



Paul Helliker  
Director

# Department of Pesticide Regulation



Gray Davis  
Governor

Winston H. Hickox  
Secretary, California  
Environmental  
Protection Agency

## DECLARATION OF CIRCUMSTANCES THAT COULD CAUSE AN AGRICULTURAL EMERGENCY

The Director of the Department of Pesticide Regulation declares the existence of circumstances that could cause an agricultural emergency on agricultural establishments applying sulfur for the production of table grapes in the counties of Fresno, Kern, Kings, Madera, and Tulare.

This declaration is made pursuant to Title 3, California Code of Regulations (3 CCR) section 6770, and Title 40, Code of Federal Regulations, Part 170.112(d).

Under Part 170.112(d)(1):

An "agricultural emergency" means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss. A substantial economic loss means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.

The existence of circumstances declared under Part 170.112(d)(2) that could cause an agricultural emergency on the establishments specified above are:

- There has been unusually prolonged cool weather in the San Joaquin Valley.
- The unusual weather increased fungal disease in table grapes and set the table grape crop several weeks behind schedule.
- The agricultural employer could not have anticipated, and has no control over, these circumstances.

Some agricultural establishments apply sulfur to control fungal disease in table grapes. Critical cultural practices requiring hand labor for the production of table grapes may require worker entry into sulfur-treated vineyards during a restricted-entry interval listed in 3 CCR section 6772 when no alternative practices would prevent or mitigate a substantial economic loss this year to an agricultural establishment in the counties specified above.

**FLEX YOUR POWER!** For simple ways to reduce energy demand and costs, see <[www.cdpr.ca.gov](http://www.cdpr.ca.gov)>.



Declaration of Circumstances

May 14, 2003

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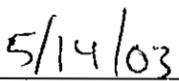
Until May 30, 2003, a worker may enter a sulfur-treated table grape vineyard in the counties specified above during a restricted-entry interval listed in 3 CCR section 6772 to perform tasks, including hand labor tasks, necessary to mitigate the effects of an agricultural emergency, **provided the agricultural employer assures that the following criteria are met:**

1. The agricultural employer determines the agricultural establishment is subject to the circumstances declared above which result in an agricultural emergency on that establishment and notifies the county agricultural commissioner of the following:
  - a. the caller's name.
  - b. the ranch name.
  - c. a statement of the intent to use the exemption.
  - d. an estimation of the acres of table grapes intended for the exemption.
2. Hand labor tasks are not conducted when the temperature exceeds 90 degrees Fahrenheit.
3. At least 24 hours have elapsed since the sulfur treatment.
4. The requirements of 3 CCR sections 6768 and 6771 and applicable provisions of section 6770 have been met.

Use of this exemption is subject to review and denial by the county agricultural commissioner on a site-specific basis.

This declaration shall remain in effect until May 30, 2003.

  
\_\_\_\_\_  
Paul Helliker  
Director

  
\_\_\_\_\_  
Date



# Department of Pesticide Regulation



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Director

May 14, 2003

Mr. Alexander J. Ott  
Director of Government Relations  
California Grape & Tree Fruit League  
1540 East Shaw Avenue, Suite 120  
Fresno, California 93710-8000

Dear Mr. Ott:

Thank you for your recent letter requesting the Department of Pesticide Regulation (DPR) to consider issuance of a Declaration of Agricultural Emergency that would reduce the 72-hour restricted-entry interval (REI) required by Title 3, California Code of Regulations section 6772 for sulfur applied to grapes between May 15, 2003, and May 30, 2003. Your letter indicates that unseasonably cool weather in certain California counties has caused conflict between the need for pest control and various hand-cultural practices that were delayed due to a slowed growth pattern. You also indicate that the 72-hour REI now in effect for sulfur applications to grapes would cause economic hardship in the industry.

DPR carefully considered the information you submitted to support an emergency in the counties of Fresno, Kern, Kings, Madera, and Tulare. In addition to the information you provided, I asked DPR staff to survey these counties to determine the impact that the cooler temperatures may have on pest control and hand-cultural practices for table grapes that will occur in the next 45-60 days. The information available supports a finding of emergency.

Effective May 15, 2003, your petition is granted under the conditions specified in the enclosed document, *Declaration of Circumstances That Could Cause an Agricultural Emergency*.

Our contacts seemed to indicate that part of the reasoning behind this request relates to reduced hazard to workers from sulfur during cooler weather. If there is a way to increase grower flexibility while maintaining, or perhaps increasing, worker protection by more closely linking this extended REI to temperature rather than calendar date, we would be glad to discuss it as a more appropriate solution.

**FLEX YOUR POWER!** For simple ways to reduce energy demand and costs, see <[www.cdpr.ca.gov](http://www.cdpr.ca.gov)>.

1001 I Street • P.O. Box 4015 • Sacramento, California 95812-4015 • [www.cdpr.ca.gov](http://www.cdpr.ca.gov)



A Department of the California Environmental Protection Agency

Mr. Alexander J. Ott  
May 14, 2003  
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If you have any questions, please contact Mr. Scott T. Paulsen, DPR's Enforcement Branch Chief, at (916) 324-4100.

Sincerely,

A handwritten signature in cursive script that reads "Paul Helliker".

Paul Helliker  
Director  
(916) 445-4000

Enclosure

cc: Mr. Scott T. Paulsen (w/Enclosure)



## CALIFORNIA GRAPE & TREE FRUIT LEAGUE

1540 E. SHAW AVENUE, SUITE 120 • FRESNO, CA 93710-8000  
(559) 226-6330 • FAX (559) 222-8326

May 9, 2003

Paul Helliker, Director  
California Department Of Pesticide Regulation  
830 K Street  
Sacramento, CA 95814-3510

RE: Request For Extension Of One-Day Reentry For Use Of Sulfur

The calendar-based sulfur reentry for the San Joaquin Valley (one day for applications before May 15 and three days thereafter) is not workable when cool weather occurs. The calendar-based reentry conflicts with the normal hand cultural practices that must occur in table grapes prior to and beyond this period of time. It especially did so during 1998, 1999 and 2001 when the California Grape & Tree Fruit League requested an adjustment in the imposition of the longer reentry. The Department of Pesticide Regulation (DPR) issued a Declaration of an Agricultural Emergency in 1998, 1999 and 2001 and delayed the start of the three-day reentry.

The League did not request such an adjustment in 2000 because the table grape season was early. This year we suffer much of the same conditions as in 1999 and 2001. We are experiencing cooler temperatures and greater precipitation. The three-day reentry will once again conflict with the many hand cultural practices that will occur in the next 30 days including, but not limited to, shoot thinning, bunch thinning, vine girdling, and leaf pulling. Our basis for the need for the continuance of the one-day reentry is based upon the lack of heat degree units in 2001 in the San Joaquin Valley, the fact that the crop is behind previous years and greater precipitation.

The lower reentry interval that was previously put into place worked very well. There were no reports of rashes or illnesses. Growers easily understood the temperature limitation and the mandate that if the temperature limitation was reached, workers would need to be pulled from the field.

Accordingly, the California Grape & Tree Fruit League requests that DPR issue a Declaration of Agricultural Emergency to continue the 24-hour reentry level for the application of sulfur in the production of table grapes until May 30, 2003, for the counties of Fresno, Kern, Kings, Madera and

Paul Helliker, Director

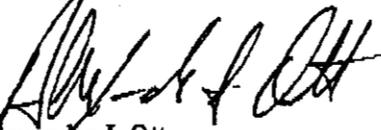
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May 9, 2003

Tulare. I have limited this request for only a 15-day period and solely for the countries specified.

Additionally, I have enclosed a degree and precipitation chart for the several different areas. If you have any questions, please contact me at (559) 226-6330.

Sincerely,



Alexander J. Ott

Director of Government Relations

Enclosure

**DEGREES AND PRECIPITATION**  
**MARCH 1-MAY 8, 2003**

PRECIPITATION

	BAKERSFIELD	FRESNO	HANFORD	MADERA
MARCH	0.37 in.	0.63 in.	1.05 in.	0.62 in.
APRIL	1.19 in.	2.84 in.	1.67 in.	2.44 in.
MAY	0.16 in.	0.79 in.	0.58	1.08 in.

DEPARTURE FROM NORMAL TEMPERATURES

	BAKERSFIELD	FRESNO	HANFORD	MADERA
MARCH	0.8	2.5	2.4	- 0.4
APRIL	- 3.5	- 2.6	- 2.5	- 4.9
MAY	- 5.1	- 5.5	- 5.9	- 6.4