

MEMORANDUM 2025-7

Recodification of Toxic Substances Statutes: Next Portion

In the current phase of this study, the Commission,¹ pursuant to legislative directive,² is preparing a nonsubstantive recodification of [Chapter 6.5 \(commencing with Section 25100\) of Division 20 of the Health and Safety Code](#), an extensive chapter of the existing code addressing multiple aspects of hazardous waste control.

As Chapter 6.5 contains an unusually large amount of statutory material,³ the Commission to date has separately evaluated proposed recodification of distinct statutory articles within Chapter 6.5, for inclusion in a tentative recommendation proposing recodification of the entire chapter.⁴

This memorandum presents a staff draft of proposed recodification of an article relating to toxics in packaging.⁵ The draft also includes proposed Commission Comments following each recodified section, some Staff Notes explaining the recodification process and identifying issues seeking public comment, and disposition and derivation tables for the recodified provisions.

Unless otherwise indicated, all statutory citations in this memorandum are to sections

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. See [2024 Cal. Stat. res. ch. 138](#) (ACR 169), para. (13). Earlier in the study, Commission recommendations recodifying former Chapter 6.8 of Division 20 were submitted to and thereafter enacted by the Legislature. See [Hazardous Substance Account Recodification Act](#) (Preprint) (2021), [2022 Cal. Stat. ch. 257](#) (AB 2293); [Hazardous Substance Account Recodification Act: Conforming Revisions](#) (Preprint) (2021), [2022 Cal. Stat. ch. 258](#) (AB 2327).

3. Chapter 6.5 contains approximately 850 code sections, many of which are quite lengthy, set out in 55 distinct statutory articles. An extrapolation based on the Commission's earlier recodification in this study of Chapter 6.8 of the Health and Safety Code, a chapter that contained roughly a fifth the amount of statutory text contained in Chapter 6.5, suggests that a printed final recommendation proposing recodification of Chapter 6.5, not including proposed conforming revisions, could require approximately 1,400 pages of what will necessarily be two of the Commission's printed bound volumes.

4. Because of the volume of material that will eventually appear in the tentative recommendation, the precise placement of a recodified article within the proposed recodification of the entirety of Chapter 6.5 remains provisional. A current cumulative draft of all recodified articles provisionally approved for inclusion in the tentative recommendation, indicating the current proposed organization of the entire recodification, is typically presented at each Commission meeting at which the study is on the Commission's meeting agenda.

5. See Health & Safety Code §§ [25214.11 – 25214.26](#).

of the existing Health and Safety Code, and all citations to “proposed” sections are to the proposed sections in the attached draft.

Commissioners and other interested persons should review the attached draft and raise any concerns. **Comment on any aspect of the draft, including identification of any issues raised by this draft that the Commission should consider adding to a list of items for possible future study as requested by the Legislature,⁶ is also welcome.⁷**

GENERAL DRAFTING APPROACH

As with prior draft legislation proposed in this study, the staff has continued to take a conservative approach to drafting proposed recodified provisions.⁸ For the most part, existing statutory text is repeated verbatim in the proposed recodification of the provision.

In accordance with the Commission’s prior decisions in the study, certain minor changes continue to be made as a matter of course.⁹ However, except for changes necessarily made to implement the recodification,¹⁰ all changes the draft proposes be made to an existing code section are shown in the draft in ~~strikeout~~ and underscore.¹¹

When the staff has identified an issue relating to the phrasing of an existing section, the issue is also discussed in a Staff Note following the proposed recodification of the section.¹²

COMMISSION DECISION

Does the Commission provisionally approve the proposed legislation in the attached draft for inclusion in a future tentative recommendation?

Respectfully submitted,

Steve Cohen
Staff Counsel

6. See note 2, *supra*.

7. Written comments can be in any form and should be directed to scohen@clrc.ca.gov. Comments may also be made orally at the upcoming Commission meeting at which the draft is scheduled to be presented to the Commission for provisional approval. The meeting agenda is available at: http://www.clrc.ca.gov/Menu1_meetings/agenda.html.

8. See Memorandum [2020-13](#), p. 3.

9. See Minutes ([May 2020](#)), p. 4; Memoranda [2020-13](#), p. 4; [2021-19](#), pp. 3-4.

10. For example, converting section numbers and designations, as well as internal cross-references to other provisions in Chapter 6.5.

11. Once the draft of a proposed recodification is provisionally approved by the Commission for inclusion in a tentative recommendation, the stricken text and underscore markings are removed.

12. See, e.g., Staff Notes following proposed Sections 64300 in the attached draft.

PROPOSED CHAPTER 3 OF PART 3 OF DIVISION 44
OF THE HEALTH & SAFETY CODE

Staff Note. This is a work in progress. The material shown below may be changed. For a tentative outline and discussion of the proposed organization of new Division 44 of the Health & Safety Code, see [Memorandum 2020-13](#), Exhibit pp. 3-5, and [Memorandum 2023-33](#), pp. 2-3. All of the proposed provisions would be located in the Health & Safety Code. All references are to the Health & Safety Code unless otherwise indicated. Non-technical changes to existing statutory text are shown in ~~strikeout~~ and underscore.

Comments. A draft of an official Commission “Comment” follows each proposed code section in the recodification. Comments will be included in any final recommendation. The Comments are drafted as if the existing code sections have been repealed and replaced with the proposed legislation. Thus, existing code sections are referred to as “former” sections.

The Comments indicate the source of each recodified code section and describe how the recodified code section compares with prior law. Courts have routinely held that the Commission’s Comments are evidence of legislative intent with regard to any legislation that implements a Commission recommendation.

Staff Notes. Some provisions in this draft are followed by a “Staff Note.” Staff Notes are typically intended to be temporary and will not be part of the Commission’s final recommendation. Staff Notes are drafted to reflect the state of the law today. Thus, the sections in the proposed legislation are referred to as “proposed” sections.

Staff Notes flag issues requiring special attention or treatment. When a Staff Note serves as a prompt for public comment, it will typically be continued in the Commission’s tentative recommendation as a “Note” calling for comment. However, when, for instance, the Commission decides against a staff-proposed restatement and reverts to existing statutory language, the Staff Note describing the proposed restatement would not be continued in future drafts.

Cross-references. In some places, the provisions proposed for recodification in this draft cross-refer to provisions contained in Chapter 6.5. Where the cross-referenced provision has not yet been included in the recodification draft, the cross-reference is unchanged and is shown in bold text. Bracketed text designates cross-references that have been updated in form, but still need to be updated to reflect the recodified section number.

As new Division 44 is drafted, these references will be updated to reflect the new numbering scheme. Where the cross-referenced material is contained in this draft, the cross-reference was updated to reflect the recodified section number.

Where a proposed section or Commission Comment is drafted to refer to a section of the recodified law that is not included in the draft, the text refers to “**Section [XXXXX]**.” These references will be updated after the proposed section is added to the recurring cumulative draft.

Tables. There is a “disposition table” at the end of the proposed recodification. It summarizes, in tabular form, the disposition of every provision of the existing code that has been included in this draft.

There is also a “derivation table” at the end of the proposed recodification. It summarizes, in tabular form, the statutory derivation of every new code provision in this draft.

Substantive Issues for Possible Future Study. As part of the Legislature’s assignment to the Commission to conduct this study, the Legislature directed the Commission to “include a list of substantive issues that the commission identifies in the course of its work, for possible future study.” That list appears in this document following the disposition and derivation tables.

Public comment. The Commission welcomes public comment on any issue relating to the content of this draft or any other aspect of this study. Comments should be directed to Steve Cohen (scohen@clrc.ca.gov).

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DRAFT LEGISLATION

1 **Health & Safety Code §§ 60000-[XXXXX] (added). Toxics Reduction and Management**
2 SEC. _____. Division 44 (commencing with Section 60000) is added to the Health
3 and Safety Code, to read:

4 DIVISION 44. TOXICS REDUCTION AND MANAGEMENT

...

5 PART 3. TOXICS REDUCTION

...

6 CHAPTER 3. TOXICS IN PACKAGING

7 Article 1. Preliminary Provisions

8 **§ 64230. Short title**

9 64230. This ~~article~~ chapter shall be known, and may be cited, as the “Toxics in
10 Packaging Prevention Act.”²²

11 **Comment.** Section 64230 continues former Section 25214.11(b) without substantive change.

12 **§ 64235. Legislative findings and declarations**

13 64235. ~~(a)~~ The Legislature finds and declares all of the following:

14 ~~(1)~~ (a) The management of solid waste can pose a wide range of hazards to public
15 health and safety and to the environment.

16 ~~(2)~~ (b) Packaging comprises a significant percentage of the overall solid waste
17 stream.

18 ~~(3)~~ (c) The presence of heavy metals in packaging is a part of the total concern
19 regarding the disposal of hazardous constituents in the solid waste stream, in light
20 of the presence of heavy metals in emissions or ash when packaging is incinerated,
21 or in leachate when packaging is disposed of in a solid waste landfill.

22 ~~(4)~~ (d) Lead, mercury, cadmium, and hexavalent chromium, on the basis of
23 available scientific and medical evidence, are of particular concern.

24 ~~(5)~~ (e) It is desirable, as a first step in reducing the toxicity of packaging waste,
25 and reducing the hazardous materials that may be disposed of in solid waste
26 landfills, to eliminate the addition of these heavy metals to packaging.

27 ~~(6)~~ (f) The intent of this ~~article~~ chapter is to achieve this reduction in toxicity
28 without impeding or discouraging the expanded use of recycled materials in the
29 production of packaging and its components.

30 **Comment.** Section 64235 continues former Section 25214.11(a) without substantive change.

1 See Sections 60175 (“disposal”), 60320 (“recycled material”), 60390 (“waste”).

2 **§ 64240. Severability of provisions**

3 64240. (a) The provisions of this ~~article~~ chapter are severable, and if a court holds
4 that a phrase, clause, sentence, or provision of this ~~article~~ chapter is invalid, or that
5 its applicability to a person or circumstance is invalid, the remainder of the ~~article~~
6 chapter and its applicability to other persons and circumstances may not be affected.

7 (b) The provisions of this ~~article~~ chapter shall be liberally construed to give effect
8 to the purposes of this ~~article~~ chapter.

9 **Comment.** Section 64240 continues former Section 25214.20 without substantive change.
10 See Section 60295 (“person”).

11 **§ 64245. Nonapplication of chapter**

12 64245. This ~~article~~ chapter does not do any of the following:

13 (a) Affect a duty or other requirement imposed under federal or state law.

14 (b) Alter or diminish a legal obligation otherwise required in common law or by
15 statute or regulation.

16 (c) Create or enlarge a defense in an action to enforce a legal obligation otherwise
17 required in common law or by statute or regulation.

18 **Comment.** Section 64245 continues former Section 25214.19 without substantive change.

19 **Article 2. Definitions**

20 **§ 64260. Application of definitions**

21 64260. For purposes of this ~~article~~ chapter, the ~~following terms have the following~~
22 ~~meanings:~~ definitions in this article shall apply.

23 **Comment.** Section 64260 continues the introductory clause of former Section 25214.12 without
24 substantive change.

25 **§ 64265. “ASTM”**

26 64265. “ASTM” means the American Society for Testing and Materials.

27 **Comment.** Section 64265 continues former Section 25214.12(b) without substantive change.

28 **§ 64270. “Authorized official”**

29 64270. “Authorized official” means a representative of a manufacturer or supplier
30 who is authorized pursuant to the laws of this state to bind the manufacturer or
31 supplier regarding the accuracy of the content of a certificate of compliance.

32 **Comment.** Section 64270 continues former Section 25214.12(a) without substantive change.

33 See Section 64290 (“manufacturer”) , 64325 (“supplier”).

34 **§ 64275. “Distribution”**

35 64275. (a) “Distribution” means the practice of taking title to a package or a
36 packaging component for promotional purposes or resale.

1 **(b)** A person involved solely in delivering a package or a packaging component
2 on behalf of a third party is not engaging in distribution.

3 **Comment.** Section 64275 continues former Section 25214.12(c) without substantive change.
4 See Sections 64300 (“package”), 64305 (“packaging component”), 60295 (“person”).

5 **§ 64280. “Incidental presence”**

6 64280. “Incidental presence” means the presence of a regulated metal as an
7 unintended or undesired ingredient of a package or packaging component.

8 **Comment.** Section 64280 continues former Section 25214.12(e) without substantive change.
9 See Sections 64300 (“package”), 64305 (“packaging component”), 64320 (“regulated metal”).

10 **§ 64285. “Intentional introduction”**

11 64285. ~~(d)(1)~~ **(a)** “Intentional introduction,” except as provided in subdivision (b),
12 means the act of deliberately utilizing a regulated metal in the formation of a
13 package or packaging component where its continued presence is desired in the final
14 package or packaging component to provide a specific characteristic, appearance,
15 or quality.

16 ~~(2)~~ **(b)** “Intentional introduction” does not include either of the following:

17 ~~(A)~~ **(1)** The use of a regulated metal as a processing agent or intermediate to impart
18 certain chemical or physical changes during manufacturing, where the incidental
19 retention of a residue of that metal in the final package or packaging component is
20 not desired or deliberate, if the final package or packaging component is in
21 compliance with ~~subdivision (c) of Section 25214.13~~ subdivision (b) of Section
22 64400.

23 ~~(B)~~ **(2)** The use of recycled materials as feedstock for the manufacture of new
24 packaging materials, where some portion of the recycled materials may contain
25 amounts of a regulated metal, if the new package or packaging component is in
26 compliance with ~~subdivision (c) of Section 25214.13~~ subdivision (b) of Section
27 64400.

28 **Comment.** Section 64285 continues former Section 25214.12(d) without substantive change.

29 See Sections 64300 (“package”), 64305 (“packaging component”), 64295 (“manufacturing”),
30 64315 (“recycled material”), 64320 (“regulated metal”).

31 **§ 64290. “Manufacturer”**

32 64290. “Manufacturer” means any person, firm, association, partnership, or
33 corporation producing a package or packaging component.

34 **Comment.** Section 64290 continues former Section 25214.12(f) without substantive change.

35 See Sections 64300 (“package”), 64305 (“packaging component”), 60295 (“person”).

36 **§ 64295. “Manufacturing”**

37 64295. “Manufacturing” means the physical or chemical modification of a
38 material to produce packaging or a packaging component.

39 **Comment.** Section 64295 continues former Section 25214.12(g) without substantive change.

40 See Sections 64300 (“package”), 64305 (“packaging component”).

1 § 64300. “Package”

2 64300. ~~(1) Except (a)~~ “Package,” ~~except as provided in paragraph (2),~~ “package”
3 ~~subdivision (c),~~ means any container, produced either domestically or in a foreign
4 country, providing a means of marketing, protecting, or handling a product from its
5 point of manufacture to its sale or transfer to a consumer, including a unity package,
6 an intermediate package, or a shipping container, as defined in the ASTM
7 specification D 996.

8 (b) “Package” also includes, but is not limited to, unsealed receptacles, including
9 carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping
10 films, bags, and tubs.

11 ~~(2) (c)~~ “Package” does not include a reusable bag, as defined in subdivision (d) of
12 Section 42250 of the Public Resources Code.

13 **Comment.** Section 64300 continues former Section 25214.12(h) without substantive change.

14 **Staff Notes. (1)** Existing Section 25214.12(h), which would be continued by proposed Section
15 64300, as well as existing Section 25214.14(d)(2), which would be continued by proposed Section
16 64420(c), and existing Section 25214.15(e), which would be continued by proposed Section 64455,
17 all contain at least one reference to “handling” a product, or a package’s contents.

18 Existing Section 25116, which would be continued by proposed Section 60205, defines the term
19 “handling” to mean “the transporting or transferring from one place to another, or pumping,
20 processing, storing, or packaging of hazardous waste, but does not include the handling of any
21 substance before it becomes a waste.” And existing Section 25110, which would be continued by
22 proposed Section 60075, states that the definition of “handling” in existing Section 25116 “governs
23 the construction” of the entirety of Chapter 20 of the Health and Safety Code, which includes
24 existing Section 25214.12(h).

25 Based on this chapter-wide assignment of this definition, the use of the term “handling” in
26 existing Section 25214.14(d)(2), (e), and (h) raises two questions:

27 1. Is the term “handling” as used in existing Section 25214.14(d)(2), (e), or (h) intended to be
28 defined as provided by existing Section 25116?

29 2. If not, would any statutory resolution of this issue in proposed Section 64300, 64420, or 64455
30 be helpful? For example, a synonym for “handling” could be substituted in the three proposed
31 sections, or each provision could be revised to provide that the term “handling” as used in the
32 section is not intended as a defined term.

33 **The staff welcomes comment on these questions.**

34 (2) Existing Section 25214.12(h) excludes from the definition of “package” a “reusable bag, as
35 defined in subdivision (d) of Section 42250 of the Public Resources Code.”

36 However, Section 42250 of the Public Resources Code was repealed in 2012, and its provided
37 definition of “reusable bag” does not appear to have been continued in any other code section. The
38 definition that section provided prior to its repeal was as follows:

39 “Reusable bag” means either of the following:

40 (1) A bag made of cloth or other machine washable fabric that has handles.

41 (2) A durable plastic bag with handles that is at least 2.25 mils thick and is specifically designed
42 and manufactured for multiple reuse.

43 **The staff welcomes comment on whether the definition of “reusable bag” above should be**
44 **incorporated in the text of proposed Section 64300 or offering another suggestion as to how**
45 **to address this recodification issue.**

1 § 64305. “Packaging component”

2 64305. (a) “Packaging component” means any individual assembled part of a
3 package that is produced either domestically or in a foreign country, including, but
4 not necessarily limited to, any interior or exterior blocking, bracing, cushioning,
5 weatherproofing, exterior strapping, coatings, closures, inks, labels, dyes, pigments,
6 adhesives, stabilizers, or any other additives.

7 (b) Tin-plated steel that meets the ASTM specification A 623, shall be considered
8 as a single package component.

9 (c) Electrogalvanized coated steel and hot dipped coated galvanized steel that
10 meet the ASTM qualifications A 591, A 653, A 879, and A 924 shall be treated in
11 the same manner as tin-plated steel.

12 **Comment.** Section 64305 continues former Section 25214.12(i) without substantive change.
13 See Section 64300 (“package”).

14 **Staff Note.** The intended meaning of the third sentence of existing Section 25214.12(i), which
15 would be continued as proposed Section 64305(c), is unclear. The staff has two questions:

16 (1) Is the direction in that sentence that the steel specified in that sentence “shall be treated in the
17 same manner as tin-plated steel” intended to mean that the steel specified is to be considered a
18 single package component?

19 (2) If so, is the reference in that third sentence to “tin-plated steel” intended to refer to *any* tin-
20 plated steel, or only to “tin-plated steel that meets the ASTM specification A 623,” as referenced
21 in the second sentence of existing Section 25214.12(i), which would be continued by proposed
22 Section 64295(b)?

23 **The staff welcomes comment on these questions.**

24 § 64310. “Purchaser”

25 64310. “Purchaser” means a person who purchases and takes title to a package or
26 a packaging component, from a manufacturer or supplier, for the purpose of
27 packaging a product manufactured, distributed, or sold by the purchaser.

28 **Comment.** Section 64310 continues former Section 25214.12(j) without substantive change.

29 See Sections 64290 (“manufacturer”), 64300 (“package”), 64305 (“packaging component”),
30 60295 (“person”), 64325 (“supplier”).

31 § 64315. “Recycled material”

32 64315. (a) “Recycled material,” except as provided in subdivision (c), means a
33 material that has been separated from solid waste for the purpose of recycling the
34 material as a secondary material feedstock.

35 (b) Recycled ~~materials include~~ material includes paper, plastic, wood, glass,
36 ceramics, metals, and other materials, ~~except that recycled as provided in~~ subdivision (c).
37

38 (c) Recycled material does not include a regulated metal that has been separated
39 from other materials into its elemental or other chemical state for recycling as a
40 secondary material feedstock.

41 **Comment.** Section 64315 continues former Section 25214.12(k) without substantive change.

42 See Sections 60325 (“recycling”), 64320 (“regulated metal”), 60390 (“waste”).

1 § 64320. “Regulated metal”

2 64320. “Regulated metal” means lead, mercury, cadmium, or hexavalent
3 chromium.

4 **Comment.** Section 64320 continues former Section 25214.12(I) without substantive change.

5 § 64325. “Supplier”

6 64325. ~~(m)~~ ~~(1)~~ (a) “Supplier,” except as provided in subdivision (b), means a
7 person who does or is one or more of the following:

8 ~~(A)~~ (1) Sells, offers for sale, or offers for promotional purposes, a package or
9 packaging component that is used by any other person to package a product.

10 ~~(B)~~ (2) Takes title to a package or packaging component, produced either
11 domestically or in a foreign country, that is purchased for resale or promotional
12 purposes.

13 ~~(C)~~ (3) Acts as an intermediary for the purchase of a package or packaging
14 component for resale from a manufacturer located in another country to a purchaser
15 located in this state, and who may receive a commission or a fee on that sale.

16 ~~(D)~~ (4) Listed as the importer of record on a United States Customs Service form
17 for an imported package or packaging component.

18 ~~(2)~~ (b) “Supplier” does not include a person involved solely in delivering a
19 package or packaging component on behalf of a third party.

20 **Comment.** Section 64325 continues former Section 25214.12(m) without substantive change.

21 See Sections 64290 (“manufacturer”), 64300 (“package”), 64305 (“packaging component”),
22 60295 (“person”), 64310 (“purchaser”).

23 § 64330. “Toxics in Packaging Clearinghouse”

24 64323. “Toxics in Packaging Clearinghouse” means the Toxics in Packaging
25 Clearinghouse (TPCH) of the Council of State Governments.

26 **Comment.** Section 64330 continues former Section 25214.12(n) without substantive change.

27 Article 3. Department Authority and Responsibilities

28 § 64350. Enforcement of chapter

29 64350. (a) The department may enforce the requirements of this ~~article~~ chapter
30 pursuant to its authority to enforce this ~~chapter~~ division under all applicable
31 provisions of law.

32 (b) The department may also adopt regulations to implement this ~~article~~ chapter,
33 as deemed necessary to further the purposes of this ~~article~~ chapter.

34 **Comment.** Subdivision (a) of Section 64350 continues former Section 25214.21 without
35 substantive change.

36 Subdivision (b) continues former Section 25214.26 without substantive change.

37 See Section 60160 (“department”).

1 **§ 64355. Entry and inspection**

2 64355. (a) For the purpose of administering and enforcing this ~~article~~ chapter, an
3 authorized representative of the department, upon obtaining consent or after
4 obtaining an inspection warrant pursuant to Title 13 (commencing with Section
5 1822.50) of Part 3 of the Code of Civil Procedure, may, upon presenting appropriate
6 credentials and at a reasonable time, do any of the following:

7 (1) Enter a factory, warehouse, or establishment in which a package or packaging
8 component is manufactured, packed, held, or sold; ~~enter~~ .

9 (2) Enter a vehicle that is being used to transport, hold, or sell the package or
10 packaging component; ~~or enter~~

11 (3) Enter a place where a package or packaging component is suspected of being
12 held or sold in violation of this ~~article~~ chapter.

13 ~~(2)~~ (4) Inspect a factory, warehouse, establishment, vehicle, or place described in
14 paragraph (1), (2), or (3) and all pertinent equipment, raw material, finished and
15 unfinished materials, containers, and labeling in the factory, warehouse,
16 establishment, vehicle, or place.

17 (5) ~~In~~ Inspect, in the case of a factory, warehouse, or establishment in which a
18 package or packaging component is manufactured, packed, held, or sold, ~~inspection~~
19 ~~shall include~~ any record, file, paper, process, control, and facility that has a bearing
20 on whether the package, packaging component, or product in a package is being
21 manufactured, packed, held, transported, sold, offered for sale, or offered for
22 promotional purposes in violation of this ~~article~~ chapter.

23 ~~(3) Have access to~~ (6) Access all records of a carrier in commerce relating to the
24 movement in commerce of a package or packaging component, or the holding of
25 that package or packaging component during or after the movement, and the
26 quantity, shipper, and consignee of the package or packaging component. ~~A carrier~~
27 ~~shall not be subject to the other provisions of this article by reason of its receipt,~~
28 ~~carriage, holding, or delivery of a product in a package or packaging component in~~
29 ~~the usual course of business as a carrier.~~

30 (b) An authorized representative of the department shall be deemed to have
31 received implied consent to enter a retail establishment; for purposes of this section,
32 if the authorized representative enters the location of that retail establishment where
33 the public is generally granted access.

34 **Comment.** Section 64355 continues former Section 25214.23 with the exception of the second
35 sentence of Section 25214.23(a)(3), without substantive change.

36 The second sentence of Section 25214.23(a)(3) is continued by Section 64485.

37 See Section 60160 (“department”), 64300 (“package”), 64305 (“packaging component”).

38 **§ 64360. Securing of samples**

39 64360. (a) When taking an action authorized pursuant to ~~Section 25214.23~~
40 Section 64355, an authorized representative of the department may secure a sample
41 of a package, packaging component, or product in a package. If the representative

1 obtains a sample prior to leaving the premises, he or she shall leave a receipt
2 describing the sample obtained.

3 (b) The department shall return, upon request, a sample that is not destroyed
4 during testing when the department no longer has any purpose for retaining the
5 sample.

6 (c) A sample that is secured in compliance with this section and found in
7 compliance with this ~~article~~ chapter that is destroyed during testing shall be subject
8 to a claim for reimbursement.

9 **Comment.** Section 64360 continues former Section 25214.24 without substantive change.
10 See Section 60160 (“department”), 64300 (“package”), 64305 (“packaging component”).

11 **§ 64365. Recommendations to Governor and Legislature**

12 64365. If the department determines that other substances contained in packaging
13 should be added as regulated metals to the list set forth in Section 64320 ~~subdivision~~
14 ~~(d) of Section 25214.12~~ in order to further reduce the toxicity of packaging waste,
15 the department may submit recommendations to the Governor and the Legislature
16 for additions to the list, along with a description of the nature of the substitutes used
17 in lieu of the recommended additions to the list.

18 **Comment.** Section 64365 continues former Section 25214.18 without substantive change.
19 See Sections 60160 (“department”), 64320 (“regulated metal”), 60390 (“waste”).

20 **§ 64370. Public access to information**

21 64370. Except as provided in Section 64375 ~~subdivision (b)~~, the department,
22 pursuant to the California Public Records Act (Division 10 (commencing with
23 Section 7920.000) of Title 1 of the Government Code), shall provide the public with
24 access to all information relating to a package or packaging component that has been
25 submitted to the department by a manufacturer or supplier of a package or packaging
26 component pursuant to this ~~article~~ chapter.

27 **Comment.** Section 643670 continues former Section 25214.17(a) without substantive change.
28 See Sections 60160 (“department”), 64320 (“regulated metal”), 60390 (“waste”).

29 **§ 64375. Trade secrets**

30 64375. (a) A manufacturer or supplier providing information to the department
31 pursuant to this article shall, at the time of submission, identify all information that
32 the manufacturer or supplier believes is a trade secret as defined in **Section 25173**.

33 (b) The department shall keep confidential any information identified by the
34 manufacturer or supplier as a trade secret in accordance with departmental
35 procedures that have been adopted pursuant to **Section 25173**, if the department
36 determines that the information is a trade secret as defined in **Section 25173**.

37 (c) The department shall make available to the public any information identified
38 by the manufacturer or supplier as a trade secret that the department determines is
39 not a trade secret.

40 **Comment.** Section 64370 restates former Section 25214.17(b) without substantive change.

1 See Section 60160 (“department”), 64290 (“manufacturer”), 64300 (“package”), 64305
2 (“packaging component”), 64325 (“supplier”).

3 **Staff Notes. (1)** Proposed Section 64375 would restate existing Section 25214.17 for clarity.
4 The existing section reads as follows:

5 “(a) Except as provided in subdivision (b), the department, pursuant to the California Public
6 Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government
7 Code), shall provide the public with access to all information relating to a package or packaging
8 component that has been submitted to the department by a manufacturer or supplier of a package
9 or packaging component pursuant to this article.

10 (b)(1) The department shall keep confidential any information identified by the manufacturer or
11 supplier, pursuant to paragraph (2), as a trade secret, as defined in Section 25173, in accordance
12 with departmental procedures that have been adopted pursuant to Section 25173, if the department
13 determines that this information meets that definition of a trade secret.

14 (2) A manufacturer or supplier providing information to the department pursuant to this article
15 shall, at the time of submission, identify all information that the manufacturer or supplier believes
16 is a trade secret. The department shall make available to the public any information that is not a
17 trade secret.”

18 **The staff welcomes comment on whether this restatement of existing Section 25214.17**
19 **improves the clarity of the section without substantively changing its meaning.**

20 (2) The second sentence of existing Section 25214.17(b)(2) (which would be continued by
21 proposed Section 64375(c)) provides that if a manufacturer or supplier identifies information that
22 it believes to be a trade secret, and the department determines the identified information is *not* a
23 trade secret, the department “shall make [that information] available to the public.” This second
24 sentence, read in conjunction with the text of existing Section 25214.17(a) (which would be
25 continued by proposed Section 64370), suggests that information provided pursuant to existing
26 Section 25214.17(b)(2) that the department determined was not a trade secret would then need to
27 be made available to the public without consideration of any other exemptions from disclosure
28 under the California Public Records Act, such as those listed in Part 6 (commencing with Section
29 7930.000) of Division 10 of title 1 of the Government Code.

30 **The staff welcomes comment on whether that construction of the two existing subdivisions**
31 **is correct, and if not, whether and how the text of the existing section should be clarified.**

32 Article 4. Prohibited Offering of Item for Sale or Promotional Purposes

33 § 64400. Generally applicable prohibitions

34 64400. Except as provided in Section 64420 ~~Section 25214.14~~, on and after
35 January 1, 2006, a person may not offer for sale or for promotional purposes in this
36 state any of the following:

37 (a) ~~a~~ A product in a package that includes a regulated metal, in the package ~~itself~~,
38 or in a packaging component, if the regulated metal has been intentionally
39 introduced into the package or packaging component during manufacturing or
40 distribution.

41 ~~(b) Except as provided in Section 25214.14, on and after January 1, 2006, a person~~
42 ~~may not offer for sale or for promotional purposes in this state a~~ A package,
43 packaging component, or product in a package if the sum of the incidental total
44 concentration levels of all regulated metals present in a single-component package
45 or in an individual packaging component exceeds 100 parts per million by weight.

1 **Comment.** Subdivision (a) of Section 64400 continues former Section 25214.13(b) without
2 substantive change.

3 Subdivision (b) continues former Section 25214.13(c) without substantive change.

4 See Sections 64275 (“distribution”), 64295 (“manufacturing”), 60295 (“person”), 64300
5 (“package”), 64305 (“packaging component”), 64320 (“regulated metal”).

6 **Staff Note.** Existing Section 25214.13, which would be continued by proposed Sections 64400
7 and 64405, prohibit the “offer for sale or for promotional purposes in this state” of a number of
8 specified items.

9 The phrasing of the quoted text above fails to make clear whether the act that must occur “in this
10 state” to trigger the prohibition of the section is the *making of the offer* identified in the quoted text,
11 or the *sale or promotional purpose*. For example, an offer could be made in a state other than
12 California, to arrange for a prohibited item to be delivered in California where it could be used for
13 a promotional purpose. Alternatively, the reverse scenario could occur. To which scenarios are the
14 prohibitions in Section 25214.13 intended to apply?

15 **The staff welcomes comment clarifying this possible ambiguity in existing Section 25214.13.**

16 **§ 64405. Additional manufacturer or supplier prohibitions**

17 64405. Except as provided in Section 64420 ~~Section 25214.14~~, on and after
18 January 1, 2006, a manufacturer or supplier may not offer for sale or for promotional
19 purposes in this state a package or packaging component that includes a regulated
20 metal, in the package itself, or in a packaging component, if the regulated metal has
21 been intentionally introduced into the package or packaging component during
22 manufacturing or distribution.

23 **Comment.** Section 64405 continues former Section 25214.13(a) without substantive change.

24 See Sections 64275 (“distribution”), 64290 (“manufacturer”), 64295 (“manufacturing”), 64300
25 (“package”), 64305 (“packaging component”), 64320 (“regulated metal”), 64325 (“supplier”).

26 Article 5. Exemptions for Specified Packages or Components

27 **§ 64420. Packages and packaging components**

28 64420. A package or a packaging component is exempt from the requirements of
29 Sections 64400 and 64405 ~~Section 25214.14~~, and shall be deemed in compliance
30 with this ~~article~~ chapter, if the manufacturer or supplier complies with the applicable
31 documentation requirements specified in Article 6 (commencing with Section
32 64440 ~~Section 25214.15~~ and the package or packaging component meets any of the
33 following conditions:

34 (a) The package or packaging component is marked with a code indicating a date
35 of manufacture prior to January 1, 2006.

36 (b) A regulated metal has been added to the package or packaging component in
37 the manufacturing, forming, printing, or distribution process, to comply with the
38 health or safety requirements of a federal or state law.

39 ~~(d)-(1)~~ (c) A regulated metal has been added to the package or packaging
40 component in the manufacturing, forming, printing, or distribution process for a ~~use~~
41 ~~for which there is no feasible alternative.~~

1 ~~(2) For purposes of this subdivision, “a use for which there is no feasible~~
2 ~~alternative” means a use, other than for purposes of marketing, for which a regulated~~
3 ~~metal is essential to the protection, safe handling, or function, of the package’s~~
4 ~~contents, and technical constraints preclude the substitution of other materials.~~

5 **Comment.** Section 64420 continues former Section 25214.14(a), (b), and (d) without substantive
6 change.

7 See Sections 64275 (“distribution”), 64290 (“manufacturer”), 64295 (“manufacturing”), 64300
8 (“package”), 64305 (“packaging component”), 64320 (“regulated metal”), 64325 (“supplier”).

9 **Staff Note.** See Staff Note following proposed Section 64300 relating to the use of the term
10 “handling” in proposed Section 64420(c).

11 **§ 64425. Expired exemptions**

12 64425. The following exemptions to the requirements of former Section
13 25214.13, which had been available pursuant to former Section 25214.14, expired
14 on January 1, 2010:

15 ~~(e)(1) (a) The A package or packaging component contains no intentionally~~
16 ~~introduced regulated metals but exceeds the applicable maximum concentration~~
17 ~~level set forth in subdivision (c) of former Section 25214.13 only because of the~~
18 ~~addition of a recycled material.~~

19 ~~(2) This subdivision, and all exemptions provided pursuant to it, expire on January~~
20 ~~1, 2010.~~

21 ~~(e)(1) (b) The A package or packaging component is reused and contains no~~
22 ~~intentionally introduced regulated metals, but exceeds the applicable maximum~~
23 ~~concentration level set forth in subdivision (c) of former Section 25214.13, and all~~
24 ~~of the following apply:~~

25 ~~(A) (1) The product being conveyed by the package, the package, or packaging~~
26 ~~component is otherwise regulated under a federal or state health or safety~~
27 ~~requirement.~~

28 ~~(B) (2) The transportation of the packaged product is regulated under federal or~~
29 ~~state transportation requirements.~~

30 ~~(C) (3) The disposal of the package is otherwise performed according to the~~
31 ~~requirements of this chapter or Chapter 8 (commencing with Section 114960) of~~
32 ~~Part 9 of Division 104.~~

33 ~~(2) This subdivision, and all exemptions provided pursuant to it, expire on January~~
34 ~~1, 2010.~~

35 ~~(f)(1) (c) The A package or packaging component has a controlled distribution~~
36 ~~and reuse and contains no intentionally introduced regulated metals but exceeds the~~
37 ~~applicable maximum concentration level set forth in subdivision (c) of Section~~
38 ~~25214.13.~~

39 ~~(2) This subdivision, and all exemptions provided pursuant to it, expire on January~~
40 ~~1, 2010.~~

41 ~~(g)(1) (d) The A packaging or packaging component is a glass or ceramic~~
42 ~~package or packaging component that has a vitrified label, and that, when tested in~~

1 accordance with the Waste Extraction Test, described in Appendix II of Chapter 11
2 (commencing with Section 66261.1) of Division 4.5 of Title 22 of the California
3 Code of Regulations does not exceed 1.0 ppm for cadmium, 5.0 ppm for hexavalent
4 chromium, or 5.0 ppm for lead, does not contain mercury, and is not a glass bottle
5 package with paint or applied ceramic decoration on the bottle and the paint or
6 applied ceramic decoration contains lead or lead compounds in excess of 0.06
7 percent by weight. A glass or ceramic package or packaging component containing
8 mercury is not exempted pursuant to this subdivision.

9 ~~(2) A glass bottle package with paint or applied ceramic decoration on the bottle~~
10 ~~does not qualify for an exemption pursuant to this section, if the paint or applied~~
11 ~~ceramic decoration contains lead or lead compounds in excess of 0.06 percent by~~
12 ~~weight.~~

13 ~~(3) This subdivision, and all exemptions provided pursuant to it, expire on January~~
14 ~~1, 2010.~~

15 **Comment.** Section 64425 would restate former Section 25214.14(c), (e), (f), (g) without
16 substantive change.

17 See Sections 60175 (“disposal”), 64275 (“distribution”), 64300 (“package”), 64305 (“packaging
18 component”), 64315 (“recycled material”), 64320 (“regulated metal”).

19 **Staff Note.** The text of existing Section 25214.14 lists several exemptions from the prohibitions
20 of existing Section 25214.13 that expired in 2010. Proposed Section 64425 would preserve the
21 published record of these expired exemptions to allow for a claimed exemption for conduct that
22 occurred prior to 2010.

23 **The staff welcomes comment on whether this preservation is necessary, and if so, whether**
24 **the restatement of these expired exemptions in proposed Section 64425 continues the**
25 **provisions establishing the exemptions without substantive change.**

26 Article 6. Documentation Required for Exemptions

27 § 64440. Biennially updated information

28 64440. (a) A package or packaging component qualifies for an exemption
29 pursuant to Section 64420 or Section 64425 ~~Section 25214.14~~ only if the
30 manufacturer or supplier prepares, retains, and biennially updates documentation
31 containing all of the following information for that package or packaging
32 component:

33 (1) (a) A statement that the documentation applies to an exemption from ~~the~~ any
34 applicable requirements of Sections 64400 and 64405 ~~Section 25214.13~~.

35 (2) (b) The name, position, and contact information for the person who is the
36 manufacturer’s or supplier’s contact person on all matters concerning the
37 exemption.

38 (3) (c) An identification of the exemption and a reference to the applicable
39 subdivision in Section 64420 or Section 64425 ~~Section 25214.14~~ setting forth the
40 conditions for the exemption.

1 (4) (d) A description of the type of package or packaging component to which the
2 exemption applies.

3 (5) (e) Identification of the type and concentration of the regulated metal or metals
4 present in the package or packaging component, and a description of the testing
5 methods used to determine the concentration.

6 (6) (f) An explanation of the reason for the exemption.

7 (7) (g) Supporting documentation that fully and clearly demonstrates that the
8 package or packaging component is eligible for the exemption.

9 (8) (h) ~~The documentation listed in subdivisions (b), (c), (d), (e), (f), (g), or (h),~~
10 ~~whichever is applicable for the exemption~~ Any other required documentation
11 specified in this article.

12 **Comment.** Section 64440 restates former Section 25214.15(a) without substantive change.

13 See Sections 64290 (“manufacturer”), 64300 (“package”), 64305 (“packaging component”),
14 60295 (“person”), 64320 (“regulated metal”), 64325 (“supplier”).

15 **Staff Notes. (1)** Proposed Section 60440(h) is intended to restate existing Section 25214.15(a)(8)
16 without substantive change. The existing paragraph reads as follows:

17 “The documentation listed in subdivisions (b), (c), (d), (e), (f), (g), or (h), whichever is
18 applicable for the exemption.”

19 **The staff welcomes comment on this restatement of existing Section 25214.5(a)(8).**

20 (2) Several subdivisions of existing Section 25214.15 referenced in subdivision (a)(8) of that
21 section specify documentation required for exemptions that were previously authorized under
22 Section 25214.14 but expired in 2010. See existing Section 25214.14(c)(2), (e)(2), (f)(2), (g)(3).
23 Based on their apparent obsolescence for that reason, subdivisions (d), (f), (g), and (h) of Section
24 25214.15 would not be continued in this recodification.

25 **The staff welcomes comment on the discontinuation of those subdivisions.**

26 **§ 64445. Additional information required for exemption under subdivision (a) of Section**
27 **64420**

28 64445. In addition to the requirements specified in ~~subdivision (a)~~ Section 64440,
29 if an exemption is being claimed under subdivision (a) of Section 64420 ~~subdivision~~
30 ~~(a) of Section 25214.14~~, the manufacturer or supplier shall prepare, retain, and
31 biennially update documentation containing all of the following information for the
32 package or packaging component to which the exemption applies:

33 (1) (a) Date of manufacture.

34 (2) (b) Estimated time needed to exhaust current inventory.

35 (3) (c) Alternative package or packaging component that meets the requirements
36 of Sections 64400 and 64405 ~~Section 25214.13~~.

37 **Comment.** Section 64445 continues former Section 25214.15(b) without substantive change.

38 See Sections 64290 (“manufacturer”), 64300 (“package”), 64305 (“packaging component”),
39 64325 (“supplier”).

1 **§ 64450. Additional information required for exemption under subdivision (b) of Section**
2 **64420**

3 64450. In addition to the requirements specified in ~~subdivision (a) Section 64440,~~
4 if an exemption is being claimed under subdivision (b) of Section 64420 ~~subdivision~~
5 ~~(b) of Section 25214.14,~~ the manufacturer or supplier shall prepare, retain, and
6 biennially update documentation that contains all of the following information for
7 each regulated metal intentionally introduced in the package or packaging
8 component to which the exemption applies:

9 ~~(1)~~ (a) Identification of the specific federal or state law requiring the addition of
10 the regulated metal to the package or packaging component.

11 ~~(2)~~ (b) Detailed information that fully and clearly demonstrates that the addition
12 of the regulated metal to the package or packaging component is necessary to
13 comply with the law identified pursuant to ~~paragraph (1)~~ subdivision (a).

14 ~~(3)~~ (c) A description of past, current, and planned future efforts to seek or develop
15 alternatives to eliminate the use of the regulated metal in the package or packaging
16 component.

17 ~~(4)~~ (d) A description of all alternative measures that have been considered, and,
18 for each alternative, an explanation as to why the alternative is not satisfactory for
19 purposes of achieving compliance with the law identified pursuant to ~~paragraph~~
20 ~~(1)~~ subdivision (a).

21 **Comment.** Section 64450 continues former Section 25214.15(c) without substantive change.

22 See Sections 64290 (“manufacturer”), 64300 (“package”), 64305 (“packaging component”),
23 64320 (“regulated metal”), 64325 (“supplier”).

24 **§ 64455. Additional information required for exemption under subdivision (c) of Section**
25 **64420**

26 64455. In addition to the requirements specified in ~~subdivision (a) Section 64440,~~
27 if an exemption is being claimed under subdivision (c) of Section 64420 ~~subdivision~~
28 ~~(d) of Section 25214.14,~~ the manufacturer or supplier shall prepare, retain, and
29 biennially update documentation containing all of the following information for
30 each regulated metal intentionally introduced into the package or packaging
31 component to which the exemption applies:

32 ~~(1)~~ (a) Detailed information and evidence that fully and clearly demonstrates how
33 the regulated metal contributes to, and is essential to, the protection, safe handling,
34 or functioning of the package’s contents.

35 ~~(2)~~ (b) A description of past, current, and planned future efforts to seek or develop
36 alternatives to minimize or eliminate the use of the regulated metal in the package
37 or packaging component.

38 ~~(3)~~ (c) A description of all alternative measures that have been considered, and,
39 for each alternative, an explanation as to the technical constraints that preclude
40 substitution of the alternative for the use of the regulated metal.

41 ~~(4)~~ (d) Documentation that the regulated metal is not being used for the purposes
42 of marketing.

1 **Comment.** Section 64455 continues former Section 25214.15(e) without substantive change.
2 See Sections 64290 (“manufacturer”), 64300 (“package”), 64305 (“packaging component”),
3 64320 (“regulated metal”) , 64325 (“supplier”).

4 **Staff Note.** See Staff Note following proposed Section 64300 relating to the use of the term
5 “handling” in proposed Section 64455(a).

6 **§ 64460. Submission of required documentation**

7 64460. A manufacturer or supplier shall submit the documentation required
8 pursuant to ~~subdivisions (a) to (h), inclusive,~~ this article to the department, as
9 follows:

10 ~~(1)~~ (a) Upon receipt of a written request from the department, the manufacturer or
11 supplier shall, on or before 30 calendar days after the date of receipt, do one of the
12 following:

13 ~~(A)~~ (1) Submit the required documentation to the department.

14 ~~(B)~~ (2) Submit a letter to the department indicating the date by which the
15 documentation shall be submitted, which may be no more than 90 calendar days
16 after the date of receipt of the department’s request.

17 ~~(2)~~ (b) If the department finds that the documentation supplied pursuant to
18 ~~paragraph (1)~~ subdivision (a) is incomplete or incorrect, the department shall notify
19 the manufacturer or supplier that the documentation is incomplete or incorrect, and
20 the manufacturer or supplier shall submit complete and correct documentation to
21 the department within 60 calendar days after the date of receipt of the notification.

22 ~~(j)~~ (c) If a manufacturer or supplier fails to comply with subdivision ~~(i)~~ (a) or (b)
23 by any of the specified dates in that subdivision, the manufacturer or supplier shall,
24 with respect to the package or packaging component to which the documentation
25 request applies, comply with one of the following:

26 (1) Immediately cease to offer the package or packaging component for sale or
27 for promotional purposes in this state.

28 (2) Replace the package or packaging component with a package or packaging
29 component that conforms with the regulated metals limitations specified in Sections
30 64400 and 64405 ~~Section 25214.13~~, in accordance with a schedule approved in
31 writing by the department.

32 (3) Submit complete and correct documentation for the package or packaging
33 component, in accordance with a schedule approved in writing by the department.

34 **Comment.** Subdivisions (a) and (b) of Section 64460 continues former Section 25214.15(i)
35 without substantive change.

36 Subdivision (c) continues former Section 25214.15(j) without substantive change.

37 See Sections 60160 (“department”), 64290 (“manufacturer”), 64300 (“package”), 64305
38 (“packaging component”), 64320 (“regulated metal”) , 64325 (“supplier”).

39 **§ 64465. Required furnishing of certificate of compliance**

40 64465. (a) On and after January 1, 2006, each manufacturer or supplier shall
41 furnish a certificate of compliance to the purchaser of a package or packaging
42 component, ~~even when~~ including instances in which the purchaser is also a supplier,

1 stating that the package or packaging component is in compliance with the
2 requirements of this ~~article~~ chapter. However, if, pursuant to ~~Section 25214.14,~~

3 (b) If the package is exempt from the requirements of Sections 64400 and 64405
4 ~~Section 25214.13~~ pursuant to Section 64420, the certificate of compliance shall state
5 the specific basis upon which the exemption is claimed.

6 (c) The certificate of compliance shall be signed by an authorized official of the
7 manufacturer or supplier.

8 (d) A copy of the certificate of compliance shall be kept on file by the
9 manufacturer or supplier of the package or packaging component.

10 ~~(b)~~ (e) A purchaser of a package or packaging component subject to subdivision
11 (a) shall retain the certificate of compliance for as long as the package or packaging
12 component is in use by the purchaser.

13 ~~(e)~~ (f) The manufacturer or supplier shall furnish to the department a copy of the
14 certificate of compliance for each package or packaging component for which an
15 exemption is claimed under Section 64420 ~~Section 25214.14~~ at the time when a
16 certificate of compliance for that package or packaging component is first furnished
17 to a purchaser. If no exemption is claimed for a package or packaging component,
18 the manufacturer or supplier shall provide to the department upon request a copy of
19 the certificate of compliance for that package or packaging component.

20 ~~(d)~~ (g) If a manufacturer or supplier of a package or packaging component subject
21 to subdivision (a) reformulates or creates a new package or packaging component,
22 the manufacturer or supplier shall provide the purchaser, and, if the package or
23 packaging component is exempt, the department, with an amended or new
24 certificate of compliance for the reformulated or new package or packaging
25 component.

26 **Comment.** Section 64465 continues former Section 25214.16 without substantive change.

27 See Sections 64270 (“authorized official”), 60160 (“department”), 64290 (“manufacturer”),
28 64300 (“package”), 64305 (“packaging component”), 64310 (“purchaser”), 64325 (“supplier”).

29 **Staff Note.** The staff welcomes comment on whether the introductory clause of existing
30 **Section 25214.16, which reads “On and after January 1, 2006,” may be safely deleted from**
31 **the recodification of the section.**

32 Article 7. Exemptions for Specified Persons

33 § 64480. Unknowing violation of chapter

34 64480. (a) Except as provided in subdivision (b), a person who offers for retail
35 sale or for promotional purposes a product in a package or in a packaging component
36 that includes a regulated metal shall not be subject to any administrative or civil
37 penalty for a violation of this ~~article~~ chapter, if the person proves, by a
38 preponderance of evidence, all of the following:

39 (1) The person received a certificate of compliance for the package or packaging
40 component from the manufacturer or supplier.

1 (2) The certificate of compliance received pursuant to paragraph (1) stated that
2 the package or packaging component is in compliance with the requirements of this
3 ~~article~~ chapter.

4 (3) The person relied on the certificate of compliance and did not know or had no
5 reason to know that the package or packaging component was in violation of this
6 ~~article~~ chapter.

7 (4) Upon receiving a notice of violation from the department, the person took
8 corrective action by immediately removing the package or packaging component
9 from commerce.

10 (b) The affirmative defense specified in subdivision (a) does not apply to, and
11 may not be raised by, a person who has been found to be in violation of this ~~article~~
12 chapter on at least two prior occasions in the preceding three years from the filing
13 date of the current action.

14 **Comment.** Section 64480 continues former Section 25214.22 without substantive change.

15 See Sections 60160 (“department”), 64300 (“package”), 64305 (“packaging component”), 60295
16 (“person”), 64290 (“manufacturer”), 64320 (“regulated metal”), 64325 (“supplier”).

17 **§ 64485. Carrier exemption**

18 64485. Except as provided in paragraph (6) of subdivision (a) of Section 64355,
19 a carrier shall not be subject to ~~the other provisions of this article~~ any provision
20 of this chapter by reason of its receipt, carriage, holding, or delivery of a product in
21 a package or packaging component, in the usual course of business as a carrier.

22 **Comment.** Section 64485 continues the second sentence of former Section 25214.23(a)(3)
23 without substantive change.

24 See Sections 64300 (“package”), 64305 (“packaging component”).

25 Article 8. Criminal Violations

26 **§ 64500. Offering package or component in violation of chapter**

27 64500. A manufacturer or supplier of a package or packaging component who
28 knowingly and intentionally offers for sale or for promotional purposes a package
29 or packaging component in violation of this ~~article~~ chapter is guilty of a
30 misdemeanor, and punishable by a fine of not less than five thousand dollars
31 (\$5,000) nor more than one hundred thousand dollars (\$100,000), ~~by~~ imprisonment
32 in a county jail for not more than one year, or by both ~~the~~ fine and imprisonment.

33 **Comment.** Section 64500 continues former Section 25214.22.1 without substantive change.

34 See Section 64290 (“manufacturer”), 64300 (“package”), 64305 (“packaging component”),
35 64325 (“supplier”).

DISPOSITION OF EXISTING LAW

Note. This table shows the proposed disposition, as reflected in this staff draft, of provisions in Chapter 6.5 of Division 20 of the Health and Safety Code (§§ 25100-25259), as the law existed on January 1, 2025. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

Existing Provision	New Provision
25214.11(a).....	64235
25214.11(b).....	64230
25214.12 (intro).....	64260
25214.12 (a).....	64270
25214.12 (b).....	64265
25214.12 (c).....	64275
25214.12 (d).....	64285
25214.12 (e).....	64280
25214.12 (f).....	64290
25214.12 (g).....	64295
25214.12 (h).....	64300
25214.12 (i).....	64305
25214.12 (j).....	64310
25214.12 (k).....	64315
25214.12 (l).....	64320
25214.12 (m).....	64325
25214.12 (n).....	64330
25214.13(a).....	64405
25214.13(b).....	64400(a)
25214.13(c).....	64400(b)
25214.14(a), (b), (d).....	64420
25214.14(c), (e), (f), (g).....	64425
25214.15(a).....	64440
25214.15(b).....	64445
25214.15(c).....	64450
25214.15(d).....	not cont'd
25214.15(e).....	64455
25214.15(f).....	not cont'd
25214.15(g).....	not cont'd
25214.15(h).....	not cont'd
25214.15(i).....	64660(a), (b)
25214.15(j).....	64660(c)
25214.16.....	64465
25214.17(a).....	64370
25214.17(b).....	64375
25214.18.....	64365

25214.19	64245
25214.20	64240
25214.21	64350(a)

Existing Provision

New Provision

25214.22	64480
25214.22.1	64500
25214.23	64355
25214.23(a)(3) (2 nd sent.)	64485
25214.24	64360
25214.26	64350(b)

DERIVATION OF NEW LAW

Note. This table shows the derivation of each provision in proposed Division 44 reflected in this staff draft. Unless otherwise indicated, all statutory references are to the Health and Safety Code.

Proposed New Provision	Existing Provision
64230.....	25214.11(b)
64235.....	25214.11(a)
64240.....	25214.20
64245.....	25214.19
64260.....	25214.12 (intro)
64265.....	25214.12(b)
64270.....	25214.12(a)
64275.....	25214.12(c)
64280.....	25214.12(e)
64285.....	25214.12(d)
64290.....	25214.12(f)
64295.....	25214.12(g)
64300.....	25214.12(h)
64305.....	25214.12i)
64310.....	25214.12(j)
64315.....	25214.12(k)
64320.....	25214.12(l)
64325.....	25214.12(m)
64330.....	25214.12(n)
64350(a).....	25214.21
64350(b).....	25214.26
64355.....	25214.23
64360.....	25214.24
64365.....	25214.18
64370.....	25214.17(a)
64375.....	25214.17(b)
64400(a).....	25214.13(b)
64400(b).....	25214.13(c)
64405.....	25214.13(a)
64420.....	25214.14(a), (b), and (d)
64425.....	25214.14(c), (e), (f), (g)
64440.....	25214.15(a)
64445.....	25214.15(b)
64450.....	25214.15(c)
64455.....	25214.15(e)
64460(a), (b).....	25214.15(j)
64465.....	25214.16
64480.....	25214.22

6448525214.23(a)(3) (2nd sent.)
6450025214.22.1
