

ATTACHMENT E

FINDING OF CONFORMANCE RELATED STATUTES

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PUBLIC RESOURCES CODE

40051. In implementing this division, the board and local agencies shall do both of the following:

(a) Promote the following waste management practices in order of priority:

- (1) Source reduction.
 - (2) Recycling and composting.
 - (3) Environmentally safe transformation and environmentally safe land disposal, at the discretion of the city or county.
- (b) Maximize the use of all feasible source reduction, recycling, and composting options in order to reduce the amount of solid waste that must be disposed of by transformation and land disposal. For wastes that cannot feasibly be reduced at their source, recycled, or composted, the local agency may use environmentally safe transformation or environmentally safe land disposal, or both of those practices.

41721. The countywide siting element shall be approved by the county and by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county except in those counties which have only two cities, in which case the element is subject to approval of the city which contains the majority of the population of the incorporated area of the county. Each city shall act upon the countywide siting element within 90 days after receipt of the siting element. If a city fails to act upon the siting element within 90 days after receiving the siting element, the city shall be deemed to have approved the siting element as submitted.

41721.5. (a) Any amendments to the countywide siting element shall be approved by the county and by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county except in those counties which have only two cities, in which case the amendment is subject to approval of the city which contains the majority of the population of the incorporated area of the county.

(b) Any person or public agency proposing the development of a solid waste disposal or transformation facility may initiate an amendment to the countywide siting element by submitting a site identification and description to the county board of supervisors.

(c) The county shall submit the site identification and description to the cities within the county within 20 days after the site identification and description is submitted to the county board

of supervisors. Each city shall act upon the proposed amendment within 90 days after receipt of the proposed amendment. If a city fails to act upon the proposed amendment within 90 days after receiving the amendment, the city shall be deemed to have approved the proposed amendment as submitted.

(d) If the county or a city disapproves the proposed amendment, the county or city shall mail notice of its decision by first-class mail to the person or public agency proposing the amendment within 10 days of the disapproval, stating its reasons for the disapproval.

(e) No county or city shall disapprove a proposed amendment unless it determines, based on substantial evidence in the record, that the amendment would cause one or more significant adverse impacts within its boundaries from the proposed project.

(f) Within 45 days after the date of disapproval by the county or a city of a proposed amendment, or a decision by the board not to concur in the issuance, modification, or revision of a solid waste facilities permit pursuant to Section 44009, any person may file with the superior court a writ of mandate for review of the disapproval or the decision. The evidence before the court shall consist of the record before the county or city which disapproved the proposed amendment or the record before the board in its determination not to concur in issuance, modification, or revision of the solid waste facilities permit. Section 1094.5 of the Code of Civil Procedure shall govern the proceedings conducted pursuant to this subdivision.

44009. (a) (1) The board shall, in writing, concur or object to the issuance, modification, or revision of any solid waste facilities permit within 60 days from the date of the board's receipt of any proposed solid waste facilities permit submitted under Section 44007 after consideration of the issues in this section.

(2) If the board determines that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or is not consistent with Sections 43040, 43600, 44007, 44010, 44017, 44150, and 44152 or Division 31 (commencing with Section 50000), the board shall object to provisions of the permit and shall submit those objections to the local enforcement agency for its consideration.

(3) If the board fails to concur or object in writing within the 60-day period specified in paragraph (1), the board shall be deemed to have concurred in the issuance of the permit as submitted to it.

(b) Notwithstanding subdivision (a), the board is not required to concur in, or object to, and shall not be deemed to have concurred in, the issuance of a solid waste facilities permit for a disposal facility if the owner or operator is not in compliance with, as determined by the regional water board, an enforcement order issued pursuant to Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code, or if all of the following conditions exist:

(1) Waste discharge requirements for the disposal facility issued by the applicable regional water board are pending review in a petition before the state water board.

(2) The petition for review of the waste discharge requirements includes a request for a stay of the waste discharge requirements.

(3) The state water board has not taken action on the stay request portion of the pending petition for review of waste discharge requirements.

(c) In objecting to the issuance, modification, or revision of any solid waste facilities permit pursuant to this section, the board shall, based on substantial evidence in the record as to the matter before the board, state its reasons for objecting. The board shall not object to the issuance, modification, or revision of any solid waste facilities permit unless the board finds that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or is not consistent with Section 43040, 43600, 44007, 44010, 44017, 44150, or 44152 or Division 31 (commencing with Section 50000).

(d) Nothing in this section is intended to require that a solid waste facility obtain a waste discharge permit from a regional water board prior to obtaining a solid waste facilities permit.

50000. (a) Until an integrated waste management plan has been approved by the California Integrated Waste Management Board pursuant to Division 30 (commencing with Section 40000), no person shall establish a new solid waste facility or transformation facility or expand an existing solid waste facility or transformation facility that will result in a significant increase in the amount of solid waste handled at the facility without a certification by the enforcement agency that one of the following has occurred:

(1) The facility is identified and described in, or found to conform with, a county solid waste management plan that was in compliance with statutes and regulations in existence on December 31, 1989, adopted pursuant to former Title 7.3 (commencing with Section 66700) of the Government Code as that former statute read on December 31, 1989. The conformance finding with that plan shall be in accordance with the procedure for a finding of conformance that was set forth in the plan prior to January 1, 1990.

(2) The facility is identified and described in the most recent county solid waste management plan that has been approved by the county and by a majority of the cities within the county that contain a majority of the population of the incorporated area of the county, except in those counties that have only two cities, in which case, the plan has been approved by the county and by the city that contains a majority of the population of the incorporated area of the county.

(3) Pursuant to the procedures in subdivision (b), the facility has been approved by the county and by a majority of the cities within the county that contain a majority of the population of the incorporated area of the county, except in those counties that have only two cities, in which case, the facility has been approved by the county and by the city that contains a majority of the population of the incorporated area of the county.

(4) The facility is a material recovery facility and the site identification and description of the facility have been submitted to the task force created pursuant to Section 40950 for review and comment, pursuant to the procedures set forth in subdivision (c). For purposes of this paragraph, "material recovery facility" means a transfer station that is designed to, and, as a condition of its permit, shall, recover for reuse or recycling at least 15 percent of the total volume of material received by the facility.

(5) The facility is identified and described in the countywide siting element that has been approved pursuant to Section 41721.

(b) (1) The review and approval of a solid waste facility or transformation facility that has not been identified or described in a county solid waste management plan shall be initiated by submittal by the person or agency proposing the facility of a site identification and description to the county board of supervisors.

(2) The county shall submit the site identification and description to each city within the county within 20 days from the date that the site identification and description is submitted to the county board of supervisors. The county and each city shall approve or disapprove by resolution the site identification and description within 90 days from the date that the site identification and description are initially submitted to the county or city. Each city shall notify the county board of supervisors of its decision within that 90-day period. If the county or a city fails to approve or disapprove the site identification and description within 90 days, the city or county shall be deemed to have approved the site identification and description as submitted.

(3) If a city or county disapproves the site identification and description, the city or county shall mail notice of its decision by first-class mail to the person or agency requesting the approval within 10 days of the disapproval by the city or county, stating its reasons for the disapproval.

(4) No county or city shall disapprove a proposed site identification and description for a new solid waste facility or transformation facility or an expanded solid waste facility or transformation facility that will result in a significant increase in the amount of solid waste handled at the facility unless it determines, based upon substantial evidence in the record, that there will be one or more significant adverse impacts within its

boundaries from the proposed project.

(5) Within 45 days from the date of a decision by a city or county to disapprove a site identification and description, or a decision by the board not to concur in the issuance of a permit pursuant to Section 44009, any person may file with the superior court a writ of mandate for review of the decision. The evidence before the court shall consist of the record before the city or county that disapproved the site identification and description or the record before the board in its determination not to concur in issuance of the permit. Section 1094.5 of the Code of Civil Procedure shall govern the proceedings conducted pursuant to this subdivision.

(c) To initiate the review and comment by the task force required by paragraph (4) of subdivision (a) and subdivision (d), the person or agency proposing the facility shall submit the site identification and description of the facility to the task force. Within 90 days after the site identification and description are submitted to the task force, the task force shall meet and comment on the facility in writing. Those comments shall include, but are not limited to, the relationship between the proposed new or expanded material recovery facility and the requirements of Section 41780. The task force shall transmit those comments to the applicant, to the county, and to all of the cities in the county.

(d) On or before February 1, 1991, each county, by vote of the board of supervisors and the majority of the cities in the county containing a majority of the population of the incorporated area of the county, except in those counties that have only two cities, in which case the vote is subject to approval of the city that contains a majority of the population of the incorporated area of the county, shall adopt two resolutions after holding a public hearing. One resolution shall address solid waste transfer facilities that are designed to, and, as a condition of their permits, shall, recover for reuse or recycling less than 15 percent of the total volume of material received by the facility and that serve more than one jurisdiction. The second resolution shall address solid waste transfer facilities that are designed to, and, as a condition of their permits, shall, recover for reuse or recycling less than 15 percent of the total volume of material received by the facility and that serve only one jurisdiction. These resolutions shall specify whether the facilities shall be subject to the review and approval process described in subdivision (b) or the review and comment process described in subdivision (c). If the resolutions required by this subdivision are not adopted on or before February 1, 1991, those facilities shall be subject to the review process described in subdivision (c).

For purposes of this subdivision, a facility serves only one jurisdiction if it serves only one city, only the unincorporated area

of one county, or only one city and county.

50000.5. (a) Until a countywide integrated waste management plan has been approved by the California Integrated Waste Management Board pursuant to Division 30 (commencing with Section 40000), no person shall establish or expand a solid waste facility or transformation facility unless the city or county in which the site is located makes a finding that the establishment or expansion of the facility is consistent with the applicable general plan of the city or county. This finding shall not be made unless the city or county has adopted a general plan which complies with the provisions of Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(b) In addition to the requirements in subdivision (a), any new or expanded solid waste disposal facility or transformation facility shall be deemed to be consistent with the general plan only if both of the following requirements are met:

(1) The facility is located in a land use area designated or authorized for solid waste facilities in the applicable city or county general plan.

(2) The land uses which are authorized adjacent to, or near, the facility are compatible with the establishment, or expansion of, the solid waste disposal facility or transformation facility.

50001. (a) Except as provided by subdivision (b), after a countywide or regional agency integrated waste management plan has been approved by the California Integrated Waste Management Board pursuant to Division 30 (commencing with Section 40000), no person shall establish or expand a solid waste facility, as defined in Section 40194, in the county unless the solid waste facility meets one of the following criteria:

(1) The solid waste facility is a disposal facility or a transformation facility, the location of which is identified in the countywide siting element or amendment thereto, which has been approved pursuant to Section 41721.

(2) The solid waste facility is a facility which is designed to, and which as a condition of its permit, will recover for reuse or recycling at least 5 percent of the total volume of material received by the facility, and which is identified in the nondisposal facility element or amendment thereto, which has been approved pursuant to Section 41800 or 41801.5.

(b) Solid waste facilities other than those specified in paragraphs (1) and (2) of subdivision (a) shall not be required to comply with the requirements of this section.

(c) The person or agency proposing to establish a solid waste facility shall prepare and submit a site identification and

description of the proposed facility to the task force established pursuant to Section 40950. Within 90 days after the site identification and description is submitted to the task force, the task force shall meet and comment on the proposed solid waste facility in writing. These comments shall include, but are not limited to, the relationship between the proposed solid waste facility and the implementation schedule requirements of Section 41780 and the regional impact of the facility. The task force shall transmit these comments to the person or public agency proposing establishment of the solid waste facility, to the county, and to all cities within the county. The comments shall become part of the official record of the proposed solid waste facility.

(d) The review and comment by the local task force required by subdivision (c) for amendment to an element may be satisfied by the review required by subdivision (a) of Section 41734 for an amendment to an element.

50001.2. Nothing in this division is intended to limit the ability of a city or county to enter into a joint exercise of powers agreement to establish procedures, plans, policies, and criteria to which solid waste facilities shall conform.

50001.5. At the request of the board or any local governmental entity, the Attorney General shall bring an action to enforce this division.

50002. (a) The California Integrated Waste Management Board may, by regulation, specify classifications of solid waste facilities that are exempt from the requirements of Sections 50000, 50000.5, and 50001. The regulation may be adopted only if the board makes all of the following findings:

- (1) The exemption is not contrary to the public interest.
- (2) The quantity of solid wastes to be disposed of at each site is insignificant.
- (3) The nature of the solid wastes poses no significant threat to the public health, the public safety, or the environment.

(b) The application to land of agricultural products derived from municipal sewage sludge for use as a fertilizer material, based on a finding by the board that the nature of the solid waste poses no significant threat to the public health, the public safety, or the environment, is exempt from the requirements of Sections 50000 and 50000.5.