

Chang, Erayna

From: Mike Mohajer [mikemohajer@yahoo.com]
Sent: Saturday, May 19, 2007 7:45 PM
To: Ania.Garbien@SEN.CA.GOV; Elizabeth Huber
Cc: Karen Keene; Davis, Rachel; Dyson, Tamar; mikemohajer@yahoo.com; sjlegsac@pacbell.net; kross@cacities.org; cberg@govadv.com; pane@cwo.com; sweetster@aol.com; chelgi@worldnet.att.net; psmith@rcrcnet.org; karen.coca@lacity.org; Scott Smithline; cwhite1@wm.com; Levenson, Howard; Block, Elliot; Furey, Keir; Garbien, Ania; Mulé, Rosalie; Pecor, Jacqueline; Paul Yoder
Subject: RE: Follow-up to May 3 SB 1016 Meeting
Attachments: SB 1016 Draft Statute Changes 5-2.doc

For many years local governments across the state have been expressing their concerns with the inherent deficiencies of the State's Diversion Rate Measurement System. I would like to commend Senator Wiggins for authoring SB 1016 and the California Integrated Waste Management Board for sponsoring the Bill to address these deficiencies by recommending a "disposal rate measurement" and placing emphasis on waste diversion programs implementation and less on mathematical compliance.

I have reviewed the attached draft revisions to the Bill, dated May 2, 2007. For the purpose of discussion and consideration at our next meeting, I would like to offer the following general comments as well as a number of specific ones, with the suggested changes as shown on the attachment.

1. Update vs. Revision - There is a need to clearly define/distinguish any and all differences between a planning document **"update"** and **"revision."** There are a number of salutatory tools currently available to local jurisdictions for processing their planning document **revisions** with the CIWMB. These tools need to remain intact for all planning document **updates**. Also see Item 3, below, as well as the new Section 41770 (b) of the PRC.

2. Legislative Findings; Subdivisions 40001(e), (g) and (i) - As written, the proposal attempts to prohibit any increase in a countywide "baseline" disposal quantity due to increases in population, economic growth, etc. In effect, the proposal is mandating increases beyond 50% . Such a proposal would place a significant financial burden on cities and counties. Prior to an increase in the existing diversion rate of 50%, a cost/benefit analysis needs to be conducted by the CIWMB in conjunction with local governments and all other affected stakeholders that would substantiate such an increase. {Note: Also see proposed revision to Subdivisions 40912 (d) and new Subdivision 41774(a)}

3. Updating Planning Documents, Subdivision 41773 (e) - The proposal, in part, states "If the board determines that a jurisdiction's update is **deficient**, the board shall notify the jurisdiction of the **deficiencies** it has identified within 60 days and the jurisdiction shall submit a new update within 30 days." If a jurisdiction fails to comply, the CIWMB can proceed with the process of imposing monetary penalties (up to \$10,000 per day) on the jurisdiction pursuant to Sections 41812 and 41813 of the PRC. The recommended process doesn't even afford the jurisdiction the opportunity to appeal the case to the Board.....this seems to be a process of "command & control", and I hope this is not the goal of the the CIWMB. There must be tools available to jurisdictions to confer with CIWMB staff, as well as being able to appeal to the Board which are similar to those processes that are currently available to jurisdictions for revisions of their planning documents pursuant to provisions of the PRC, Sections 41810, 41810.1 and 41811.

4. County IWM Plan, Siting Element and Summary Plan - As proposed, each county, in consultation with the local task force, will remain responsible for the preparation and maintenance of the County Siting Element and the Summary Plan. As such, cities and regional agencies should be required to provide the county and the local task force with an electronic copy of each update of their SRRE, HHWE and Nondisposal Facility Element at the same time as each update is submitted to the CIWMB.

Looking forward to the upcoming meeting. In the meantime, should you have any questions pls feel free to contact me.

05/30/2007

Regards,

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-----Original Message-----

From: Huber, Elizabeth [<mailto:ehuber@CIWMB.ca.gov>]

Sent: Wednesday, May 16, 2007 11:43 AM

To: Huber, Elizabeth

Cc: Pecor, Jacqueline; Mulé, Rosalie; Garbien, Ania; Furey, Keir; Block, Elliot; Levenson, Howard; cwhite1@wm.com; Scott Smithline; karen.coca@lacity.org; psmith@rcrcnet.org; chelgi@worldnet.att.net; sweetster@aol.com; pane@cwo.com; cberg@govadv.com; kross@cacities.org; sjlegsac@pacbell.net; mikemohajer@yahoo.com; Dyson, Tamar; Davis, Rachel

Subject: Follow-up to May 3 SB 1016 Meeting

Hello all,

We want to thank you for your active participation in our May 3 meeting on SB 1016. This is a follow-up to an e-mailed request from Ania Garbien in Senator Wiggins' office for your comments, revisions, or any suggested amendments you may have.

Attached you will find the materials from the meeting. We would welcome your feedback at your earliest convenience, but preferably by Friday, May 18.

We are anticipating the follow-up meeting to occur on Thursday, June 7; further confirming details will soon follow in the coming week.

Once again, thank you all very much for your interest and participation.

Sincerely,
Elizabeth

Elizabeth Huber

Director of Legislative & External Affairs

California Integrated Waste Management Board

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05/30/2007

DIVISION 30. WASTE MANAGEMENT

PART 1. INTEGRATED WASTE MANAGEMENT

Chapter 1. General Provisions

ARTICLE 1. FINDINGS AND DECLARATIONS

(Mike Mohajer's comments in bold, red &/or dbl strikethrough – 5/19/07)

40001. (a) The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans.

(b) The Legislature further declares that it is the policy of the state to assist local governments in minimizing duplication of effort, and in minimizing the costs incurred, in implementing this division through the development of multi-county regional cooperative efforts and other mechanisms which comply with this division.

(c) The Legislature further declares that market development is the key to successful and cost-effective implementation of the ~~25 percent and 50 percent diversion~~ requirements required pursuant to Section 41780, and that the state must take a leadership role, pursuant to Chapter 1 (commencing with Section 42000) of Part 3, in encouraging the expansion of markets for recycled products by working cooperatively with the public, private, and nonprofit sectors.

(d) The statewide diversion rate for the year 2005 exceeds 50 percent, and jurisdictions throughout the state have set forth comprehensive arrays of programs to divert solid waste from disposal consistent with the waste management hierarchy.

(e) Adjustments to the ways in which diversion achievements are measured and evaluated need to be implemented to make the system more accurate, simplify it, and add additional emphasis to the implementation of those diversion programs consistent with the waste management hierarchy. The changes would also result in actual reductions in disposal by minimizing an increase in countywide disposal tons. ~~rather than allowing for increases in disposal commensurate with economic and population growth~~ See General Comments #2

(f) Simplifying the measurement system and moving from an annual report to biennial will allow jurisdictions to focus more resources on implementing programs and will allow the board to provide increased program assistance.

(g) Changing the existing system to a countywide disposal based measurement would increase data accuracy by eliminating the use of base-year generation, jurisdiction specific disposal data. ~~and population and economic growth adjustment factors~~. Using countywide disposal data would eliminate disposal allocation issues at the smaller jurisdiction levels. The board's review process would be expedited with the elimination of adjustment factor delays which currently extend the review timeline significantly. See General Comments #2

(h) Each jurisdiction must continue to implement diversion programs consistent with the waste management hierarchy of source reduction, recycling and composting to maintain the base tonnage disposal and the board will continue to review each jurisdiction's progress biennially. Using a countywide disposal threshold of maintaining 2006 disposal levels would provide an indicator of program effectiveness and would be used as a trigger for the type of biennial review (streamlined versus in-depth review of

program effectiveness), but by itself would not determine whether a jurisdiction has met their compliance requirements or achieved a good faith effort.

~~(i) As a result of increased population growth and economic activity, maintaining a baseline for disposal growth will create increased diversion of materials from landfills. Increased diversion will create economic benefits as markets are enhanced and facilities and infrastructure are developed, contributing to the local tax base and providing additional jobs.~~ See General Comments #2

(j) Elizabeth to add intent language re: greenhouse gas

Chapter 2. Definitions

40105.5. "Base tonnage " means the countywide total tonnage of solid waste disposed of by all jurisdictions in a county during the year 2006, as determined by the board pursuant to Section 41780.2..

40127. "Diversion program" means the programs in the city or county source reduction and recycling element, that have the purpose of diverting solid waste from landfill disposal or transformation, through source reduction, recycling, and composting activities.

40144. "Jurisdiction" means a city, county, city and county, or board approved multi-county regional agency.

40205. "Uniform Electronic Transactions Act" means Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code.

PART 2. INTEGRATED WASTE MANAGEMENT PLANS

Chapter 1. Plan Preparation

ARTICLE 1.5. BOARD ASSISTANCE IN LOCAL PLANNING

40912. (a) The board shall develop a model countywide or multi-county regional siting element and a model countywide or multi-county regional agency integrated waste management plan that will establish prototypes of the content and format that counties or multi-county regional agencies may use in meeting the requirements of this part.

(b) On or before July 1, 2001, the board shall develop a model revised source reduction and recycling element that will establish prototypes of the content and format of that element that cities, counties, multi-county regional agencies, or a city and county may use in meeting the requirements of this part.

(c) The board shall adopt a program to provide assistance to cities, counties, multi-county regional agencies, or a city and county in the development and implementation of source reduction *and household hazardous waste* programs. The program shall include, but not be limited to, the following:

(1) The development of model source reduction programs and strategies that may be used at the local and multi-county regional level.

(2) Ongoing analysis of public and private sector source reduction programs that may be provided to cities, counties, multi-county regional agencies, and a city and county in order to assist them in complying with Article 3 (commencing with Section 41050) of Chapter 2 and Article 3 (commencing with Section 41350) of Chapter 3.

(3) Assistance to cities, counties, multi-county regional agencies, and a city and county in the development of source reduction programs for commercial and industrial generators of solid waste that include the development of source reduction strategies designed for specific types of commercial and industrial generators.

(4) Assistance to cities, counties, multi-county regional agencies, and a city and county in the development of household hazardous waste programs that include models of successful programs.

(d) The board shall, to the maximum extent feasible, utilizing existing resources, provide local jurisdictions and private businesses with information, tools, and mathematical models to assist with maintaining base tonnage disposal pursuant to Section 41780. The board shall act as a solid waste information clearinghouse.

(e) (1) On or before April 1, 2003, and using existing resources, the board shall provide local jurisdictions and private businesses with information and models to assist with consideration of environmental justice concerns when complying with Section 41701.

(2) For the purposes of this subdivision, "environmental justice" has the meaning defined in subdivision (e) of Section 65040.12 of the Government Code.

ARTICLE 3. MULTI-COUNTY REGIONAL AGENCIES

40975. (a) Any agreement forming a multi-county regional agency shall be submitted to the board for review and approval at the time the multi-county regional agency integrated waste management plan is submitted to the board for review and approval.

(b) Any agreement forming a multi-county regional agency shall, at minimum, contain all of the following provisions:

(1) A listing of the cities and counties which are member agencies of the multi-county regional agency, and a description of the multi-county regional agency, including the name and address of the multi-county regional agency.

(2) Consistent with Section 40974, a description of the method by which any civil penalties imposed by the board pursuant to Sections 41813 and 41850 will be allocated among the cities or counties which are member agencies of the multi-county regional agency.

(3) A contingency plan which shows how each city or county which is a member agency of the multi-county regional agency will comply with the requirements of this part, including, but not limited to, Article 1 (commencing with Section 41780) of Chapter 6, in the event that the multi-county regional agency is abolished.

(4) A description of the duties and responsibilities of each city or county which is a member agency of the multi-county regional agency which demonstrates that the city or county will comply with Article 1 (commencing with Section 41780) of Chapter 6.

(5) A description of source reduction, recycling, and composting programs to be implemented by the multi-county regional agency. Those programs shall be at least as comprehensive and effective in meeting the requirements of Article 1 (commencing with Section 41780) of Chapter 6 as those which each city or county which is a member agency of the multi-county regional agency has proposed in its source reduction and recycling element.

(6) Any other additional element as determined to be needed by the cities or counties which are member agencies of the multi-county regional agency.

(c) The Board shall not approve a regional agency unless each city or county within the regional agency has been deemed in compliance with Section 41780. The inclusion of one or more newly incorporated cities, subject to the provisions of Section 41791.5, shall not be subject to the requirement of this section.

Chapter 2. ~~City~~ Source Reduction and Recycling Elements

ARTICLE 1. REQUIREMENTS

41000. (a) Each jurisdiction that prepared and adopted a source reduction and recycling element prior to January 1, 2008 shall maintain and update that element to ensure that it includes all information required in the board's model source reduction and recycling element adopted pursuant to section 40912. Except for the updates required by sections 41773 and 41774, nothing in this section is intended to require that an existing source reduction and recycling element be revised to reflect the format of the model source reduction and recycling element.

(b) Any jurisdiction that incorporates on or after January 1, 2008 shall prepare, adopt, and maintain a source reduction and recycling element in accordance with the board's model source reduction and recycling element.

(c) The board may revise the model source reduction and recycling element, as necessary, after a public hearing, and in consultation with jurisdictions. The model source reduction and recycling element shall require jurisdictions to set forth a plan for implementing programs to meet the requirements of Section 41780.

(a) On or before July 1, 1992, each city shall prepare, adopt, and, excepting a city and county, submit to the county in which the city is located a source reduction and recycling element which includes all of the components specified in this chapter and which complies with the requirements specified in Chapter 6 (commencing with Section 41780).

(b) Notwithstanding subdivision (a), if a city determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the city shall do all of the following:

(1) On or before July 1, 1992, the city shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the element. The resolution shall also state a date when the city will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the element.

(2) On or before July 1, 1992, the city shall submit its draft source reduction and recycling element and a copy of the resolution adopted pursuant to paragraph (1) to the county within which the city is located.

(3) Upon completion and certification of the environmental impact report for the source reduction and recycling element, or December 1, 1992, whichever is sooner, the city shall submit its final source reduction and recycling element to the county.

41001. The city source reduction and recycling element shall include a program for management of solid waste generated within the city, consistent with the waste management hierarchy provided in Section 40051.

41002. The city source reduction and recycling element shall place primary emphasis on implementation of all feasible source reduction, recycling, and composting programs while identifying the amount of landfill and transformation capacity that will be needed for solid waste which cannot be reduced at the source, recycled, or composted.

41003. Each city source reduction and recycling element shall include, but is not limited to, all of the following components for solid waste generated in the jurisdiction of the plan:

- (a) A waste characterization component.
- (b) A source reduction component.
- (c) A recycling component.
- (d) A composting component.
- (e) A solid waste facility capacity component.
- (f) An education and public information component.
- (g) A funding component.
- (h) A special waste component.

ARTICLE 2. WASTE CHARACTERIZATION COMPONENT

41030. (a) For the initial source reduction and recycling element of a countywide integrated waste management plan which is required to be submitted to the board pursuant to Section 41791, the city waste characterization component shall identify the constituent materials which comprise the solid waste generated within the city. The information shall be representative of the solid waste generated within, and disposed of by, the city and shall reflect seasonal variations. The constituent materials shall be identified by volume, percentage in weight or its volumetric equivalent, material type, and source of generation, which includes residential, commercial, industrial, governmental, or other sources. Future revisions of waste characterization studies shall identify the constituent materials which comprise the solid waste disposed of at permitted disposal facilities.

(b) In adopting or revising regulations implementing subdivision (a), the board shall do all of the following:

(1) Permit the use of studies or data developed on a county or multi-county regional basis and adapted to the conditions which exist in a city preparing its waste characterization component.

(2) Permit the use of preexisting data or studies, including those data and studies prepared by local governments with similar waste characteristics.

(3) Require only that amount of seasonal sampling, and waste characterization only of those categories of waste, necessary to achieve the diversion requirements of paragraph (1) of subdivision (a) of Section 41780.

41031. Any waste characterization component prepared by a city pursuant to Section 41030, and any other information submitted by a city to the board on the quantities of solid waste generated, diverted, and disposed of, shall include data which is as accurate as possible, on the quantities of solid waste generated, diverted, and disposed of, to enable the board, to the maximum extent possible, to accurately measure the diversion requirements established under paragraph (1) of subdivision (a) of Section 41780.

41032. For the first revision, and any subsequent revision, of a source reduction and recycling element of a countywide integrated waste management plan which is required to be submitted to the board pursuant to Section 41770, the city waste characterization component shall identify the constituent materials which comprise the solid waste disposed of by the city. The information shall be statistically representative of the solid waste disposed of by the city and shall reflect seasonal variations. The constituent materials shall be identified, to the extent practicable, by volume, percentage in weight, or its volumetric equivalent, material type, and source of generation, which includes residential, commercial, industrial, governmental, or other sources.

41033. Any waste characterization component prepared by a city pursuant to Section 41032, and any other information submitted by a city to the board on the quantities of solid waste disposed of by the city, shall include data which is as accurate as possible, on the quantities of solid waste generated, diverted, and disposed of, to enable the board, to the maximum extent possible, to accurately measure the diversion requirements of paragraph (2) of subdivision (a) of Section 41780.

ARTICLE 3. SOURCE REDUCTION COMPONENT

41050. The city source reduction component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the recycling and composting components, reduce a sufficient amount of solid waste disposed of by the city to comply with the diversion requirements of Section 41780.

41051. The city source reduction component shall describe the types of materials which will be reduced under the programs in Section 41050.

41052. The city source reduction component shall describe the methods the city will use to determine the categories of solid wastes to be diverted from disposal at a landfill disposal through source reduction.

41053. The city source reduction component shall describe new facilities, and of expansion of existing facilities, which will be needed to implement the source reduction component.

41054. The city source reduction component shall evaluate and identify rate structures and fees to reduce the amount of wastes that generators produce, and other source reduction strategies, including, but not limited to, programs and economic incentives to reduce the use of nonrecyclable materials, replace disposable materials and products with reusable materials and products, reduce packaging, and increase the efficiency of the use of paper, cardboard, glass, metal, and other materials.

ARTICLE 4. RECYCLING COMPONENT

41070. The city recycling component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the source reduction and composting

components, reduce a sufficient amount of solid waste disposed of by the city to comply with the diversion requirements of Section 41780.

41071. The city recycling component shall describe the types of materials which will be recycled under the programs in Section 41070.

41072. The city recycling component shall describe the methods the city will use to determine the categories of solid wastes to be diverted from disposal at a disposal facility through recycling.

41073. The city recycling component shall describe new facilities, and of expansion of existing facilities, which will be needed to implement the recycling component.

41074. The city recycling component shall describe methods which will be used to increase the markets for recycled materials, including, but not limited to, an evaluation of the feasibility of procurement preferences for the purchase of recycled products. Each city may grant a price preference to encourage the purchase of recycled products. The amount of the price preference shall be determined by the city.

41075. The city recycling component shall evaluate industrial, commercial, residential, governmental, and other curbside, mobile, dropoff, and buy-back recycling programs, manual and automated material recovery facilities, zoning and building code changes which encourage recycling of materials, and rate structures which encourage recycling of materials.

ARTICLE 5. COMPOSTING COMPONENT

41200. The city composting component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the source reduction and recycling components, reduce a sufficient amount of solid waste disposed of by the city to comply with the diversion requirements of Section 41780.

41201. The city composting component shall describe the types of materials which will be composted under the programs in Section 41200.

41202. The city composting component shall describe the methods the city will use to determine the categories of solid wastes to be diverted from disposal at a disposal facility through composting.

41203. The city composting component shall describe any new facilities, and expansion of existing facilities, which will be needed to implement the composting component.

41204. The city composting component shall describe the methods which will be used to increase the markets for composted materials, including, but not limited to, an evaluation of the feasibility of procurement preferences for the purchase of composted products. Each city may grant a price preference to encourage the purchase of composted products. The amount of the price preference shall be determined by the city.

ARTICLE 6. EDUCATION AND PUBLIC INFORMATION COMPONENT

41220. The city education and public information component shall describe to the board how the city will increase public awareness of, and participation in, recycling, source reduction, and composting programs.

ARTICLE 7. FUNDING COMPONENT

41230. The city funding component shall identify and specifically describe projected costs, revenues, and revenue sources the city will use to implement all components of the city source reduction and recycling element.

ARTICLE 8. SPECIAL WASTE COMPONENT

41250. The city special waste component shall describe existing waste handling and disposal practices for special wastes, including, but not limited to, asbestos and sewage sludge which is not hazardous waste. The component shall identify current and proposed programs to ensure the proper handling, reuse, and long term disposal of special wastes. The component shall address the disposition of sewage sludge generated in the jurisdiction of the city.

ARTICLE 9. FACILITY CAPACITY COMPONENT

41260. The city solid waste facility capacity component shall include, but is not limited to, a projection of the amount of disposal capacity which will be needed to accommodate the solid waste generated within the city preparing the element for a 15 year period, reduced by all of the following:

(a) Implementation of source reduction, recycling, and composting programs required by this part or through implementation of other waste diversion programs.

(b) Any permitted processing, destruction, disposing, or transformation capacity which will be available during the 15 year planning period.

(c) All disposal or transformation capacity which has been secured through an agreement with another city or county or through an agreement with a solid waste enterprise.

Chapter 3. County Source Reduction and Recycling Elements

ARTICLE 1. REQUIREMENTS

41300. (a) On or before July 1, 1992, each county shall prepare and adopt for the unincorporated area a county source reduction and recycling element which includes all of the components specified in this chapter and which complies with the requirements specified in Chapter 6 (commencing with Section 41780).

(b) Notwithstanding subdivision (a), if a county determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the county shall do all of the following:

(1) On or before July 1, 1992, the county shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the element. The resolution shall also state a date when the county will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the element.

(2) On or before July 1, 1992, the county shall submit a copy of the resolution adopted pursuant to paragraph (1) to the board.

(3) Upon completion and certification of the environmental impact report for the source reduction and recycling element, or December 1, 1992, whichever is sooner, the county shall adopt its source reduction and recycling element.

41301. The county source reduction and recycling element shall set forth a program for management of solid waste generated within the unincorporated area of the county, consistent with the waste management hierarchy provided in Section 40051.

41302. The county source reduction and recycling element shall place primary emphasis on implementation of all feasible source reduction, recycling, and composting programs while identifying the amount of landfill and transformation capacity that will be needed for solid waste which cannot be reduced at the source, recycled, or composted.

41303. Each county source reduction and recycling element shall include, but is not limited to, all of the following components for solid waste generated in the jurisdiction of the plan:

- (a) A waste characterization component.
- (b) A source reduction component.
- (c) A recycling component.
- (d) A composting component.
- (e) A solid waste facility capacity component.
- (f) An education and public information component.
- (g) A funding component.
- (h) A special waste component.

ARTICLE 2. WASTE CHARACTERIZATION COMPONENT

41330. (a) For the initial source reduction and recycling element of a countywide integrated waste management plan which is required to be submitted to the board pursuant to Section 41791, the county waste characterization component shall identify the constituent materials which comprise the solid waste generated within the unincorporated area of the county. The information shall be representative of the solid waste generated and disposed of within that area and shall reflect seasonal variations. The constituent materials shall be identified by volume, percentage in weight or its volumetric equivalent, material type, and source of generation which includes residential, commercial, industrial, governmental, or other sources. Future revisions of waste characterization studies shall identify the constituent materials which comprise the solid waste disposed of at permitted disposal facilities.

(b) In adopting or revising regulations implementing subdivision (a), the board shall do all of the following:

(1) Permit the use of studies or data developed on a multi county regional basis and adapted to the conditions which exist in a county preparing its waste characterization component.

(2) Permit the use of preexisting data or studies, including those data and studies prepared by local governments with similar waste characteristics.

(3) Require only that amount of seasonal sampling, and waste characterization only of those categories of waste, necessary to achieve the diversion requirements of paragraph (1) of subdivision (a) of Section 41780.

41331. Any waste characterization component prepared by a county pursuant to Section 41330, and any other information submitted by a county to the board on the quantities of solid waste generated, diverted, and disposed of, shall include data which is as accurate as possible, on the quantities of solid waste generated, diverted, and disposed of, to enable the board, to the maximum extent possible, to accurately measure the diversion requirements established under paragraph (1) of subdivision (a) of Section 41780.

41332. For the first revision, and any subsequent revision, of a source reduction and recycling element of a countywide integrated waste management plan which is required to be submitted to the board pursuant to Section 41770, the county waste characterization component shall identify the constituent materials which comprise the solid waste disposed of within the unincorporated area of the county. The information shall be statistically representative of the solid waste disposed of within that area and shall reflect seasonal variations. The constituent materials shall, to the extent practicable, be identified by volume, percentage in weight, or its volumetric equivalent, material type, and source of generation, which includes residential, commercial, industrial, governmental, or other sources.

41333. Any waste characterization component prepared by a county pursuant to Section 41332, and any other information submitted by a county to the board on the quantities of solid waste disposed of, shall include data which is as accurate as practicable, on the quantities of solid waste generated, diverted, and disposed of, to enable the board, to the maximum extent possible, to accurately measure the diversion requirements of paragraph (2) of subdivision (a) of Section 41780.

41341. REPEALED.

ARTICLE 3. SOURCE REDUCTION COMPONENT

~~41350. The county source reduction component shall include a program and implementation schedule which shows the methods by which the county will, in combination with the recycling and composting components, reduce a sufficient amount of solid waste disposed of within the unincorporated area of the county to comply with the diversion requirements of Section 41780.~~

~~41351. The county source reduction component shall describe the types of materials which will be reduced under the programs in Section 41350.~~

~~41352. The county source reduction component shall describe the methods that the county will use to determine the categories of solid wastes to be diverted from disposal at a disposal facility through source reduction.~~

~~41353. The county source reduction component shall describe new facilities, and of expansion of existing facilities, which will be needed to implement the source reduction component.~~

~~41354. The county source reduction component shall evaluate and identify rate structures and fees to reduce the amount of wastes that generators produce, and other source reduction strategies, including, but not limited to, programs and economic incentives to reduce the use of nonrecyclable materials, replace disposable materials and products with reusable materials and products, reduce packaging, and increase the efficiency of the use of paper, cardboard, glass, metal, and other materials.~~

~~41360. REPEALED.~~

ARTICLE 4. RECYCLING COMPONENT

~~41370. The county recycling component shall include a program and implementation schedule which shows the methods by which the county will, in combination with the source reduction and composting components, reduce a sufficient amount of solid waste disposed of within the unincorporated area of the county to comply with the diversion requirements of Section 41780.~~

~~41371. The county recycling component shall describe the types of materials which will be recycled under the programs in Section 41370.~~

~~41372. The county recycling component shall describe the methods that the county will use to determine the categories of solid wastes to be diverted from disposal at a disposal facility through recycling.~~

~~41373. The county recycling component shall describe new facilities, and expansion of existing facilities, which will be needed to implement the recycling component.~~

~~41374. The county recycling component shall describe methods which will be used to increase markets for recycled materials, including, but not limited to, an evaluation of the feasibility of procurement preferences for the purchase of recycled products. Each county may grant a price preference to encourage the purchase of recycled products. The amount of the price preference shall be determined by the county.~~

~~41375. The county recycling component shall evaluate industrial, commercial, residential, governmental, and other curbside, mobile, dropoff, and buy-back recycling programs, manual and automated material recovery facilities, zoning, and building code changes which encourage recycling of materials, and rate structures which encourage recycling of materials.~~

ARTICLE 5. COMPOSTING COMPONENT

~~41400. The county composting component shall include a program and implementation schedule which shows the methods by which the county will, in combination with the source reduction and recycling~~

components, reduce a sufficient amount of solid waste disposed of within the unincorporated area of the county to comply with the diversion requirements of Section 41780.

41401. The county composting component shall describe the types of materials which will be composted under the programs in Section 41400.

41402. The county composting component shall describe the methods that the county will use to determine the categories of solid wastes to be diverted from disposal at a disposal facility through composting.

41403. The county composting component shall describe new facilities, and expansion of existing facilities, which will be needed to implement the composting component.

41404. The county composting component shall describe methods which will be used to increase the markets for composted materials, including, but not limited to, an evaluation of the feasibility of procurement preferences for the purchase of recycled products. Each county may grant a price preference to encourage the purchase of composted products. The amount of the price preference shall be determined by the county.

ARTICLE 6. EDUCATION AND PUBLIC INFORMATION COMPONENT

41420. The county education and public information component shall describe to the board how the county will educate and inform its citizens about the source reduction, recycling, and composting programs.

ARTICLE 7. FUNDING COMPONENT

41430. The county funding component shall identify and specifically describe projected costs, revenues, and revenue sources the county will use to implement all components of the county source reduction and recycling element.

ARTICLE 8. SPECIAL WASTE COMPONENT

41450. The county special waste component shall describe existing waste handling and disposal practices for special wastes, including, but not limited to, asbestos and sewage sludge which is not hazardous waste. The component shall identify current and proposed programs to ensure the proper handling, reuse, and long-term disposal of special wastes. The component shall address the disposition of sewage sludge generated in the jurisdiction of the county.

ARTICLE 9. FACILITY CAPACITY COMPONENT

41460. The county solid waste facility capacity component shall include, but is not limited to, a projection of the amount of disposal capacity which will be needed to accommodate the solid waste generated within the unincorporated area of the county preparing the element for a 15-year period, reduced by all of the following:

(a) Implementation of source reduction, recycling, and composting programs required by this part or through implementation of other waste diversion programs.

(b) Any permitted disposal or transformation capacity which will be available during the 15-year planning period.

(c) All disposal or transformation capacity which has been secured through an agreement with another city, county, or through an agreement with a solid waste enterprise.

ARTICLE 10. HOUSEHOLD HAZARDOUS WASTE COMPONENT (REPEALED)

Chapter 3.5. Household Hazardous Waste Elements

ARTICLE 1. ~~CITY~~ HOUSEHOLD HAZARDOUS WASTE ELEMENTS

~~41495. (a) On or before April 1, 2008, the board shall develop a model household hazardous waste element that will establish prototypes of the content and format of that element that jurisdictions may use in meeting the requirements of this part.~~

~~(b) The board shall adopt the model household hazardous waste element, after consultation with jurisdictions, at a public hearing. The board may revise the model household hazardous waste element, as necessary, in the same manner in which it was adopted.~~

~~(c) The household hazardous waste element shall identify a program for the safe collection, recycling, treatment, and disposal of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households in the jurisdiction and which should be separated from the solid waste stream.~~

~~In preparing a household hazardous waste element pursuant to this section, a jurisdiction may use components of a hazardous waste plan prepared pursuant to subdivision (c) of Section 25135.7 of the Health and Safety Code if the hazardous waste plan meets the requirements of this article and Section 41802.~~

~~41500. (a) Each jurisdiction that prepared and adopted a household hazardous waste element prior to January 1, 2008 shall maintain and update that element to ensure that it includes all information required in the board's model household hazardous waste element adopted pursuant to section 41495. Except for the updates required by sections 41773 and 41774, nothing in this section is intended to require that an existing household hazardous waste element be revised to reflect the format of the model household hazardous waste element.~~

~~(b) Any jurisdiction that incorporates on or after January 1, 2008 shall prepare, adopt, and maintain a household hazardous waste element in accordance with the board's model household hazardous waste element.~~

~~(a) On or before July 1, 1992, each city shall prepare, adopt, and submit to the county in which the city is located a household hazardous waste element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households in the city and which should be separated from the solid waste stream.~~

~~In preparing a city household hazardous waste element pursuant to this section, a city may use components of a city hazardous waste plan prepared pursuant to subdivision (c) of Section 25135.7 of the Health and Safety Code if the city hazardous waste plan meets the requirements of this article and Section 41802.~~

~~(b) Notwithstanding subdivision (a), if a city determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the city shall do all of the following:~~

~~(1) On or before July 1, 1992, the city shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the household hazardous waste element. The resolution shall also state a date when the city will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the household hazardous waste element.~~

~~(2) On or before July 1, 1992, the city shall submit its draft household hazardous waste element and a copy of the resolution adopted pursuant to paragraph (1) to the county within which the city is located.~~

~~(3) Upon completion and certification of the environmental impact report for the household hazardous waste element, or December 1, 1992, whichever is sooner, the city shall submit its final household hazardous waste element to the county.~~

41502. A **city** household hazardous waste element may include a program for the safe collection, treatment, and disposal of sharps waste generated by households. The program may include any of the following: **Should the requirements be expanded to include universal waste?**

(a) The designation of authorized collection locations, including, but not limited to, household hazardous waste collection facilities, designated hospitals and clinics, and fire stations.

(b) Efforts to inform and encourage the public to return sharps waste to designated collection locations.

(c) Efforts to inform and encourage the public to subscribe to mail-back programs authorized by the United States Postal Service.

(d) An estimate of the expenditures required for the safe collection, treatment, and disposal of sharps waste, and consideration of the feasibility of offering low-cost mail-back programs for senior and low-income households.

ARTICLE 2. COUNTY HOUSEHOLD HAZARDOUS WASTE ELEMENTS

~~41510. (a) On or before July 1, 1992, each county shall prepare a household hazardous waste element which identifies a program for the safe collection, recycling, treatment, and disposal of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households in the unincorporated area of the county and which should be separated from the solid waste stream. In preparing a county household hazardous waste element pursuant to this section, a county may use components of a county hazardous waste management plan prepared pursuant to Section 25135.1 of the Health and Safety Code, if that plan meets the requirements of this article and of Section 41802.~~

~~(b) Notwithstanding subdivision (a), if a county determines that it is unable to comply with the deadline established under subdivision (a) and unable to comply with Division 13 (commencing with Section 21000), to the extent that division requires the preparation and certification of an environmental impact report for the element, the county shall do all of the following:~~

~~(1) On or before July 1, 1992, the county shall adopt a resolution stating the reasons it is unable to comply with the deadline established under subdivision (a) and to complete and certify the environmental impact report for the household hazardous waste element. The resolution shall also state a date when the county will comply with the deadline established under subdivision (a) and complete and certify the environmental impact report for the household hazardous waste element.~~

~~(2) On or before July 1, 1992, the county shall submit its draft household hazardous waste element and a copy of the resolution adopted pursuant to paragraph (1) to the board.~~

~~(3) Upon completion and certification of the environmental impact report for the household hazardous waste element, or December 1, 1992, whichever is sooner, the county shall adopt its household hazardous waste element.~~

~~41512. A county household hazardous waste element may include a program for the safe collection, treatment, and disposal of sharps waste generated by households. The program may include any of the following:~~

~~(a) The designation of authorized collection locations, including, but not limited to, household hazardous waste collection facilities, designated hospitals and clinics, and fire stations.~~

~~(b) Efforts to inform and encourage the public to return sharps waste to designated collection locations.~~

~~(c) Efforts to inform and encourage the public to subscribe to mail back programs authorized by the United States Postal Service.~~

~~(d) An estimate of the expenditures required for the safe collection, treatment, and disposal of sharps waste, and consideration of the feasibility of offering low cost mail back programs for senior and low-income households.~~

ARTICLE ~~3~~ 2. EDUCATIONAL INFORMATION

~~41515. If a city, county, or multi-county regional agency jurisdiction conducts an aerosol can recycling program, a requirement to educate the public on the safe collection and recycling or disposal of aerosol cans shall be incorporated into the household hazardous waste element prepared by the jurisdiction city, county, or multi-county regional agency when that element is revised.~~

ARTICLE ~~4~~ 3. COVERED ELECTRONIC WASTE

41516. (a) For purposes of this article, "covered electronic waste" has the same meaning as defined in subdivision (g) of Section 42463.

(b) On and after January 1, 2004, when a county or multi-county regional agency revises the countywide or multi-county regional integrated waste management plan and its elements pursuant to Section 41770, the ~~city~~ household hazardous waste elements ~~and county household hazardous waste element~~ in the plan shall identify those actions the ~~jurisdiction~~ city, county, or multi-county regional agency is taking to promote the collection, consolidation, recovery, and recycling of covered electronic waste.

Chapter 4.5. Nondisposal Facility Elements

ARTICLE 1. ~~CITY~~ NONDISPOSAL FACILITY ELEMENTS

41730. (a) Each jurisdiction that prepared and adopted a nondisposal facility element prior to January 1, 2008 shall maintain and update that element to ensure that it includes all information required in the board's model nondisposal facility element adopted pursuant to section 41728. Except for the updates required by sections 41773 and 41774, nothing in this section is intended to require that an existing nondisposal facility element be revised to reflect the format of the model nondisposal facility element.

(b) Any jurisdiction that incorporates on or after January 1, 2008 shall prepare, adopt, and maintain a nondisposal facility element in accordance with the board's model nondisposal facility element.

(c) The board may revise the model nondisposal facility element, as necessary, in the same manner in which it was adopted, after consultation with jurisdictions, at a public hearing.

(d) The nondisposal facility element shall include a description of any new solid waste facilities and the expansion of existing solid waste facilities that will be needed to implement the jurisdiction's source reduction and recycling element and to thereby meet the requirements of Section 41780. The nondisposal facility element may include the identification of specific locations or general areas for new solid waste facilities that will be needed to implement the jurisdiction's source reduction and recycling element.

Except as provided in Section 41750.1, each city shall prepare, adopt, and, except for a city and county, transmit to the county in which the city is located a nondisposal facility element that includes all of the information required by this chapter and that is consistent with the implementation of a city source reduction and recycling element adopted pursuant to this part. The nondisposal facility element and any amendments to the element may be appended to the city's source reduction and recycling element when that element is included in the countywide integrated waste management plan, prepared pursuant to Section 41750. The nondisposal facility element and any amendments to the element shall not be subject to the approval of the county and the majority of cities with the majority of the population in the incorporated area.

ARTICLE 2. COUNTY NONDISPOSAL FACILITY ELEMENT

41731. Except as provided in Section 41750.1, each county shall prepare, adopt, and, except for a city and county, transmit to the cities located in the county a nondisposal facility element that includes all of the information required by this chapter and that is consistent with the implementation of a county source reduction and recycling element adopted pursuant to this part. The nondisposal facility element and any amendments to the element may be appended to the county's source reduction and recycling element when that element is included in the countywide integrated waste management plan prepared pursuant to Section 41750. The nondisposal facility element and any amendments to the element shall not be subject to the approval of the majority of cities with the majority of the population in the incorporated area.

ARTICLE 3. REQUIREMENTS

41732. (a) City, county, and multi-county regional agency nondisposal facility elements prepared pursuant to Section 41730, 41731, or 41750.1, as the case may be, shall include a description of any new

solid waste facilities and the expansion of existing solid waste facilities that will be needed to implement the jurisdiction's source reduction and recycling element and to thereby meet the diversion requirements of Section 41780. The nondisposal facility element may include the identification of specific locations or general areas for new solid waste facilities that will be needed to implement the jurisdiction's source reduction and recycling element.

(b) In complying with the requirements of subdivision (a), the jurisdiction shall utilize the pertinent information that is available to it at the time that the nondisposal facility element is prepared.

41734. (a) (1) Prior to adopting or amending a nondisposal facility element, the city, county, or multi-county regional agency shall submit the element or amendment to the task force created pursuant to Section 40950 for review and comment.

(2) Prior to adopting or amending a multi-county regional agency nondisposal facility element, if the jurisdiction of the multi-county regional agency extends beyond the boundaries of a single county, the multi-county regional agency shall submit the element or amendment for review and comment to each task force created pursuant to Section 40950 of each county within the jurisdiction of the multi-county regional agency.

(b) Comments by the task force shall include an assessment of the multi-county regional impacts of potential diversion facilities and shall be submitted to the city, county, or multi-county regional agency and to the board within 90 days of the date of receipt of the nondisposal facility element for review and comment.

41736. It is not the intent of the Legislature to require cities and counties to revise their source reduction and recycling elements to comply with the requirements of this chapter. At the time of the five-year revision of the source reduction and recycling element, each city, county, and city and county shall incorporate the nondisposal facility element and any amendments thereto into the revised source reduction and recycling element.

Chapter 5. Countywide Integrated Waste Management Plans

ARTICLE 3. PLAN REVISION

41770. (a) Each countywide or regional agency siting element integrated waste management plan, and the elements thereof, shall be reviewed, revised, if necessary, and submitted to the board every five years in accordance with the schedule set forth under Chapter 7 (commencing with Section 41800). **What about the Summary Plan?**

(b) Any revisions to a countywide or regional agency integrated waste management plan, and the elements thereof, shall use a waste disposal characterization method that the board shall develop for the use of the city, county, city and county, or regional agency. The city, county, city and county, or regional agency shall conduct waste disposal characterization studies, as prescribed by the board, if it fails to meet the diversion requirements of Section 41780, at the time of the five-year revision of the source reduction and recycling element.

(c) The board may review and revise its regulations governing the contents of revised source reduction and recycling elements to reduce duplications in one or more components of these revised elements.

Chapter 5.5. Updating Planning Documents

See General Comments # 1, 3 & 4

41772. The Legislature finds and declares that it would be beneficial to provide a streamlined procedure for updating existing planning elements so that jurisdictions can devote more of their resources to implementing programs while providing the public with timely descriptions of their activities.

41773. (a) Each jurisdiction shall prepare an update of its source reduction and recycling element originally prepared pursuant to Chapter 2 (commencing with Section 41000) or Chapter 3 (commencing with Section 41300), as applicable, and the household hazardous waste element originally prepared pursuant to Chapter 3.5 (commencing with Section 41500) to reflect all diversion programs that the jurisdiction is implementing as of January 1, 2008. This update shall include all programs set forth in its source reduction and recycling element and household hazardous waste element, any amendments, revisions, or updates to the element, and any programs set forth in any time extensions, alternative

diversion requirements, or compliance orders that were being implemented or planned to be implemented as of January 1, 2008.

(b) Each jurisdiction shall prepare an update of its nondisposal facility element originally prepared pursuant to Chapter 4.5 (commencing with Section 41730) to reflect all nondisposal facilities that the jurisdiction is utilizing or is planning to utilize in implementing its diversion programs to comply with Section 41780 as of January 1, 2008.

(c) The updates required in this section are not subject to any requirements of this part that require the providing of public notice, comment and review by the task force, or the conduct of a local public hearing.

(d) The update required by this section shall be submitted to the board in accordance with the following schedule:

(1) On or before April 1, 2008, if the jurisdiction's name begins with the letters A to G, inclusive.

(2) On or before July 1, 2008, if the jurisdiction's name begins with the letters H to O, inclusive.

(3) On or before September 1, 2008, if the jurisdiction's name begins with the letters P to Z, inclusive.

*(e) The board shall presume that an update submitted pursuant to this section meets the requirements of this section, unless the board determines that the update does not contain all of the information required by this section. If the board determines that a jurisdiction's update is deficient, the board shall notify the jurisdiction of the deficiencies it has identified within 60 days and the jurisdiction shall submit a new update within 30 days. If a jurisdiction does not resubmit an adequate initial update electronically, the board may utilize the procedures set forth in Sections 41810, 41810.1, 41811, 41812 and 41813. See **General Comment #2***

(f) Notwithstanding the Uniform Electronic Transactions Act, the jurisdiction shall submit the programmatic or nondisposal facility update electronically to the board using the board's electronic reporting format system.

41774. (a) If a jurisdiction determines that it needs to expand or add programs, (how about if a jurisdiction wants to delete a program? e.g. eliminating a curbside in favor of a MRF utilization....use of greenwaste for composting instead of its use as ADC, etc, etc) or utilize additional nondisposal facilities, beyond those included in the update, required by section 41773, to maintain the countywide total base tonnage of solid waste disposed the jurisdiction shall provide a programmatic or nondisposal facility update of its source reduction and recycling element, ~~and~~ household hazardous waste element, and nondisposal facility element to the board.

(b) The jurisdiction's determination regarding the need for the expansion or addition of programs, or to utilize additional nondisposal facilities, shall be made in accordance with the applicable local processes used in the jurisdiction, but is not subject to any requirements of this part that requires the providing of public notice, comments and review by the task force, or the conduct of a local public hearing.

(c) A jurisdiction may submit to the board a voluntary programmatic or nondisposal facility update at any time.

*(d) The board shall acknowledge the receipt of a programmatic update submitted by the jurisdiction, but shall not review and approve the update at the time of submittal. The board shall evaluate any expanded or additional programs submitted only as part of the biennial review. **What if a jurisdiction wants to eliminate or make a change in one of its waste diversion program?***

(e) The addition of a nondisposal facility update shall be approved by the board in accordance with Section 41800.

(f) Notwithstanding the Uniform Electronic Transactions Act, the jurisdiction shall submit the programmatic or nondisposal facility update electronically to the board using the board's electronic reporting format system.

Chapter 6. Planning Requirements

ARTICLE 1. WASTE DIVERSION

41780. (a) Commencing with January 1, 2008, each jurisdiction shall adequately implement the diversion programs set forth in its source reduction and recycling element and household hazardous waste element, including any amendments, revisions, or updates to the element, and any programs set forth in any time extensions, alternative diversion requirements, or compliance orders approved pursuant to this part. **See General Comment # 1 and those listed in Section 41774.**

(b) The diversion programs in the source reduction and recycling element shall be designed to maintain the countywide or regionwide total base tonnage of solid waste disposed by all jurisdictions in the county or multi-county multi-county regional agency, as compared to the base tonnage year and these programs shall be adequate to accomplish this purpose consistent with Section 40051.

(c) The Board, in consultation with jurisdiction and after conducting a minimum of two public meetings, one in the Northern California and one in the Southern California, shall develop criteria for determining if a county has met the requirements of subdivision (b) and include them in a revision of the board's enforcement policy adopted and amended pursuant to Section 41850.

(1) The enforcement policy shall be revised in the same manner in which it was adopted and subsequently revised, after consultation with jurisdictions, and at a public hearing.

(2) The criteria ~~may~~ shall include, but is not limited to, consideration of factors such as increase in population, economic growth, and per capita disposal rates.

(a) Each city or county source reduction and recycling element shall include an implementation schedule that shows both of the following:

(1) For the initial element, the city or county shall divert 25 percent of all solid waste from landfill disposal or transformation by January 1, 1995, through source reduction, recycling, and composting activities.

(2) Except as provided in Sections 41783, 41784, and 41785, for the first and each subsequent revision of the element, the city or county shall divert 50 percent of all solid waste on and after January 1, 2000, through source reduction, recycling, and composting activities.

~~(b)~~ (d) Nothing in this part prohibits a ~~city or county~~ jurisdiction from implementing source reduction, recycling, and composting activities designed to exceed these requirements.

41780.1. (a) Notwithstanding any other requirement of this part, for the purposes of determining the amount of solid waste that a multi-county regional agency is required to divert from disposal or transformation through source reduction, recycling, and composting to meet the diversion requirements of Section 41780., the multi-county regional agency shall use the solid waste disposal projections in the source reduction and recycling elements of the multi-county regional agency's member agencies. The method prescribed in Section 41780.2 shall be used to determine the maximum amount of disposal allowable to meet the diversion requirements of Section 41780.

(b) Notwithstanding any other requirement of this part, for the purposes of determining the amount of solid waste that a city or county is required to divert from disposal or transformation through source reduction, recycling, and composting to meet the diversion requirements of Section 41780, the city or county shall use the solid waste disposal projections in the source reduction and recycling elements of the city or county. The method prescribed in Section 41780.2 shall be used to determine the maximum amount of disposal allowable to meet the diversion requirements of Section 41780.

(c) To determine achievement of the diversion requirements of Section 41780 in 1995 and in the year 2000, projections of disposal amounts from the source reduction and recycling elements shall be adjusted to reflect annual increases or decreases in population and other factors affecting the waste stream, as determined by the board. By January 1, 1994, the board shall study the factors which affect the generation and disposal of solid waste and shall develop a standard methodology and guidelines to be used by cities, counties, and multi-county regional agencies in adjusting disposal projections as required by this section.

(d) The amount of additional diversion required to be achieved by a multi-county regional agency to meet the diversion requirements of Section 41780 shall be equal to the sum of the diversion requirements of its member agencies. To determine the maximum amount of disposal allowable for the multi-county regional agency to meet the diversion requirements of Section 41780, the maximum amount of disposal allowable for each member agency shall be added together to yield the agency disposable maximum.

41780.2. (a) Each city, county, or member agency of a multi-county regional agency shall determine the amount of reduction in solid waste disposal and the amount of additional diversion required from the base year amounts by using the methods set forth in this section.

(b) The city, county, or member agency of a multi-county regional agency shall multiply the total amount of base year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.75 to determine the maximum amount of total disposal allowable in 1995 to meet the diversion requirements of Section 41780.

(c) The city, county, or member agency of a multi-county regional agency shall multiply the total amount of base year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.50 to determine the maximum amount of total disposal allowable in the year 2000 to meet the diversion requirements of Section 41780.

(d) The city, county, or member agency of a multi-county regional agency shall multiply the total amount of base year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.25 to determine the minimum amount of total diversion needed in the year 1995 to meet the diversion requirements of Section 41780.

(e) The city, county, or member agency of a multi-county regional agency shall multiply the total amount of base year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.50 to determine the minimum amount of total diversion needed in the year 2000 to meet the diversion requirements of Section 41780.

(f) The city, county, or member agency of a multi-county regional agency shall subtract the total amount of base year existing diversion from the minimum total diversion required as determined in subdivision (d) or (e) to determine the amount of additional diversion needed to meet the diversion requirements of Section 41780. This amount of additional diversion shall be equal to the minimum amount of additional reduction in disposal amounts which is needed to comply with Section 41780.

41781. (a) Except as provided in Sections 41781.1, and 41781.2, Pursuant to Section 41821.5(a) for the purpose of determining the countywide or multi-county regional agency tonnage base rate of solid waste from which diversion requirements shall be calculated, "solid waste" includes only the following:

(1) The total amount of solid waste generated within a local agency's jurisdiction, the types and quantities of which were disposed of at a permitted disposal facility by each jurisdiction within a county or multi-county regional agency during a calendar year, as of January 1, 1990. Nothing in this section requires local agencies to perform waste characterization in addition to the waste characterization requirements established under Sections 41030, 41031, 41330, 41331, and 41332.

(2) The board shall determine the base tonnage of solid waste disposed of in each county and each multi-county regional agency in the year 2006.

(3) The board shall determine the tonnage of solid waste disposed of in each county and each multi-county regional agency annually thereafter.

(2) The amount of solid waste diverted from a disposal facility or transformation facility through source reduction, recycling, or composting.

(b) For the purposes of this section, "solid waste" does not include:

(1) any solid waste which would not normally be disposed of at a disposal facility. **What does this mean and is subject to interpretation by every one. Suggest to delete.**

(2) The amount of solid waste diverted from a disposal facility or transformation facility through source reduction, recycling, or composting. **What about biomass facilities?**

(c) For the purposes of this chapter, the amount of solid waste from which the required reductions are measured shall be the amount of solid waste existing on January 1, 1990, with future adjustments for increases or decreases in the quantity of waste caused only by changes in population or changes in the number or size of governmental, industrial, or commercial operations in the jurisdiction.

41781.1. (a) Prior to determining that the diversion of sludge may be counted toward the diversion requirements established under Section 41780, but within 180 days of receiving such a request, the board shall do both of the following:

(1) Make a finding at a public hearing, based upon substantial evidence, that the sludge has been adequately analyzed and will not pose a threat to public health or the environment for the reuse which is proposed.

(A) Except as provided in subparagraph (B), prior to making the finding required to be made pursuant to this paragraph, the board shall consult with each of the following agencies, and obtain their concurrence in the finding, to the extent of each agency's jurisdiction over the sludge or its intended reuse:

(i) The state water board and the multi-county regional water boards;
 (ii) The State Department of Health Services;
 (iii) The State Air Resources Board and air pollution control districts and air quality management districts;

(iv) The Department of Toxic Substances Control.

(B) If, prior to the board making the finding required to be made pursuant to this paragraph, an agency specified in subparagraph (A) issues a permit, waste discharge requirements, or imposes other conditions for the reuse of sludge, the agency shall have been deemed to have concurred in that finding.

(2) Establish, or ensure that one or more of the agencies specified in subparagraph (A) of paragraph (1) establishes, ongoing monitoring requirements which ensure that the proposed sludge reuse does not pose a threat to health and safety or the environment.

(b) It is not the intent of this section to require the board, or the agencies listed in subparagraph (A) of paragraph (1) of subdivision (a), to impose additional requirements or approval procedures for sludge or sludge reuse applications, apart from the requirements and approval procedures already imposed by state and federal law. It is the intent of this section to require that the board determine that each sludge diversion, for which diversion credit is sought, meets all applicable requirements of state and federal law, and thereby provides for maximum protection of the public health and safety and the environment.

41781.2. (a) (1) It is the intent of the Legislature in enacting this section not to require cities, counties, and multi-county regional agencies to revise source reduction and recycling elements prior to their submittal to the board for review and approval, except as the elements would otherwise be required to be revised by the board pursuant to this part. Pursuant to Sections 41801.5 and 41811.5, compliance with this section shall be determined by the board when source reduction and recycling elements are submitted to the board pursuant to Section 41791.5. However, any city or county may choose to revise its source reduction and recycling element or any of its components prior to board review of the source reduction and recycling element for the purpose of complying with this section.

(2) It is further the intent of the Legislature in enacting this section to ensure that compliance with the diversion requirements of Section 41780 shall be accurately determined based upon a correlation between solid waste which was disposed of at permitted disposal facilities and diversion claims which are subsequently made for that solid waste.

(b) For the purposes of this section, the following terms have the following meaning:

(1) "Action by a city, county, multi-county regional, or local governing body" means franchise or contract conditions, rate or fee schedules, zoning or land use decisions, disposal facility permit conditions, or activities by a waste hauler, recycler, or disposal facility operator acting on behalf of a city, county, multi-county regional agency, or local governing body, or other action by the local governing body if the local government action is specifically related to the claimed diversion.

(2) "Scrap metal" includes ferrous metals, nonferrous metals, aluminum scrap, other metals, and auto bodies, but does not include aluminum cans, steel cans, or bimetal cans.

(3) "Inert solids" includes rock, concrete, brick, sand, soil, fines, asphalt, and unsorted construction and demolition waste.

(4) "Agricultural wastes" includes solid wastes of plant and animal origin, which result from the production and processing of farm or agricultural products, including manures, orchard and vineyard prunings, and crop residues, which are removed from the site of generation for solid waste management. Agriculture refers to SIC Codes 011 to 0291, inclusive.

(c) For purposes of determining the base amount of solid waste from which the diversion requirements of this article shall be calculated, "solid waste" does not include the diversion of agricultural wastes; inert solids, including inert solids used for structural fill; discarded, white-coated, major appliances, and scrap metals; unless all of the following criteria are met:

(1) The city, county, or multi-county regional agency demonstrates that the material was diverted from a permitted disposal facility through an action by the city, county, or multi-county regional agency which specifically resulted in the diversion.

(2) The city, county, or multi-county regional agency demonstrates that, prior to January 1, 1990, the solid waste which is claimed to have been diverted was disposed of at a permitted disposal facility in the quantity being claimed as diversion. If historical disposal data is not available, that demonstration may be based upon information available to the city, county, or multi-county regional agency which substantiates a reasonable estimate of disposal quantities which is as accurate as is feasible in the absence of historical disposal data.

(3) The city, county, or multi-county regional agency is implementing, and will continue to implement, source reduction, recycling, and composting programs, as described in its source reduction and recycling element.

(d) If a city, county, or multi-county regional agency source reduction and recycling element submitted pursuant to this chapter includes the diversion of any of the wastes specified in subdivision (e) for years preceding the year commencing January 1, 1990, that diversion shall not apply to the diversion requirements of Section 41780, unless the criteria in subdivision (e) are met.

(e) If a city, county, or multi-county regional agency source reduction and recycling element submitted pursuant to this chapter does not contain information sufficient for the city, county, or multi-county regional agency to demonstrate to the board whether the criteria in subdivision (e) have been met, the city, county, or multi-county regional agency may provide additional information following board review of the source reduction and recycling element pursuant to Section 41791.5. In providing the additional information, Sections 41801.5 and 41811.5 shall apply.

(f) In demonstrating whether the requirements of paragraph (1) of subdivision (e) have been met, the city, county, or multi-county regional agency shall submit information to the board on local government programs which are specifically related to the claimed diversion.

(g) Notwithstanding any other provision of law, for purposes of determining the base amount of solid waste from which the diversion requirements of this article shall be calculated for a city, county, or multi-county regional agency which includes biomass conversion in its source reduction and recycling element pursuant to Section 41783.1, the base amount shall include those materials disposed of in the base year at biomass conversion facilities.

41782. (a) The board may make adjustments to the amounts reported pursuant to subdivisions (a) and (c) of Section 41821.5, if the city, county, or multi-county regional agency demonstrates, and the board concurs, based on substantial evidence in the record, that achievement of the **diversion** requirements of Section 41780 is not feasible due to either of the following circumstances:

(1) A medical waste treatment facility, as defined in subdivision (a) of Section 25025 of the Health and Safety Code, accepts untreated medical waste, which was generated outside of the jurisdiction, for purposes of treatment, and the medical waste, when treated, becomes solid waste.

(2) (A) A multi-county regional diversion facility within the jurisdiction accepts material generated outside the jurisdiction and the conversion or processing of that material results in the production of residual solid waste that cannot feasibly be diverted. Any adjustment provided pursuant to this paragraph shall apply only to that portion of the residual solid waste produced as a consequence of processing material that is not subject to the reporting requirements of subdivisions (a) and (c) of Section 41821.5 and that cannot feasibly be allocated to the originating jurisdiction.

(B) For purposes of granting the reduction specified in subparagraph (A) and for the purpose of calculating compliance with the **diversion** requirements of Section 41780, "multi-county regional diversion facility" means a facility which meets all of the following criteria:

(1) The facility accepts material for recycling from both within and without the jurisdiction of the city or county within which it is located.

(2) All material accepted by the facility has been source-separated for the purpose of being processed prior to its arrival at the facility.

(3) The residual solid waste generated by the facility is a byproduct of the recycling that takes place at the facility.

(4) The facility is not a solid waste facility or solid waste handling operation pursuant to Section 43020.

(5) The facility contributes to multi-county regional efforts to divert solid waste from disposal.

(b) If the board makes an adjustment pursuant to subdivision (a), the annual report required pursuant to Section 41821 by the jurisdiction, within which a medical waste treatment facility or multi-county regional diversion facility described in subdivision (a) is located, shall include all of the following information:

(1) The total amount of residual solid waste produced at the facility.

(2) The waste types and amounts in the residual solid waste that cannot feasibly be diverted.

(3) The factors that continue to prevent the waste types from being feasibly diverted.

(4) Any changes since the petition for adjustment was granted or since the last annual report.

(5) The additional efforts undertaken by the jurisdiction to divert the waste produced at the facility.

(c) Based upon the information submitted pursuant to subdivision (b), if the board finds, as part of the biennial review pursuant to Section 41825, that the residual solid waste that previously could not be

diverted can now be diverted, the board shall rescind the adjustment commensurate with the amount of diversion of the residual tonnages.

(d) It is not the intent of the Legislature to exempt any solid waste facility or handling operation from periodic tracking and the reporting of disposal tonnages in accordance with the regulations adopted by the board pursuant to subdivisions (a) and (c) of Section 41821.5, or from the permitting requirements pursuant to Section 43020.

41783. For any city, county, or multi-county regional agency source reduction and recycling element submitted to the board after January 1, 1995, the 50 percent diversion *A county or multi-county regional agency may utilize transformation as a method to meet the requirements specified in paragraph (2) of subdivision (a) of Section 41780. The amount of solid waste sent to transformation, as defined in Section 40201, that may be subtracted from the tonnage of solid waste disposed, as determined pursuant to Section 41781, shall may include not exceed more than 10 percent (Should this be increased to 20% based on the current law using generation-based measurement?) of the tonnage of solid waste disposed, through transformation, as defined in Section 40201, if* all of the following conditions are met:

(a) The transformation project is in compliance with Sections 21151.1 and 44150 of this code and Section 42315 of the Health and Safety Code.

(b) The transformation project uses front-end methods or programs to remove all recyclable materials from the waste stream prior to transformation to the maximum extent feasible.

(c) The ash or other residue generated from the transformation project is routinely tested at least once quarterly, or on a more frequent basis as determined by the agency responsible for regulating the testing and disposal of the ash or residue, and, notwithstanding Section 25143.5 of the Health and Safety Code, if hazardous wastes are present the ash or residue is sent to a class 1 hazardous waste disposal facility.

(d) *The board holds a public hearing in the city, county, or multi-county regional agency jurisdiction within which the transformation project is proposed, and, after the public hearing, the board makes both of the following findings, based upon substantial evidence on the record:*

(1) *The city, county, or jurisdictions within the county or multi-county regional agency is are,* and will continue to be effectively implementing all feasible source reduction, recycling, and composting measures.

(2) The transformation project will not adversely affect public health and safety or the environment.

(e) The transformation facility is permitted and operational on or before January 1, 1995.

(f) *The city, county, or multi-county regional agency does not include subtract biomass conversion, as authorized pursuant to Section 41783, from its tonnage of solid waste disposed as determined pursuant to Section 41781, in its source reduction and recycling element.*

41783.1 (a) *For any city, county, or multi-county regional agency source reduction and recycling element submitted to the board after January 1, 1995, the 50 percent diversion A county or multi-county regional agency may utilize biomass conversion as a method to meet the requirements specified in paragraph (2) of subdivision (a) of Section 41780. The amount of solid waste sent to biomass conversion, as defined in Section 40106, that may be subtracted from the tonnage of solid waste disposed, as determined pursuant to Section 41781, shall may include not exceed more than 10 percent (Should this be 20% based on current law using generation-based measurement?) of the tonnage of solid waste disposed, through biomass conversion if* all of the following conditions are met:

(1) The biomass conversion project exclusively processes biomass.

(2) The biomass conversion project is in compliance with all applicable air quality laws, rules, and regulations.

(3) The ash or other residue from the biomass conversion project is regularly tested to determine if it is hazardous waste and, if it is determined to be hazardous waste, the ash or other residue is sent to a class 1 hazardous waste disposal facility.

(4) *The board determines, at a public hearing, based upon substantial evidence in the record, that the city, jurisdictions within the county, or multi-county regional agency are is,* and will continue to be, effectively implementing all feasible source reduction, recycling, and composting measures.

(5) *The city, county, or multi-county regional agency does not include subtract transformation, as authorized pursuant to Section 41783, from its tonnage of solid waste disposed as determined pursuant to Section 41781, in its source reduction and recycling element.*

41784. If the board determines that a city or county jurisdiction's source reduction and recycling element submitted after January 1, 1995, will not achieve the 50 percent requirement established under Section 41780, and the city or county jurisdiction chooses not to use a transformation project to achieve the 50 percent requirement, the board shall not require the city or county jurisdiction to achieve the 50 percent diversion requirement through transformation, or impose any penalty on the city or county jurisdiction to compel the city or county jurisdiction to achieve the 50 percent requirement through transformation.

41785. (a) On and after January 1, 1995, and upon the request of a city or county, the board may establish an alternative source reduction, recycling, and composting requirement to the 50 percent requirement established under Section 41780, not to exceed three years unless another alternative requirement is granted by the board, if the board holds a public hearing and makes both of the following findings based upon substantial evidence on the record:

(1) The city or county has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its board approved source reduction and recycling element and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board and the city or county has been unable to meet the 50 percent diversion requirement despite implementing those measures.

(2) The alternative source reduction, recycling, and composting requirement represents the greatest diversion amount that the city or county may reasonably and feasibly achieve.

(b) In making the decision whether to grant an alternative requirement pursuant to subdivision (a) and in determining the amount of the alternative requirement, the board shall consider circumstances in the city or county that support the request for an alternative requirement, such as waste disposal patterns within the city or county and the types of residential and nonresidential waste disposed by the city or county. The city or county may provide the board with any additional information that the city or county determines to be necessary to demonstrate to the board the need for the alternative requirement.

(c) If a city or county that requests an alternative source reduction and recycling requirement to the 50 percent requirement has not previously requested an extension pursuant to Section 41820, the city or county shall provide information to the board that explains why it has not requested an extension.

(d) A city or county that has previously been granted an alternative source reduction, recycling, and composting requirement may request another alternative source reduction, recycling, and composting requirement. A city or county that requests such another alternative requirement shall provide information to the board that demonstrates that the circumstances that supported the previous alternative source reduction, recycling, and composting requirement continue to exist or shall provide information to the board that describes changes in those previous circumstances that support another alternative source reduction, recycling, and composting requirement. The board shall review the original circumstances that supported the city or county's request, as well as any new information provided by the city or county that describes the current circumstances, to determine whether to grant another alternative requirement. The board may approve another alternative requirement if the board holds a public hearing and makes both of the following findings based upon substantial evidence in the record:

(1) The city or county has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its board approved source reduction and recycling element and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board.

(2) The alternative source reduction, recycling, and composting requirement represents the greatest diversion amount the city or county may reasonably and feasibly achieve.

(e) If the board establishes a new alternative requirement or rescinds the existing alternative requirement, the board shall do so at a public hearing. If the board establishes an alternative requirement, it shall make both of the following findings based upon substantial evidence in the record:

(1) The city or county has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its board approved source reduction and recycling element and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board and that the alternative diversion requirement is no longer appropriate.

(2) The new requirement represents the greatest amount of diversion that the city or county may reasonably and feasibly achieve.

(f) (1) No single alternative requirement may be granted for a period that exceeds three years and, if after the granting of the original alternative requirement, another alternative requirement is granted, the combined period that the original and the new alternative requirement is in force and effect shall not exceed a total of five years.

(2) Any alternative requirement that is granted prior to January 1, 2000, shall become effective on January 1, 2000. The board shall require any city or county granted an alternative requirement prior to January 1, 2000, to comply with this section after the date that the alternative requirement is granted.

(3) No alternative requirement shall be granted for any period after January 1, 2006, and no alternative requirement shall be effective after January 1, 2006.

(4) No city or county shall be granted an alternative requirement if the city or county has failed to meet, on or before July 1, 1998, the applicable requirements of Chapter 2 (commencing with Section 41000), Chapter 3 (commencing with Section 41300), Chapter 3.5 (commencing with Section 41500), and Chapter 4.5 (commencing with Section 41730).

(g) (1) When considering a request for an alternative source reduction, recycling, and composting requirement, the board may make specific recommendations for the implementation of alternative programs.

(2) Nothing in this section precludes the board from disapproving any request for an alternative requirement.

(3) If the board disapproves a request for an alternative requirement, the board shall specify its reasons for disapproval.

(h) If the board grants an alternative source reduction, recycling, and composting requirement, the city or county may request technical assistance from the board to assist it in meeting the alternative source reduction, recycling, and composting requirement. If requested by the city or county, the board shall assist with identifying model policies and programs implemented by other jurisdictions of similar size, geography, and demographic mix.

(i) A city or county that is granted an alternative requirement pursuant to this section shall continue to implement source reduction, recycling, and composting programs, and shall report the status of those programs in the report required pursuant to Section 41821.

(j) This section shall remain in effect until January 1, 2006, and as of that date is repealed.

41786. (a) Notwithstanding Section 41780, the board may ~~reduce~~ modify the ~~diversion~~ requirements specified in Section 41780 for any city or county which, on or before January 1, 1990, disposed of 75 percent or more of its solid waste, collected by the jurisdiction or its authorized agents or contractors, by transformation if either of the following conditions exist:

(1) The attainment of the ~~25 percent or 50 percent diversion~~ requirements specified in Section 41780 will result in substantial impairment of the obligations of one or more contracts in existence on January 1, 1990, for the city or county to furnish solid waste for fuel. A substantial impairment of obligations includes, but is not limited to, instances where a city has entered into a contract or franchise for 20 or more years with a joint powers authority for the operation of a transformation facility, and meeting the ~~diversion~~ requirements of Section 41780 may increase the city's costs by 15 percent or more.

(2) The attainment of the ~~25 percent or 50 percent diversion~~ requirements specified in Section 41780 will substantially interfere with the repayment of debt incurred to finance or refinance the transformation project, if the refinancing is done for the purpose of reducing debt service and not for the expansion of the transformation project.

(b) If the board ~~reduces~~ modifies the ~~diversion~~ requirements for a city or county pursuant to subdivision (a), the board shall establish new ~~diversion~~ requirements which require the maximum feasible amount of source reduction, recycling, and composting but which will not result in the conditions described in paragraphs (1) and (2) of subdivision (a).

ARTICLE 1.5. RURAL ASSISTANCE

41786.5. The Legislature declares and finds that:

(a) There are inherent difficulties associated with obtaining accurate waste disposal data for rural cities and counties.

(b) Small and rural cities and counties have limited resources to correct and document disposal inaccuracies.

(c) Waste disposal from rural jurisdictions represents less than 5% of the State's total waste volume.

(d) Rural jurisdictions should be allowed to demonstrate compliance with the requirements of section 41780 based on local program implementation. Focusing on program implementation is a more effective use of the resources of these jurisdictions and the board's than a focus on obtaining accurate disposal documentation. The biennial review set forth in section 41825 is intended to foster the focus on programs for rural jurisdictions.

41787. (a) (1) The board may reduce the ~~diversion~~ planning requirements of ~~Section 41780~~ this Part for a rural city if the rural city demonstrates, and the board concurs, based on substantial evidence in the record, that those reductions would not interfere with the rural city's achievement of the diversion requirements of Section 41780. ~~is not feasible due to both of the following conditions:~~

(A) ~~The small geographic size or low population density of the rural city.~~

(B) ~~The small quantity of solid waste generated within the rural city.~~

(2) The board may reduce the ~~diversion~~ planning requirements of this Part ~~Section 41780~~ for the unincorporated area of a rural county if the rural county demonstrates, and the board concurs, based on substantial evidence in the record, that those reductions would not interfere with the rural county's achievement of the diversion requirements of Section 41780. ~~is not feasible due to both of the following conditions:~~

(A) ~~The large geographic size or low population density of the rural county.~~

(B) ~~The small quantity of solid waste generated within the rural county.~~

(3) The board may grant a reduction in ~~diversion~~ requirements pursuant to this subdivision only if the rural city or the rural county demonstrates to the board, and the board concurs, based on substantial evidence in the record, that it has, at a minimum, implemented all of the following programs:

(A) A source reduction and recycling program designed to handle the predominant classes and types of solid waste generated within the rural city or rural county.

(B) A public sector diversion and procurement program.

(C) A public information and education program.

(b) If, as part of the review performed pursuant to Section 41825, the board finds that a rural city or a rural county, which previously qualified for a reduction in ~~diversion~~ planning requirements pursuant to subdivision (a), is no longer eligible for that reduction, the board shall issue an order requiring the rural city or rural county to comply with the ~~diversion~~ planning requirements of this Part ~~Section 41780~~.

41787.1. (a) Rural cities and rural counties may join to form rural multi-county regional agencies pursuant to Article 3 (commencing with Section 40970) of Chapter 1.

(b) A rural multi-county regional agency, and not the rural cities or rural counties which are member jurisdictions of the rural multi-county regional agency, may be responsible for compliance with Article 1 (commencing with Section 41780) of Chapter 6 if specified in the agreement pursuant to which the rural multi-county regional agency is formed.

(c) (1) The board may ~~reduce~~ modify the ~~diversion~~ planning requirements of ~~Section 41780~~ this Part for a rural multi-county regional agency, if the rural multi-county regional agency demonstrates, and the board concurs, based on substantial evidence in the record, that those reductions would not interfere with the rural multi-county regional agency's achievement of the diversion requirements of section 41780. ~~is not feasible because adverse market or economic conditions beyond the control of the rural multi-county regional agency prevent it from meeting the requirements of Section 41780.~~

(2) Before a rural regional agency may be granted a ~~reduction~~ modification in ~~diversion~~ planning requirements pursuant to paragraph (1), it shall demonstrate that, at a minimum, it has established all of the following regionwide programs:

(A) A source reduction and recycling program or programs designed to handle the predominant classes and types of solid waste generated within the rural multi-county regional agency.

(B) A multi-county regional diversion and procurement program or programs.

(C) A multi-county regional public information and education program or programs.

(d) (1) Notwithstanding Section 40974, any civil penalty imposed on a rural multi-county regional agency by the board pursuant to Section 41813 or 41850 shall be imposed only on a member rural city or county that is in violation of this division as a city or county irrespective of its membership in the rural multi-county regional agency. If a rural multi-county regional agency elects to apportion penalties pursuant to this subdivision, the member jurisdiction to that rural multi-county regional agency shall, as a condition of the agreement establishing the rural multi-county regional agency, be required to account on an individual jurisdictional basis for their compliance with the ~~diversion~~ requirements of Section 41780, as prescribed by Section 41780.2.

(2) In determining whether to impose a penalty on a member of a rural multi-county regional agency pursuant to this subdivision, the board may consider all of the following:

(A) The relevant circumstances that resulted in the agency's failure to achieve the ~~diversion~~ requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, and whether the member contributed to the circumstances that resulted in the failure to achieve the ~~diversion~~ requirements.

(B) Whether the agency's joint powers agreement specifies that all liability for fines and penalties rests with the member, with no liability assigned to the agency.

(C) Whether the imposition of penalties on members and not on the agency would provide for flexibility that would allow the agency to resolve the problem that is preventing the members from meeting the diversion requirements.

(D) Limiting penalties to a maximum of ten thousand dollars (\$10,000) per day if a member's failure does not cause other members or the agency to fail to implement programs in the agency's source reduction and recycling element.

41787.2. (a) A rural city or a rural county, which has received, or is eligible for, a reduction in diversion requirements pursuant to Section 41787, may become a member of a rural multi-county regional agency for the purpose of complying with the diversion requirements of Section 41780, in which case the region's maximum disposal tonnage allowable shall be calculated as follows:

(1) Determining the multi-county regional maximum disposal tonnage allowable, excluding members with reduced diversion requirements;

(2) Determining the maximum disposal tonnage allowable for those members authorized to meet reduced diversion requirements;

(3) Adding the calculated maximum disposal tonnages determined pursuant to paragraphs (1) and (2) to determine the multi-county regional maximum disposal tonnage allowable.

(b) (1) A rural multi-county regional agency may not assume responsibility for compliance with diversion requirements upon formation pursuant to subdivision (b) of Section 41787.1, and for compliance with Article 1 (commencing with Section 41780), if the rural multi-county regional agency is comprised of more than two rural counties, unless authorized by the board pursuant to paragraph (2).

(2) The board may authorize the assumption of responsibility for compliance with the diversion requirements by a rural multi-county regional agency upon formation, which is comprised of more than two rural counties, if the board finds that the rural multi-county regional agency's assumption of responsibility will not adversely affect compliance with this part.

41787.4. Notwithstanding Section 41820, the board may grant a two year time extension from the diversion requirements of Section 41780 to a rural city, rural county, or rural multi-county regional agency if all of the following conditions are met:

(a) The board adopts written findings, based on substantial evidence in the record, that adverse market or economic conditions beyond the control of the rural city, rural county, or rural multi-county regional agency prevent the rural city, rural county, or rural multi-county regional agency from meeting the diversion requirements.

(b) The rural city, rural county, or rural multi-county regional agency submits a plan of correction that demonstrates how it will meet the diversion requirements before the time extension expires, which includes the source reduction, recycling, and composting programs it will implement and states how those programs will be funded.

(c) The rural city, rural county, or rural multi-county regional agency demonstrates that it is achieving the maximum feasible amount of source reduction, recycling, or composting of solid waste within its jurisdiction.

ARTICLE 2. BOARD REVIEW

41791. (a) If any city or county has less than eight years of remaining disposal site capacity, the countywide integrated waste management plan shall be submitted to the board within 12 months after the Office of Administrative Law formally approves regulations for the preparation of countywide siting elements and countywide integrated waste management plans pursuant to Section 11349.3 of the Government Code.

(b) If any city or county has eight or more years of remaining disposal capacity, the countywide integrated waste management plan shall be submitted to the board within 18 months after the Office of Administrative Law formally approves regulations for the preparation of countywide siting elements and countywide integrated waste management plans pursuant to Section 11349.3 of the Government Code.

(c) A multi-county regional agency integrated waste management plan shall be submitted to the board within 18 months after the Office of Administrative Law formally approves regulations for the preparation of countywide siting elements and countywide integrated waste management plans pursuant to Section 11349.3 of the Government Code.

41791.1. In reviewing, commenting upon, and approving or disapproving integrated waste management plans **{this has been eliminated pursuant to the new Subdivision 41770(a). Also what about the Summary Plan}** and the elements thereof, the board shall take into account both of the following:

(a) The shared responsibility which exists under law between the board and local agencies for activities such as the development of markets for materials diverted from disposal facilities, public education and information, and source reduction.

(b) The importance of promoting multi-county regional cooperation among local agencies, and cooperation between local agencies and the board in achieving the objectives of this division, to the extent that cooperation will result in more cost-effective and efficient implementation of this division.

41791.2. In reviewing, commenting upon, and approving or disapproving integrated waste management plans **(see comments shown in Section 41791.2)** and the elements thereof, the board shall assist local agencies, to the extent that local agencies request this assistance within the same region, in developing multi-county regional cooperative approaches to source reduction, public information and education, and market development, if the approaches result in more efficient and cost-effective implementation of this division.

41791.5 ~~(a)(1) Notwithstanding Section 41791, and except as provided in subdivision (b), each city, county, and multi county regional agency shall submit its source reduction and recycling element and its nondisposal facility element to the board in accordance with the following schedule:~~

~~(A) For any jurisdiction with less than eight years of remaining disposal site capacity, the source reduction and recycling element and the nondisposal facility element shall be submitted on or before April 30, 1994.~~

~~(B) For any jurisdiction with eight or more years, but less than 15 years, of remaining disposal site capacity, the source reduction and recycling element and the nondisposal facility element shall be submitted on or before August 31, 1994.~~

~~(C) For any jurisdiction with 15 or more years of remaining disposal site capacity, the source reduction and recycling element and the nondisposal facility element shall be submitted on or before December 31, 1994.~~

~~(2) For purposes of this section, "remaining disposal site capacity" means capacity remaining as of January 1, 1990. For each jurisdiction, disposal site capacity shall be deemed to be the countywide permitted disposal site capacity.~~

~~(3) Notwithstanding Section 41791, a county or multi county regional agency that has adopted a countywide or multi county regional agency integrated waste management plan may submit the plan and its elements to the board for review and approval pursuant to the schedule set forth in paragraph (1).~~

~~(b) A city which is incorporated on or after January 1, 2008 ~~1990~~, shall submit a source reduction and recycling element, a household hazardous waste element, and a nondisposal facility element to the board for approval within 18 months from the date that the city was incorporated or within 18 months of the effective date of this section, whichever is later. The jurisdiction shall hold at least one public hearing before approving its source reduction and recycling element, household hazardous waste element, and nondisposal facility element. **For this particular case, the local task force need to be provided with an opportunity to review and comment on the proposed document within the 30 days of the submittal to them.**~~

~~41792. It is the intent of the Legislature, in enacting this part, that cities and counties shall commence efforts to implement source reduction, recycling, or composting activities immediately upon enactment of this part, in order to achieve the deadlines specified under this chapter.~~

~~41794. Any city may submit its city source reduction and recycling element or nondisposal facility element to the board for review before the dates in the schedule in Section 41791.5.~~

Chapter 7. Approval of Local Planning

ARTICLE 1. BOARD APPROVAL

41801. Before approving or conditionally approving a countywide or multi-county regional integrated waste management plan **{See revisions to Subdivision 41770(a)....confusing!}**, or any element of the plan, pursuant to Section 41800, the board shall adopt written findings, based on substantial evidence in the record, that implementing the plan or element will achieve the requirements established pursuant to this part, including the **diversion** requirements of Section 41780.

41801.5. (a) If an element submitted to the board for final review includes the diversion of any solid wastes specified in subdivision (c) of Section 41781.2 for years preceding the year commencing January 1, 1990, and the board is unable to determine whether the requirements of Section 41781.2 have been met, the board shall notify the city, county, or multi-county regional agency that the diversion is excluded for purposes of calculating compliance with Section 41780. The board shall notify the city, county, or multi-county regional agency of the exclusion within 60 days from the date of receipt of the element for final review. If an element has been submitted to the board for final review prior to January 1, 1993, the board shall notify the submitting city, county, or multi-county regional agency of the exclusion on or before March 1, 1993.

(b) The notice shall be based upon a summary review undertaken solely for the purpose of determining whether the source reduction and recycling element includes any diversion of wastes excluded by Section 41781.2, and whether the element contains information sufficient for the board to determine whether the requirements of that section have been met. The summary review and notice shall be undertaken by the board concurrent with the board's review and approval, conditional approval, or disapproval of source reduction and recycling elements pursuant to Section 41800.

(c) The board shall approve or conditionally approve the source reduction and recycling element, if wastes have been excluded pursuant to Section 41781.2, if the board finds, pursuant to Section 41801, that, notwithstanding that exclusion, the element will achieve the requirements established pursuant to this part, including the diversion requirements of Section 41780.

(d) If the source reduction and recycling element is approved or conditionally approved pursuant to this section, the city, county, or multi-county regional agency shall revise the element to reflect the excluded wastes and shall submit any such revisions to the board pursuant to Section 41822.

ARTICLE 2. DEFICIENCIES

41810.1. (a) Any city, county, or multi-county regional agency which receives a notice of conditional approval for a countywide or multi-county regional integrated waste management plan, or any element of the plan, pursuant to subdivision (a) of Section 41810, shall, within 60 days from the date of receipt of the notice of conditional approval, submit a compliance schedule to the board that demonstrates how the **city, county, or multi-county regional agency jurisdiction** will correct the deficiencies identified in the notice of conditional approval by the earliest feasible date, but in no event shall that correction take longer to make than one year from the date of submission of the compliance schedule.

(b) The board shall approve or disapprove a compliance schedule submitted pursuant to subdivision (a) within 60 days from the date of its receipt of the schedule.

(c) If the board determines, based on substantial evidence in the record, that a **city, county, or multi-county regional agency jurisdiction** is not in compliance with a compliance schedule approved pursuant to subdivision (b), the board may revoke the notice of conditional approval, and shall issue a notice of deficiency pursuant to subdivision (b) of Section 41810.

(d) It is the intent of the Legislature that a notice of conditional approval shall provide flexibility for a **city, county, or multi-county regional agency jurisdiction** to make substantial progress towards meeting the requirements of this part while ensuring full compliance with this part at the earliest feasible date.

41811. Within 120 days of receipt of the notice of deficiency issued pursuant to Section 41810, the **city or county jurisdiction** shall correct the deficiencies, readopt, and resubmit the **city** source reduction and recycling element or the countywide integrated waste management plan to the board.

41811.5. (a) If the board disapproves an element for which a city, county, or multi-county regional agency has received a notification of excluded wastes pursuant to Section 41801.5, the city, county, or multi-county regional agency may, concurrent with the procedures specified in Section 41811, submit additional information to substantiate that the requirements of Section 41781.2 have been met. The additional information shall be submitted to the board within 60 days of disapproval of the element.

(b) Following the receipt of additional information pursuant to subdivision (a) the board shall determine, within 60 days, whether all, or a portion of, the excluded waste will be included in the source reduction and recycling element for purposes of calculating compliance with Section 41780.

(c) Based upon the board's determination pursuant to subdivision (b), the city, county, or multi-county regional agency shall revise its source reduction and recycling element to correct any deficiencies resulting from the exclusion of wastes pursuant to Section 41781.2, and shall resubmit the element to the board. The element shall be resubmitted within 120 days of a board determination pursuant to subdivision (b). Notwithstanding Section 41811, if an element is disapproved pursuant to Section 41800, and the notice of deficiency issued pursuant to Section 41810 identifies reasons for disapproval, including, but not limited to, noncompliance with Section 41781.2, the city, county, or multi-county regional agency shall correct all deficiencies, and readopt and resubmit the element to the board pursuant to the requirements of this section.

(d) In revising the source reduction and recycling element to address deficiencies arising from noncompliance with Section 41781.2, a city, county, or multi-county regional agency may limit the revisions to an identification and description of the specific measures that will be undertaken to achieve compliance with Section 41780.

(e) If a city, county, or multi-county regional agency is unable to resubmit the source reduction and recycling element within 120 days, the board may, on a case by case basis, extend the deadline imposed by subdivision (c) for submittal of a revised element.

41812. If the board determines that the revised city, county, or multi-county regional agency source reduction and recycling element or the countywide or multi-county regional agency integrated waste management plan submitted pursuant to Section 41811 or 41811.5 still fails to meet the requirements of this part, the board shall conduct a public hearing for the purpose of hearing testimony on the plan or element and the deficiencies identified by the board.

ARTICLE 3. OTHER PROVISIONS

41820. (a) The board may grant one or more, single, or multiyear time extension from the requirements of paragraph (2) of subdivision (a) of Section 41780 to any city, county, or multi-county regional agency if the following conditions are met:

(1) Any multiyear extension that is granted does not exceed three years and a city, county, or multi-county regional agency is not granted extensions that exceed a total of five years.

(2) Any extension granted prior to January 1, 2000, commences on January 1, 2000. The board shall require that any city, county, or multi-county regional agency granted an extension prior to January 1, 2000, complies with this section after the date that the extension is granted.

(3) No extension is granted for any period after January 1, 2006, and no extension is effective after January 1, 2006.

(4) The board considers the extent to which a city, county, or multi-county regional agency complied with its plan of correction before considering another extension.

(5) No city, county, or multi-county regional agency is granted an extension if that city, county, or multi-county regional agency failed to meet the applicable requirements of Chapter 2 (commencing with Section 41000), Chapter 3 (commencing with Section 41300), Chapter 3.5 (commencing with Section 41500), and Chapter 4.5 (commencing with Section 41730).

(6) The board adopts written findings, based upon substantial evidence in the record as follows:

(A) The city, county, or multi-county regional agency is making a good faith effort to implement the source reduction, recycling, and composting programs identified in its source reduction and recycling element.

(B) The city, county, or multi-county regional agency submits a plan of correction that demonstrates that the city, county, or multi-county regional agency will meet the requirements of paragraph (2) of subdivision (a) of Section 41780 before the time extension expires, includes the source reduction, recycling, or composting steps the city, county, or multi-county regional agency will implement, a date prior to the expiration of the time extension when the requirements of paragraph (2) of subdivision (a) of Section 41780 will be met, existing programs it will modify, any new programs that will be implemented to meet those requirements, and the means by which these programs will be funded.

(b) (1) When considering a request for an extension, the board may make specific recommendations for the implementation of alternative programs.

(2) Nothing in this section shall preclude the board from disapproving any request for an extension.

(3) If the board disapproves a request for an extension, the board shall specify its reasons for the disapproval.

(c) (1) In determining whether to grant the request by a city, county, or multi-county regional agency for the time extension authorized by subdivision (a), the board shall consider information provided by the city, county, or multi-county regional agency that describes relevant circumstances in the city, county, or multi-county regional agency that contributed to the request for extension, such as lack of markets for recycled materials, local efforts to implement source reduction, recycling, and composting programs, facilities built or planned, waste disposal patterns within the jurisdiction, and the type of residential and nonresidential waste disposed by the city, county, or multi-county regional agency.

(2) The city, county, or multi-county regional agency may provide the board with any additional information that the jurisdiction determines to be necessary to demonstrate to the board the need for the extension.

(d) If the board grants a time extension pursuant to subdivision (a), the city, county, or multi-county regional agency may request technical assistance from the board to assist it in meeting the diversion requirements of paragraph (2) of subdivision (a) of Section 41780 during the extension period. If requested by the city, county, or multi-county regional agency, the board shall assist the city, county, or multi-county regional agency with identifying model policies and programs implemented by other jurisdictions of similar size, geography, and demographic mix.

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed.

41820.5. (a) In addition to its authority under Section 41820, the board may, after a public hearing, grant a time extension from the diversion requirements of Section 41780 to a city if both of the following conditions exist:

(1) The city was incorporated pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code after January 1, 1990, and before January 1, 2001.

(2) The county within which the city is located did not include provisions in its franchises that ensured that the now-incorporated area would comply with the diversion requirements of Section 41780.

(b) The board may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows both of the following:

(1) The city shall divert 25 percent of its estimated generation amount of solid waste from landfill or transformation facilities within three years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

(2) The city shall divert 50 percent of its estimated generation amount of solid waste from landfill or transformation facilities within eight years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

41820.6. (a) In addition to its authority under Section 41820, the board may, after a public hearing, grant a time extension from the diversion requirements of Section 41780 to a city if both of the following conditions exist:

(1) The city was incorporated pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code on or after January 1, 2001.

(2) The county within which the city is located did not include provisions in its franchises that ensured that the now-incorporated area would comply with the diversion requirements of Section 41780.

(b) The board may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows that the city shall divert 50 percent of its estimated generation amount of solid waste from landfill or transformation facilities, within three years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

41821. (a) On or before September 1, 2009, and on or before September 1 every two years thereafter, a jurisdiction shall submit a report that encompasses the previous two calendar years from January 1 to December 31, inclusive, to the board which shall include all of the following information:

(1) A summary of the jurisdiction's implementation of diversion programs set forth in its source reduction and recycling element and the programs set forth in its household hazardous waste element.

(2) An update of the jurisdiction's source reduction and recycling element and household hazardous waste element to include any new or expanded programs the jurisdiction has implemented or plans to implement.

(3) An update of the jurisdiction's nondisposal facility element to reflect all new or expanded nondisposal facilities the jurisdiction is using or planning to use.

(4) A summary of progress made in diversion of construction and demolition of waste material, including information on programs and ordinances implemented by the local government and quantitative data, where available.

(b) In addition to the requirements listed above, the biennial report may include the following:

(1) information related to the criteria developed by the board pursuant to section 41780(c) that the jurisdiction believes may be relevant to the board's determination of whether or not the county or multi-county multi-county regional agency that the jurisdiction is located within has maintain the base tonnage disposal of solid waste, as to why this has occurred, other than a failure to implement the diversion programs, including, but not limited to, all of the following:

(1) The rural nature of the jurisdiction.

(2) Growth rate within the jurisdiction.

(2) Any waste generation disposal characterization study or other studies done that show the effectiveness of the programs being implemented. Information on the changes in waste generated or disposed of due to increases or decreases in population, economies, or other factors in complying with subdivision (c) of Section 41780.1.

(a) (1) Each year following the board's approval of a city, county, or multi-county regional agency's source reduction and recycling element, household hazardous waste element, and nondisposal facility element, the city, county, or multi-county regional agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 41780.

(2) The annual report shall be due on or before August 1 of the year following board approval of the source reduction and recycling element, the household hazardous waste element, and the nondisposal facility element, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.

(b) Each jurisdiction's annual report to the board shall, at a minimum, include the following:

(1) Calculations of annual disposal reduction.

(2) Information on the changes in waste generated or disposed of due to increases or decreases in population, economies, or other factors in complying with subdivision (c) of Section 41780.1.

(3) A summary of progress made in implementing the source reduction and recycling element and the household hazardous waste element. The city, county, or multi-county regional agency may also include information about existing and new programs it is implementing that are not part of the original or modified source reduction and recycling element adopted by the jurisdiction and approved by the board to achieve the diversion requirements of Section 41780.

(4) A summary of progress made in diversion of construction and demolition of waste material, including information on programs and ordinances implemented by the local government and quantitative data, where available.

(5) If the jurisdiction has been granted a time extension by the board pursuant to Section 41820, the jurisdiction shall include a summary of progress made in meeting the source reduction and recycling element implementation schedule pursuant to paragraph (2) of subdivision (a) of Section 41780 and complying with the jurisdiction's plan of correction, prior to the expiration of the time extension.

(6) If the jurisdiction has been granted an alternative source reduction, recycling, and composting requirement pursuant to Section 41785, the jurisdiction shall include a summary of progress made towards meeting the alternative requirement as well as an explanation of current circumstances that support the continuation of the alternative requirement.

(7) Other information relevant to compliance with Section 41780.

(c) A jurisdiction may also include, in the report required by this section, all of the following:

(1) Any factor that the jurisdiction believes would affect the accuracy of the disposal for the county estimated waste disposal reduction calculation provided in the report pursuant to paragraph (1) of subdivision (b) to accurately reflect the changes in the amount of solid waste that is actually disposed. The jurisdiction may include, but is not limited to including, all of the following factors:

(A) Whether the jurisdiction hosts a solid waste facility.

(B) The effects of self-hauled waste and construction and demolition waste.

(C) The original or subsequent base year calculation, the amount of orphan waste, and the waste disposal reduction adjustment methodology.

(2) Information regarding the programs the jurisdiction is undertaking to respond to the factors specified in paragraph (1), and why it is not feasible to implement programs to respond to other factors that affect the amount of waste that is disposed.

~~(3) An estimate that the jurisdiction believes reflects that jurisdiction's annual reduction or increase in the disposal of solid waste. Other information describing the good faith efforts of the jurisdiction.~~

(D) The effects of population and economic growth.

(d) The board shall use, but is not limited to the use of, the ~~annual~~ **biennial** report in the determination of whether the jurisdiction's source reduction and recycling element needs to be updated ~~revised~~.

(e) (1) The board shall adopt procedures for requiring additional information in a jurisdiction's ~~annual~~ **biennial** report. The procedures shall require the board to notify a jurisdiction of any additional required information no later than 120 days after the board receives the report from the jurisdiction.

(2) Paragraph (1) does not prohibit the board from making additional requests for information in a timely manner. A jurisdiction receiving a request for information shall respond in a timely manner.

(f) The board shall adopt procedures for conferring with a jurisdiction regarding the implementation of a diversion program or changes to a jurisdiction's calculation of its annual disposal reduction.

~~(g) Notwithstanding the Uniform Electronic Transactions Act, the biennial report shall be submitted electronically using the board's electronic biennial reporting format system.~~

41821.1. (a) ~~Each~~ On or before September 1, 2009 and on or before Sept 1 every two years thereafter following the board's approval of a county or multi-county regional agency's siting element and summary plan, the county or multi-county regional agency shall submit a report to the board summarizing the adequacy of the siting element and summary plan. The report on the siting element shall discuss any changes in disposal capacity, disposal facilities, or any other relevant issues. ~~The annual report shall be due on or before August 1 of the year following board approval of a county or multi-county regional agency's siting element and summary plan, and on or before August 1 in each subsequent year.~~ The information in this report shall encompass the previous ~~two~~ calendar years, January 1 to December 31, inclusive.

(b) The board shall adopt procedures that may authorize a jurisdiction to submit an abbreviated version of the report required pursuant to this section, if the board determines that the jurisdiction has met or exceeded the requirements of paragraph (2) of subdivision (a) of Section 41780 ~~{The referenced paragraph (2) has been deleted from the revised 41780....needs to be revised}~~ for the previous two years, and if the board determines that the jurisdiction has otherwise complied with this division for the previous five years.

~~41821.2. (a) For the purposes of this section, "district" means a community service district that provides solid waste handling services or implements source reduction and recycling programs.~~

~~(b) Notwithstanding any other law, each district shall provide the city, county, or multi-county regional agency in which it is located, information on the programs implemented by the district and the amount of waste disposed and diverted within the district. The board may adopt regulations pertaining to the format of the information to be provided and deadlines for supplying this information to the city, county, or multi-county regional agency so that it may be incorporated into the annual report submitted to the board pursuant to Section 41821.~~

~~(c) This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute that is enacted before January 1, 2001, deletes or extends the dates on which it becomes inoperative and is repealed.~~

41822. Each ~~city, county, or and~~ multi-county regional agency shall review its ~~siting~~ **source reduction and recycling element** ~~{What about the Summary Plan....see 41821.1 (a)} or the countywide integrated waste management plan~~ at least once every five years to correct any deficiencies in the element ~~or plan, to comply with the source reduction and recycling requirements established under Section 41780,~~ and to revise the documents, as necessary, to comply with this part. Any revision made to an element ~~or plan~~ pursuant to this section shall be submitted to the board for review and approval or disapproval pursuant to the schedule established under this chapter.

ARTICLE 4. REVIEW AND ENFORCEMENT

41825. (a) At least once every two years, the board shall review each city, county, or multi-county regional agency source reduction and recycling element and household hazardous waste element. At least once every two years, the board shall determine whether or not each county and multi-county regional agency has maintained disposal as compared to the base tonnage year in accordance with the criteria adopted pursuant to section 41780(c).

(b) At least every two years on and after January 1, 2010, the board shall conduct a review of each jurisdiction's program implementation in one of the following three ways:

(1) If the board finds that the county or multi-county regional agency has maintained solid waste disposed as compared to the base tonnage year, the board shall conduct a streamlined review of program implementation to determine if each jurisdiction within the county or multi-county regional agency has implemented the diversion programs set forth in its source reduction and recycling element, including any updates. The board shall presume that each jurisdiction within the county or multi-county regional agency has complied with Section 41780. This presumption may be rebutted if the review provides information to show that the jurisdiction is not implementing its diversion programs.

(A) If the board determines that a jurisdiction is implementing or making a good faith effort to implement the diversion programs set forth in their source reduction and recycling element, including any updates, then the jurisdiction shall be deemed in compliance with section 41780.

(B) If the board has information to indicate that a jurisdiction may not have implemented or made a good faith effort to implement its diversion programs, then the board shall initiate the conferring period set forth in subsection (f). The conferring period affords the jurisdictions an opportunity to discuss and provide board staff any additional information related to their program implementation.

(2) For a rural county with less than 100,000 tons of disposal per year, the board shall conduct a streamlined review of program implementation to determine if each jurisdiction within the county has implemented the diversion programs set forth in its source reduction and recycling element, including any updates. The board shall presume that each jurisdiction within the county has complied with Section 41780. This presumption may be rebutted if the review provides information to show that the jurisdiction is not implementing its diversion programs.

(A) If the board determines that a jurisdiction is implementing or making a good faith effort to implement the diversion programs set forth in their source reduction and recycling element, including any updates, then the jurisdiction shall be deemed in compliance with section 41780.

(B) If the board has information to indicate that a jurisdiction may not have implemented or made a good faith effort to implement its diversion programs, then the board shall initiate the conferring period set forth in subsection (f). The conferring period affords the jurisdictions an opportunity to discuss and provide board staff any additional information related to their program implementation.

(3) If the board finds the county or multi-county regional agency has not maintained solid waste disposed as compared to the base tonnage year, the board shall conduct a detailed review of the effectiveness of the implementation of the diversion programs to determine if the diversion programs of each jurisdiction within the county are adequately addressing all significant sources of disposal, except as provided for in subsection (3)(A) below.

(A) For those jurisdictions within the county or multi-county regional agency that have evidenced a history of adequate program implementation, based upon past biennial reviews, the board may conduct a more streamlined review as described in subsection (1).

(B) If the board determines that a jurisdiction is implementing or making a good faith effort to implement the diversion programs set forth in their source reduction and recycling element, including any updates, then the jurisdiction shall be deemed in compliance with section 41780.

(C) If the board has information to indicate that a jurisdiction may not have implemented or made a good faith effort to implement its diversion programs, then the board shall initiate the conferring period set forth in subsection (f). The conferring period affords the jurisdictions an opportunity to discuss and provide board staff any additional information related to their program implementation.

(c) For the purposes of this section, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(d) The board shall consider the following when considering whether a jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element:

(1) Natural disasters.

(2) Budgetary conditions within a city, county, or multi-county regional agency that could not be remedied by the imposition or adjustment of solid waste fees.

(3) Work stoppages that directly prevent a city, county, or multi-county regional agency from implementing its source reduction and recycling element or household hazardous waste element.

(4) The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction.

(5) The extent to which a city, county, or multi-county regional agency has implemented additional source reduction, recycling, and composting activities.

(6) The extent to which the jurisdiction is implementing programs to prevent an increase in countywide disposal as compared to the base tonnage year.

(7) Whether a ~~local~~ jurisdiction has provided information to the board concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(8) For purposes of this section "good faith effort" may also include the evaluation by a city, county, or multi-county regional agency of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the city, county, or multi-county regional agency to adequately address all sources of significant disposal and the jurisdiction has submitted a compliance schedule (pursuant to Section 41825,) and has made all other reasonable and feasible efforts to implement the programs identified in its source reduction and recycling element or household hazardous waste element.

(9) The effect of population and economic growth.

(10) In determining whether a jurisdiction has made a good faith effort, the board shall consider the enforcement criteria included in its enforcement policy, as adopted on April 25, 1995, or as subsequently amended.

(b) If after a public hearing, which, to the extent possible, is held in the local or multi-county regional agency's jurisdiction, the board finds that the city, county, or multi-county regional agency has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board shall initiate the process to issue an order of compliance with a specific schedule for achieving compliance.

(c) (1) The board shall confer with a jurisdiction regarding conditions relating to a proposed order of compliance, with a first meeting occurring not less than 60 days before issuing a notice of intent to issue an order of compliance.

(2) The board shall issue a notice of intent to issue an order of compliance not less than 30 days before the board holds a hearing to issue the notice of compliance. The notice of intent shall specify all of the following:

(A) The proposed basis for issuing an order of compliance.

(B) Proposed actions that board staff recommends are necessary for the jurisdiction to complete in order to implement its source reduction and recycling element or household hazardous waste element.

(C) Proposed staff recommendations to the board.

(3) The board shall consider any information provided pursuant to subdivision (c) of Section 41821 if the proposed issuance of an order of compliance involves changes to a jurisdiction's calculation of annual disposal reduction.

(g) The board may issue a compliance order only if the board determines that the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element, including updates, or its household hazardous waste element, including updates and has determined that additional program implementation is necessary to adequately address all significant sources of disposal.

(1) In making a determination, the board may consider an increase in the countywide or multi-county regional total tonnage of solid waste disposed only as an indication of whether the jurisdiction

*adequately implemented its diversion programs but shall not consider this fact **exclusively** to be determinative as to whether the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element.*

(h) In addition to considering the good faith efforts to implement a diversion program, the board shall consider all of the following factors in determining whether or not to issue a compliance order:

(A) The rural nature of the jurisdiction.

*(B) Whether exceptional growth rate; **including but not limited to, population and economic;** that may have affected compliance.*

*(C) Other information that the jurisdiction may provide that indicates the effectiveness of the jurisdiction's programs, such as waste generation studies, waste **(disposal ?)** characterization studies, or other jurisdiction-specific information.*

(i) The compliance order shall include those conditions that the board determines to be necessary for the jurisdiction to complete in order to implement its source reduction and recycling element or household hazardous waste element.

ARTICLE 5. ENFORCEMENT

41850. (a) Except as specifically provided in Section 41813, if, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the board finds that the city, county, or multi-county regional agency has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board may impose administrative civil penalties upon the city or county or, pursuant to Section 40974, upon the city or county as a member of a multi-county regional agency, of up to ten thousand dollars (\$10,000) per day until the city, county, or multi-county regional agency implements the element.

(b) In determining whether or not to impose any penalties, or in determining the amount of any penalties imposed under this section, including any penalties imposed due to the exclusion of solid waste pursuant to Section 41781.2 that results in a reduction in the quantity of solid waste diverted by a city, county, or multi-county regional agency, the board shall consider whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element. In addition, the board shall consider only those relevant circumstances that have prevented a city, county, or multi-county regional agency from meeting the requirements of this division, including the **diversion** requirements of **paragraphs (1) and (2) of subdivision (a) of** Section 41780, including, but not limited to, all of the following:

(1) Natural disasters.

(2) Budgetary conditions within a city, county, or multi-county regional agency that could not be remedied by the imposition or adjustment of solid waste fees.

(3) Work stoppages that directly prevent a city, county, or multi-county regional agency from implementing its source reduction and recycling element or household hazardous waste element.

(4) The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction on the host jurisdiction's ability to meet the requirements of paragraph (2) of subdivision (a) of Section 41780.

(c) In addition to the factors specified in subdivision (b), the board shall consider all of the following:

(1) The extent to which a city, county, or multi-county regional agency has implemented additional source reduction, recycling, and composting activities to comply with the **diversion** requirements of **paragraphs (1) and (2) of subdivision (a) of** Section 41780.

(2) The extent to which a city, county, or multi-county regional agency is meeting the **diversion** requirements of **paragraphs (1) and (2) of subdivision (a) of** Section 41780.

(3) Whether the jurisdiction has requested and been granted an extension to the requirements of Section 41780, pursuant to Section 41820, or an alternative requirement to Section 41780, pursuant to Section 41785.

(4) Whether a local jurisdiction has provided information to the board concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid

waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(d) (1) For the purposes of this section, "good faith effort" means all reasonable and feasible efforts by a city, county, or multi-county regional agency to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(2) For purposes of this section "good faith effort" may also include the evaluation by a city, county, or multi-county regional agency of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the city, county, or multi-county regional agency to meet the **diversion** requirements of **paragraphs (1) and (2) of subdivision (a) of** Section 41780, provided that the city, county, or multi-county regional agency has submitted a compliance schedule pursuant to Section 41825, and has made all other reasonable and feasible efforts to implement the programs identified in its source reduction and recycling element or household hazardous waste element.

(3) In determining whether a jurisdiction has made a good faith effort, the board shall consider the enforcement criteria included in its enforcement policy, as adopted on April 25, 1995, or as subsequently amended.

41850.5. Any administrative civil penalty imposed by the board pursuant to Section 41813 or 41850 shall be deposited in the Local Government Assistance Account, which is hereby created in the Integrated Waste Management Fund. Any funds deposited in that account shall be used solely for the purposes of assisting local governments in complying with the **diversion** requirements established under Section 41780, and shall not be used by the board for administrative purposes.

41851. Nothing in this chapter shall infringe on the existing authority of counties and cities to control land use or to make land use decisions, and nothing in this chapter provides or transfers new authority over that land use to the board.

PART 3. STATE PROGRAMS

Chapter 18.5. State Agency Integrated Waste Management Plan

42920. (a) On or before February 15, 2000, the board shall adopt a state agency model integrated waste management plan for source reduction, recycling, and composting activities.

(b) (1) On or before July 1, 2000, each state agency shall develop and adopt, in consultation with the board, an integrated waste management plan, in accordance with the requirements of this chapter. The plan shall build upon existing programs and measures, including the state agency model integrated waste management plan adopted by the board pursuant to subdivision (a), that will reduce solid waste, reuse materials whenever possible, recycle recyclable materials, and procure products with recycled content in all state agency offices and facilities, including any leased locations. It is the intent of the Legislature that the local jurisdiction and the state agency or large state facility located within that jurisdiction work together to implement the state agency integrated waste management plan.

(2) Each state agency shall submit an adopted integrated waste management plan to the board for review and approval on or before July 15, 2000. The board shall adopt procedures for reviewing and approving those integrated waste management plans. The board shall complete its plan review process on or before January 1, 2001.

(3) If a state agency has not submitted an adopted integrated waste management plan or the model integrated waste management plan with revisions to the board by January 1, 2001, or if the board has disapproved the plan that was submitted, then the model integrated waste management plan, as revised by the board in consultation with the agency, shall take effect on that date, or on a later date as determined by the board, and shall have the same force and effect as if adopted by the state agency.

(c) Notwithstanding subdivision (e) of Section 12217 of the Public Contract Code, at least one solid waste reduction and recycling coordinator shall be designated by each state agency. The coordinator shall perform the duties imposed pursuant to this chapter using existing resources. The coordinator shall be responsible for implementing the integrated waste management plan and shall serve as a liaison to other state agencies and coordinators.

(d) The board shall provide technical assistance to state agencies for the purpose of implementing the integrated waste management plan.

42921. (a) Each state agency and each large state facility shall divert at least 25 percent of all solid waste generated by the state agency from landfill disposal or transformation facilities by January 1, 2002, through source reduction, recycling, and composting activities.

(b) On and after January 1, 2004 ~~2008~~, each state agency and each large state facility shall *adequately implement the diversion programs set forth in its integrated waste management plan.*

(b) The diversion programs in the integrated waste management plan shall be designed to maintain the total tonnage of solid waste disposed by the agency or facility as compared to the tonnage disposed in 2006 and these programs shall be adequate to accomplish this purpose consistent with Section 40051.

divert at least 50 percent of all solid waste from landfill disposal or transformation facilities through source reduction, recycling, and composting activities.

42922. (a) On and after January 1, 2002, upon the request of a state agency or a large state facility, the board may establish a source reduction, recycling, and composting requirement that would be an alternative to the 50 percent requirement imposed pursuant to subdivision (b) of Section 42921, if the board holds a public hearing and makes all of the following findings based upon substantial evidence on the record:

(1) The state agency or a large state facility has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board;

(2) The state agency or the large state facility has been unable to meet the 50 percent diversion requirement despite implementing the measures described in paragraph (1);

(3) The alternative source reduction, recycling, and composting requirement represents the greatest diversion amount that the state agency or the large state facility may reasonably and feasibly achieve.

(b) In making the decision whether to grant an alternative requirement pursuant to subdivision (a), and in determining the amount of the alternative requirement, the board shall consider circumstances that support the request for an alternative requirement, such as waste disposal patterns and the types of waste disposed by the state agency or the large state facility. The state agency or the large state facility may provide the board with any additional information that the state agency or the large state facility determines to be necessary to demonstrate to the board the need for the alternative requirement.

(c) If a state agency or a large state facility that requests an alternative source reduction, recycling, and composting requirement has not previously requested an extension pursuant to Section 42923, the state agency or the large state facility shall provide information to the board that explains why it has not requested an extension.

(d) A state agency or a large state facility that has previously been granted an alternative source reduction, recycling, and composting requirement may request another alternative source reduction, recycling, and composting requirement. A state agency or a large state facility that requests another alternative requirement shall provide information to the board that demonstrates that the circumstances that supported the previous alternative source reduction, recycling, and composting requirement continue to exist, or shall provide information to the board that describes changes in those previous circumstances that support another alternative source reduction, recycling, and composting requirement. The board shall review the original circumstances that supported the state agency's or the large state facility's request, as well as any new information provided by the state agency or the large state facility that describes the current circumstances, to determine whether to grant another alternative requirement. The board may approve another alternative requirement if the board holds a public hearing and makes both of the following findings based upon substantial evidence in the record:

(1) The state agency or the large state facility has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board;

(2) The alternative source reduction, recycling, and composting requirement represents the greatest diversion amount the state agency or the large state facility may reasonably and feasibly achieve.

(e) If the board establishes a new alternative requirement or rescinds the existing alternative requirement, the board shall do so at a public hearing. If the board establishes a new alternative requirement, it shall make all of the following findings based upon substantial evidence in the record:

(1) The state agency or the large state facility has made a good faith effort to effectively implement the source reduction, recycling, and composting measures described in its integrated waste management plan, and has demonstrated progress toward meeting the alternative requirement as described in its annual reports to the board.

(2) The former alternative diversion requirement is no longer appropriate.

(3) The new alternative requirement represents the greatest amount of diversion that the state agency or the large state facility may reasonably and feasibly achieve.

(f) (1) No single alternative requirement may be granted for a period that exceeds three years and, if after the granting of the original alternative requirement, another alternative requirement is granted, the combined period that the original and the new alternative requirement is in force and effect shall not exceed a total of five years.

(2) No alternative requirement shall be granted for any period after January 1, 2006, and no alternative requirement shall be effective after January 1, 2006.

(3) No state agency or large state facility shall be granted an alternative requirement if the state agency or the large state facility has failed to meet, on or before January 1, 2002, the requirements of subdivision (a) of Section 42921.

(g) (1) When considering a request for an alternative source reduction, recycling, and composting requirement, the board may make specific recommendations for the implementation of the alternative plan.

(2) Nothing in this section precludes the board from disapproving any request for an alternative requirement.

(3) If the board disapproves a request for an alternative requirement, the board shall specify, in writing, the reasons for its disapproval.

(h) If the board grants an alternative source reduction, recycling, and composting requirement, the state agency may request technical assistance from the board to assist it in meeting the alternative source reduction, recycling, and composting requirement. If requested by the state agency or the large state facility, the board shall assist with identifying model policies and plans implemented by other agencies.

(i) A state agency or a large state facility that is granted an alternative requirement pursuant to this section shall continue to implement source reduction, recycling, and composting programs, and shall report the status of those programs in the report required pursuant to Section 42926.

(j) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

42923. (a) The board may grant one or more single or multiyear time extensions from the requirements of subdivision (a) of Section 42921 to any state agency or large state facility if all of the following conditions are met:

(1) Any multiyear extension that is granted does not exceed three years, and a state agency or a large state facility is not granted extensions that exceed a total of five years.

(2) An extension is not granted for any period after January 1, 2006, and an extension is not effective after January 1, 2006.

(3) The board considers the extent to which a state agency or a large state facility complied with its plan of correction before considering another extension.

(4) The board adopts written findings, based upon substantial evidence in the record, as follows:

(A) The state agency or the large state facility is making a good faith effort to implement the source reduction, recycling, and composting programs identified in its integrated waste management plan.

(B) The state agency or the large state facility submits a plan of correction that demonstrates that the state agency or the large state facility will meet the requirements of Section 42921 before the time extension expires, including the source reduction, recycling, or composting steps the state agency or the large state facility will implement, a date prior to the expiration of the time extension when the requirements of Section 42921 will be met, existing programs that it will modify, any new programs that will be implemented to meet those requirements, and the means by which these programs will be funded.

(b) (1) When considering a request for an extension, the board may make specific recommendations for the implementation of the alternative plans.

(2) Nothing in this section shall preclude the board from disapproving any request for an extension.

(3) If the board disapproves a request for an extension, the board shall specify its reasons for the disapproval.

(c) (1) In determining whether to grant the request by a state agency or a large state facility for the time extension authorized by subdivision (a), the board shall consider information provided by the state agency or the large state facility that describes relevant circumstances that contributed to the request for

extension, such as a lack of markets for recycled materials, local efforts to implement source reduction, recycling, and composting programs, facilities built or planned, waste disposal patterns, and the type of waste disposed by the agency or facility.

(2) The state agency or the large state facility may provide the board with any additional information that the state agency or the large state facility determines to be necessary to demonstrate to the board the need for the extension.

(d) If the board grants a time extension pursuant to subdivision (a), the state agency may request technical assistance from the board to assist it in meeting the diversion requirements of subdivision (a) of Section 42921 during the extension period. If requested by the state agency or the large state facility, the board shall assist the state agency or the large state facility with identifying model policies and plans implemented by other agencies.

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

42924. (a) On or before February 15, 2000, the board shall develop and adopt requirements relating to adequate areas for collecting, storing, and loading recyclable materials in state buildings. In developing the requirements, the board may rely on the model ordinance adopted pursuant to Chapter 18 (commencing with Section 42900).

(b) Each state agency or large state facility, when entering into a new lease, or renewing an existing lease, shall ensure that adequate areas are provided for, and adequate personnel are available to oversee, the collection, storage, and loading of recyclable materials in compliance with the requirements established pursuant to subdivision (a).

(c) In the design and construction of state agency offices and facilities, the Department of General Services shall allocate adequate space for the collection, storage, and loading of recyclable materials in compliance with the requirements established pursuant to subdivision (a).

42925. (a) Any cost savings realized as a result of the state agency integrated waste management plan shall, to the extent feasible, be redirected to the agency's integrated waste management plan to fund plan implementation and administration costs, in accordance with Sections 12167 and 12167.1 of the Public Contract Code.

(b) The board shall establish and implement a waste reduction award program for state agencies and large state facilities that develop, adopt, and implement innovative and effective integrated waste management plans in compliance with this chapter.

42926. (a) In addition to the information provided to the board pursuant to Section 12167.1 of the Public Contract Code, each state agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 42921. The annual report shall be due on or before April 1, 2002, and on or before April in each subsequent year. The information in this report shall encompass the previous calendar year.

(b) Each state agency's annual report to the board shall, at a minimum, include all of the following:

(1) Calculations of annual disposal reduction **per each county**.

(2) Information on the changes in waste generated or disposed of due to increases or decreases in employees, economics, or other factors.

(3) A summary of progress made in implementing the integrated waste management plan.

(4) The extent to which the state agency intends to utilize programs or facilities established by the local agency for the handling, diversion, and disposal of solid waste. If the state agency does not intend to utilize those established programs or facilities, the state agency shall identify sufficient disposal capacity for solid waste that is not source reduced, recycled, or composted.

(5) If the agency has been granted a time extension by the board pursuant to Section 42923, the state agency shall include a summary of progress made in meeting the integrated waste management plan implementation schedule pursuant to subdivision (b) of Section 42921 and complying with the state agency's plan of correction, prior to the expiration of the time extension.

(6) If the state agency has been granted an alternative source reduction, recycling, and composting requirement pursuant to Section 42922, the state agency shall include a summary of progress made towards meeting the alternative requirement as well as an explanation of current circumstances that support the continuation of the alternative requirement.

(7) Other information relevant to compliance with Section 42921.

(c) The board shall use, but is not limited to the use of, the annual report in the determination of whether the agency's integrated waste management plan needs to be revised.

42927. **{This Section needs to be deleted pursuant to Subdivision (b)}** (a) If a state agency is unable to comply with the requirements of this chapter, the agency shall notify the board in writing, detailing the reasons for its inability to comply and shall request an alternative pursuant to Section 42922 or an extension pursuant to Section 42923.

(b) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

42927.5. A community college district may impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing a state agency integrated waste management plan prepared pursuant to this division. The fees shall be based on the types or amounts of the solid waste, and shall be used to pay the actual costs incurred by the community college district in preparing, adopting, and implementing the plan, as well as in setting and collecting the fees. In determining the amounts of the fees, a community college district shall include only those costs directly related to the preparation, adoption, and implementation of the plan and the setting and collection of the fees. The fees may also include an amount to cover actual costs incurred since the effective date of this Chapter.

~~42928. (a) The board may adopt regulations that establish specified criteria for granting, reviewing, and considering reductions or extensions pursuant to Sections 42922 and 42923.~~

~~(b) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.~~

DIVISION 30. WASTE MANAGEMENT

PART 1. INTEGRATED WASTE MANAGEMENT

Chapter 1. General Provisions

ARTICLE 1. FINDINGS AND DECLARATIONS

40001. (a) The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans.

(b) The Legislature further declares that it is the policy of the state to assist local governments in minimizing duplication of effort, and in minimizing the costs incurred, in implementing this division through the development of multi-county regional cooperative efforts and other mechanisms which comply with this division.

(c) The Legislature further declares that market development is the key to successful and cost-effective implementation of the ~~25 percent and 50 percent diversion~~ solid waste diversion program requirements and of the solid waste disposal requirements required pursuant to Section 41780, and that the state must take a leadership role, pursuant to Chapter 1 (commencing with Section 42000) of Part 3, in encouraging the expansion of markets for recycled products by working cooperatively with the public, private, and nonprofit sectors.

(d) The Legislature further declares that all solid waste should be properly managed in order to minimize the generation of waste, maximize the diversion of solid waste from landfills, and manage all solid waste to its highest and best use, in accordance with the waste management hierarchy and in support of the California Global Warming Solutions Act of 2006.

(e) The Legislature further declares that a comprehensive array of programs is needed to divert solid waste, that will result in actual reductions in disposal.

(f) The Legislature further declares that adjustments to the ways in which diversion achievements are measured and evaluated need to be implemented to ensure increased accuracy, timeliness, and increased emphasis on the implementation of those diversion programs by each jurisdiction.

(g) The Legislature further declares that as a result of increased population growth and economic activity, maintaining a baseline for disposal growth will create increased diversion of materials from landfills, and increased diversion will create economic benefits as markets are developed and enhanced.

Chapter 2. Definitions

40105.5. "Base tonnage " means the countywide total tonnage of solid waste disposed of by all jurisdictions in a county during the year 2006, as determined by the board pursuant to Section 41781..

40127. "Diversion program" means the programs in the city or county source reduction and recycling element, that have the purpose of diverting solid waste from landfill disposal or transformation, through source reduction, recycling, and composting activities.

40144. "Jurisdiction" means a city, county, city and county, or board approved multi-county regional agency.

40205. "Uniform Electronic Transactions Act" means Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code.

PART 2. INTEGRATED WASTE MANAGEMENT PLANS

Chapter 2. City Source Reduction and Recycling Elements

ARTICLE 2. WASTE CHARACTERIZATION COMPONENT

41033. Any waste characterization component prepared by a city pursuant to Section 41032, and any other information submitted by a city to the board on the quantities of solid waste disposed of by the city, shall include data which is as accurate as possible, on the quantities of solid waste ~~generated, diverted, and disposed of~~, to enable the board, to the maximum extent possible, to accurately measure the ~~diversion~~ requirements ~~of paragraph (2) of subdivision (a)~~ of Section 41780.

ARTICLE 3. SOURCE REDUCTION COMPONENT

41050. The city source reduction component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the recycling and composting components, reduce a sufficient amount of solid waste disposed of by the city to comply with the ~~diversion~~ requirements of Section 41780.

ARTICLE 4. RECYCLING COMPONENT

41070. The city recycling component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the source reduction and composting components, reduce a sufficient amount of solid waste disposed of by the city to comply with the ~~diversion~~ requirements of Section 41780.

ARTICLE 5. COMPOSTING COMPONENT

41200. The city composting component shall include a program and implementation schedule which shows the methods by which the city will, in combination with the source reduction and recycling components, reduce a sufficient amount of solid waste disposed of by the city to comply with the ~~diversion~~ requirements of Section 41780.

Chapter 3. County Source Reduction and Recycling Elements

ARTICLE 2. WASTE CHARACTERIZATION COMPONENT

41333. Any waste characterization component prepared by a county pursuant to Section 41332, and any other information submitted by a county to the board on the quantities of solid waste disposed of, shall include data which is as accurate as practicable, on the quantities of solid waste ~~generated, diverted, and disposed of~~, to enable the board, to the maximum extent possible, to accurately measure the ~~diversion~~ requirements ~~of paragraph (2) of subdivision (a)~~ of Section 41780.

ARTICLE 3. SOURCE REDUCTION COMPONENT

41350. The county source reduction component shall include a program and implementation schedule which shows the methods by which the county will, in combination with the recycling and composting components, reduce a sufficient amount of solid waste disposed of within the unincorporated area of the county to comply with the ~~diversion~~ requirements of Section 41780.

ARTICLE 4. RECYCLING COMPONENT

41370. The county recycling component shall include a program and implementation schedule which shows the methods by which the county will, in combination with the source reduction and composting components, reduce a sufficient amount of solid waste disposed of within the unincorporated area of the county to comply with the ~~diversion~~ requirements of Section 41780.

ARTICLE 5. COMPOSTING COMPONENT

41400. The county composting component shall include a program and implementation schedule which shows the methods by which the county will, in combination with the source reduction and recycling components, reduce a sufficient amount of solid waste disposed of within the unincorporated area of the county to comply with the diversion requirements of Section 41780.

Chapter 4.5. Nondisposal Facility Elements

ARTICLE 3. REQUIREMENTS

41732. (a) City, county, and multi-county regional agency nondisposal facility elements prepared pursuant to Section 41730, 41731, or 41750.1, as the case may be, shall include a description of any new solid waste facilities and the expansion of existing solid waste facilities that will be needed to implement the jurisdiction's source reduction and recycling element and to thereby meet the diversion requirements of Section 41780. The nondisposal facility element may include the identification of specific locations or general areas for new solid waste facilities that will be needed to implement the jurisdiction's source reduction and recycling element.

(b) In complying with the requirements of subdivision (a), the jurisdiction shall utilize the pertinent information that is available to it at the time that the nondisposal facility element is prepared.

Chapter 6. Planning Requirements

ARTICLE 1. WASTE DIVERSION

41780. *(a) Commencing with January 1, 2008, each jurisdiction shall adequately implement the diversion programs set forth in its source reduction and recycling element and household hazardous waste element, including any amendments, revisions, or updates to the element, and any programs set forth in any time extensions, alternative diversion requirements, or compliance orders approved pursuant to this part.*

(b) The diversion programs in the source reduction and recycling element shall be designed to maintain the countywide or regionwide total base tonnage of solid waste disposed by all jurisdictions in the county or multi-county regional agency, as compared to the base tonnage year and these programs shall be adequate to accomplish this purpose consistent with Section 40051.

(c) The Board shall develop criteria for determining if a county has met the requirements of subdivision (b) and include them in a revision of the board's enforcement policy adopted and amended pursuant to Section 41850.

(1) The enforcement policy shall be revised in the same manner in which it was adopted and subsequently revised, after consultation with jurisdictions, and at a public hearing.

(2) The criteria may include, but is not limited to, consideration of factors such as increase in population, economic growth, and per capita disposal rates.

(a) Each city or county source reduction and recycling element shall include an implementation schedule that shows both of the following:

(1) For the initial element, the city or county shall divert 25 percent of all solid waste from landfill disposal or transformation by January 1, 1995, through source reduction, recycling, and composting activities.

(2) Except as provided in Sections 41783, 41784, and 41785, for the first and each subsequent revision of the element, the city or county shall divert 50 percent of all solid waste on and after January 1, 2000, through source reduction, recycling, and composting activities.

(b) Nothing in this part prohibits a city or county from implementing source reduction, recycling, and composting activities designed to exceed these requirements.

41780.1. (a) *Prior to January 1, 2008, An*otwithstanding any other requirement of this part, for the purposes of determining the amount of solid waste that a multi-county regional agency is required to divert from disposal or transformation through source reduction, recycling, and composting to meet the diversion requirements of Section 41780., the multi-county regional agency shall use the solid waste disposal projections in the source reduction and recycling elements of the multi-county regional agency's member

agencies. The method prescribed in Section 41780.2 shall be used to determine the maximum amount of disposal allowable to meet the diversion requirements of Section 41780.

(b) Notwithstanding any other requirement of this part, for the purposes of determining the amount of solid waste that a city or county is required to divert from disposal or transformation through source reduction, recycling, and composting to meet the diversion requirements of Section 41780, the city or county shall use the solid waste disposal projections in the source reduction and recycling elements of the city or county. The method prescribed in Section 41780.2 shall be used to determine the maximum amount of disposal allowable to meet the diversion requirements of Section 41780.

(c) To determine achievement of the diversion requirements of Section 41780 in 1995 and in the year 2000, projections of disposal amounts from the source reduction and recycling elements shall be adjusted to reflect annual increases or decreases in population and other factors affecting the waste stream, as determined by the board. By January 1, 1994, the board shall study the factors which affect the generation and disposal of solid waste and shall develop a standard methodology and guidelines to be used by cities, counties, and multi-county regional agencies in adjusting disposal projections as required by this section.

(d) The amount of additional diversion required to be achieved by a multi-county regional agency to meet the diversion requirements of Section 41780 shall be equal to the sum of the diversion requirements of its member agencies. To determine the maximum amount of disposal allowable for the multi-county regional agency to meet the diversion requirements of Section 41780, the maximum amount of disposal allowable for each member agency shall be added together to yield the agency disposable maximum.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed.

41780.2. *(a) Prior to January 1, 2008, Each* city, county, or member agency of a multi-county regional agency shall determine the amount of reduction in solid waste disposal and the amount of additional diversion required from the base-year amounts by using the methods set forth in this section.

(b) The city, county, or member agency of a multi-county regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.75 to determine the maximum amount of total disposal allowable in 1995 to meet the diversion requirements of Section 41780.

(c) The city, county, or member agency of a multi-county regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.50 to determine the maximum amount of total disposal allowable in the year 2000 to meet the diversion requirements of Section 41780.

(d) The city, county, or member agency of a multi-county regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.25 to determine the minimum amount of total diversion needed in the year 1995 to meet the diversion requirements of Section 41780.

(e) The city, county, or member agency of a multi-county regional agency shall multiply the total amount of base-year solid waste generation, as adjusted using the methods described in subdivision (c) of Section 41780.1, by 0.50 to determine the minimum amount of total diversion needed in the year 2000 to meet the diversion requirements of Section 41780.

(f) The city, county, or member agency of a multi-county regional agency shall subtract the total amount of base-year existing diversion from the minimum total diversion required as determined in subdivision (d) or (e) to determine the amount of additional diversion needed to meet the diversion requirements of Section 41780. This amount of additional diversion shall be equal to the minimum amount of additional reduction in disposal amounts which is needed to comply with Section 41780.

(g) This section shall remain in effect only until January 1, 2008, and as of that date is repealed.

41781. (a) Except as provided in Sections 41781.1, and 41781.2, *Pursuant to Section 41821.5(a)* for the purpose of determining the *countywide or multi-county regional agency tonnage* base rate of solid waste from which diversion requirements shall be calculated, "solid waste" includes only the following:

(1) The *total* amount of solid waste generated within a local agency's jurisdiction, the types and quantities of which were disposed of at a permitted disposal facility *by each jurisdiction within a county or multi-county regional agency during a calendar year* as of January 1, 1990. Nothing in this section requires local agencies to perform waste characterization in addition to the waste characterization requirements established under Sections 41030, 41031, 41330, 41331, and 41332.

(2) The board shall determine the base tonnage of solid waste disposed of by each jurisdiction within each county and each multi-county regional agency in the year 2006.

(3) The board shall determine the tonnage of solid waste disposed of by each jurisdiction within each county and each multi-county regional agency annually thereafter.

(2) The amount of solid waste diverted from a disposal facility or transformation facility through source reduction, recycling, or composting.

(b) For the purposes of this section, "solid waste" does not include:

(1) any solid waste which would not normally be disposed of at a disposal facility.

(2) The amount of solid waste diverted from a disposal facility or transformation facility through source reduction, recycling, or composting.

(c) For the purposes of this chapter, the amount of solid waste from which the required reductions are measured shall be the amount of solid waste existing on January 1, 1990, with future adjustments for increases or decreases in the quantity of waste caused only by changes in population or changes in the number or size of governmental, industrial, or commercial operations in the jurisdiction.

41781.1. (a) Prior to *January 1, 2008, in* determining *that whether* the diversion of sludge may be counted toward the diversion requirements established under Section 41780, but within 180 days of receiving such a request, the board shall do both of the following:

(1) Make a finding at a public hearing, based upon substantial evidence, that the sludge has been adequately analyzed and will not pose a threat to public health or the environment for the reuse which is proposed.

(A) Except as provided in subparagraph (B), prior to making the finding required to be made pursuant to this paragraph, the board shall consult with each of the following agencies, and obtain their concurrence in the finding, to the extent of each agency's jurisdiction over the sludge or its intended reuse:

(i) The state water board and the multi-county regional water boards.

(ii) The State Department of Health Services.

(iii) The State Air Resources Board and air pollution control districts and air quality management districts.

(iv) The Department of Toxic Substances Control.

(B) If, prior to the board making the finding required to be made pursuant to this paragraph, an agency specified in subparagraph (A) issues a permit, waste discharge requirements, or imposes other conditions for the reuse of sludge, the agency shall have been deemed to have concurred in that finding.

(2) Establish, or ensure that one or more of the agencies specified in subparagraph (A) of paragraph (1) establishes, ongoing monitoring requirements which ensure that the proposed sludge reuse does not pose a threat to health and safety or the environment.

(b) It is not the intent of this section to require the board, or the agencies listed in subparagraph (A) of paragraph (1) of subdivision (a), to impose additional requirements or approval procedures for sludge or sludge reuse applications, apart from the requirements and approval procedures already imposed by state and federal law. It is the intent of this section to require that the board determine that each sludge diversion, for which diversion credit is sought, meets all applicable requirements of state and federal law, and thereby provides for maximum protection of the public health and safety and the environment.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed.

41781.2. (a) (1) It is the intent of the Legislature in enacting this section not to require cities, counties, and multi-county regional agencies to revise source reduction and recycling elements prior to their submittal to the board for review and approval, except as the elements would otherwise be required to be revised by the board pursuant to this part. Pursuant to Sections 41801.5 and 41811.5, compliance with this section shall be determined by the board when source reduction and recycling elements are submitted to the board pursuant to Section 41791.5. However, any city or county may choose to revise its source reduction and recycling element or any of its components prior to board review of the source reduction and recycling element for the purpose of complying with this section.

(2) It is further the intent of the Legislature in enacting this section to ensure that compliance with the diversion requirements of Section 41780 shall be accurately determined based upon a correlation between solid waste which was disposed of at permitted disposal facilities and diversion claims which are subsequently made for that solid waste.

(b) For the purposes of this section, the following terms have the following meaning:

(1) "Action by a city, county, multi-county regional, or local governing body" means franchise or contract conditions, rate or fee schedules, zoning or land use decisions, disposal facility permit conditions, or activities by a waste hauler, recycler, or disposal facility operator acting on behalf of a city, county, multi-county regional agency, or local governing body, or other action by the local governing body if the local government action is specifically related to the claimed diversion.

(2) "Scrap metal" includes ferrous metals, nonferrous metals, aluminum scrap, other metals, and auto bodies, but does not include aluminum cans, steel cans, or bimetal cans.

(3) "Inert solids" includes rock, concrete, brick, sand, soil, fines, asphalt, and unsorted construction and demolition waste.

(4) "Agricultural wastes" includes solid wastes of plant and animal origin, which result from the production and processing of farm or agricultural products, including manures, orchard and vineyard prunings, and crop residues, which are removed from the site of generation for solid waste management. Agriculture refers to SIC Codes 011 to 0291, inclusive.

(c) Prior to January 1, 2008, ~~f~~for purposes of determining the base amount of solid waste from which the diversion requirements of this article shall be calculated, "solid waste" does not include the diversion of agricultural wastes; inert solids, including inert solids used for structural fill; discarded, white-coated, major appliances, and scrap metals; unless all of the following criteria are met:

(1) The city, county, or multi-county regional agency demonstrates that the material was diverted from a permitted disposal facility through an action by the city, county, or multi-county regional agency which specifically resulted in the diversion.

(2) The city, county, or multi-county regional agency demonstrates that, prior to January 1, 1990, the solid waste which is claimed to have been diverted was disposed of at a permitted disposal facility in the quantity being claimed as diversion. If historical disposal data is not available, that demonstration may be based upon information available to the city, county, or multi-county regional agency which substantiates a reasonable estimate of disposal quantities which is as accurate as is feasible in the absence of historical disposal data.

(3) The city, county, or multi-county regional agency is implementing, and will continue to implement, source reduction, recycling, and composting programs, as described in its source reduction and recycling element.

(d) If a city, county, or multi-county regional agency source reduction and recycling element submitted pursuant to this chapter includes the diversion of any of the wastes specified in subdivision (c) for years preceding the year commencing January 1, 1990, that diversion shall not apply to the diversion requirements of Section 41780, unless the criteria in subdivision (c) are met.

(e) If a city, county, or multi-county regional agency source reduction and recycling element submitted pursuant to this chapter does not contain information sufficient for the city, county, or multi-county regional agency to demonstrate to the board whether the criteria in subdivision (c) have been met, the city, county, or multi-county regional agency may provide additional information following board review of the source reduction and recycling element pursuant to Section 41791.5. In providing the additional information, Sections 41801.5 and 41811.5 shall apply.

(f) In demonstrating whether the requirements of paragraph (1) of subdivision (c) have been met, the city, county, or multi-county regional agency shall submit information to the board on local government programs which are specifically related to the claimed diversion.

(g) Notwithstanding any other provision of law, for purposes of determining the base amount of solid waste from which the diversion requirements of this article shall be calculated for a city, county, or multi-county regional agency which includes biomass conversion in its source reduction and recycling element pursuant to Section 41783.1, the base amount shall include those materials disposed of in the base year at biomass conversion facilities.

(h) This section shall remain in effect only until January 1, 2008, and as of that date is repealed.

41782. (a) The board may make adjustments to the amounts reported pursuant to subdivisions (a) and (c) of Section 41821.5, if the city, county, or multi-county regional agency demonstrates, and the board concurs, based on substantial evidence in the record, that achievement of the **diversion** requirements of Section 41780 is not feasible due to either of the following circumstances:

(1) A medical waste treatment facility, as defined in subdivision (a) of Section 25025 of the Health and Safety Code, accepts untreated medical waste, which was generated outside of the jurisdiction, for purposes of treatment, and the medical waste, when treated, becomes solid waste.

(2) (A) A multi-county regional diversion facility within the jurisdiction accepts material generated outside the jurisdiction and the conversion or processing of that material results in the production of residual solid waste that cannot feasibly be diverted. Any adjustment provided pursuant to this paragraph shall apply only to that portion of the residual solid waste produced as a consequence of processing material that is not subject to the reporting requirements of subdivisions (a) and (c) of Section 41821.5 and that cannot feasibly be allocated to the originating jurisdiction.

(B) For purposes of granting the reduction specified in subparagraph (A) and for the purpose of calculating compliance with the diversion requirements of Section 41780, "multi-county regional diversion facility" means a facility which meets all of the following criteria:

(1) The facility accepts material for recycling from both within and without the jurisdiction of the city or county within which it is located.

(2) All material accepted by the facility has been source-separated for the purpose of being processed prior to its arrival at the facility.

(3) The residual solid waste generated by the facility is a byproduct of the recycling that takes place at the facility.

(4) The facility is not a solid waste facility or solid waste handling operation pursuant to Section 43020.

(5) The facility contributes to multi-county regional efforts to divert solid waste from disposal.

(b) If the board makes an adjustment pursuant to subdivision (a), the annual report required pursuant to Section 41821 by the jurisdiction, within which a medical waste treatment facility or multi-county regional diversion facility described in subdivision (a) is located, shall include all of the following information:

(1) The total amount of residual solid waste produced at the facility.

(2) The waste types and amounts in the residual solid waste that cannot feasibly be diverted.

(3) The factors that continue to prevent the waste types from being feasibly diverted.

(4) Any changes since the petition for adjustment was granted or since the last annual report.

(5) The additional efforts undertaken by the jurisdiction to divert the waste produced at the facility.

(c) Based upon the information submitted pursuant to subdivision (b), if the board finds, as part of the biennial review pursuant to Section 41825, that the residual solid waste that previously could not be diverted can now be diverted, the board shall rescind the adjustment commensurate with the amount of diversion of the residual tonnages.

(d) It is not the intent of the Legislature to exempt any solid waste facility or handling operation from periodic tracking and the reporting of disposal tonnages in accordance with the regulations adopted by the board pursuant to subdivisions (a) and (c) of Section 41821.5, or from the permitting requirements pursuant to Section 43020.

41783. For any city, county, or multi-county regional agency source reduction and recycling element submitted to the board after January 1, 1995, the 50 percent diversion A jurisdiction within a county, county or multi-county regional agency may utilize transformation as a method to meet the requirements specified in paragraph (2) of subdivision (a) of Section 41780. The amount of solid waste sent to transformation, as defined in Section 40201, that may be credited against the tonnage of solid waste disposed, as determined pursuant to Section 41781, may be up to an amount that is in the same proportion as the amount credited against disposal that the board approved for each participating jurisdiction in 2006. The amount credited shall may include not exceed more than 10 percent through transformation, as defined in Section 40201, and, if all of the following conditions are met:

(a) The transformation project is in compliance with Sections 21151.1 and 44150 of this code and Section 42315 of the Health and Safety Code.

(b) The transformation project uses front-end methods or programs to remove all recyclable materials from the waste stream prior to transformation to the maximum extent feasible.

(c) The ash or other residue generated from the transformation project is routinely tested at least once quarterly, or on a more frequent basis as determined by the agency responsible for regulating the testing and disposal of the ash or residue, and, notwithstanding Section 25143.5 of the Health and Safety Code, if hazardous wastes are present the ash or residue is sent to a class 1 hazardous waste disposal facility.

(d) The board holds a public hearing in the city, county, or multi-county regional agency jurisdiction within which the transformation project is proposed, and, after the public hearing, the board makes both of the following findings, based upon substantial evidence on the record:

(1) ~~The city, county, or jurisdiction within the county or multi-county~~ regional agency ~~is~~ are, and will continue to be effectively implementing all feasible source reduction, recycling, and composting measures.

(2) The transformation project will not adversely affect public health and safety or the environment.

(e) The transformation facility is permitted and operational on or before January 1, 1995.

(f) The ~~city jurisdiction within the county~~, county, or ~~multi-county~~ regional agency does not ~~include subtract~~ biomass conversion, as authorized pursuant to Section 41783, ~~from its tonnage of solid waste disposed as determined pursuant to Section 41781.~~ in its source reduction and recycling element.

41783.1 (a) ~~For any city, county, or multi-county regional agency source reduction and recycling element submitted to the board after January 1, 1995, the 50 percent diversion~~ A jurisdiction within a county, county or multi-county regional agency may utilize biomass conversion as a method to meet the requirements specified in paragraph (2) of subdivision (a) of Section 41780. The amount of solid waste sent to biomass conversion, as defined in Section 40106, that may be credited against the tonnage of solid waste disposed, as determined pursuant to Section 41781, may be up to an amount that is in the same proportion as the amount credited against disposal that the board approved for each participating jurisdiction in 2006. The amount credited shall ~~may include not exceed more than~~ 10 percent of the tonnage of solid waste disposed, through biomass conversion, and, if all of the following conditions are met:

(1) The biomass conversion project exclusively processes biomass.

(2) The biomass conversion project is in compliance with all applicable air quality laws, rules, and regulations.

(3) The ash or other residue from the biomass conversion project is regularly tested to determine if it is hazardous waste and, if it is determined to be hazardous waste, the ash or other residue is sent to a class 1 hazardous waste disposal facility.

(4) The ~~board determines, at a public hearing, based upon substantial evidence in the record, that the city, jurisdiction within the~~ county, or ~~multi-county~~ regional agency ~~are~~ is, and will continue to be, effectively implementing all feasible source reduction, recycling, and composting measures.

(5) The ~~city, county, or multi-county~~ regional agency does not ~~include subtract~~ transformation, as authorized pursuant to Section 41783, ~~from its tonnage of solid waste disposed as determined pursuant to Section 41781.~~ in its source reduction and recycling element.

41784. If the board determines that a ~~city or county~~ jurisdiction's source reduction and recycling element submitted after January 1, 1995, will not achieve the ~~50 percent~~ requirement established under Section 41780, and the ~~city or county jurisdiction~~ chooses not to use a transformation project to achieve the ~~50 percent~~ requirement, the board shall not require the ~~city or county jurisdiction~~ to achieve the ~~50 percent diversion~~ requirement through transformation, or impose any penalty on the ~~city or county jurisdiction~~ to compel the ~~city or county jurisdiction~~ to achieve the ~~50 percent~~ requirement through transformation.

41786. (a) Notwithstanding Section 41780, the board may ~~reduce~~ modify the ~~diversion~~ requirements specified in Section 41780 for any city or county which, on or before January 1, 1990, disposed of 75 percent or more of its solid waste, collected by the jurisdiction or its authorized agents or contractors, by transformation if either of the following conditions exist:

(1) The attainment of the ~~25 percent or 50 percent diversion~~ requirements specified in Section 41780 will result in substantial impairment of the obligations of one or more contracts in existence on January 1, 1990, for the city or county to furnish solid waste for fuel. A substantial impairment of obligations includes, but is not limited to, instances where a city has entered into a contract or franchise for 20 or more years with a joint powers authority for the operation of a transformation facility, and meeting the ~~diversion~~ requirements of Section 41780 may increase the city's costs by 15 percent or more.

(2) The attainment of the ~~25 percent or 50 percent diversion~~ requirements specified in Section 41780 will substantially interfere with the repayment of debt incurred to finance or refinance the transformation project, if the refinancing is done for the purpose of reducing debt service and not for the expansion of the transformation project.

(b) If the board ~~reduces~~ modifies the ~~diversion~~ requirements for a city or county pursuant to subdivision (a), the board shall establish new ~~diversion~~ requirements which require the maximum feasible amount of source reduction, recycling, and composting but which will not result in the conditions described in paragraphs (1) and (2) of subdivision (a).

ARTICLE 1.5. RURAL ASSISTANCE

41786.5. The Legislature declares and finds that:

(a) There are inherent difficulties associated with obtaining accurate waste disposal data for rural cities and counties.

(b) Small and rural cities and counties have limited resources to correct and document disposal inaccuracies.

(c) Waste disposal from rural jurisdictions represents less than 5% of the State's total waste volume.

(d) Rural jurisdictions should be allowed to demonstrate compliance with the requirements of section 41780 based on local diversion program implementation. Focusing on diversion program implementation is a more effective use of the resources of these jurisdictions and the board's than a focus on obtaining accurate disposal documentation. The biennial review set forth in section 41825 is intended to foster the focus on programs for rural jurisdictions.

41787. (a) (1) The board may reduce the **diversion** requirements of Section 41780 for a rural city if the rural city demonstrates, and the board concurs, based on substantial evidence in the record, that achievement of the **diversion** requirements is not feasible due to both of the following conditions:

(A) The small geographic size or low population density of the rural city.

(B) The small quantity of solid waste generated within the rural city.

(2) The board may reduce the **diversion** requirements of Section 41780 for the unincorporated area of a rural county if the rural county demonstrates, and the board concurs, based on substantial evidence in the record, that achievement of the **diversion** requirements is not feasible due to both of the following conditions:

(A) The large geographic size or low population density of the rural county.

(B) The small quantity of solid waste generated within the rural county.

(3) The board may grant a reduction in **diversion** requirements pursuant to this subdivision only if the rural city or the rural county demonstrates to the board, and the board concurs, based on substantial evidence in the record, that it has, at a minimum, implemented all of the following programs:

(A) A source reduction and recycling program designed to handle the predominant classes and types of solid waste generated within the rural city or rural county.

(B) A public sector diversion and procurement program.

(C) A public information and education program.

(b) If, as part of the review performed pursuant to Section 41825, the board finds that a rural city or a rural county, which previously qualified for a reduction in **diversion** requirements pursuant to subdivision (a), is no longer eligible for that reduction, the board shall issue an order requiring the rural city or rural county to comply with the **diversion** requirements of Section 41780.

41787.1. (a) Rural cities and rural counties may join to form rural multi-county regional agencies pursuant to Article 3 (commencing with Section 40970) of Chapter 1.

(b) A rural multi-county regional agency, and not the rural cities or rural counties which are member jurisdictions of the rural multi-county regional agency, may be responsible for compliance with Article 1 (commencing with Section 41780) of Chapter 6 if specified in the agreement pursuant to which the rural multi-county regional agency is formed.

(c) (1) The board may reduce the **diversion** requirements of Section 41780 for a rural multi-county regional agency, if the rural multi-county regional agency demonstrates, and the board concurs, based on substantial evidence in the record, that achievement of the **diversion** requirements is not feasible because adverse market or economic conditions beyond the control of the rural multi-county regional agency prevent it from meeting the requirements of Section 41780.

(2) Before a rural regional agency may be granted a reduction in **diversion** requirements pursuant to paragraph (1), it shall demonstrate that, at a minimum, it has established all of the following regionwide programs:

(A) A source reduction and recycling program or programs designed to handle the predominant classes and types of solid waste generated within the rural multi-county regional agency.

(B) A multi-county regional diversion and procurement program or programs.

(C) A multi-county regional public information and education program or programs.

(d) (1) Notwithstanding Section 40974, any civil penalty imposed on a rural multi-county regional agency by the board pursuant to Section 41813 or 41850 shall be imposed only on a member rural city or county that is in violation of this division as a city or county irrespective of its membership in the rural multi-county regional agency. If a rural multi-county regional agency elects to apportion penalties pursuant to this subdivision, the member jurisdiction to that rural multi-county regional agency shall, as a condition of the agreement establishing the rural multi-county regional agency, be required to account on an individual jurisdictional basis for their compliance with the **diversion** requirements of Section 41780, as prescribed by Section 41780.2.

(2) In determining whether to impose a penalty on a member of a rural multi-county regional agency pursuant to this subdivision, the board may consider all of the following:

(A) The relevant circumstances that resulted in the agency's failure to achieve the **diversion** requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, and whether the member contributed to the circumstances that resulted in the failure to achieve the **diversion** requirements.

(B) Whether the agency's joint powers agreement specifies that all liability for fines and penalties rests with the member, with no liability assigned to the agency.

(C) Whether the imposition of penalties on members and not on the agency would provide for flexibility that would allow the agency to resolve the problem that is preventing the members from meeting the **diversion** requirements.

(D) Limiting penalties to a maximum of ten thousand dollars (\$10,000) per day if a member's failure does not cause other members or the agency to fail to implement programs in the agency's source reduction and recycling element.

41787.2. (a) **Prior to January 1, 2008, A** rural city or a rural county, which has received, or is eligible for, a reduction in diversion requirements pursuant to Section 41787, may become a member of a rural multi-county regional agency for the purpose of complying with the diversion requirements of Section 41780, in which case the region's maximum disposal tonnage allowable shall be calculated as follows:

(1) Determining the multi-county regional maximum disposal tonnage allowable, excluding members with reduced diversion requirements.

(2) Determining the maximum disposal tonnage allowable for those members authorized to meet reduced diversion requirements.

(3) Adding the calculated maximum disposal tonnages determined pursuant to paragraphs (1) and (2) to determine the multi-county regional maximum disposal tonnage allowable.

(b) (1) A rural multi-county regional agency may not assume responsibility for compliance with diversion requirements upon formation pursuant to subdivision (b) of Section 41787.1, and for compliance with Article 1 (commencing with Section 41780), if the rural multi-county regional agency is comprised of more than two rural counties, unless authorized by the board pursuant to paragraph (2).

(2) The board may authorize the assumption of responsibility for compliance with the diversion requirements by a rural multi-county regional agency upon formation, which is comprised of more than two rural counties, if the board finds that the rural multi-county regional agency's assumption of responsibility will not adversely affect compliance with this part.

(c) This section shall remain in effect only until January 1, 2008, and as of that date is repealed.

41787.4. **Prior to January 1, 2008, A** notwithstanding Section 41820, the board may grant a two-year time extension from the diversion requirements of Section 41780 to a rural city, rural county, or rural multi-county regional agency if all of the following conditions are met:

(a) The board adopts written findings, based on substantial evidence in the record, that adverse market or economic conditions beyond the control of the rural city, rural county, or rural multi-county regional agency prevent the rural city, rural county, or rural multi-county regional agency from meeting the diversion requirements.

(b) The rural city, rural county, or rural multi-county regional agency submits a plan of correction that demonstrates how it will meet the diversion requirements before the time extension expires, which includes the source reduction, recycling, and composting programs it will implement and states how those programs will be funded.

(c) The rural city, rural county, or rural multi-county regional agency demonstrates that it is achieving the maximum feasible amount of source reduction, recycling, or composting of solid waste within its jurisdiction.

(d) This section shall remain in effect only until January 1, 2008, and as of that date is repealed.

Chapter 7. Approval of Local Planning

ARTICLE 1. BOARD APPROVAL

41801. Before approving or conditionally approving a countywide or multi-county regional integrated waste management plan, or any element of the plan, pursuant to Section 41800, the board shall adopt written findings, based on substantial evidence in the record, that implementing the plan or element will achieve the requirements established pursuant to this part, including the **diversion** requirements of Section 41780.

41801.5. (a) *Prior to January 1, 2008,* ~~If~~ an element submitted to the board for final review includes the diversion of any solid wastes specified in subdivision (c) of Section 41781.2 for years preceding the year commencing January 1, 1990, and the board is unable to determine whether the requirements of Section 41781.2 have been met, the board shall notify the city, county, or multi-county regional agency that the diversion is excluded for purposes of calculating compliance with Section 41780. The board shall notify the city, county, or multi-county regional agency of the exclusion within 60 days from the date of receipt of the element for final review. If an element has been submitted to the board for final review prior to January 1, 1993, the board shall notify the submitting city, county, or multi-county regional agency of the exclusion on or before March 1, 1993.

(b) The notice shall be based upon a summary review undertaken solely for the purpose of determining whether the source reduction and recycling element includes any diversion of wastes excluded by Section 41781.2, and whether the element contains information sufficient for the board to determine whether the requirements of that section have been met. The summary review and notice shall be undertaken by the board concurrent with the board's review and approval, conditional approval, or disapproval of source reduction and recycling elements pursuant to Section 41800.

(c) The board shall approve or conditionally approve the source reduction and recycling element, if wastes have been excluded pursuant to Section 41781.2, if the board finds, pursuant to Section 41801, that, notwithstanding that exclusion, the element will achieve the requirements established pursuant to this part, including the diversion requirements of Section 41780.

(d) If the source reduction and recycling element is approved or conditionally approved pursuant to this section, the city, county, or multi-county regional agency shall revise the element to reflect the excluded wastes and shall submit any such revisions to the board pursuant to Section 41822.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed.

ARTICLE 2. DEFICIENCIES

41811.5. (a) *Prior to January 1, 2008,* ~~If~~ the board disapproves an element for which a city, county, or multi-county regional agency has received a notification of excluded wastes pursuant to Section 41801.5, the city, county, or multi-county regional agency may, concurrent with the procedures specified in Section 41811, submit additional information to substantiate that the requirements of Section 41781.2 have been met. The additional information shall be submitted to the board within 60 days of disapproval of the element.

(b) Following the receipt of additional information pursuant to subdivision (a) the board shall determine, within 60 days, whether all, or a portion of, the excluded waste will be included in the source reduction and recycling element for purposes of calculating compliance with Section 41780.

(c) Based upon the board's determination pursuant to subdivision (b), the city, county, or multi-county regional agency shall revise its source reduction and recycling element to correct any deficiencies resulting from the exclusion of wastes pursuant to Section 41781.2, and shall resubmit the element to the board. The element shall be resubmitted within 120 days of a board determination pursuant to subdivision (b). Notwithstanding Section 41811, if an element is disapproved pursuant to Section 41800, and the notice of deficiency issued pursuant to Section 41810 identifies reasons for disapproval, including, but not limited to, noncompliance with Section 41781.2, the city, county, or multi-county regional agency shall correct all deficiencies, and readopt and resubmit the element to the board pursuant to the requirements of this section.

(d) In revising the source reduction and recycling element to address deficiencies arising from noncompliance with Section 41781.2, a city, county, or multi-county regional agency may limit the revisions to an identification and description of the specific measures that will be undertaken to achieve compliance with Section 41780.

(e) If a city, county, or multi-county regional agency is unable to resubmit the source reduction and recycling element within 120 days, the board may, on a case-by-case basis, extend the deadline imposed by subdivision (c) for submittal of a revised element.

(f) This section shall remain in effect only until January 1, 2008, and as of that date is repealed.

ARTICLE 3. OTHER PROVISIONS

41820.6. (a) In addition to its authority under Section 41820, the board may, after a public hearing, grant a time extension from the ~~diversion~~ requirements of Section 41780 to a city if both of the following conditions exist:

(1) The city was incorporated pursuant to Division 3 (commencing with Section 56000) of Title 5 of the Government Code on or after January 1, 2001.

(2) The county within which the city is located did not include provisions in its franchises that ensured that the now incorporated area would comply with the ~~diversion~~ requirements of Section 41780.

(b) The board may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows that the city shall ~~divert 50 percent of its estimated generation amount of solid waste from landfill or transformation facilities meet the requirements of Section 41780,~~ within three years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

41821.

(a) (1) Each year following the board's approval of a city, county, or multi-county regional agency's source reduction and recycling element, household hazardous waste element, and nondisposal facility element, the city, county, or multi-county regional agency shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 41780.

(2) The annual report shall be due on or before August 1 of the year following board approval of the source reduction and recycling element, the household hazardous waste element, and the nondisposal facility element, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.

(b) Each jurisdiction's annual report to the board shall, at a minimum, include the following:

(1) Calculations of annual disposal reduction.

(2) Information on the changes in waste ~~generated or disposed, of due to increases or decreases in population, economics, or other factors in complying with subdivision (c) of Section 41780.1.~~

(3) A summary of progress made in implementing the source reduction and recycling element and the household hazardous waste element. The city, county, or multi-county regional agency may also include information about existing and new programs it is implementing that are not part of the original or modified source reduction and recycling element adopted by the jurisdiction and approved by the board to achieve the ~~diversion~~ requirements of Section 41780.

(4) A summary of progress made in diversion of construction and demolition of waste material, including information on programs and ordinances implemented by the local government and quantitative data, where available.

(5) If the jurisdiction has been granted a time extension by the board pursuant to Section 41820, the jurisdiction shall include a summary of progress made in meeting the source reduction and recycling element implementation schedule pursuant to paragraph (2) of subdivision (a) of Section 41780 and complying with the jurisdiction's plan of correction, prior to the expiration of the time extension.

(6) If the jurisdiction has been granted an alternative source reduction, recycling, and composting requirement pursuant to Section 41785, the jurisdiction shall include a summary of progress made towards meeting the alternative requirement as well as an explanation of current circumstances that support the continuation of the alternative requirement.

(7) Other information relevant to compliance with Section 41780.

(c) A jurisdiction may also include, in the report required by this section, all of the following:

(1) Any factor that the jurisdiction believes would affect the accuracy of the disposal for the county estimated waste disposal reduction calculation provided in the report pursuant to paragraph (1) of subdivision (b) to accurately reflect the changes in the amount of solid waste that is actually disposed. The jurisdiction may include, but is not limited to including, all of the following factors:

(A) Whether the jurisdiction hosts a solid waste facility.
(B) The effects of self-hauled waste and construction and demolition waste.
(C) The original or subsequent base year calculation, the amount of orphan waste, and the waste disposal reduction adjustment methodology.

(2) Information regarding the programs the jurisdiction is undertaking to respond to the factors specified in paragraph (1), and why it is not feasible to implement programs to respond to other factors that affect the amount of waste that is disposed.

(3) An estimate that the jurisdiction believes reflects that jurisdiction's annual reduction or increase in the disposal of solid waste.

(d) The board shall use, but is not limited to the use of, the annual report in the determination of whether the jurisdiction's source reduction and recycling element needs to be revised.

(e) (1) The board shall adopt procedures for requiring additional information in a jurisdiction's annual report. The procedures shall require the board to notify a jurisdiction of any additional required information no later than 120 days after the board receives the report from the jurisdiction.

(2) Paragraph (1) does not prohibit the board from making additional requests for information in a timely manner. A jurisdiction receiving a request for information shall respond in a timely manner.

(f) The board shall adopt procedures for conferring with a jurisdiction regarding the implementation of a diversion program or changes to a jurisdiction's calculation of its annual disposal reduction.

41825. (a) At least once every two years, the board shall review each individual city, county, or multi-county regional agency's progress in implementing its source reduction and recycling element and household hazardous waste element to meet the requirements of Section 41780. The board shall determine whether or not each city, county and multi-county regional agency has maintained disposal as compared to the base tonnage year in accordance with the criteria adopted pursuant to section 41780(c).

(b) At least every two years on and after January 1, 2010, the board shall conduct a review of each jurisdiction's program implementation in one of the following three ways:

(1) If the board finds that the county or multi-county regional agency has maintained solid waste disposed as compared to the base tonnage year, for purposes of compliance with Section 41780, the board shall conduct a streamlined review of program implementation by each jurisdiction to determine if each jurisdiction within the county or multi-county regional agency has implemented the diversion programs set forth in its source reduction and recycling element, including any updates. Any streamlined review may be rebutted if the review provides information to show that the jurisdiction is not implementing its diversion programs, in which case the board shall conduct a detailed jurisdiction review.

(A) If the board determines that a jurisdiction is implementing or making a good faith effort to implement the diversion programs set forth in their source reduction and recycling element, including any updates, then the jurisdiction shall be deemed in compliance with section 41780.

(B) If the board has information to indicate that a jurisdiction may not have implemented or made a good faith effort to implement its diversion programs, then the board shall initiate the conferring period set forth in subsection (f). The conferring period affords the jurisdictions an opportunity to discuss and provide board staff any additional information related to their program implementation.

(2) For a rural county with less than 100,000 tons of disposal per year, the board shall conduct a streamlined review of program implementation by each jurisdiction to determine if each jurisdiction within the county has implemented the diversion programs set forth in its source reduction and recycling element, including any updates, for purposes of compliance with Section 41780. Any streamlined review may be rebutted if the review provides information to show that the jurisdiction is not implementing its diversion programs, in which case the board shall conduct a detailed jurisdiction review.

(A) If the board determines that a jurisdiction is implementing or making a good faith effort to implement the diversion programs set forth in their source reduction and recycling element, including any updates, then the jurisdiction shall be deemed in compliance with section 41780.

(B) If the board has information to indicate that a jurisdiction may not have implemented or made a good faith effort to implement its diversion programs, then the board shall initiate the conferring period set

forth in subsection (f). The conferring period affords the jurisdictions an opportunity to discuss and provide board staff any additional information related to their program implementation.

(3) If the board finds the county or multi-county regional agency has not maintained solid waste disposed as compared to the base tonnage year, the board shall conduct a detailed review of the effectiveness of the implementation of the diversion programs implemented by each jurisdiction to determine if the diversion programs of each jurisdiction within the county are adequately addressing all significant sources of disposal, except as provided for in subsection (3)(A) below.

(A) For those jurisdictions within the county or multi-county regional agency that have evidenced a history of adequate program implementation, based upon past biennial reviews, the board may conduct a more streamlined review as described in subsection (1).

(B) If the board determines that a jurisdiction is implementing or making a good faith effort to implement the diversion programs set forth in their source reduction and recycling element, including any updates, then the jurisdiction shall be deemed in compliance with section 41780.

(C) If the board has information to indicate that a jurisdiction may not have implemented or made a good faith effort to implement its diversion programs, then the board shall initiate the conferring period set forth in subsection (f). The conferring period affords the jurisdictions an opportunity to discuss and provide board staff any additional information related to their program implementation.

(c) For the purposes of this section, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(d) The board shall consider the following when considering whether a jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element:

(1) Natural disasters.

(2) Budgetary conditions within a city, county, or multi-county regional agency that could not be remedied by the imposition or adjustment of solid waste fees.

(3) Work stoppages that directly prevent a city, county, or multi-county regional agency from implementing its source reduction and recycling element or household hazardous waste element.

(4) The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction.

(5) The extent to which a city, county, or multi-county regional agency has implemented additional source reduction, recycling, and composting activities.

(6) The extent to which the jurisdiction is implementing programs to prevent an increase in countywide disposal as compared to the base tonnage year.

(7) Whether a local jurisdiction has provided information to the board concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(8) For purposes of this section "good faith effort" may also include the evaluation by a city, county, or multi-county regional agency of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the city, county, or multi-county regional agency to adequately address all sources of significant disposal and the jurisdiction has submitted a compliance schedule (pursuant to Section 41825,) and has made all other reasonable and feasible efforts to implement the programs identified in its source reduction and recycling element or household hazardous waste element.

(9) In determining whether a jurisdiction has made a good faith effort, the board shall consider the enforcement criteria included in its enforcement policy, as adopted on April 25, 1995, or as subsequently amended.

(b) If after a public hearing, which, to the extent possible, is held in the local or multi-county regional agency's jurisdiction, the board finds that the city, county, or multi-county regional agency has failed to make a good faith effort to implement its source reduction and recycling element or its household

hazardous waste element, the board shall initiate the process to issue an order of compliance with a specific schedule for achieving compliance.

(e) (1) The board shall confer with a jurisdiction regarding conditions relating to a proposed order of compliance, with a first meeting occurring not less than 60 days before issuing a notice of intent to issue an order of compliance.

(2) The board shall issue a notice of intent to issue an order of compliance not less than 30 days before the board holds a hearing to issue the notice of compliance. The notice of intent shall specify all of the following:

(A) The proposed basis for issuing an order of compliance.

(B) Proposed actions that board staff recommends are necessary for the jurisdiction to complete in order to implement its source reduction and recycling element or household hazardous waste element.

(C) Proposed staff recommendations to the board.

(3) The board shall consider any information provided pursuant to subdivision (c) of Section 41821 if the proposed issuance of an order of compliance involves changes to a jurisdiction's calculation of annual disposal reduction.

(g) The board may issue a compliance order only if the board determines that the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element, including updates, or its household hazardous waste element, including updates and has determined that additional program implementation is necessary to adequately address all significant sources of disposal.

(1) In making a determination, the board may consider an increase in the countywide or multi-county regional total tonnage of solid waste disposed only as an indication of whether the jurisdiction adequately implemented its diversion programs but shall not consider this fact to be determinative as to whether the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element.

(h) In addition to considering the good faith efforts to implement a diversion program, the board shall consider all of the following factors in determining whether or not to issue a compliance order:

(A) The rural nature of the jurisdiction.

(B) Whether exceptional growth rate that may have affected compliance.

(C) Other information that the jurisdiction may provide that indicates the effectiveness of the jurisdiction's programs, such as waste generation studies, waste characterization studies, or other jurisdiction-specific information.

(i) The compliance order shall include those conditions that the board determines to be necessary for the jurisdiction to complete in order to implement its source reduction and recycling element or household hazardous waste element.

ARTICLE 5. ENFORCEMENT

41850. (a) Except as specifically provided in Section 41813, if, after holding the public hearing and issuing an order of compliance pursuant to Section 41825, the board finds that the city, county, or multi-county regional agency has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, the board may impose administrative civil penalties upon the city or county or, pursuant to Section 40974, upon the city or county as a member of a multi-county regional agency, of up to ten thousand dollars (\$10,000) per day until the city, county, or multi-county regional agency implements the element.

(b) In determining whether or not to impose any penalties, or in determining the amount of any penalties imposed under this section, including any penalties imposed due to the exclusion of solid waste pursuant to Section 41781.2 that results in a reduction in the quantity of solid waste diverted by a city, county, or multi-county regional agency, the board shall consider whether the jurisdiction has made a good faith effort to implement its source reduction and recycling element or its household hazardous waste element. In addition, the board shall consider only those relevant circumstances that have prevented a city, county, or multi-county regional agency from meeting the requirements of this division, including the diversion requirements of paragraphs (1) and (2) of subdivision (a) of Section 41780, including, but not limited to, all of the following:

(1) Natural disasters.

(2) Budgetary conditions within a city, county, or multi-county regional agency that could not be remedied by the imposition or adjustment of solid waste fees.

(3) Work stoppages that directly prevent a city, county, or multi-county regional agency from implementing its source reduction and recycling element or household hazardous waste element.

(4) The impact of the failure of federal, state, and other local agencies located within the jurisdiction to implement source reduction and recycling programs in the jurisdiction on the host jurisdiction's ability to meet the requirements of paragraph (2) of subdivision (a) of Section 41780.

(c) In addition to the factors specified in subdivision (b), the board shall consider all of the following:

(1) The extent to which a city, county, or multi-county regional agency has implemented additional source reduction, recycling, and composting activities to comply with the **diversion** requirements of **paragraphs (1) and (2) of subdivision (a) of Section 41780.**

(2) The extent to which a city, county, or multi-county regional agency is meeting the **diversion** requirements of **paragraphs (1) and (2) of subdivision (a) of Section 41780.**

(3) Whether the jurisdiction has requested and been granted an extension to the requirements of Section 41780, pursuant to Section 41820, or an alternative requirement to Section 41780, pursuant to Section 41785.

(4) Whether a local jurisdiction has provided information to the board concerning whether construction and demolition waste material is at least a moderately significant portion of the waste stream, and, if so, whether the local jurisdiction has adopted an ordinance for diversion of construction and demolition waste materials from solid waste disposal facilities, has adopted a model ordinance pursuant to subdivision (a) of Section 42912 for diversion of construction and demolition waste materials from solid waste disposal facilities, or has implemented another program to encourage or require diversion of construction and demolition waste materials from solid waste disposal facilities.

(d) (1) For the purposes of this section, "good faith effort" means all reasonable and feasible efforts by a city, county, or multi-county regional agency to implement those programs or activities identified in its source reduction and recycling element or household hazardous waste element, or alternative programs or activities that achieve the same or similar results.

(2) For purposes of this section "good faith effort" may also include the evaluation by a city, county, or multi-county regional agency of improved technology for the handling and management of solid waste that would reduce costs, improve efficiency in the collection, processing, or marketing of recyclable materials or yard waste, and enhance the ability of the city, county, or multi-county regional agency to meet the **diversion** requirements of **paragraphs (1) and (2) of subdivision (a) of Section 41780,** provided that the city, county, or multi-county regional agency has submitted a compliance schedule pursuant to Section 41825, and has made all other reasonable and feasible efforts to implement the programs identified in its source reduction and recycling element or household hazardous waste element.

(3) In determining whether a jurisdiction has made a good faith effort, the board shall consider the enforcement criteria included in its enforcement policy, as adopted on April 25, 1995, or as subsequently amended.

41850.5. Any administrative civil penalty imposed by the board pursuant to Section 41813 or 41850 shall be deposited in the Local Government Assistance Account, which is hereby created in the Integrated Waste Management Fund. Any funds deposited in that account shall be used solely for the purposes of assisting local governments in complying with the **diversion** requirements established under Section 41780, and shall not be used by the board for administrative purposes.

PART 3. STATE PROGRAMS

Chapter 18.5. State Agency Integrated Waste Management Plan

42921. **(a) Each state agency and each large state facility shall divert at least 25 percent of all solid waste generated by the state agency from landfill disposal or transformation facilities by January 1, 2002, through source reduction, recycling, and composting activities.**

(b) On and after January 1, 2004 2008, each state agency and each large state facility shall adequately implement the diversion programs set forth in its integrated waste management plan.

(b) The diversion programs in the integrated waste management plan shall be designed to maintain the total tonnage of solid waste disposed by the agency or facility as compared to the tonnage disposed in 2006 and these programs shall be adequate to accomplish this purpose consistent with Section 40051.

divert at least 50 percent of all solid waste from landfill disposal or transformation facilities through source reduction, recycling, and composting activities.

42927.5. A community college district may impose fees in amounts sufficient to pay the costs of preparing, adopting, and implementing a state agency integrated waste management plan prepared pursuant to this division. The fees shall be based on the types or amounts of the solid waste, and shall be used to pay the actual costs incurred by the community college district in preparing, adopting, and implementing the plan, as well as in setting and collecting the fees. In determining the amounts of the fees, a community college district shall include only those costs directly related to the preparation, adoption, and implementation of the plan and the setting and collection of the fees. The fees may also include an amount to cover actual costs incurred since the effective date of this Chapter.