Self-administered asthma medication law - California Education Code Section 49423.1

49423.1. (a) Notwithstanding Section 49422, any pupil who is required to take, during the regular schoolday, medication prescribed for him or her by a physician or surgeon, may be assisted by the school nurse or other designated school personnel or may carry and **self**-administer inhaled **asthma** medication if the school district receives the appropriate written statements specified in subdivision (b).

(b) (1) In order for a pupil to be assisted by a school nurse or other designated school personnel pursuant to subdivision (a), the school district shall obtain both a written statement from the physician or surgeon detailing the name of the medication, method, amount, and time schedules by which the medication is to be taken and a written statement from the parent, foster parent, or guardian of the pupil requesting that the school district assist the pupil in the matters set forth in the statement of the physician or surgeon.

(2) In order for a pupil to carry and **self**-administer prescription inhaled **asthma** medication pursuant to subdivision (a), the school district shall obtain both a written statement from the physician or surgeon detailing the name of the medication, method, amount, and time schedules by which the medication is to be taken, and confirming that the pupil is able to **self**-administer inhaled **asthma** medication, and a written statement from the parent, foster parent, or guardian of the pupil consenting to the **self**-administration, providing a release for the school nurse or other designated school personnel to consult with the health care provider of the pupil regarding any questions that may arise with regard to the medication, and releasing the school district and school personnel from civil liability if the **self**-administering pupil suffers an adverse reaction by taking medication pursuant to this section.

(3) The written statements specified in this subdivision shall be provided at least annually and more frequently if the medication, dosage, frequency of administration, or reason for administration changes.

(c) A pupil may be subject to disciplinary action pursuant to Section 48900 if that pupil uses inhaled **asthma** medication in a manner other than as prescribed.

Health plans provide coverage for asthma equipment - California Health and Safety Code Section 1367.06

1367.**06**. (a) A health care service plan contract, except a specialized health care service plan contract, that is issued,

amended, delivered, or renewed on or after January 1, 2005, that covers outpatient prescription drug benefits shall include coverage for inhaler spacers when medically necessary for the management and treatment of pediatric asthma.

(b) If a subscriber has coverage for outpatient prescription drugs, a health care service plan contract, except a specialized health care service plan contract, that is issued, amended, delivered, or renewed on or after January 1, 2005, shall include coverage for the following equipment and supplies when medically necessary for the management and treatment of pediatric asthma:

(1) Nebulizers, including face masks and tubing.

(2) Peak flow meters.

(c) The quantity of the equipment and supplies required to be covered pursuant to subdivisions (a) and (b) may be limited by the health care service plan if the limitations do not inhibit appropriate compliance with treatment as prescribed by the enrollee's physician and surgeon. A health care service plan shall provide for an expeditious process for approving additional or replacement inhaler spacers, nebulizers, and peak flow meters when medically necessary for an enrollee to maintain compliance with his or her treatment regimen. The process required by Section **1367**.24 may be used to satisfy the requirements of this section for an inhaler spacer.

(d) Education for pediatric asthma, including education to enable an enrollee to properly use the device identified in subdivisions (a) and (b), shall be consistent with current professional medical practice.

(e) The coverage required by this section shall be provided under the same general terms and conditions, including copayments and deductibles, applicable to all other benefits provided by the plan.

(f) A health care service plan shall disclose the benefits under this section in its evidence of coverage and disclosure forms.

(g) A health care service plan may not reduce or eliminate coverage as a result of the requirements of this section.

(h) Nothing in this section shall be construed to deny or restrict in any way the department's authority to ensure plan compliance with this chapter, if a plan provides coverage for prescription drugs.

2nd hand smoke bans – *In the workplace: California State Labor Code 6404.5*

6404.**5**. (a) The Legislature finds and declares that regulation of **smoking** in the workplace is a matter of statewide interest and concern. It is the intent of the Legislature in enacting this section to prohibit the **smoking** of tobacco products in all (100 percent of)

enclosed places of employment in this state, as covered by this section, thereby eliminating the need of local governments to enact workplace **smoking** restrictions within their respective jurisdictions. It is further the intent of the Legislature to create a uniform statewide standard to restrict and prohibit the **smoking** of tobacco products in enclosed places of employment, as specified in this section, in order to reduce employee exposure to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees, and also to eliminate the confusion and hardship that can result from enactment or enforcement of disparate local workplace **smoking** restrictions. Notwithstanding any other provision of this section, it is the intent of the Legislature that any area not defined as a "place of employment" pursuant to subdivision (d) or in which the **smoking** of tobacco products is not regulated pursuant to subdivision (e) shall be subject to local regulation of **smoking** of tobacco products.

(b) No employer shall knowingly or intentionally permit, and no person shall engage in, the **smoking** of tobacco products in an enclosed space at a place of employment. "Enclosed space" includes lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the building and not specifically defined in subdivision (d).

(c) For purposes of this section, an employer who permits any nonemployee access to his or her place of employment on a regular basis has not acted knowingly or intentionally in violation of this section if he or she has taken the following reasonable steps to prevent **smoking** by a nonemployee:

(1) Posted clear and prominent signs, as follows:

(A) Where **smoking** is prohibited throughout the building or structure, a sign stating "No **smoking**" shall be posted at each entrance to the building or structure.

(B) Where **smoking** is permitted in designated areas of the building or structure, a sign stating "**Smoking** is prohibited except in designated areas" shall be posted at each entrance to the building or structure.

(2) Has requested, when appropriate, that a nonemployee who is **smoking** refrain from **smoking** in the enclosed workplace.

For purposes of this subdivision, "reasonable steps" does not include (A) the physical ejection of a nonemployee from the place of employment or (B) any requirement for making a request to a nonemployee to refrain from **smoking**, under circumstances involving a risk of physical harm to the employer or any employee.

(d) For purposes of this section, "place of employment" does not include any of the following:

(1) Sixty-five percent of the guestroom accommodations in a hotel, motel, or similar transient lodging establishment.

(2) Areas of the lobby in a hotel, motel, or other similar transient lodging establishment designated for **smoking** by the establishment. An establishment may permit **smoking** in a designated lobby area that does not exceed 25 percent of the total floor area of the lobby or, if the total area of the lobby is 2,000 square feet or less, that does not exceed 50 percent of the total floor area of the lobby. For purposes of this paragraph, "lobby" means the common public area of an establishment in which registration and other similar or related transactions, or both, are conducted and in which the establishment's guests and members of the public typically congregate.

(3) Meeting and banquet rooms in a hotel, motel, other transient lodging establishment similar to a hotel or motel, restaurant, or public convention center, except while food or beverage functions are taking place, including setup, service, and cleanup activities, or when the room is being used for exhibit purposes. At times when **smoking** is not permitted in a meeting or banquet room pursuant to this paragraph, the establishment may permit **smoking** in corridors and prefunction areas adjacent to and serving the meeting or banquet room if no employee is stationed in that corridor or area on other than a passing basis.

(4) Retail or wholesale tobacco shops and private smokers' lounges. For purposes of this paragraph:

(A) "Private smokers' lounge" means any enclosed area in or attached to a retail or wholesale tobacco shop that is dedicated to the use of tobacco products, including, but not limited to, cigars and pipes.

(B) "Retail or wholesale tobacco shop" means any business establishment the main purpose of which is the sale of tobacco products, including, but not limited to, cigars, pipe tobacco, and **smoking** accessories.

(**5**) Cabs of motortrucks, as defined in Section 410 of the Vehicle **Code**, or truck tractors, as defined in Section 655 of the Vehicle **Code**, if no nonsmoking employees are present.

(6) Warehouse facilities. For purposes of this paragraph, "warehouse facility" means a warehouse facility with more than 100,000 square feet of total floorspace, and 20 or fewer full-time employees working at the facility, but does not include any area within a facility that is utilized as office space.

(7) Gaming clubs, in which **smoking** is permitted by subdivision (f). For purposes of this paragraph, "gaming club" means any gaming club, as defined in Section 19802 of the Business and Professions **Code**, or bingo facility, as defined in Section 326.**5** of the Penal **Code**, that restricts access to minors under 18 years of age.

(8) Bars and taverns, in which **smoking** is permitted by subdivision (f). For purposes of this paragraph, "bar" or "tavern" means a

facility primarily devoted to the serving of alcoholic beverages for consumption by guests on the premises, in which the serving of food is incidental. "Bar or tavern" includes those facilities located within a hotel, motel, or other similar transient occupancy establishment. However, when located within a building in conjunction with another use, including a restaurant, "bar" or "tavern" includes only those areas used primarily for the sale and service of alcoholic beverages. "Bar" or "tavern" does not include the dining areas of a restaurant, regardless of whether alcoholic beverages are served therein.

(9) Theatrical production sites, if **smoking** is an integral part of the story in the theatrical production.

(10) Medical research or treatment sites, if **smoking** is integral to the research and treatment being conducted.

(11) Private residences, except for private residences licensed as family day care homes, during the hours of operation as family day care homes and in those areas where children are present.

(12) Patient **smoking** areas in long-term health care facilities, as defined in Section 1418 of the Health and Safety **Code**.

(13) Breakrooms designated by employers for **smoking**, provided that all of the following conditions are met:

(A) Air from the **smoking** room shall be exhausted directly to the outside by an exhaust fan. Air from the **smoking** room shall not be recirculated to other parts of the building.

(B) The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic, and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the federal Environmental Protection Agency.

(C) The **smoking** room shall be located in a nonwork area where no one, as part of his or her work responsibilities, is required to enter. For purposes of this subparagraph, "work responsibilities" does not include any custodial or maintenance work carried out in the breakroom when it is unoccupied.

(D) There are sufficient nonsmoking breakrooms to accommodate nonsmokers.

(14) Employers with a total of five or fewer employees, either full time or part time, may permit **smoking** where all of the following conditions are met:

(A) The **smoking** area is not accessible to minors.

(B) All employees who enter the **smoking** area consent to permit **smoking**. No one, as part of his or her work responsibilities, shall be required to work in an area where **smoking** is permitted. An

employer who is determined by the division to have used coercion to obtain consent or who has required an employee to work in the **smoking** area shall be subject to the penalty provisions of Section 6427.

(C) Air from the **smoking** area shall be exhausted directly to the outside by an exhaust fan. Air from the **smoking** area shall not be recirculated to other parts of the building.

(D) The employer shall comply with any ventilation standard or other standard utilizing appropriate technology, including, but not limited to, mechanical, electronic, and biotechnical systems, adopted by the Occupational Safety and Health Standards Board or the federal Environmental Protection Agency. If both adopt inconsistent standards, the ventilation standards of the Occupational Safety and Health Standards Board shall be no less stringent than the standards adopted by the federal Environmental Protection Agency.

This paragraph shall not be construed to (i) supersede or render inapplicable any condition or limitation on **smoking** areas made applicable to specific types of business establishments by any other paragraph of this subdivision or (ii) apply in lieu of any otherwise applicable paragraph of this subdivision that has become inoperative.

(e) Paragraphs (13) and (14) of subdivision (d) shall not be construed to require employers to provide reasonable accommodation to smokers, or to provide breakrooms for smokers or nonsmokers.

(f) (1) Except as otherwise provided in this subdivision, **smoking** may be permitted in gaming clubs, as defined in paragraph (7) of subdivision (d), and in bars and taverns, as defined in paragraph (8) of subdivision (d), until the earlier of the following:

(A) January 1, 1998.

(B) The date of adoption of a regulation (i) by the Occupational Safety and Health Standards Board reducing the permissible employee exposure level to environmental tobacco smoke to a level that will prevent anything other than insignificantly harmful effects to exposed employees or (ii) by the federal Environmental Protection Agency establishing a standard for reduction of permissible exposure to environmental tobacco smoke to an exposure level that will prevent anything other than insignificantly harmful effects to exposed persons.

(2) If a regulation specified in subparagraph (B) of paragraph (1) is adopted on or before January 1, 1998, **smoking** may thereafter be permitted in gaming clubs and in bars and taverns, subject to full compliance with, or conformity to, the standard in the regulation within two years following the date of adoption of the regulation. An employer failing to achieve compliance with, or conformity to, the regulation within this two-year period shall prohibit **smoking** in the gaming club, bar, or tavern until compliance or conformity is achieved. If the Occupational Safety and Health Standards Board and

the federal Environmental Protection Agency both adopt regulations specified in subparagraph (B) of paragraph (1) that are inconsistent, the regulations of the Occupational Safety and Health Standards Board shall be no less stringent than the regulations of the federal Environmental Protection Agency.

(3) If a regulation specified in subparagraph (B) of paragraph (1) is not adopted on or before January 1, 1998, the exemptions specified in paragraphs (7) and (8) of subdivision (d) shall become inoperative on and after January 1, 1998, until a regulation is adopted. Upon adoption of such a regulation on or after January 1, 1998, **smoking** may thereafter be permitted in gaming clubs and in bars and taverns, subject to full compliance with, or conformity to, the standard in the regulation within two years following the date of adoption of the regulation. An employer failing to achieve compliance with, or conformity to, the regulation within this two-year period shall prohibit **smoking** in the gaming club, bar, or tavern until compliance or conformity is achieved. If the Occupational Safety and Health Standards Board and the federal Environmental Protection Agency both adopt regulations specified in subparagraph (B) of paragraph (1) that are inconsistent, the regulations of the Occupational Safety and Health Standards Board shall be no less stringent than the regulations of the federal Environmental Protection Agency.

(4) From January 1, 1997, to December 31, 1997, inclusive, **smoking** may be permitted in gaming clubs, as defined in paragraph (7) of subdivision (d), and in bars and taverns, as defined in paragraph (8) of subdivision (d), subject to both of the following conditions:

(A) If practicable, the gaming club or bar or tavern shall establish a designated nonsmoking area.

(B) If feasible, no employee shall be required, in the performance of ordinary work responsibilities, to enter any area in which **smoking** is permitted.

(g) The **smoking** prohibition set forth in this section shall constitute a uniform statewide standard for regulating the **smoking** of tobacco products in enclosed places of employment and shall supersede and render unnecessary the local enactment or enforcement of local ordinances regulating the **smoking** of tobacco products in enclosed places of employment. Insofar as the **smoking** prohibition set forth in this section is applicable to all (100-percent) places of employment within this state and, therefore, provides the maximum degree of coverage, the practical effect of this section is to eliminate the need of local governments to enact enclosed workplace **smoking** restrictions within their respective jurisdictions.

(h) Nothing in this section shall prohibit an employer from prohibiting **smoking** in an enclosed place of employment for any reason.

(i) The enactment of local regulation of **smoking** of tobacco products in enclosed places of employment by local governments shall be suspended only for as long as, and to the extent that, the (100-percent) **smoking** prohibition provided for in this section remains in effect. In the event this section is repealed or modified by subsequent legislative or judicial action so that the (100-percent) **smoking** prohibition is no longer applicable to all enclosed places of employment in California, local governments shall have the full right and authority to enforce previously enacted, and to enact and enforce new, restrictions on the **smoking** of tobacco products in enclosed places of employment within their jurisdictions, including a complete prohibition of **smoking**. Notwithstanding any other provision of this section, any area not defined as a "place of employment" or in which **smoking** is not regulated pursuant to subdivision (d) or (e), shall be subject to local regulation of **smoking** of tobacco products.

(j) Any violation of the prohibition set forth in subdivision (b) is an infraction, punishable by a fine not to exceed one hundred dollars ($100) for a first violation, two hundred dollars ($200) for a second violation within one year, and five hundred dollars ($500) for a third and for each subsequent violation within one year. This subdivision shall be enforced by local law enforcement agencies, including, but not limited to, local health departments, as determined by the local governing body.

(k) Notwithstanding Section 6309, the division shall not be required to respond to any complaint regarding the **smoking** of tobacco products in an enclosed space at a place of employment, unless the employer has been found guilty pursuant to subdivision (j) of a third violation of subdivision (b) within the previous year.

(l) If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

In Public Buildings:

7596. As used in this chapter, the following terms have the following meanings:

(a) "Public building" means a building owned and occupied, or leased and occupied, by the state, a county, a city, a city and county, or a California community college district.

(1) "Inside a public building" includes all indoor areas of the building, except for covered parking lots and residential space. "Inside a public building" also includes any indoor space leased to the state, county, or city, except for covered parking lots and

residential space.

(2) "Residential space" means a private living area, but it does not include common areas such as lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of a multicomplex building such as a dormitory.

(3) (A) "Covered parking lot" means an area designated for the parking of vehicles that is enclosed or contains a roof or ceiling. "Covered parking lot" does not include lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of the parking lot or a building to which it is attached.

(B) The application of this subparagraph shall not supersede or render inapplicable permitted **smoking** of tobacco products under this chapter within any other part of a covered parking lot not specifically listed in subparagraph (1).

(b) "State" or "state agency" means a state agency, as defined pursuant to Section 11000, the Legislature, the Supreme Court and the courts of appeal, and each campus of the California State University and the University of California.

(c) "Public employee" means an employee of a state agency or an employee of a county or city.

7597. (a) No public employee or member of the public shall smoke any tobacco product inside a public building, or in an outdoor area within 20 feet of a main exit, entrance, or operable window of a public building, or in a passenger vehicle, as defined by Section 465 of the Vehicle **Code**, owned by the state.

(b) This section shall not preempt the authority of any county, city, city and county, California Community College campus, campus of the California State University, or campus of the University of California to adopt and enforce additional **smoking** and tobacco control ordinances, regulations, or policies that are more restrictive than the applicable standards required by this chapter.

7598. Except as provided in Section 7597, a public employee or other person may smoke in any outdoor area of a public building unless otherwise prohibited by state law or local ordinance and a sign describing the prohibition is posted by the state, county, or city agency or other appropriate entity.

Siting of schools away from pollution sources - Education Code Section 17213 and Public Resources Code Section 21151.8

Ed Code 17213. The governing board of a school district may not approve a project involving the acquisition of a schoolsite by a school district, unless all of the following occur:

(a) The school district, as the lead agency, as defined in Section 21067 of the Public Resources **Code**, determines that the property purchased or to be built upon is not any of the following:

(1) The **site** of a current or former hazardous waste disposal **site** or solid waste disposal **site**, unless if the **site** was a former solid waste disposal **site**, the governing board of the school district concludes that the wastes have been removed.

(2) A hazardous substance release **site** identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety **Code** for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety **Code**.

(3) A **site** that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood.

(b) The school district, as the lead agency, as defined in Section 21067 of the Public Resources **Code**, in preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California **Code** of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and other busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or acutely hazardous materials, substances, or waste. The school district, as the lead agency, shall include a list of the locations for which information is sought.

(c) The governing board of the school district makes one of the following written findings:

(1) Consultation identified none of the facilities or significant pollution sources specified in subdivision (b).

(2) The facilities or other pollution sources specified in subdivision (b) exist, but one of the following conditions applies:

(A) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential

endangerment of public health to persons who would attend or be employed at the school.

(B) The governing board finds that corrective measures required under an existing order by another governmental entity that has jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.

(C) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety **Code**, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed **site** is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(D) The governing board finds that neither of the conditions set forth in subparagraph (B) or (C) can be met, and the school district is unable to locate an alternative **site** that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section **17213**. If the governing board makes this finding, the governing board shall adopt a statement of Overriding Considerations pursuant to Section 15093 of Title 14 of the California **Code** of Regulations.

(d) As used in this section:

(1) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety **Code**.

(2) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety **Code**.

(3) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety **Code**.

(4) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety **Code**.

(5) "Hazardous waste disposal **site**" means any **site** defined in

Section 25114 of the Health and Safety **Code**.
(6) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety **Code**.
(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety **Code**.
(8) "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an emission source pursuant to the most recent list of source categories published by the California Air Resources Board.
(9) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area as defined in Section 50101 of the Health and Safety **Code**, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety **Code**.

Pub Resrouces Code 21151.**8**. (a) An environmental impact report or negative declaration
may not be approved for any project involving the purchase of a schoolsite or the construction of a new elementary or secondary school by a school district unless all of the following occur:
(1) The environmental impact report or negative declaration includes information that is needed to determine if the property proposed to be purchased, or to be constructed upon, is any of the following:
(A) The site of a current or former hazardous waste disposal site or solid waste disposal site and, if so, whether the wastes have been removed.
(B) A hazardous substance release site identified by the Department of Toxic Substances Control in a current list adopted pursuant to Section 25356 of the Health and Safety **Code** for removal or remedial action pursuant to Chapter 6.**8** (commencing with Section 25300) of Division 20 of the Health and Safety **Code**.
(C) A site that contains one or more pipelines, situated underground or aboveground, that carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line that is used only to supply natural gas to that school or neighborhood, or other nearby schools.
(D) A site that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor.
(2) The school district, as the lead agency, in preparing the environmental impact report or negative declaration has notified in writing and consulted with the administering agency in which the

proposed schoolsite is located, pursuant to Section 2735.3 of Title 19 of the California **Code** of Regulations, and with any air pollution control district or air quality management district having jurisdiction in the area, to identify both permitted and nonpermitted facilities within that district's authority, including, but not limited to, freeways and busy traffic corridors, large agricultural operations, and railyards, within one-fourth of a mile of the proposed schoolsite, that might reasonably be anticipated to emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste. The notification by the school district, as the lead agency, shall include a list of the locations for which information is sought.

(3) The governing board of the school district makes one of the following written findings:

(A) Consultation identified no facilities of this type or other significant pollution sources specified in paragraph (2).

(B) The facilities or other pollution sources specified in paragraph (2) exist, but one of the following conditions applies:

(i) The health risks from the facilities or other pollution sources do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school.

(ii) Corrective measures required under an existing order by another agency having jurisdiction over the facilities or other pollution sources will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes a finding pursuant to this clause, it shall also make a subsequent finding, prior to occupancy of the school, that the emissions have been so mitigated.

(iii) For a schoolsite with a boundary that is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, the governing board of the school district determines, through analysis pursuant to paragraph (2) of subdivision (b) of Section 44360 of the Health and Safety **Code**, based on appropriate air dispersion modeling, and after considering any potential mitigation measures, that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to pupils.

(C) The facilities or other pollution sources specified in paragraph (2) exist, but conditions in clause (i), (ii) or (iii) of subparagraph (B) cannot be met, and the school district is unable to locate an alternative site that is suitable due to a severe shortage of sites that meet the requirements in subdivision (a) of Section 17213 of the Education **Code**. If the governing board makes this

finding, the governing board shall adopt a statement of Overriding Considerations pursuant to Section 15093 of Title 14 of the California **Code** of Regulations.

(4) Each administering agency, air pollution control district, or air quality management district receiving written notification from a lead agency to identify facilities pursuant to paragraph (2) shall provide the requested information and provide a written response to the lead agency within 30 days of receiving the notification. The environmental impact report or negative declaration shall be conclusively presumed to comply with this section as to the area of responsibility of any agency that does not respond within 30 days.

(b) If a school district, as a lead agency, has carried out the consultation required by paragraph (2) of subdivision (a), the environmental impact report or the negative declaration shall be conclusively presumed to comply with this section, notwithstanding any failure of the consultation to identify an existing facility or other pollution source specified in paragraph (2) of subdivision (a).

(c) As used in this section and Section **21151**.4, the following definitions shall apply:

(1) "Hazardous substance" means any substance defined in Section 25316 of the Health and Safety **Code**.

(2) "Acutely hazardous material" means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety **Code**.

(3) "Hazardous waste" means any waste defined in Section 25117 of the Health and Safety **Code**.

(4) "Hazardous waste disposal site" means any site defined in Section 25114 of the Health and Safety **Code**.

(5) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air **Resources** Board or by the air pollution control officer for the jurisdiction in which the project is located.

As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substances identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety **Code**.

(6) "Administering agency" means an agency designated pursuant to Section 25502 of the Health and Safety **Code**.

(7) "Handle" means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety **Code**.

(**8**) "Facilities" means any source with a potential to use, generate, emit or discharge hazardous air pollutants, including, but not limited to, pollutants that meet the definition of a hazardous substance, and whose process or operation is identified as an

emission source pursuant to the most recent list of source categories published by the California Air **Resources** Board.

(9) "Freeway or other busy traffic corridors" means those roadways that, on an average day, have traffic in excess of 50,000 vehicles in a rural area, as defined in Section 50101 of the Health and Safety **Code**, and 100,000 vehicles in an urban area, as defined in Section 50104.7 of the Health and Safety **Code**.

Burning prohibitions –California Health and Safety code, Sections 41850-41866 and 41800-41815

41850. It is the intent of the Legislature, by the enactment of this article, that agricultural **burning** be reasonably regulated and not be prohibited. The state board and the districts shall take into consideration, in adopting rules and regulations for purposes of this article, various factors, including, but not limited to, the population in an area, the geographical characteristics, the meteorological conditions, the economic and technical impact of such rules and regulations, and the importance of a viable agricultural economy in the state.

41851. Section 41800 shall not apply to **burning** regulated pursuant to this article.

41852. No person knowingly shall set or permit agricultural **burning** unless he has a valid permit from the agency designated by the state board to issue such permits in the area where the agricultural **burning** is to take place.

41852.5. The state board may, after holding a public hearing, authorize an exemption from the permit requirement of Section 41852 for a district, or a portion of a district, where agricultural **burning** does not significantly affect air quality.

41853. The state board shall designate public fire protection agencies or other equivalent agencies to issue permits under subdivision (a) of Section 41852, and shall adopt rules and regulations to provide a procedure for the issuance of the permits. Each agency so designated by the state board shall issue permits subject to the rules and regulations of the state board.

41853.5. (a) No permit shall be issued pursuant to Section 41853 to a person for the **burning** of solid waste which is produced from the ginning of cotton, unless the person pays to the issuing agency a fee of fifteen cents ($0.15) for each bale of cotton ginned that will

produce the solid waste that is to be burned.
(b) Except as provided in subdivision (c), the issuing agency shall deposit monthly the collected fees in the Air Pollution Control Fund.
(c) To pay for administrative costs of issuing the permits, the issuing agency may retain from the fees collected pursuant to this section an amount equal to either the estimated cost of issuing the permits, or 4 percent of the total fees collected, whichever is less. The state board may make an annual audit of the issuing agency to determine the amount of fees retained by an issuing agency.

41854. (a) No permit issued pursuant to Section 41853 shall be valid for any day during which agricultural **burning** is prohibited by the state board pursuant to Section 41855 or by a district board pursuant to Section 41508.
(b) Each permit shall bear a statement of warning containing the following words or words of like or similar import:
"This permit is valid only on those days during which agricultural **burning** is not prohibited by the State Air Resources Board pursuant to Section 41855 of the Health and **Safety Code**."

41855. The state board shall determine and designate from meteorological data the days when agricultural **burning** shall be prohibited within each air basin.

41855.5. (a) Notwithstanding any other provision of law, no permit may be issued to a person to burn any of the following categories of agricultural waste within the jurisdiction of the San Joaquin Valley Unified Air Pollution Control District, commencing on the following dates:
(1) Commencing June 1, 2005, for field crops, prunings, and weed abatement.
(2) Commencing June 1, 2007, for orchard removals.
(3) Commencing June 1, 2010, for other materials, vineyard removals, and surface harvested prunings.
(b) The San Joaquin Valley Unified Air Pollution Control District, in consultation with the University of California Cooperative Extension, shall develop and adopt, not later than June 1, 2005, rules establishing best management practices for the control of other weeds and maintenance. The rules adopted pursuant to this subdivision shall be operative not later than June 1, 2006.
(c) For the purposes of this section, the following terms have the following meanings:
(1) "Field crops" means any of the following crops:
(A) Alfalfa.
(B) Asparagus.

(C) Barley stubble.
(D) Beans.
(E) Corn.
(F) Cotton.
(G) Flower straw.
(H) Hay.
(I) Lemon grass.
(J) Oat stubble.
(K) Other field crops, as determined by the state board.
(L) Pea vines.
(M) Peanuts.
(N) Rice stubble.
(O) Safflower.
(P) Sugar cane.
(Q) Vegetable crops.
(R) Wheat stubble.
(2) "Orchard removals" includes, but is not limited to, any of the following:
(A) Orchard removal matter.
(B) Stumps.
(C) Untreated sticks.
(3) "Other materials" includes, but is not limited to, any of the following:
(A) Brooder paper.
(B) Deceased goats.
(C) Diseased bee hives.
(4) "Other weeds and maintenance" includes, but is not limited to, any of the following:
(A) Ditch bank work.
(B) Canal bank work.
(C) Dodder weed.
(D) Star thistle.
(E) Tumbleweed.
(F) Noxious weeds.
(G) Pesticide sacks.
(H) Fertilizer sacks.
(5) "Prunings" means prunings from any of the following:
(A) Apple crops.
(B) Apricot crops.
(C) Avocado crops.
(D) Bushberry crops.
(E) Cherry crops.
(F) Christmas trees.
(G) Citrus crops.
(H) Date crops.
(I) Eucalyptus crops.

(J) Fig crops.
(K) Kiwi crops.
(L) Nectarine crops.
(M) Nursery prunings.
(N) Olive crops.
(O) Other prunings, as determined by the state board.
(P) Pasture or corral trees.
(Q) Peach crops.
(R) Pear crops.
(S) Persimmon crops.
(T) Pistachio crops.
(U) Plum crops.
(V) Pluot crops.
(W) Pomegranate crops.
(X) Prune crops.
(Y) Quince crops.
(Z) Rose prunings.
(6) "Surface harvested prunings" includes, but is not limited to, any of the following:
(A) Almond prunings.
(B) Walnut prunings.
(C) Pecan prunings.
(D) Grape vines.
(E) Vineyard removal materials.
(7) "Vineyard materials" includes, but is not limited to, any of the following:
(A) Grape canes.
(B) Raisin trays.
(8) "Weed abatement" includes, but is not limited to, any of the following:
(A) Berms.
(B) Bermuda grass.
(C) Fence rows.
(D) Grass.
(E) Pasture.
(F) Ponding or levee banks.
(d) (1) The San Joaquin Valley Unified Air Pollution Control District shall develop and adopt, by January 1, 2005, rules to regulate the **burning** of diseased crops. The rules shall become operative no later than June 1, 2005. The rules shall provide for the issuance of a conditional crop **burning** permit if all of the following criteria are met:
(A) The fields to be burned are specifically described.
(B) The applicant has not been cited for a violation of **burning** rules or regulations in the past 3 years, unless the violation was of a de minimis nature, as determined by the district and the county

agricultural commissioner.
(C) The county agricultural commissioner has determined all of the following:
(i) During the growing season for that crop, there is the presence of a disease that will cause a substantial, quantifiable reduction in yield or poses a threat to the health of adjacent vines, trees, or plants in the field proposed to be burned, during the current or next growing season.
(ii) There is no economically feasible alternative means of eliminating the disease other than **burning**.
(2) A conditional crop **burning** permit shall authorize the **burning** of only the identified diseased crop.
(3) The holder of a permit may not transfer, sell, or trade the permit to any other individual.
(4) A citation for a violation of **burning** rules or regulations may be appealed to the San Joaquin Air Pollution Control District Hearing Board.

41855.6. The district may postpone the commencement dates set forth in subdivision (a) of Section 41855.5 for any category of agricultural waste or crop described if all of the following applies:

(a) The district determines that there is no economically feasible alternative means of eliminating the waste.
(b) The district determines that there is no long-term federal or state funding commitment for the continued operation of biomass facilities in the San Joaquin Valley or development of alternatives to **burning**.
(c) The district determines that the continued issuance of permits for that specific category or crop will not cause, or substantially contribute to, a violation of an applicable federal ambient air quality standard.
(d) The state board concurs with the district's determinations pursuant to this section.

41856. The state board shall promulgate guidelines for the regulation and control of agricultural **burning** for each of the air basins established by the state board.

41857. The guidelines promulgated by the state board shall be based on meteorological data, the nature and volume of materials to be burned, and the probable effect of such **burning** on the ambient air quality within the air basins affected.

41858. In adopting such guidelines, the state board shall consider their economic and technical feasibility, including their probable effect on agricultural production in the air basin affected.

41859. The state board shall continuously review the guidelines promulgated under this article, and may modify, repeal, or alter such guidelines if scientific and technological data indicates that such changes are warranted. Before adopting any such changes, the state board shall hold a public hearing and shall consider the criteria set forth in Section 41857.

41860. The state board shall adopt and publish a list of orchard and citrus grove heaters which it finds produce no more than one gram per minute of unconsumed solid carbonaceous material. No new orchard or citrus grove heater produced or manufactured shall be sold for use against frost damage unless it has been approved by the state board.

No person shall use any orchard or citrus grove heater after January 1, 1975, unless it has been approved by the state board or does not produce more than one gram per minute of unconsumed solid carbonaceous material. In addition to the penalties specified in Section 42400, the cost of putting out the fire caused by a violation of this section may be imposed on any person who violates this section.

41861. No **burning** shall be conducted for the improvement of land for wildlife or game habitat until the person desiring to conduct such **burning** obtains from the Department of Fish and Game a written statement certifying that the **burning** is desirable and proper for the improvement of land for wildlife or game habitat and such statement is filed with the air pollution control officer having jurisdiction in the area in which the **burning** is to take place. As to **burning** conducted by the Department of Fish and Game, the department shall, on its own behalf, issue and file such statements.

41862. A district may issue a permit to authorize agricultural **burning** on days designated by the state board pursuant to Section 41855 as nonburning days when denial of such a permit would threaten imminent and substantial economic loss. The state board shall require the districts to transmit regular reports of permits issued authorizing agricultural **burning** on nonburning days. The report shall include the number of such permits issued, the date of issuance of each permit, the person to whom each permit was issued, and any other information requested by the state board.

41863. Each basinwide coordinating council and district shall, as part of the implementation plans and programs prepared pursuant to Chapter 2 (commencing with Section 41600), include a component for the regulation and control of agricultural **burning** pursuant to guidelines adopted by the state board therefor.

41864. The provisions of this article shall not supersede any rule or regulation of any district, which rule or regulation was in effect for five or more years prior to September 19, 1970.

41865. (a) This section shall be known, and may be cited, as the Connelly-Areias-Chandler Rice Straw **Burning** Reduction Act of 1991.

(b) As used in this section:

(1) "Sacramento Valley Air Basin" means the area designated by the state board pursuant to Section 39606.

(2) "Air pollution control council" means the Sacramento Valley Basinwide Air Pollution Control Council authorized pursuant to Section 40900.

(3) "Conditional rice straw **burning** permit" means a permit to burn granted pursuant to subdivisions (f) and (h).

(4) "Allowable acres to be burned" means the number of acres that may be burned pursuant to subdivision (c).

(5) "Department" means the Department of Food and Agriculture.

(6) "Maximum fall burn acres" means the maximum amount of rice acreage that may be burned from September 1 to December 31, inclusive, of each year.

(7) "Maximum spring burn acres" means the maximum amount of rice acreage that may be burned from January 1 to May 31 of the following year, inclusive.

(c) Notwithstanding Section **41850**, rice straw **burning** in counties in the Sacramento Valley Air Basin shall be phased down, as follows:

(1) From 1998 to 2000, the maximum spring and fall burn acres shall be the following number of acres planted prior to September 1 of each year:

Year	Maximum Fall Burn Acres	Maximum Spring Burn Acres
1998	90,000	110,000
1999	90,000	110,000
2000	90,000	110,000

(2) Notwithstanding paragraph (1), any of the 90,000 acres allocated in the fall that are not burned may be added to the maximum spring burn acres, provided that the maximum spring burn acres does

not exceed 160,000 acres.

(3) Notwithstanding paragraph (1), the maximum acres burned between January 1, 1998, and August 31, 1998, shall be limited so that the total acres burned between September 1, 1997, and August 31, 1998, do not exceed 38 percent of the total acres planted prior to September 1, 1997.

(4) In 2001 and thereafter, the maximum annual burn acres shall be the number of acres prescribed in subdivision (i), subject to subdivisions (f) and (h).

(d) The number of allowable acres to be burned each day shall be determined by the state board and the air pollution control officers in the Sacramento Valley Air Basin and equitably allocated among rice growers in accordance with the annual agricultural **burning** plan adopted by the air pollution control council and approved by the state board.

(e) On or before September 1, 2000, the state board, in consultation with the department and the air pollution control council, shall adopt regulations consistent with the criteria provided in subdivisions (f) and (h). On or before September 1, 1996, an advisory group shall be established by the state board and the department to assist in the adoption of those regulations.

(f) Commencing September 1, 2001, the county air pollution control officers in the Sacramento Valley Air Basin may grant conditional rice straw **burning** permits once the county agricultural commissioner has determined that the applicant has met the conditions specified in subdivision (h). The county agricultural commissioner shall be responsible for all field inspections associated with the issuance of conditional rice straw **burning** permits. A conditional rice straw **burning** permit shall be valid for only one burn, per field, per year.

(g) The county agricultural commissioner may charge the applicant a fee not to exceed the costs incurred by the county agricultural commissioner in making the determination specified in subdivision (f). This subdivision shall be operative only until January 1, 2009.

(h) If the terms and conditions for issuing conditional rice straw **burning** permits specified in paragraphs (1) to (4), inclusive, are met, a conditional rice straw **burning** permit may be issued unless the state board and the department have jointly determined, based upon an annual review process, that there are other economically and technically feasible alternative means of eliminating the disease that are not substantially more costly to the applicant. The terms and conditions for issuing the conditional rice straw **burning** permits are:

(1) The fields to be burned are specifically described.

(2) The applicant has not violated any provision of this section

within the previous three years.

(3) During the growing season, the county agricultural commissioner has independently determined the significant presence of a pathogen in an amount sufficient to constitute a rice disease such as stem rot.

(4) The county agricultural commissioner makes a finding that the existence of the pathogen as identified in paragraph (3) will likely cause a significant, quantifiable reduction in yield in the field to be burned during the current or next growing season. The findings of the county agricultural commissioner shall be based on recommendations adopted by the advisory group established pursuant to subdivision (e).

(i) (1) The maximum annual number of acres burned in the Sacramento Valley Air Basin pursuant to paragraph (4) of subdivision (c) shall be the lesser of:

(A) The total of 25 percent of each individual applicant's planted acres that year.

(B) A total of 125,000 acres planted in the Sacramento Valley Air Basin.

(2) Each grower shall be eligible to burn up to 25 percent of the grower's planted acres, as determined by the air pollution control officers in the Sacramento Valley Air Basin and subject to the maximum annual number of acres burned set forth in paragraph (1), if the grower has met the criteria for a conditional rice straw **burning** permit.

(3) The air pollution control council shall annually determine which is the lesser of subparagraphs (A) and (B) of paragraph (1), and shall determine the maximum percentage applicable to all growers subject to the conditions set forth in subdivisions (f) and (h).

(4) A grower who owns or operates 400 acres or less who has met the criteria for the issuance of a conditional rice straw **burning** permit may burn his or her entire acreage once every four years, provided that the limit prescribed in paragraph (1) is not exceeded.

(5) Nothing in this subdivision shall permit an applicant to transfer, sell, or trade any permission to burn granted pursuant to this subdivision to another applicant or individual.

(j) The state board and the department shall jointly determine if the allowable acres to be burned, as provided in subdivisions (c), (f), and (h), may be exceeded due to extraordinary circumstances, such as an act of God, that have an impact over a continuing duration and make alternatives other than **burning** unusable.

(k) "Administrative **burning**" means **burning** of vegetative materials along roads, in ditches, and on levees adjacent to or within a rice field, or the **burning** of vegetative materials on rice research facilities authorized by the county agricultural commissioner, not to

exceed 2,000 acres. Administrative **burning** conducted in accordance with Section 41852 is not subject to this section.

(l) (1) On or before September 1, 1992, the state board and the department shall jointly establish an advisory committee composed of 10 members to assist with the identification and implementation of alternatives to rice straw **burning**. Members of the committee shall be from the Sacramento Valley Air Basin, and the committee shall consist of two rice growers, two representatives from the environmental community, two health officials, two county supervisors or their designees, one member from the air pollution control council, and one member from the business community with expertise in market or product development. The committee shall meet at least annually. General Fund moneys shall not be used to support the committee.

(2) The committee shall develop a list of priority goals for the development of alternative uses of rice straw for the purpose of developing feasible and cost-effective alternatives to rice straw **burning**. These goals shall include, but not be limited to, research on alternatives, economic incentives to encourage alternative uses, and new product development.

(m) On or before September 1, 1998, the state board, in consultation with the department, and the advisory committee, shall develop an implementation plan and a schedule to achieve diversion of not less than 50 percent of rice straw produced toward off-field uses by 2000. Off-field uses may include, but are not limited to, the production of energy and fuels, construction materials, pulp and paper, and livestock feed.

(n) The Legislature hereby finds and declares as follows:

(1) Because of the requirements imposed by this section, rice straw that was previously burned may present, as solid waste, a new disposal problem.

(2) The state should assist local governments and growers in diverting rice straw from landfills by researching and developing diversion options.

(o) It is the intent of the Legislature that all feasible alternatives to rice straw **burning** and options for diverting rice straw from landfills be encouraged.

(p) This subdivision confirms that reductions in emissions from rice straw **burning** qualify for air quality offsets, in accordance with paragraphs (1) and (2).

(1) These credits shall meet the requirements specified in state law and district rules and regulations, and shall comply with applicable district banking rules established pursuant to Sections 40709 to 40713, inclusive. Districts are urged to establish banking systems in accordance with Sections 40709 to 40713, inclusive. The state board may adopt regulations to implement this subdivision,

including, but not limited to, consideration of the seasonal and intermittent nature of rice straw **burning** emissions. In developing the regulations, the state board shall consult with all concerned parties. However, emission reduction credits that would otherwise accrue from reductions in emissions from rice straw **burning** shall not be affected or negated by the phasedown of **burning**, as specified in subdivision (c).

(2) Reductions in emissions achieved in compliance with subdivision (c) that are banked or used as credits shall not be credited for purposes of attainment planning and progress towards the attainment of any state or national ambient air quality standard as required by state and federal law.

(q) (1) Any person who negligently or intentionally violates any provision of this article is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars ($10,000), imprisonment in the county jail for not more than nine months, or by both that fine and imprisonment. This subdivision applies only to agricultural **burning** in the Sacramento Valley Air Basin.

(2) Any person who negligently or intentionally violates any provision in this article is liable for a civil penalty of not more than ten thousand dollars ($10,000). This subdivision applies only to agricultural **burning** in the Sacramento Valley Air Basin.

(r) Districts in the Sacramento Valley Air Basin shall impose fees on growers to cover the cost of implementing this section pursuant to Section 42311.

(s) To the extent that resources are available, the state board and the agencies with jurisdiction over air quality within the Sacramento Valley Air Basin shall do both of the following:

(1) Improve responses to citizen complaints, and, to the extent feasible, immediately investigate and analyze smoke complaints from the public to identify factors that contribute to complaints and to develop better smoke control measures to be included in the agricultural **burning** plan, keep a record of all complaints, coordinate among other agencies on citizens' complaints, and investigate the source of the pollution causing the complaint.

(2) Respond more quickly to requests for update from county air pollution control officers to help maximize **burning** days when meteorological conditions are best suited for smoke dispersion.

41865.5. Notwithstanding Section 7550.5 of the Government **Code**, on or before January 1, 2001, the State Air Resources Board, in consultation with the Department of Food and Agriculture, and in cooperation with the State Energy Resources Conservation and Development Commission and the California Integrated Waste Management Board, shall prepare and submit to the Legislature recommendations for ensuring consistency and predictability in the supply of rice

straw for cost-effective uses, including, but not limited to, recommendations for methods of harvesting, storing, and distributing rice straw for off-field uses. Off-field uses may include, but are not limited to, the production of energy and fuels, construction materials, pulp and paper, and livestock feed.

41866. The Sacramento Valley Basinwide Air Pollution Control Council may impose, and may require that districts within the Sacramento Valley Air Basin collect, a fee not to exceed five dollars ($5) per permit, per year on each permit issued by a district within the Sacramento Valley Air Basin, for the purpose of administering all basinwide air pollution control efforts, and may adopt a budget to expend those funds at any noticed regularly scheduled meeting, allowing for public comment.

41800. Except as otherwise provided in this chapter, no person shall use open outdoor fires for the purpose of disposal or **burning** of petroleum wastes, demolition debris, tires, tar, trees, wood waste, or other combustible or flammable solid or liquid waste; or for metal salvage or **burning** of motor vehicle bodies.

41801. Nothing in this article shall be construed as limiting the authority granted under other provisions of law to any public officer to set or permit a fire when such fire is, in his or her opinion, necessary for any of the following purposes:

(a) The prevention of a fire hazard which cannot be abated by any other means.

(b) The instruction of public employees in the methods of fighting fire.

(c) The instruction of employees in methods of fighting fire, when such fire is set, pursuant to permit, on property used for industrial purposes.

(d) The setting of backfires necessary to save life or valuable property pursuant to Section 4426 of the Public Resources **Code**.

(e) The abatement of fire hazards pursuant to Section 13055.

(f) Disease or pest prevention, where there is an immediate need for and no reasonable alternative to **burning**.

(g) The remediation of an oil spill pursuant to Section 8670.7 of the Government **Code**.

41802. Notwithstanding Section 41800, with respect to wood waste from trees, vines, or bushes on property being developed for commercial or residential purposes, or with respect to the disposal of brush cuttings on the property where the brush was grown when the cuttings resulted from brush clearance done in compliance with local ordinances to reduce fire hazard, a district board may, upon its own

motion or the request of any person, authorize the disposal, by open outdoor fires, of such waste, on the property where it was grown, under the conditions specified in Section 41804.

41803. No authorization, however, under Section 41802 or 41804.5 shall be granted after such date as the state board may determine, based upon a finding that an alternative method of disposal has been developed which is technologically and economically feasible.

41804. **Burning** may be authorized under Section 41802 only if:
(a) The district board finds that it is more desirable to dispose of such waste by **burning** than to dispose of it by other available means, such as, but not limited to, by removing it to sanitary fills.

(b) The district has developed criteria for such disposal, which shall include provisions to improve the combustibility of such waste to reduce its smoke level.
(c) The state board has approved the criteria developed pursuant to subdivision (b).
(d) Such authorization, if granted, shall be in the form of a permit issued by the district air pollution control officer, and such permit shall allow **burning** only on days during which agricultural **burning** is not prohibited by the state board pursuant to Section 41855.
(e) The district board may adopt rules and regulations to authorize any **burning** authorized under Section 41802, to review each proposed burn prior to authorizing its air pollution control officer to issue a permit for the burn, or to delegate to its air pollution control officer the authority to approve or disapprove each proposed burn after consideration of the amount of waste to be burned, the season of the year, the ambient air quality, the proximity of the waste to developed areas, or such other or additional criteria as the district board may establish.

41804.5. (a) Notwithstanding Section 41800, a district board may authorize, subject to the limitations in Section 41803 and this section, the use of open outdoor fires by a city or county to dispose of nonindustrial wood waste from trees, vines, and brush at disposal sites located above 1,500 feet elevation mean sea level anywhere in the state, or at any elevation in the area designated as the North Coast Air Basin by the state board pursuant to Section 39606.
(b) Authorization for such **burning**, if granted, shall be in the form of permits issued by the district and by the fire protection agency having jurisdiction over the area in which the disposal site is located. The permits shall allow **burning** only on days during which agricultural **burning** is not prohibited by the state board

pursuant to Section 41855.

(c) No permit shall be issued until there is filed with the district a written statement by the owner of the land on which the disposal site is located, or his agent, or if some other person is lawfully in possession of such land, by such other person, approving the **burning** on such land by the city or county.

(d) Prior to issuing a permit, the district may inspect the wood waste to be burned to verify that it is exclusively nonindustrial wood waste from trees, vines, and brush.

(e) The state board shall approve the use of open outdoor fires at a designated disposal site to dispose of such wood waste if such an operation of the disposal site will not prevent the achievement and maintenance of ambient air quality standards. The approval shall be granted for a minimum of one year.

(f) In seeking approval from the state board to use open outdoor fires at disposal sites throughout the county to dispose of such wood waste, a county may submit its plan for the disposal of such wood waste in the county by the use of open outdoor fires at the disposal sites.

41805. (a) The Legislature hereby finds and declares that, because sanitary landfill sites are very difficult to obtain, these valuable sites should be reserved for high-priority waste such as garbage and low-volume rubbish, and that the disposal, by open outdoor fires of high-volume wood waste will help prolong the life of such landfill sites. However, it is the intent of the Legislature that the disposal, by open outdoor fires, of such waste be reasonably regulated so as to not create a nuisance or significantly reduce the quality of the ambient air.

(b) Therefore, the state board shall conduct studies of alternative methods of disposing of wood waste from trees, vines, or bushes, other than by open outdoor fires.

41805.5. (a) Except as provided in subdivisions (b) and (c), the operator of a solid waste disposal site shall submit to the district on or before July 1, 1987, a solid waste air quality assessment test report that contains all of the following:

(1) Test results to determine if there is any underground landfill gas migration beyond the solid waste disposal site's perimeter.

(2) Analyses for specified air contaminants in the ambient air adjacent to the solid waste disposal site to determine the effect of the site on air quality.

(3) Chemical characterization test results to determine the composition of gas streams immediately above the solid waste disposal site, or immediately above the solid waste disposal site and within the solid waste disposal site, as appropriate, as determined by the

district.

(4) Any other information that the district board requires, by emergency regulation.

The solid waste air quality assessment test report shall be prepared in accordance with the guidelines developed by the state board pursuant to subdivision (d).

(b) The operator of an inactive solid waste disposal site shall complete and submit the screening questionnaire, developed pursuant to subdivision (e), to the district on or before November 1, 1986, unless the operator is required to submit a report containing the same information specified in subdivision (a) pursuant to a federal, state, or district order, or unless exempted pursuant to subdivision (c). The district shall evaluate the submitted screening questionnaires in accordance with the guidelines developed pursuant to subdivision (e) and shall determine whether the operator of the site is required to submit all, or a portion of, the information required to be reported in a solid waste air quality assessment test report. The district shall notify the operator in writing on or before January 1, 1987, of the information identified in subdivision (a) to be submitted for the site. After receiving this notification, the operator of the inactive solid waste disposal site shall submit a solid waste air quality assessment test report containing the required information on or before January 1, 1988, to the district.

(c) A district may exempt from subdivisions (a) and (b) a solid waste disposal site or inactive solid waste disposal site that has accepted or now contains only inert and nondecomposable solids. To receive an exemption, the operator of the site shall submit, on or before November 1, 1986, a copy of all permits, all waste discharge requirements pertinent to the site, and any other data necessary for the district to determine whether an exemption should be granted to the site.

(d) On or before February 1, 1987, the state board, in coordination with the districts, shall develop and publish test guidelines for the solid waste air quality assessment report specifying the air contaminants to be tested for and identifying acceptable testing, analytical, and reporting methods to be employed in completing the report.

(e) On or before October 1, 1986, the state board, in coordination with the districts, shall develop and publish a screening questionnaire for inactive solid waste disposal sites and guidelines for evaluating the questionnaire by the districts pursuant to subdivision (b). The screening questionnaire and guidelines shall require an inactive solid waste disposal site to be evaluated based on the nature and age of materials in the site, the quantity of materials in the site, the size of the site, and other appropriate factors. The guidelines for evaluating the screening questionnaire

shall require a district to weigh heavily the proximity of the site to residences, schools, and other sensitive areas, and to pay particular attention to potential adverse impacts on facilities such as hospitals and schools, and on residential areas, within one mile of the site's perimeter.

(f) A district may reevaluate the status of a solid waste disposal site, including sites exempted pursuant to subdivision (c), and require the operator to submit or revise a solid waste air quality assessment test report after January 1, 1987. The district shall give written notification to the operator of the solid waste disposal site that a solid waste air quality assessment test report is to be submitted, or that the existing report is to be revised, and the date by which the report is to be submitted.

(g) A district shall evaluate any solid waste air quality assessment test reports submitted pursuant to subdivisions (a), (b), and (f), and determine if the report's testing, analytical, and reporting methods comply with the guidelines developed pursuant to subdivision (d). If the district determines that the solid waste air quality assessment test report complies with the guidelines, it shall evaluate the data. If the district determines, after evaluation of the report and consultation with the state department and the California Integrated Waste Management Board, that levels of one or more specified air contaminants pose a health risk to human beings or a threat to the environment, the district shall take appropriate remedial action.

(h) If a district determines that a solid waste air quality assessment test report does not comply with the guidelines developed pursuant to subdivision (d), the district shall provide the operator of the site with a written notice specifying the inadequacies of the report and shall require the operator to correct the deficiencies and resubmit the report by a date determined by the district.

(i) For the purpose of this section, the following definitions apply:

(1) "Inactive solid waste disposal site" means a solid waste disposal site that has not received any solid waste for disposal after January 1, 1984.

(2) "Landfill gas" means any untreated, raw gas derived through a natural process from the decomposition of organic waste deposited in a solid waste disposal site or from the evolution of volatile species in the waste.

(3) "Operator" means the person who operates or manages, or who has operated or managed, the solid waste disposal site. If the operator of the solid waste disposal site no longer exists, or is unable, as determined by the district, to comply with the requirements of this section, "operator" means any person who owns or who has owned the solid waste disposal site.

(4) "Perimeter" means the outer boundary of the entire solid waste disposal site property.

(5) "Solid waste disposal site" means a place, location, tract of land, area, or premises in use, or which has been used, for the landfill disposal of solid waste, as defined in Section 40191 of the Public Resources **Code**, or hazardous waste, as defined in Section 40141 of the Public Resources **Code**, or both.

(6) "Specified air contaminants" means substances determined to be air contaminants by the state board in coordination with the districts. The state board and the districts shall consider determining the following compounds to be air contaminants for purposes of this paragraph: benzene, chloroethene, 1,2-dibromoethane, 1,2-dichloroethane benzyl chloride, chlorobenzene, dichlorobenzene, 1,1-dichloroethene, dichloromethane, formaldehyde, hydrogen sulfide, tetrachloroethylene, tetrachloromethane, toluene, 1,1,1-trichloroethan e, trichloroethylene, trichloromethane, xylene, and any other substance deemed appropriate by the state board or a district.

41805.6. Notwithstanding Section 41805.5, a small city which operates a Class III solid waste disposal site is not required to submit a screening questionnaire or a solid waste air quality assessment test report pursuant to Section 41805. 5 if the city has a population of less than 20,000 persons, the solid waste disposal site receives less than 20,000 tons of waste per year, the water table of the highest aquifer under the disposal site is 250 or more feet below the base of the disposal site and the water in the highest aquifer is not potable, and the site receives less than an average of 12 inches of rainfall per year.

This section applies only if the disposal site is operational and has been granted all required permits as of January 1, 1991, and if the site is located in Kings County.

41806. Nothing in this article shall be construed as prohibiting any of the following:

(a) **Burning** for the disposal of the combustible or flammable solid waste of a single- or two-family dwelling on its premises.

(b) Open outdoor fires used only for cooking food for human beings or for recreational purposes.

(c) The **burning**, in a respectful and dignified manner, of an unserviceable American flag that is no longer fit for display.

41807. Nothing in this article shall be construed to prohibit **burning** for right-of-way clearing by a public entity or utility or for levee, reservoir, and ditch maintenance. No such material may be burned pursuant to this section unless (a) agricultural **burning** is

not prohibited on the day pursuant to Section 41855, and (b) the material has been prepared by stacking, drying, or other methods to promote combustion as specified by the air pollution control officer having jurisdiction.

41808. The state board shall permit a city or county to use open outdoor fires, for a limited time only, in its operation of a solid waste dump, upon the finding that, because of sparse population in the geographical area and economic and technical difficulties, the solid waste dump should be so operated.

41809. Notwithstanding Sections 41508 and 41800, open outdoor fires may be used to dispose of Russian thistle (Salsola kali) when authorized by a chief of a fire department or fire protection agency of a city, county, or fire protection district, the Director of Forestry and Fire Protection or his or her duly authorized representative, a county agricultural commissioner, or an air pollution control officer.

41810. For islands located 15 or more miles from the mainland coast:

(a) The provisions of Section 41701 shall not apply to smoke from fires set thereon.

(b) No district shall adopt any rule or regulation stricter than those provided by law with respect to open outdoor fires.

41811. The provisions of this article shall not supersede any rule or regulation of any district, which rule or regulation was in effect for five or more years prior to September 19, 1970.

41812. The air pollution control officer of any district in a county with a population of 6,000,000 or less, upon authorization of the district board, may authorize, by permit, open outdoor fires for the purpose of disposing of agricultural wastes, or wood waste from trees, vines, bushes, or other wood debris free of nonwood materials, in a mechanized burner such that no air contaminant is discharged into the atmosphere for a period or periods aggregating more than 30 minutes in any eight-hour period which is:

(a) As dark or darker in shade as that designated as No. 1 on the Ringelmann Chart, as published by the United States Bureau of Mines, or

(b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subdivision (a).

In authorizing the operation of a mechanized burner, the air pollution control officer may make the permit subject to whatever conditions he determines are reasonably necessary to assure

conformance with the standards prescribed in this section.

41813. Notwithstanding any other provision of this division, in the San Bernardino County Air Pollution Control District, Group 2 solid waste, as defined in Section 2521 of Title 23 of the California Administrative **Code**, for a period not to exceed six months from the effective date of this section, may be disposed of by means of an air curtain destructor. The authority provided by this section applies only to an existing solid waste disposal site in the upper desert area which receives less than 50 tons of solid waste for disposal per day. The use of the air curtain destructor shall be monitored by the San Bernardino County Air Pollution Control District and the state board. Within nine months after the effective date of this section, the district shall file a report with the County of San Bernardino and the state board regarding the extent to which the air curtain destructor meets the emission rules, regulations, and orders of the district and the state board.

At the end of the six-month experimental period, the air curtain destructor may continue to be used if the state board makes a finding that the public health and **safety** will not be adversely affected by continued use. The state board, in cooperation with San Bernardino County, shall establish a list of toxic materials that will be removed from the solid waste prior to use of the air curtain destructor.

There shall be no liability on the part of the state board for any injury occurring as a result of the use of the air curtain destructor under the provisions of this section.

41815. Notwithstanding any local ordinance adopted pursuant to Section 37100 of the Government **Code** or by charter provision to prohibit the **burning** of waste materials, the **burning** of the gaseous byproducts of the recycling of water by a waste water treatment facility as part of an energy conservation and cost reduction program to generate power to operate the facility shall be permitted if the **burning** operation complies with all regulations of the district having jurisdiction and any other applicable provisions of state law.

Doctor’s First Report of Occupational Injury or Illness - Labor code 6409(a)

6409. (a) Every physician as defined in Section 3209.3 who attends any injured employee shall file a complete report of every occupational injury or occupational illness to the employee with the employer, or if insured, with the employer's insurer, on forms prescribed for that purpose by the Division of **Labor** Statistics and Research. A portion of the form shall be completed by the injured

employee, if he or she is able to do so, describing how the injury or illness occurred. The form shall be filed within five days of the initial examination. Inability or failure of an injured employee to complete his or her portion of the form shall not affect the employee's rights under this **code**, and shall not excuse any delay in filing the form. The employer or insurer, as the case may be, shall file the physician's report with the Department of Industrial Relations, through its Division of **Labor** Statistics and Research, within five days of receipt. Each report of occupational injury or occupational illness shall indicate the social security number of the injured employee. If the treatment is for pesticide poisoning or a condition suspected to be pesticide poisoning, the physician shall also file a complete report, which need not include the affidavit required pursuant to this section, with the Division of **Labor** Statistics and Research, and within 24 hours of the initial examination shall file a complete report with the local health officer by facsimile transmission or other means. If the treatment is for pesticide poisoning or a condition suspected to be pesticide poisoning, the physician shall not be compensated for the initial diagnosis and treatment unless the report is filed with the employer, or if insured, with the employer's insurer, and includes or is accompanied by a signed affidavit which certifies that a copy of the report was filed with the local health officer pursuant to the requirements of this section.

(b) As used in this section, "occupational illness" means any abnormal condition or disorder caused by exposure to environmental factors associated with employment, including acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact.

Notification of pesticide use in schools -Education Code- sections 17608-17613

17608. This article, Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural **Code**, and Article 2 (commencing with Section 105500) of Chapter 76 of Division 103 of the Health and Safety **Code**, shall be known and cited as the Healthy Schools Act of 2000.

17609. The definitions set forth in this section govern the construction of this article unless the context clearly requires otherwise:

(a) "Antimicrobial" means those pesticides defined by the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136(mm)).

(b) "Crack and crevice treatment" means the application of small quantities of a **pesticide** consistent with labeling instructions in a building into openings such as those commonly found at expansion joints, between levels of construction and between equipment and floors.

(c) "Emergency conditions" means any circumstances in which the school designee or a property owner of a property where a privately operated child day care facility is located, or the property owner's agent, deems that the immediate use of a **pesticide** is necessary to protect the health and safety of pupils, staff, or other persons, or the schoolsite.

(d) "School designee" means the individual identified by a schoolsite or school district to carry out the requirements of this article at the schoolsite.

(e) "Schoolsite" means any facility used as a child day care facility, as defined in Section 1596.750 of the Health and Safety **Code**, or for kindergarten, elementary, or secondary school purposes. The term includes the buildings or structures, playgrounds, athletic fields, vehicles, or any other area of property visited or used by pupils. "Schoolsite" does not include any postsecondary educational facility attended by secondary pupils or private kindergarten, elementary, or secondary school facilities. For child day care facilities, the State Department of Social Services shall serve as the liaison to these facilities, as needed.

17610. (a) It is the policy of the state that effective least toxic pest management practices should be the preferred method of managing pests at schoolsites and that the state, in order to reduce children's exposure to toxic pesticides, shall take the necessary steps, pursuant to Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural **Code**, to facilitate the adoption of effective least toxic pest management practices at schoolsites. It is the intent of the Legislature to encourage appropriate training to be provided to school personnel involved in the application of a **pesticide** at a schoolsite.

(b) (1) A property owner of a property where a child day care facility is located, or the property owner's agent, who personally applies any pesticides on any area listed in paragraph (2) shall provide notice to the child day care facility as described in paragraph (3) at least 120 hours before the application, unless an emergency condition, as defined in Section 17609, exists.

An owner of property on which a child day care facility is located shall be subject to the requirement to provide notice pursuant to this subdivision 30 days after it has received notice from a child day care facility of its presence at the property, unless the property owner, or his or her agent received that notice pursuant to

paragraph (1) of subdivision (d) of Section 1597.40 of the Health and Safety **Code** prior to the effective date of this subdivision in which case the property owner will be subject to the notice requirements on and after the effective date of this subdivision.

(2) This subdivision applies when a property owner or his or her agent intend to personally apply pesticides on any of the following:

(A) Inside the rented premises on which child day care facility is located.

(B) Upon a designated child day care facility playground designated by the property owner.

(C) Upon an area designated for use by the child day care facility.

(D) Upon an area within 10 feet of the perimeter of the child day care facility.

(3) The notice required by paragraph (1) shall include the following:

(A) The product name.

(B) The manufacturer's name.

(C) The active ingredients of each **pesticide**.

(D) The United States Environmental Protection Agency's product registration number.

(E) The intended date of application.

(F) Those areas of application listed in paragraph (2).

(G) The reason for application.

(4) A notice of **pesticide** application provided to a tenant pursuant to subdivision (d) of Section 13186 of the Food and Agricultural **Code** shall satisfy the notice requirements of this section.

(5) If the child day care facility ceases to operate on the property, the provisions of this act shall no longer apply to the property.

17610.1. (a) (1) The use of a **pesticide** on a schoolsite is prohibited if that **pesticide** is granted a conditional registration, an interim registration, or an experimental use permit by the Department of **Pesticide** Regulation, or if the **pesticide** is subject to an experimental registration issued by the United States Environmental Protection Agency, and either of the following is applicable:

(A) The **pesticide** contains a new active ingredient.

(B) The **pesticide** is for a new use. This paragraph does not apply to a conditionally registered **pesticide** that is approved for other uses that has fulfilled all registration requirements that relate to human health, including, but not limited to, the completion of mandatory health effect studies pursuant to the Birth Defect

Prevention Act of 1984 (Art. 14 (commencing with Sec. 13121), Ch. 2, Div. 7, F. & A.C.). The requirements of this section are not intended to impose any new labeling requirements.

(2) The use of a **pesticide** on a schoolsite is prohibited if the Department of **Pesticide** Regulation cancels or suspends registration, or requires phase out of use, of that **pesticide**.

(b) Vendors or manufacturers of pesticides that are prohibited for use on a schoolsite pursuant to subdivision (a) are prohibited from furnishing those pesticides to school districts or schoolsites either by sale or by gift.

(c) This section does not apply to public health pesticides or antimicrobial pesticides registered pursuant to Section 12836 of the Food and Agricultural **Code**.

17610.5. Sections 17611 and 17612 shall not apply to a **pesticide** product deployed in the form of a self-contained bait or trap, to gel or paste deployed as a crack and crevice treatment, to any **pesticide** exempted from regulation by the United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), or to antimicrobial pesticides, including sanitizers and disinfectants.

17611. Each schoolsite shall maintain records of all **pesticide** use at the schoolsite for a period of four years, and shall make this information available to the public, upon request, pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government **Code**). A schoolsite may meet the requirements of this section by retaining a copy of the warning sign posted for each application required pursuant to Section 17612, and recording on that copy the amount of the **pesticide** used.

17612. (a) The school designee shall annually provide to all staff and parents or guardians of pupils enrolled at a schoolsite a written notification of the name of all **pesticide** products expected to be applied at the schoolsite during the upcoming year. The notification shall identify the active ingredient or ingredients in each **pesticide** product. The notice shall also contain the Internet address used to access information on pesticides and **pesticide** use reduction developed by the Department of **Pesticide** Regulation pursuant to Section 13184 of the Food and Agricultural **Code** and may contain other information deemed necessary by the school designee. No other written notification of **pesticide** applications shall be required by this act except as follows:

(1) In the written notification provided pursuant to this subdivision, the school designee shall provide the opportunity for

recipients to register with the schoolsite if they wish to receive notification of individual **pesticide** applications at the schoolsite. Persons who register for notification shall be notified of individual **pesticide** applications at least 72 hours prior to the application. The notice shall include the product name, the active ingredient or ingredients in the product, and the intended date of application.

(2) If a **pesticide** product not included in the annual notification is subsequently intended for use at the schoolsite, the school designee shall, consistent with this subdivision and at least 72 hours prior to application, provide written notification of its intended use.

(b) The school designee shall make every effort to meet the requirements of this section in the least costly manner. Annual notification by a school district to parents and guardians shall be provided pursuant to Section 48980.3. Any other notification shall, to the extent feasible and consistent with the act adding this article, be included as part of any other written communication provided to individual parents or guardians. Nothing in this section shall require the school designee to issue the notice through first-class mail, unless he or she determines that no other method is feasible.

(c) Pest control measures taken during an emergency condition as defined in Section 17609 shall not be subject to the requirements of paragraphs (1) and (2) of subdivision (a). However, the school designee or property owner shall make every effort to provide the required notification for an application of a **pesticide** under emergency conditions.

(d) The school designee shall post each area of the schoolsite where pesticides will be applied with a warning sign. The warning sign shall prominently display the term "Warning/**Pesticide** Treated Area" and shall include the product name, manufacturer's name, the United States Environmental Protection Agency's product registration number, intended date and areas of application, and reason for the **pesticide** application. The warning sign shall be visible to all persons entering the treated area and shall be posted 24 hours prior to the application and remain posted until 72 hours after the application. In case of a pest control emergency, the warning sign shall be posted immediately upon application and shall remain posted until 72 hours after the application.

(e) Subdivisions (a) and (d) shall not apply to schools operated by the Division of Juvenile Justice. The school administrator of a school operated by the Division of Juvenile Justice shall notify the chief medical officer of that facility at least 72 hours prior to application of pesticides. The chief medical officer shall take any steps necessary to protect the health of pupils in that facility.

(f) This section and Section 17611 shall not apply to activities

undertaken at a school by participants in the state program of agricultural vocational **education**, pursuant to Article 7 (commencing with Section 52450) of Chapter 9 of Part 28, if the activities are necessary to meet the curriculum requirements prescribed in Section 52454. Nothing in this subdivision relieves schools participating in the state program of agricultural vocational **education** of any duties pursuant to this section for activities that are not directly related to the curriculum requirements of Section 52454.

(g) Sections 17610 to 17612, inclusive, shall not apply to family day care homes or property owners of day care homes, as defined in Section 1596.78 of the Health and Safety **Code**, or their agents who personally apply any pesticides.

(h) If **pesticide** is applied by a property owner or his or her agent, or by a pest control operator, failure to provide notice pursuant to subdivision (b) of Section 17610 or subdivision (d) of Section 13186 of the Food and Agricultural **Code** shall relieve a privately operated child day care facility from the requirements of this section.

17613. Section 17612 shall not apply to any agency signatory to a cooperative agreement with the State Department of Health Services pursuant to Section 116180 of the Health and Safety **Code**.