

# Plastic Pollution Prevention and Packaging Producer Responsibility Advisory Board Code of Conduct

## I. Authority and Purpose

Pursuant to Article 4, Section 42070(a), the Director of the California Department of Resources Recycling and Recovery (CalRecycle), appoints members to the Plastic Pollution Prevention and Packaging Producer Responsibility Advisory Board (Board), who are individuals who represent specified associations, organizations, communities, industries, and sectors, as determined by the director. At least one member, respectively, will represent the inaugural Producer Responsibility Organization (PRO).

Pursuant to Public Resources Code (PRC) section 42070, the purpose of the Board is to identify barriers and solutions to creating a circular economy consistent with statute and advising the department, producers, and producer responsibility organizations in the implementation of the [SB 54: Plastic Pollution Prevention and Packaging Producer Responsibility Act](#) (Allen, Chapter 75, Statutes of 2022).

Advisory Board members must adhere to this Code of Conduct. Such compliance is a condition of each member's appointment, including their continued membership, to the Board.

## II. Organization of the Board

- a. **Advisory Board Members** - Per PRC section 42070(a), the Board shall be composed of the 13 voting and 3 nonvoting members as provided in specific categories.
  - **Elected Officers**
  - Elections – At the first meeting, pursuant to PRC section 42070(b), the Board shall elect a Chair who will serve for the calendar year, and who may be reelected. The Board may additionally, elect other officers, such as a Secretary and Vice Chair.
    - Subsequent elections shall be held at the end of the last meeting of the calendar year prior to the term ending, and the transition of new elected officers is immediate. Nominations, including self-nominations, for elected officers will be made at the meeting. The Board will conduct a rollcall vote to approve the member elected to serve in the specified officer role.
  - Terms – Elected officer(s) shall serve for one year and may be nominated to serve additional terms. Should an officer leave the Board mid-term, an election will be held at the next meeting to complete that term. In the case of only one elected officer seated, the Chair may request an interim officer from the Board to fill that seat until the next

meeting when the election can be held according to the Bagley-Keene Open Meeting Act.

- **Duties –**
  - Plan, schedule, lead, and moderate meetings, approve agendas, ensure the Board adheres to the Bagley-Keene Open Meeting Act and the Code of Conduct. Begin each Board meeting with a statement regarding the Board's purpose and duties, agenda items for the specific meeting, and a reminder that all Board members shall be given a chance to speak before public comments are invited.
  - Create and maintain an online repository for the Board meeting documents.
  - Prepare agendas for posting on the Board's online repository and for submittal to CalRecycle no less than 14 business days in advance of meetings if requesting CalRecycle provide public notice (see Section VII)).
  - Prepare meeting minutes and other documents and submit comments and recommendations to CalRecycle and the PRO.

**b. Meetings**

The Board shall meet to review:

- Needs assessment or revised needs assessment pursuant to PRC section 42070(g)
- Plans pursuant to PRC section 42070(h)
- Any other documents mandated in the regulations adopted by CalRecycle, including plan amendments, annual reports.

The department shall provide administrative support for the Board's meetings.

- c. **Voting** – A majority of Board members must be present at a publicly scheduled meeting to establish a quorum, and a quorum is required for the Board to discuss Board business. If a member wishes to propose or discuss a recommendation on a Plan, Plan amendment, Annual Report, Budget, or Needs Assessment for the Board's consideration, the member shall make a motion at a publicly scheduled meeting, and another member must second the motion. The Chair restates the motion, then members discuss the motion. When all members have discussed the motion that wish to do so, the Chair shall invite the public to comment on the motion. When all members of the public have discussed the motion that wish to do so, the Board shall conduct a rollcall vote on each motion. A majority vote is required for each motion to pass. Only appointed voting members may vote on Board motions. The Board shall announce whether the motion passes or fails.

- d. **Agendas** – Agendas for upcoming meetings must be prepared and provided to the public in compliance with the Bagley-Keene Open Meeting Act set forth in [Government Code sections 11120-11132](#). Agendas may be prepared during meetings if future agenda items are known (e.g., annual report reviews). Agendas must include:
- Date, time, and location of meeting.
  - Instructions to participate in meetings (e.g., teleconference or video conference information).
  - A brief description of each item of business to be transacted or discussed at the meeting.
  - Name, phone number, and email address of a contact person who can answer questions about the meeting and the agenda.
  - Information regarding how, to whom, and by when a request for any disability-related modification or accommodation may be made.
  - Link to Board’s online repository.
  - Disclosures of Interest statement.
- e. **Minutes and Board Records** – The Board shall prepare minutes of each meeting. The official approved minutes for each meeting must contain each motion and document how each member voted on each recommendation (including ayes, noes, abstentions, and members that were not present for the vote).
- Minutes – Taken by elected officer (or other Board member) during the meeting, reviewed by the Chair, and sent to the Board with the draft agenda for the next meeting. Draft minutes shall be made available to the public upon request. Draft minutes will be reviewed and approved at the next meeting. Meeting minutes shall reference Board members’ disclosed private and personal interests.
  - Board Records – The Chair (or other designated Board member) will create and maintain an online repository for Board documents. All Board documents will be posted and stored in the online repository. All Board documents will be made accessible to the public upon request. The Board members will have access and editing rights. The Chair will transfer the online repository to the subsequent Chairs after election.
- f. **Subcommittees** – If subcommittees are formed, the Board shall notify the director in writing and provide a description of the purpose of the subcommittee that is consistent with the statutorily-identified role of the Board. Subcommittees shall be comprised of three or more Board members and shall adhere to this Code of Conduct and the Bagley-Keene Open Meeting Act.

### **III. Expectation of Board and Members**

- a. Execute statutorily and regulatory defined duties.
- b. Attend and participate in meetings.
- c. Adhere to the Bagley-Keene Open Meeting Act (see Section VII).
- d. Any communication to coordinate advisory board business, such as scheduling of meetings, shall include all members, noting that advisory board business must be discussed during publicly-noticed meetings, pursuant to the Bagley-Keene Open Meeting Act.
- e. Read the documents subject to review prior to discussing in meetings.
- f. Inform CalRecycle when changing position, leaving or joining an organization, or leaving the board.
- g. Inform CalRecycle of any changes to the private or personal interests required to be reported pursuant to Section VIII of this Code of Conduct.
- h. Public comments made outside a members' official role as part of the Board must be clearly stated as on behalf of the individual or individual's organization and not mention the individual's membership on the Board.
- i. Let all members speak once before allowing anyone to speak a second time.
- j. Act with integrity and focus on the best interest of the California packaging producer responsibility program, rather than on personal interest.

### **IV. Dismissal of Members**

- a. The director may, at any time, review the composition of the Board and withdraw a member's appointment and appoint a replacement to ensure that the Board effectively satisfies the requirements of SB 54, including those in PRC section 42070.
- b. Exceeding Scope of Authority- *Ultra vires* acts of the Committee are prohibited and invalid. Committee members may only act within the scope of their statutory authority outlined in Section I of this Code of Conduct. Members who exceed their role as outlined shall be subject to dismissal by the director.

### **V. Compensation and Reimbursement**

Board members are responsible for covering all costs incurred, including but not limited to travel funding to attend meetings and legal fees to retain legal counsel.

## **VI. The Bagley-Keene Open Meeting Act**

The Board shall conduct its statutory duties in accordance with the Bagley-Keene Open Meeting Act set forth in [Government Code sections 11120-11132](#) to publicly notice meetings, prepare agendas, accept public testimony and conduct meetings in public, unless specifically authorized by the Bagley-Keene Open Meeting Act to meet in closed session. The Board is responsible for staying apprised of legislative updates to the Bagley-Keene Open Meeting Act and adhering to the current requirements.

- a. Agendas and documents that the Board requests CalRecycle post on its Internet website must be sent in an accessible format to [packaging@calrecycle.ca.gov](mailto:packaging@calrecycle.ca.gov) no less than 14 calendar days in advance of meetings. The Board may choose to utilize another mechanism to notify the public of meetings subject to the Bagley-Keene Open Meeting Act.
- b. Documents that are not posted that the Committee will discuss in meetings must be made available to the public upon request.

## **VII. Private and Personal Interest**

PRC section 42070(a) requires the Board to consist of members from specified stakeholder groups. Members apply their knowledge, skills, and experience to inform recommendations on Producer Responsibility Plans, Plan Amendments, Annual Reports, Budgets and Needs Assessments. Those recommendations may concern activities of the packaging producer responsibility program that potentially benefit the members themselves or their affiliates. Therefore, even though the Board does not have any decision-making authority, Board members must take special care to maintain a high ethical standard, which is crucial to the public's trust in the Board.

Maintaining a high ethical standard requires careful attention to the possibility that Board members may have individual interests that relate in some way to the Board's work. For public officials, the Political Reform Act sets forth rules to account for any conflicts between their private or personal interests and their duties as a public official. As described below, this Code of Conduct applies the principles underlying those rules to the context of membership on the Board.

### **a. Political Reform Act**

In accordance with the Political Reform Act ([Government Code section 81000, et seq.](#) and [Title 2 California Code of Regulations Division 6 sections 18110 to 18998](#)), the Committee is required to adopt and file with the Fair Political Practices Commission (FPPC) a Conflict of Interest Code, unless an exemption has been approved and issued by the FPPC. Title 2, Division 6 section 18751 provides the procedure and standards for obtaining an exemption from Government Code section 87300, which requires adoption and promulgation of a Conflict of Interest Code.

**b. Disclosure of Interests**

Maintaining the public’s trust requires compliance with ethics laws and avoiding the mere *perception* that the Board is acting improperly. As such, members must not participate in any Board activity unless they can do so without regard to how the action may affect their private or personal interests. Moreover, members must avoid even the appearance that their private or personal interests, rather than solely the public interest, motivate their participation on the Board.

Therefore, separate from the Political Reform Act, in an effort to maintain transparency, Board members are required to disclose to CalRecycle whether they have any private or personal interests that may be affected by a packaging producer responsibility program. These may include, but are not limited to, a contractual relationship with or receipt of grant awards or other funding from the Producer Responsibility Organization, employment with an entity participating in the program, or any other interest the member deems pertinent. Members must disclose such interests to CalRecycle (see Section IX, below) and update their disclosures to ensure they remain accurate at all times. All member disclosures will be posted on CalRecycle’s website and shall be referred to in Board agendas and meeting minutes.

Failure to accurately disclose any private or personal interests that may be affected by the PRO may subject the offending committee member to dismissal by the Director or may result in the transmittal of information related to the failure to any other appointing body.

**VIII. Member Disclosure and Agreement**

All members must agree and certify as follows:

*Other than the interests identified below*, I have no current private or personal interests that may be affected by the packaging producer responsibility program. I acknowledge that I must immediately notify CalRecycle of any change in the interests identified below and disclose to CalRecycle any additional interests that arise in the future.

**I currently hold the following private or personal interests that may be affected by the packaging producer responsibility program (if none, indicate as such here; do not leave blank):**

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**Although I am a member (or elected member) of the Board solely in my capacity as an individual, not as a representative of any entity, this Code of Conduct requires disclosure of all affiliations that may be relevant to the Board's work. I am currently an employee of, a member, partner, or owner of, engaged in business with, or otherwise affiliated with the following organizations (e.g., businesses, public or industry interest groups, government agencies) whose primary purpose or activities relate to the packaging or food ware industry or the collection, processing, or recycling of materials covered under the statute:**

Organization	Position

**By signing this Code of Conduct, I agree to adhere to its requirements and certify that the factual representations made above are true and accurate.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name