

FEDERAL ORDER
***Epiphyas postvittana* (Light Brown Apple Moth)**
DA-2011-41
July 25, 2011

The purpose of this Federal Order is to prevent the spread of Light Brown Apple Moth (LBAM), *Epiphyas postvittana*, a plant pest, through regulatory authority provided by Section 412(a) of the Plant Protection Act of June 20, 2000, as amended, 7 U.S.C. 7712(a), which authorizes the Secretary of Agriculture to prohibit or restrict the movement in interstate commerce of any plant, plant part, or article if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of a plant pest within the United States.

The Administrator of the Animal and Plant Health Inspection Service (APHIS) considers it necessary, in order to prevent the dissemination of LBAM, to establish restrictions on the interstate movement of certain regulated articles from areas in California and the State of Hawaii due to the presence of LBAM. The Administrator has also identified a list of previously regulated articles (see C. 3 below) which will now be exempt from the LBAM interstate movement provisions. The exemption is applicable only to commercially produced commodities and based on the pest mitigations provided through industry standards of production, harvesting, and packaging practices for each of the exempted commodities.

The Administrator has determined that this July 25, 2011 Federal Order updates the LBAM quarantine as follows:

- 1) By removing Santa Barbara County from the quarantined area (in A.a.);
- 2) By adding *Opuntia* spp. (fruit and pad), green hay, and dormant frozen strawberry nursery stock grown by State certified producers to the exempted host list (in C.1.); and
- 3) By removing trapping requirements for producers of regulated articles (in D.(1)e.).

To view the Federal Orders issued by the Administrator, go to:

http://www.aphis.usda.gov/plant_health/plant_pest_info/lba_moth/index.shtml

A. Quarantined Areas:

The Administrator will list as a quarantined area each State, or each portion of a State, in which LBAM has been confirmed by an inspector to be present, in which the Administrator has reason to believe that LBAM is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine effectiveness and enforcement purposes from localities in which LBAM has been found.

Designation of an area less than an entire State as a quarantined area. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

- 1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and
- 2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of LBAM.

The Administrator has determined that California has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed by the Administrator on the interstate movement of regulated articles; and that the designation of less than the entire State of California as a quarantined area will be sufficient to prevent the interstate spread of LBAM.

The Administrator or an inspector may temporarily designate any non-quarantine area as a quarantine area. The Administrator will give a copy of the Federal Order that is in effect at the time along with a written notice for the temporary designation of a non-quarantine area as a quarantine area to the owner or person in possession of the non-quarantine area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantine area will be subject to the Federal Order that is in effect at that time. As soon as practicable, the quarantined area will be added to the list of quarantined areas until the designation is terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

The following areas are designated as **quarantined areas**:

- a. State of California – the counties of Alameda, Contra Costa, Los Angeles, Marin, Monterey, Napa, San Benito, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, and Yolo
- b. State of Hawaii – all counties in accordance with 7 CFR Part 318.13-3.

B. Determination of Infestation:

The Administrator shall designate as a quarantined area each State, or each portion of a State, in which:

- 1) A total of two or more adult LBAM are trapped within 3 miles of each other and during the timeframe of one lifecycle as determined by the degree day model; or
- 2) A mated female LBAM is trapped; or
- 3) DNA analysis confirms the presence of one or more immature LBAMs; or
- 4) The Administrator considers it necessary to regulate the area due to its inseparability for quarantine enforcement purposes from localities in which LBAM has been found.

C. Regulated Articles:

- 1) The following are regulated articles, and may not be moved interstate from a LBAM quarantined area except in accordance with this Federal Order:
 - a. Nursery stock, except those specifically exempted below;
 - b. Cut flowers;
 - c. Cut trees and shrubs, such as Christmas trees;
 - d. Garlands, wreaths, greenery, and other green waste of any plants;
 - e. Fruits and vegetables, except those specifically exempted below; and
 - f. Bulk fresh herbs and spices, except those specifically exempted below.
- 2) In addition, any other product, article, or means of conveyance is considered a regulated article if an inspector determines it to present a risk of spreading LBAM and the inspector notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions in the regulations.
- 3) The following commercially produced fruits, vegetables, bulk fresh herbs, and nursery stock are not considered regulated articles:
 - a. *Apium* spp. (celery)
 - b. *Asparagus officinalis* (asparagus)

- c. *Beta* spp. (beet)
- d. *Brassica* spp. (bok choy, broccoli, brussel sprouts, cabbage, cauliflower, collards, kale, kohlrabi, and mustard)
- e. *Capsicum* spp. (pepper)
- f. *Cucurbita* spp. (pumpkin, squash)
- g. *Cynara scolymus* (globe artichoke)
- h. *Daucus* spp. (carrot; without tops)
- i. *Fragaria* spp. (Dormant, frozen strawberry nursery stock grown by State certified producers)
- j. Green hay
- k. *Juglans* spp. (walnut)
- l. *Lactuca sativa* (head lettuce, leaf lettuce)
- m. *Olea* spp. (olive)
- n. *Opuntia* spp. (tuna; both fruit and pad)
- o. *Petroselinum crispum* (parsley)
- p. *Raphanus* spp. (radish; without tops)
- q. *Solanum lycopersicum* (tomato)
- r. *Solanum* spp. (potato)
- s. *Spinacia oleracea* (spinach)
- t. *Zea mays* (sweet corn)

D. Conditions for Interstate Movement of Regulated Articles:

1) State of California –

- a. No regulated articles may be moved interstate from a quarantine area unless moved under a certificate issued by an inspector or person operating under a compliance agreement and in accordance with all applicable requirements of this Order.

b. In order to be eligible for interstate movement under certificate , nursery stock, cut flowers, garlands, wreaths or greenery of any plants, trees and bushes, and green waste located 1.5 miles or less from a LBAM detection site in any of the quarantined counties must meet the following conditions:

i. Trapping for LBAM must occur on each premises or farm in a LBAM quarantined area that ships regulated articles interstate. Premises or farms that are larger than five acres must maintain traps at a density of one trap every five acres or less. Premises or farms that are equal to or less than five acres must be trapped with a minimum of one trap. Inspection of traps by an inspector must occur every 30 days or less;

ii. For movement of regulated articles of nursery stock or cut flowers, the place of production shall implement an integrated pest management program that includes regular inspections.

iii. Each shipment of articles intended for interstate movement must be inspected by an inspector and must have a certificate issued for interstate movement, but only if the articles are found free of any life stages of LBAM.

c. In order to be eligible for interstate movement under certificate, nursery stock, cut flowers, garlands, wreaths or greenery of any plants, trees and bushes, and green waste located more than 1.5 miles from a LBAM detection site from any of the quarantined counties must meet the following conditions:

i. Trapping for LBAM must occur on each premises or farm in a LBAM quarantined area that ships regulated articles interstate. Premises or farms that are larger than five acres must maintain traps at a density of one trap every five acres or less. Premises or farms that are equal to or less than five acres must be trapped with a minimum of one trap. Inspection of traps by an inspector must occur every 30 days or less to ensure freedom from LBAM.

ii. Each establishment or facility must be subjected to one visual inspection by an inspector to verify freedom from any LBAM life stages, including eggs, larvae, and pupae;

iii. Each establishment that is inspected and found free of LBAM must be included in a master list of certified LBAM-free facilities maintained by CDFA to ensure compliance with the above two conditions.

d. Fruits and vegetables, and bulk fresh herbs and spices (except exempted commodities) growing in areas 1.5 miles or less from a LBAM detection site in any of the isolated population treatment areas listed on the APHIS website (http://www.aphis.usda.gov/plant_health/ea/lbam.shtml) must meet the following condition:

- Trapping for LBAM must occur at an approved trapping density and must be inspected by an inspector every 30 days or less to ensure freedom from LBAM
- e. Fruits and vegetables, and bulk fresh herbs and spices (except exempted commodities) growing in areas 1.5 miles or less from a LBAM detection site in any of the quarantined counties other than isolated population treatment areas must meet the following condition:
- Inspection by an inspector every 30 days or less to ensure commodity and production site remains free of LBAM
- f. Fruits and vegetables and bulk fresh herbs and spices (except exempted commodities) growing in areas located more than 1.5 miles from a LBAM detection site in any of the quarantined counties must meet the following conditions:
- i. Trapping for LBAM must occur at an approved trapping density and must be inspected by an inspector every 30 days or less to ensure freedom from LBAM
 - ii. Each establishment that is inspected and found free of LBAM must be included in a master list of certified LBAM-free facilities maintained by CDFA to ensure compliance.

E. Definitions:

Certificate: A document in which an inspector, or person operating under a compliance agreement, affirms that a specified regulated article is eligible for interstate movement in accordance with this Order.

Degree day: A unit of measurement used to measure the amount of heat required to further the development of LBAM through its lifecycle. Degree day life cycle requirements are calculated through a modeling process specific to LBAM.

Green Hay: Any grass or legumes cut and stored that are used for animal feed.

Green Waste: Vegetative material, such as leaves, grass clippings, weeds, yard, roadway and green space trimmings, wood waste, branches and stumps, home garden residues, and other miscellaneous plant materials.

Inspector: An employee of APHIS or other person authorized by the Administrator to enforce this Order.

Light brown apple moth (LBAM): The live insect known as light brown apple moth (*Epiphyas postvittana*) in any life stage (egg, larva, pupa, adult).

Nursery stock: All field-grown florist's stock, trees, shrubs, vines, cuttings, grafts, scions, buds, and other plants and plant products for propagation, except field, vegetable, and flower seeds, fruit pits, and other seeds of trees or shrubs, bulbs, and roots.