savings that arise from the processing method.
 - b. If the Department makes a determination, it will apply to all beverage containers of a given material type similarly processed.
 - c. If the Department determines that the net recycling value of a container processing by reverse vending machines is devalued, the commingling group challenging the container recycling value may pick up the material and continue to pay handling fees and deposit refunds on redeemed containers if the redeeming dealer or redemption center operator pays the difference in material value.
- G. Upon request, operators of reverse vending machines must provide full accounting of containers redeemed, by UPC, to the Department.

12. Requirements for account-based bulk processing programs (Summary: new section clarifying functioning of ABBP)

- A. Account-based bulk processing programs must be approved by the Department. Programs shall apply for a license in accordance with Chapter 2 and will be approved if they meet all the requirements of 38 M.R.S. 3101-3119, this chapter, and any current Department-approved commingling cooperative plan.
- B. Account-based bulk processing programs must process all beverage containers using a reverse vending machine.
- C. Account-based bulk processing programs must verify the home address of all account owners and must report on redemptions by account-owners residing out of state, as requested by the Department.

13. Bag drop (Summary: new section clarifying use of bag drop)

- A. Redemption centers collecting containers through bag drop must list all bag drop locations and report the method of payment to consumers on redemption center license applications.

Bag drop locations must meet the requirements of sections (operation of RCs nuisance) and (operation of RCs warning sign).

11. Acceptance of Beverage Containers from Dealers and Redemption Centers (Summary: Moved to section redeeming dealers and redemption centers.)

12. Pickup from Redemption Centers and Redeeming Dealers (Summary: Adds a requirement that redeeming dealers and redemption centers collecting at least 75,000 units a week have a regular pickup schedule; clarifies that the section applies to pickups from obligated dealers; requires that redemption centers and redeeming dealers be available for pickup during certain hours and that pickup agents schedule a pickup with 48 hours' notice if it is to occur outside a redemption center or redeeming dealer's normal operating hours; requires the Department be notified of missed pickups and allows the Department to consider compensation provided to a redemption center or redeeming dealer by a pickup agent when levying penalties in accordance with 38 M.R.S. § 3111; requires pickup agents to provide an invoice upon pickup; clarifies pickup agent reporting requirements.

- A. Requirement to pick up. On behalf of their initiators of deposit, the Commingling Cooperative or, in the absence of an approved Commingling Cooperative Plan, commingling groups will arrange for pickup of empty, unbroken, and reasonably clean beverage containers from redeeming dealers and licensed Redemption Centers.

- (1) Pickups will occur, at a minimum, every 15 calendar days.
- (2) Redeeming dealers and redemption centers that are consistently handling 75,000 units a week will be picked up on a regular schedule, which may be adjusted seasonally. This schedule must be provided to the redeeming dealer or redemption center in writing.
- (3) To the extent feasible, during each pick-up, the entities performing the pick-up shall remove all containers for which they are responsible and that are containerized and ready to be picked up.

B. Scheduling pickups

- (1) After collecting 10,000 beverage containers that are the responsibility of a single entity, a Redemption Center or redeeming dealer may request an additional pick up, which must be fulfilled no later than ten (10) calendar days starting the day after the request was made unless a longer time frame is mutually agreed upon in writing by the Redemption Center or redeeming dealer and the entity responsible for the pickup. This additional pickup does not count towards the pickups required under Section 12A.
- (2) Redeeming dealers and redemption centers must be available for scheduled pickups weekdays from 9-5.
- (3) Entities picking up containers must schedule pickups with at least 48-hours' notice if the pickup is going to occur outside of a redemption center or redeeming dealer's regular hours of operation.

If a pickup is missed, it must be reported to the Department. Multiple missed pickups can lead to penalties in accordance with 38 M.R.S. § 3111(3); in levying penalties, the Department will consider any compensation provided to redemption centers or redeeming dealers in exchange for additional storage of containers.

G. Payments and invoicing.

- (1) The entity picking up beverage containers will provide the redemption center an itemized receipt of units picked up, by sort, before leaving the facility. The receipt shall include unit totals and monetary value.
- (2) The cooperative, or the commingling group in the absence of an approved cooperative plan shall pay the redeeming Dealer or Redemption Center all applicable deposit values, handling fees, and refunds associated with shipping receptacle purchases or deposits no later than ten business days after acceptance.

B. Reporting

- (1) Pick-up Agents shall provide to the Department current lists of initiators of deposit with whom they have contracts and beverage containers which they pick up.
- (2) Entities picking up beverage containers must annually report to the Department, on forms prescribed by the Department, the number of beverage containers redeemed from each redemption center and redeeming dealer and the total number of containers redeemed by sort and redemption value.

13. Private Contracts and Business Transactions (Summary: expands applicability.)

This chapter 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 38 M.R.S. §3101 *et seq.* and is mutually agreed upon in writing between all affected parties. The Department shall not be responsible for enforcing the terms of any such alternative private arrangements and is responsible for enforcing 38 M.R.S. § 3101-3119 and this chapter. Previous existence of a written agreement can be considered by the Department during determination of appropriate enforcement action for any inconsistencies with this chapter that occurred under a written agreement and before one entity informed the other of a desire to change that agreement.

14. Refusing Payment

IODs, redeeming Dealers, and Redemption Centers shall not refuse to pay the refund value of a beverage container except in the following situations:

- A. The initiator of deposit may refuse to pay the refund value and handling cost of beverage containers in accordance with 38 M.R.S 3106(6).
- B. If an initiator of deposit will no longer be responsible for initiating the deposit on a beverage container,
 - a. the initiator of deposit must provide notice, in writing, to the commingling cooperative and the commingling group of which it is a member. The commingling cooperative or commingling group can provide written notice to redeeming Dealers and Redemption Centers that the particular product offered for refund has been discontinued. The initiator of deposit may begin to refuse to pay the refund value and handling fee for the beverage container 4 months after the mailing of such notice.
 - b. A redeeming Dealer or Redemption Center may refuse to pay a consumer the refund value of Beverages discontinued by an Initiator of Deposit in accordance with Subsection A above, no sooner than 3 months after the IOD mailed the notice required by Subsection A
- C. When an initiator of deposit ceases to belong to a commingling group or is not in compliance with the requirements of an approved commingling cooperative plan,
 - a. the commingling cooperative or, if no there is no currently approved commingling cooperative plan the commingling group, may inform redemption centers and redeeming dealers in writing that the initiator of deposit's containers are no longer eligible for pickup. After providing a final pickup that includes the containers, the commingling cooperative or commingling group may refuse to pay the refund value or handling fee for any future containers received.

- b. A redeeming dealer or redemption center may refuse to pay the refund value for any beverage container about which it has received notice in accordance with (previous paragraph).

16. Exempt Facilities (Summary: cut; previous exemption removed.)

17. Plastic Bag Specifications (Summary: No changes made.)

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

18. Signs Conspicuously Posted (Summary: moved or redundant.)

19. Audits (Summary: removal of redundant language and requirements to use NIST weights and measures standards; added language on how off-site audits should be conducted, how results should be used to adjust payment, and which results can lead to Department enforcement action.)

- A. In order for a commingling group, pick-up agent, or the cooperative to adjust payment to a redeeming dealer or redemption center as a result of incorrect beverage container counts found during an offsite audit, the audit must randomly select shipping receptacles from the redeeming dealer or redemption center being audited for all sorts to be audited and must be performed in the presence of a Department approved neutral third party funded by the commingling group, pick-up agent, or the cooperative. Department staff or a representative of a redemption center must be informed and may attend. Any adjustment to payment must apply the ratio of containers counted to containers reported for each sort to all shipping receptacles of those sorts collected during the pickup.
- B. Actual counts for each sort counted during audits performed should be reported to the Department.
- C. Any Department enforcement action may only be taken on shipping receptacles for which an accurate and consistent count has been established.

20. Cost and Carbon Efficient Technology Fund (Summary: new section that requires the department to study the operational efficiency of technologies and the models that can be used to employ them; requires the department to develop a grant application with input from the cooperative and its advisory group.)

- A. The department shall undertake efforts to understand and quantify the operational efficiency and impact on greenhouse gas emissions from trucking of various technologies meeting the qualifications described in 38 M.R.S. § 3114-A(3)(A) and under various throughput scenarios, including for individual redemption centers, account-based bulk processing programs, bag-drop programs and hub and spoke models, including models that use high

throughput technologies to sample or audit container counts prior to sorting, baling, and otherwise processing recyclable materials.. These efforts shall allow for and encourage stakeholder input.

- B. After consultation with the cooperative and its advisory group, the Department shall establish an application process that:
- a. Identifies priorities for grant funding, in the event funding is insufficient to cover the cost of all qualified grant proposals;
 - b. Allows for various levels of review for grants of different cost tiers and for those that are more and less proven in terms of their ability to improve operational efficiency and reduce greenhouse gas emissions from trucking;
 - c. Allows for all program participants to apply for funding;
 - d. Allows for cooperative, commingling group, initiator of deposit, and advisory group input on applications;
 - e. Is efficient at funding proposals that are proven to improve operational efficiency and reduce the greenhouse gas emissions from trucking; and
 - f. Does not fund proposals that are not proven to improve operational efficiency and reduce the greenhouse gas emissions from trucking, unless they are pilot programs designed to provide information on the effect of an application of technology where the operational efficiency and emissions impact is less well understood.

21. Commingling Groups (Summary: new section)

- A. All commingling groups will submit agreements to the Department for approval. The Department will approve agreements that are consistent with 38 M.R.S. §§3101-3119 and this chapter for a period of no more than 5 years. Any changes to rule or statute require resubmittal of agreements within 90 days of the effective date of the change, unless the Department determines that the change does not require resubmittal and informs the commingling groups of this determination in writing. Commingling groups must inform the Department of changes to the participating initiators of deposit and point of contact within 48 hours and submit any other desired changes to an agreement to the Department for approval prior to implementing those changes. Agreements must allow for a full understanding of commingling group operations and must include the following:
- (1) Contact information, including a specific individual as a point of contact;
 - (2) A description of how initiators of deposit can join the commingling group, including timeline and requirements to join and a description of the full on-boarding process, which must allow new initiators of deposit to join under the same terms and conditions of the original agreement;

- (3) A description of how, and under what circumstances, members can be removed from the commingling group. The method of removal must stem from insufficient payment or repeated violation of commingling group bylaws and must outline progressive enforcement of bylaws by the group;
- (4) A list of the initiators of deposit participating in the commingling group;
- (5) A description of how costs will be allocated among the members, including:
 - (a) the method or methods for fairly allocating costs, which may include sales data, statistically significant sampling of redemption data, or, in cases where no other data are available, use of redemption data from reverse vending machines;
 - (b) procedures for verifying information used to allocate costs;
 - (c) any fees reflecting different costs associated with beverage containers of certain container designs or composition, which may not include added fees for reusable beverage containers; and
 - (d) a method by which an initiator of deposit that takes back a reusable beverage container outside the redemption system can have its cost allocation adjusted accordingly;
- (6) A description of how deposits, handling fees, and any other required payments will be collected and managed, including requirements that
 - (a) All funds be kept in a reputable institution with reliable customer service, preferably with a presence in Maine, with low fees;
 - (b) Monies in excess of the \$250,000 FDIC insurance limit will be insured via collateral, insured cash sweeps, or Treasuries;
 - (c) Investment of funds will only occur in accordance with an investment policy approved by initiator of deposit members, balancing safety, liquidity and return;
 - (d) The commingling group seek competitive bids whenever possible prior to the selection of investments;
 - (e) Expenditures will require dual authorization; and
 - (f) Regular financial reporting will be made available to the member initiators of deposit.

- (7) A description of how the group will manage beverage containers for its members, including
 - (a) size and material type sorts;
 - (b) pick up arrangements for use in the absence of an approved commingling cooperative plan, which must identify entities responsible for pickup in all areas of the state; and
 - (c) shipping receptacles to be used by redeeming dealers or redemption centers and any provision or reimbursement thereof;
 - (8) The method by which member initiators of deposit will make decisions, including to select the commingling group's representation on the cooperative board;
 - (9) The method by which the commingling group will conduct any audits of redemption centers;
 - (10) An acknowledgement that, if a commingling cooperative plan is not in effect, the commingling group will resume its responsibilities within 15 days; and
 - (11) For qualified commingling agreements, documentation demonstrating the commingling group meets a criterion to be a qualified commingling group in accordance with 38 M.R.S. §3107(1-A).
- G. At the request of the department, commingling groups must identify the reason for rejecting a new member.

17. Commingling Cooperative (Summary: new section)

Commingling groups shall collectively establish a cooperative to provide for the management of all beverage containers under a single commingling program in accordance with 38 M.R.S § 3107(3-B).

- A. The cooperative's decision-making structure must provide for fair decision-making with respect to all aspects of its work that influence cost apportionment.
 - (1) The cooperative's bylaws, operations plan, and functioning cannot require initiators of deposit to participate in paid industry groups or take other actions not required for program function in order to receive equal representation in votes of the membership or on the cooperative's board.
 - (2) One seat on the board must equate to one vote.
 - (3) The cooperative must audit information used to allocate costs. It cannot rely on

commingling groups to audit their own members and, for each of the cost allocation methods listed in the plan, audit procedures and auditors must be consistent across commingling groups.

B. The Cooperative must submit a cooperative plan, which will detail how the Cooperative will provide for the management of all beverage containers subject to the requirements of Chapter 33. In addition to the requirements listed in 38 M.R.S. § 3107(3-B)(B), the cooperative plan must include, at a minimum:

(1) A description of the governing board specifying that commingling groups will select their own representation.

(2) Roles within the cooperative. The cooperative plan must outline methods of cooperative decision-making, which must include:

- (a) clear distinctions around when decisions will be made based on a vote of IODs and when decisions will be made based on a vote by the board;
- (b) whether decisions can be made in a manner other than through a vote by the board or by IODs, and if so, how and under what circumstances;
- (c) the method by which IODs will be assigned voting rights, including any weighting of those rights;
- (d) the manner in which IODs or board members will vote to update portions of the plan; and
- (e) the manner in which IODs or board members will vote to contract out services.

(3) Composition and role of the advisory board.

- (a) The cooperative plan must outline how the Cooperative will recruit and select the members of the advisory board to meet the membership representation requirements listed in 38 M.R.S § 3107 3-B (A).
- (b) The plan will outline the role of the advisory board, including,
 - i. How the advisory board will remain apprised of cooperative activities;
 - ii. What activities or information, if any, will not be shared with the advisory board, including, for any information that will not be shared, reasoning as to why sharing such information would adversely affect cooperative functioning; and

- iii. The manner in which the advisory board can bring an issue, including a change to cooperative bylaws or the cooperative plan or a decision to contract out services, to a vote of IODs or the board
- (4) Convenience Standard. The cooperative plan must outline how it will evaluate attainment of the convenience standard outlined in section 17(D) and if the convenience standard is not met how it will ensure the standard is attained and a schedule for when the standard will be met.
- (5) A process for reviewing the plan prior to renewal or a plan update, which must include
 - (a) Public comment.
 - (b) Input from the advisory committee, including suggested changes, any one of which can be brought to a vote of initiators of deposit if agreed to by two thirds of advisory committee members.
 - (c) Submitting an updated plan to the Department at least once every 5 years.
- (6) A description of how the cooperative will support the development of infrastructure throughout the State for the collection and sanitization of refillable beverage containers and for the return of those refillable beverage containers to initiators of deposit of refillable beverage containers for refilling and sale. That infrastructure development may involve redemption centers, centralized washing and sanitization facilities, and other methods; and must include:
 - (a) A needs assessment identifying the location of current and probable beverage filling locations in the state, optimal locations for sanitation facilities, and budgets for sanitation and filling locations to support a situation where 5% and 10% of beverage containers are refillable.
 - (b) A study of existing refill systems in other jurisdictions and countries world-wide, including descriptions of methods for refilling beverages, collecting and sanitizing beverage containers, return rates, and rates of market penetration.
 - (c) A description of how funds will be expended in accordance with 38 M.R.S. §3108-A(2)(B)(4-A).
 - (d) A description of how facilities funded in accordance with 38 M.R.S. §3108-A(2)(B)(4-A) will be made available for use by all initiators of deposit that agree to comply with the terms of use for a given facility.

- (7) A description of how the cooperative will operate the program in a manner designed to achieve the overall statewide redemption rates described in 38 M.R.S. §3107(3-B)(B)(16), including a set of actions that will be taken if these redemption rates are not being met. If one of these redemption rates is missed by five or more percentage points, this set of actions must include:
 - (a) An increase in the deposit amount on containers other than wine and spirits containers of 50 milliliters or less; or
 - (b) A combination of education and increased redemption center convenience.
- (8) The method and process by which the cooperative will calculate the total amount of unclaimed deposits expended by the cooperative in accordance with 38 M.R.S. § 3108-A(2) during the previous calendar year.
 - (a) The method cannot count the operational expenses of collecting and transporting refillable beverage containers toward the \$500,000 expenditure required by 38 M.R.S. § 3108-A(4-A).
 - (b) If the process of calculating unclaimed deposits includes periodic determinations throughout the course of the year, it must also include a mechanism to ensure that any such determinations overestimating the number of unclaimed deposits result in return of redeemed deposits to the fund in which deposits are initially received such that total unredeemed deposits for the calendar year are equal to total deposits charged minus total deposits redeemed.
- (9) If requesting that the Department keep parts of the commingling cooperative plan confidential, a redacted copy with rationale for why each section is considered confidential.
- (10) A description of how the cooperative will service redemption centers and redeeming dealers, including information on shipping receptacles to be used by these facilities.
- (11) A description of any fees proposed by the Commingling Cooperative and under which conditions these fees may be applied. No fee may be large enough to constitute a barrier to inclusion in the program.

C. Convenience Standard. The cooperative must meet a convenience standard in which:

- (1) Every municipality with a population of greater than 2,000 must have at least one redemption location or a redemption location in an abutting municipality;

- (2) Every municipality with a population of greater than 5,000 must have at least two redemption centers, including at least one full-service redemption center;
- (3) Every municipality with a population greater than 20,000 must have at least three redemption centers including at least one full-service redemption center;
- (4) Every municipality with a population of greater than 30,000 must have at least five (5) redemption centers including at least one full-service redemption center; and
- (5) Every municipality that is considered a primary, secondary, small, or specialized Maine Service Center as identified by the Department of Agriculture, Conservation, and Forestry's Municipal Planning Assistance Program must have a mix of redemption options including a full-service redemption center and a bag drop program.

D. Cooperative accounts.

- (1) All cooperative accounts will be kept in a reputable institution with reliable customer service, preferably with a presence in Maine, with low fees.
- (2) Monies in excess of the \$250,000 FDIC insurance limit will be insured via collateral, insured cash sweeps, or Treasuries.
- (3) Investment of funds will only occur in accordance with a board approved investment policy balancing safety, liquidity and return, and the cooperative board will seek competitive bids whenever possible prior to the selection of investments.
- (4) Expenditures will require dual authorization from cooperative officials.
- (5) Regular financial reporting will be made available to the board.
- (6) The cooperative must deposit the refund value for all beverage containers subject to the requirements of this chapter and sold by the members of the cooperative into an account where they are maintained separate from all other revenues until the cooperative has determined the number of deposits that are unredeemed, in accordance with its operations plan, at which point deposits expected to be redeemed can be moved to an account where handling fees and plastic bag reimbursements are deposited for use in the payment of redemption centers and redeeming dealers.

18. Remittance of unclaimed deposits to the department. (Summary: new section)

If at any time after January 15, 2026, there is no approved commingling cooperative plan, the cooperative must either directly, or if proper staffing and accounts are not available, indirectly through commingling groups, deposit unclaimed deposits in the Beverage Container Enforcement Fund as follows.

C. Determining unclaimed deposits.

- (1) Member initiators of deposit must report on and pass all deposits charged to the commingling group or cooperative once every 30 days. In cases where the initiator of deposit is not able to initiate deposits accurately, as determined by an inability to meet reporting standards in section (initiators, reporting, 2) without estimating or has had a failed audit, the results of which have not yet been remedied, total deposits owed will be estimated by using one of the following methods, which are listed in order of preference.
 - a. Using statistically significant sampling of redeemed containers.
 - i. Statistically significant sampling must include all beverage containers redeemed through the program in the population to be sampled and provide on-going sampling of containers. Sampling must provide results that estimate the relative quantity of beverage containers belonging to a given initiator of deposit with 90% confidence, $\pm 5\%$.
 - ii. The Department will calculate the total deposits owed by an initiator of deposit as follows: total sales by initiators with known sales data during reporting period * most recently calculated redemption rate * the estimate of the percent of sampled units redeemed over the last calendar year belonging to the initiator of deposit * 1/ the percent of sampled units redeemed over the last calendar year belonging to the initiators of deposit reporting reliable sales data.
 - b. If no statistically significant sampling data are available, the Department will base payment on the relative number of containers redeemed through reverse vending machines as long as at least 60% of redeemed containers are collected through reverse vending machines and their geographic locations or association with certain retailers will not skew redemption results.
 - i. If the initiator of deposits containers make up less than 1% of those redeemed through reverse vending machines, charging for: $.01 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * 1/12 * 1/ \text{the most recently calculated rate of redemption}$.
 - ii. If the initiator of deposits containers make up more than 1% and less than 5% of those redeemed through reverse vending machines, charging for: $.05 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * 1/12 * 1/ \text{the most recently calculated rate of redemption}$.
 - iii. If the initiator of deposits containers make up more than 5% and less than 10% of those redeemed through reverse vending machines, charging for: $.1 * \text{total redeemed containers during the most recent reporting of redeemed}$

containers to the department * $\frac{1}{12}$ * $\frac{1}{1}$ / the most recently calculated rate of redemption.

- iv. If the initiator of deposits containers make up more than 10% and less than 20% of those redeemed through reverse vending machines, charging for: $.2 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * \frac{1}{12} * \frac{1}{1}$ / the most recently calculated rate of redemption.
- v. If the initiator of deposits containers make up more than 20% and less than 30% of those redeemed through reverse vending machines, charging for: $.3 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * \frac{1}{12} * \frac{1}{1}$ / the most recently calculated rate of redemption.
- vi. If the initiator of deposits containers make up more than 30% and less than 40% of those redeemed through reverse vending machines, charging for: $.4 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * \frac{1}{12} * \frac{1}{1}$ / the most recently calculated rate of redemption.
- vii. If the initiator of deposits containers make up more than 40% and less than 50% of those redeemed through reverse vending machines, charging for: $.5 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * \frac{1}{12} * \frac{1}{1}$ / the most recently calculated rate of redemption.
- viii. If the initiator of deposits containers make up more than 50% and less than 60% of those redeemed through reverse vending machines, charging for: $.6 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * \frac{1}{12} * \frac{1}{1}$ / the most recently calculated rate of redemption.
- ix. If the initiator of deposits containers make up more than 60% and less than 70% of those redeemed through reverse vending machines, charging for: $.7 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * \frac{1}{12} * \frac{1}{1}$ / the most recently calculated rate of redemption.
- x. If the initiator of deposits containers make up more than 70% and less than 80% of those redeemed through reverse vending machines, charging for: $.8 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * \frac{1}{12} * \frac{1}{1}$ / the most recently calculated rate of redemption.

- xi. If the initiator of deposits containers make up more than 80% and less than 90% of those redeemed through reverse vending machines, charging for: $.9 * \text{total redeemed containers during the most recent reporting of redeemed containers to the department} * 1/12 * 1/ \text{the most recently calculated rate of redemption}$.
 - xii. If the initiator of deposits containers make up more than 90% and less than 100% of those redeemed through reverse vending machines, charging for: $\text{total redeemed containers during the most recent reporting of redeemed containers to the department} * 1/12 * 1/ \text{the most recently calculated rate of redemption}$.
 - c. In the absence of sales data, statistically significant sampling, and adequate data from reverse vending machines as described in section (ii above), using the sales estimated in accordance with section (IOD sales reporting) and charging for 110% of the estimated beverage containers.
- (2) The Department shall determine unredeemed deposits from total deposits owed by applying the redemption rate figured by the Department after the most recent reporting by pick up entities and initiators of deposit to the total deposits owed.
- D. Invoicing and payment. Upon determination of unredeemed, the Department will invoice the commingling group or cooperative for unredeemed deposits, providing information on unredeemed owed by initiators of deposit that did not report accurate sales data. The commingling group or cooperative will remit payment to the Beverage Container Enforcement Fund.
- E. True up. After March 1 reporting of units redeemed for a calendar year, any erroneous payments resulting from inaccurate estimations of the number of containers redeemed will be accounted for such that unclaimed deposits paid to the department during the calendar year equal total deposits charged during the calendar year, as determined through section determining unclaimed deposits, minus total containers redeemed, as reported to the Department.
 - (1) If the department was underpaid, it shall invoice the commingling group or commingling cooperative.
 - (2) If the department was overpaid, it shall subtract the overpayment from the next payment of unredeemed deposits due.