**Background information for the stakeholder meeting on alternative collection programs**

The department will hold one stakeholder meeting on the topic of *alternative collection programs* on August 8th, from 1:00 to 5:00 pm EST. During this meeting, stakeholders will have an opportunity to share prepared comments, and stakeholders will be provided the opportunity to engage in discussion addressing shared comments. The meeting will be held in room 101 of the Deering Building at 90 Blossom Lane in Augusta and will also be available virtually. Please use [Maine’s EPR Program for Packaging website](https://www.maine.gov/dep/waste/recycle/epr.html) to RSVP for this meeting.

38 MRS §2146 *Stewardship program for packaging* only requires the department to write rules defining fees for **alternative collection programs** and the schedule for reporting by those programs. However, stakeholders have expressed interest in discussing this topic. The central task for the August meeting is to understand whether the department should provide clarity on alternative collection programs and, if so, identify the areas that should be clarified.

Included below are relevant excerpts from statute, contextual information, and questions for consideration. All excerpts are from 38 MRS §2146 unless otherwise noted. Words and phrases in bold font are statutory terms, and their definitions can be found at the end of this document.

**How does an alternative collection program work?**

With approval from the department, a **producer** or group of producers can develop and operate an alternative collection program to collect and manage a type or types of packaging material sold, offered for sale, or distributed for sale in or into the State. The producer or group of producers operating an approved alternative collection program can offset their payment obligation with respect to the same types of packaging material collected by the alternative collection program.

**How is an alternative collection program established?**

A producer or group of producers seeking to establish an alternative collection program will need to submit a proposal to the department for approval. There will be an opportunity for public review and comment, and the proposal will either be approved or denied by the department within 120 days of receipt. Approvals are valid for a period of 5 years.

According to Section 8(B), the department will consider the following when reviewing proposals:

*(1) Whether the alternative collection program will provide year-round, convenient, free, statewide collection opportunities for the types of packaging material to be collected under that program;*

*(2) To what extent the alternative collection program intends to manage those types of packaging material to be collected under the program through reuse for an original purpose, through recycling or through disposal at an incineration facility. The department may not approve an alternative collection program that proposes management of a packaging material type through disposal at an incineration facility unless that packaging material is not readily recyclable and the program proposes a process to begin reuse or recycling of that type of packaging material within a period of 3 years or less;*

*(3) Whether the education and outreach strategies proposed for the alternative collection program can be expected to significantly increase consumer awareness of the program throughout the State;*

*(4) How the alternative collection program intends to accurately measure the amount, whether by weight or volume, of each packaging material type collected, reused, recycled, disposed of at an incineration facility or otherwise managed under the program; and*

*(5) To what extent approval of the alternative collection program may disproportionately impact any community in the State.*

Questions: Is there a need to further define convenient collection? Statewide collection?

**How are approved alternative collection programs revoked or modified?**

Section (8)(E) describes the circumstances under and manner by which the department can revoke approval.

*“If the department determines that an approved alternative collection program is not operating in a manner consistent with the proposal approved under this subsection or the provisions of this subsection, the department shall provide written notice to the producer or producers operating the alternative collection program regarding the nature of the deficiency, the actions necessary to correct the deficiency and the time by which such actions must be implemented. If the department determines that the producer or group of producers have failed to implement the actions described in the written notice within the required time frame, the department shall notify the producers or group of producers as well as the stewardship organization in writing that the producer or group of producers are ineligible to offset payment obligations under the packaging stewardship program based on packaging material managed under the alternative collection program.”*

Section (8)(C) describes proposed modifications.

*“A proposed modification to an approved alternative collection program must be submitted to the department for written approval. The department shall approve or deny a proposed modification based on application of the criteria described in paragraph B. […]”*

Questions: When the department notifies a producer or group of producers about a deficiency in the operation of an approved alternative collection program, how should the time frames for suggested actions be determined? Should the rule specify a range for these time frames?

**What are the reporting requirements for managing an alternative collection program?**

In accordance with rules adopted by the department, a producer or group of producers managing an approved alternative collection program must report annually to the stewardship organization and to the department the following information:

*(1) The total tons of each type of packaging material collected, reused, recycled, disposed of at an incineration facility or otherwise managed under the alternative collection program in the prior calendar year, including a breakdown of the total tons of each type of material to be credited to each producer participating in the alternative collection program;*

*(2) A list of the collection opportunities in the State for the types of packaging material managed under the alternative collection program that were made available in the prior calendar year;*

*(3) A description of the education and outreach strategies implemented by the alternative collection program in the prior calendar year to increase consumer awareness of the program throughout the State; and*

*(4) Any additional information required by the department.*

Question: What additional information should be required?

**What are the costs associated with an alternative collection program?**

When a producer or group of producers submits a proposal for department review, whether for a new program or to update an approved program, the producer or group of producers must pay “a reasonable fee established by the department to cover the department’s actual costs for review of the proposal or proposed modifications.”

A producer or group of producers managing an alternative collection program will also pay “a reasonable annual fee established by the department, not to exceed $10,000 per participating producer, to cover the department’s costs for the oversight, administration, and enforcement of the alternative collection program.”

Any fees associated with an alternative collection program may be waived by the department if significant department staff time was not necessary.

The cost of developing and operating an approved alternative collection program will be realized by the producer or group of producers that manage the program.

Questions:

* What constitutes significant department staff time? Is a tiered fee structure appropriate? How might it be structured?
* How should the fee for a producer or group of producers account for auditing of alternative collection programs?

Additional Questions:

* A municipality must provide for the collection and recycling of all readily recyclable materials. Given that, how can alternative collection programs help a material become readily recyclable?
* Alternative collection programs may be a good way to facilitate returnable reuse systems. Given that, how could rules further incentivize this transition?

Definitions

**"Alternative collection program"** means a program for the management of packaging material that is operated by an individual producer or group of producers and that has been approved by the department in accordance with subsection 8.

**"Producer"** means a person that:

(1) Has legal ownership of the brand of a product sold, offered for sale or distributed for sale in or into the State contained, protected, delivered, presented or distributed in or using packaging material; or

(2) Is the sole entity that imports into the State for sale, offer for sale or distribution for sale in or into the State a product contained, protected, delivered, presented or distributed in or using packaging material that is branded by a person that meets the requirements of subparagraph (1) and has no physical presence in the United States.

"Producer" includes a low-volume producer and a franchisor of a franchise located in the State but does not include the franchisee operating that franchise. "Producer" does not include a nonprofit organization exempt from taxation under the United States Internal Revenue Code of 1986, Section 501(c)(3).