

# JMJONES

There was no written  
I recall or can find  
response to Oregon's March 4,  
2003 SNR request. All discussion  
were verbal, ~~to~~ following a  
regulatory change sometime in 2004,  
Oregon (verbally) withdrew their SNR.

Page Separator

July 12, 2004

The Honorable Richie Farmer  
Commissioner of Agriculture  
Kentucky Department of Agriculture  
Suite 188  
Capitol Annex  
Frankfort, Kentucky 40601

Dear Commissioner Farmer:

This is in further response to your letters of April 19 and May 7, 2004, to Secretary Veneman requesting a special need exception to supersede current Federal sudden oak death (SOD) regulations and impose additional restrictions on the movement of California nursery stock and other materials into the Commonwealth of Kentucky.

We understand your desire to protect Kentucky's agricultural industries. The Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) continues to work with the National Plant Board (NPB), the National Association of State Departments of Agriculture (NASDA), and the industry to minimize the risk of spreading *Phytophthora ramorum*, the fungus that causes SOD, to areas where the organism is not known to be established. In 2002, we promulgated regulations that have led to multi-county quarantines in California, as well as a smaller area in Oregon. APHIS also coordinated the preparation and implementation of a program to certify host and associated host nursery stock from these areas. In addition, as you indicate, on April 22, 2004, APHIS issued an "Amended Order Restricting Movement of Nursery Stock from California Nurseries" to prevent the dissemination of *P. ramorum* by regulating the interstate movement of host and associated host plants from commercial areas in non-quarantined counties in California. This action was taken in response to the March 2004 detections of SOD in southern California and provides additional assurances that commercial nursery stock shipments from that State are free of the disease. We worked with NPB and NASDA in a good faith effort to determine the level of regulation appropriate for the situation.

APHIS' current actions to address *P. ramorum* are in accordance with national and international phytosanitary standards and are based on the best available science we have at this time regarding the biology of and risks associated with the pathogen, as well as current information regarding its distribution. We will continue to adjust our SOD regulatory approach—including, as appropriate, amending the scope of the current

Federal Order to include other areas within States where the pathogen is established—in accordance with verifiable scientific information. In this regard,  
The Honorable Richie Farmer  
Page 2

APHIS recently convened a panel of scientific experts and noted academics from other Federal and State agencies, universities, and foreign governments to address Agency officials' remaining questions about SOD and identify any additional risk mitigation measures that may be available to decisionmakers. We expect that the nationwide SOD survey in nurseries and natural resource areas and ongoing European-U.S. research concerning the biology of SOD will provide additional information that will help shape our future regulatory actions. We want to take this opportunity to express our appreciation for your State's participation in and support of the national SOD survey.

On behalf of the Commonwealth of Kentucky, you requested permission to impose additional restrictions on all plants and plant products from all nurseries throughout the entire State of California. Section 436 (b) (2) (B) of the Plant Protection Act (7 U.S.C. 7756) provides a State or political subdivision of a State an opportunity to petition the Secretary for such permission. Under the Act, any determination of special need must be based on "sound scientific data or a thorough risk assessment" demonstrating that there is a special need for the additional measures proposed.

APHIS officials have carefully reviewed the materials submitted by your State, along with the relevant authorities contained in the Plant Protection Act. We do not believe that there is scientific evidence to indicate that *P. ramorum* is established throughout California or to suggest that all plants and all plant products from all nurseries throughout the State of California should be regulated for the pathogen. Accordingly, in the absence of further scientific data, we must respectfully deny your State's request for a special need exception.

Please be assured that APHIS is monitoring the developing situation closely and will continue to base all SOD policies and program strategies on the best available science regarding this complicated disease.

Sincerely,

/s/

Bill Hawks  
Under Secretary  
Marketing and Regulatory Programs

cc: MRP, Wash., DC  
Dr. Richard L. Dunkle, PPQ, Wash., DC w/cy of inc.  
Ms. Felicia Stepney, LPA, Riverdale, MD w/cy of inc.

FINAL:APHIS:LPA:KathleenDavis:js:7/7/04:734-7776:APHIS-2004-128:cs6265  
Using signed and cleared language from Bronson,35-4245553; 35-4246792

Clearances:

EC \_\_\_\_\_  
LPA \_\_\_\_\_  
PPQ \_\_\_\_\_  
OA \_\_\_\_\_

SOURCE: RSpaide, JJones, JWriter, PPQ; DBolinger, OGC



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Washington, DC  
20260

May 28, 2009

Dr. Harry Fulton  
State Entomologist  
Bureau of Plant Industry  
Mississippi Department of Agriculture and Commerce  
P. O. Box 5207  
Mississippi Street, Mississippi 39762

Dear Dr. Fulton:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and for sudden oak death (*Phytophthora ramorum*, SOD).

APHIS is currently evaluating these requests. Our review will include an analysis to determine if the States' request meets the special needs criteria listed in special needs request regulations (7 CFR Part 301.1). APHIS is also considering potential alternatives to fulfill the concerns of the States.

Given the level of interest by the number of States in these requests, APHIS is assessing whether the requests reflect special needs or whether they reflect broader concerns that might affect the overall regulatory framework for the LBAM and SOD programs. As part of this process, APHIS is helping several States facilitate a site visit for a number of National Plant Board members to the LBAM and SOD programs to provide an opportunity to observe first-hand the regulatory measures currently in place.

Following the LBAM and SOD program visits, we would like to invite the petitioning States to engage in a discussion that will help us determine whether or not the same concerns remain, whether there are new or different concerns, and whether the remaining concerns are best addressed in the context of the special needs request process or in a broader, national context. We will be contacting you to discuss arrangements for the discussion soon. For additional information, contact either Mike Tadler (301) 734-0771 or Eric Huszar (301) 734-0873 or you may visit APHIS website, Plant Health, Special Needs Request Rule.

[http://www.aphis.usda.gov/plant\\_health/special\\_needs\\_request/index.shtml](http://www.aphis.usda.gov/plant_health/special_needs_request/index.shtml)

Sincerely,

Rebecca A. Bech  
Deputy Administrator  
Plant Protection and Quarantine



May 28, 2009

Mr. Criag Roussel  
Director  
Louisiana Department of Agriculture and Forestry  
P.O. Box 3596  
Baton Rouge, Louisiana 70821-3596

Dear Mr. Roussel:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and for sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

Rebecca A. Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

May 28, 2009

(b)(6)

State Entomologist  
Department of Entomology  
S-225 Agriculture Science Center North  
University of Kentucky  
Lexington, Kentucky 40546-0091

Animal and  
Plant Health  
Inspection  
Service

Washington, DC  
20250

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Sincerely,

Rebecca A. Bech

Deputy Administrator

Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Washington, DC  
20250

May 28, 2009

Mr. Mike Evans  
Director  
Plant Protection Division  
Georgia Department of Agriculture  
19 Martin Luther King Drive, Room 243  
Atlanta, Georgia 30334-4201

Dear Mr. Evans:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and for sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

Rebecca A. Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Washington, DC  
20250

May 28, 2009

Mr. Richard Gaskalla  
Director of Florida Department of Agriculture  
Division of Plant Industry  
Florida Department of Agriculture  
and Consumer Services  
P. O. Box 147100  
Gainesville, Florida 32614-7100

Dear Mr. Gaskalla:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and for sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

Rebecca A. Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Washington, DC  
20250

May 28, 2009

Mr. Larry Nichols  
Office of Plant and Pest Services  
Virginia Department of Agriculture  
and Consumer Services  
P. O. Box 1163  
Richmond, Virginia 23218

Dear Mr. Nichols:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and for sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

Rebecca A. Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Washington, DC  
20250

May 28, 2009

Ms. Christel Harden  
Assistant Department Head  
Department of Plant Industry  
511 Westinghouse Road  
Pendleton, South Carolina 29670

Dear Ms. Harden:

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Sincerely,

Rebecca A. Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

May 28, 2009

Mr. David Padilla Velez  
Supervisor  
State Plant Quarantine Program  
Puerto Rico Department of Agriculture  
P.O. Box 10163  
San Juan, Puerto Rico 00908-1163

Animal and  
Plant Health  
Inspection  
Service

Washington, DC  
20250

Dear Mr. Velez:

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Sincerely,

Rebecca A. Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Washington, DC  
20250

May 28, 2009

Mr. Sancho M. Dickinson  
Director  
Consumer Protection Services Division  
Oklahoma Department of Agriculture  
Food and Forestry  
P. O. Box 528804  
Oklahoma City, Oklahoma 73152-8804

Dear Mr. Dickinson:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and for sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

Rebecca A. Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture.

Animal and  
Plant Health  
Inspection  
Service

Washington, DC  
20250

May 28, 2009

Dr. Stephen Schmidt  
Plant Pct Administrator  
North Carolina Department of Agriculture  
and Consumer Services  
Plant Industry Division  
1060 Mail Service Center  
Raleigh, North Carolina 27699-1060

Dear Dr. Schmidt:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and for sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

Rebecca A. Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and Plant  
Health Inspection  
Service

Washington, DC  
20250

September 21, 2009

Mr. David Padilla Velez  
Supervisor  
State Plant Quarantine Program  
Puerto Rico Department of Agriculture  
P.O. Box 10163  
San Juan, Puerto Rico 00908-1163

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APHIS evaluated these requests and determined that they do not meet the criteria listed in the Special Needs Request regulations (7 CFR Part 301.1). The regulations state that although special needs requests can be submitted by multiple States, the information in the request must be detailed enough to allow APHIS to evaluate the special needs of each State individually.

The requests did not include risk assessments that provided new information for APHIS to consider why the existing regulatory program is inadequate. The risk assessment information that was provided was taken from APHIS' pest risk assessments, which address the risks of these pests at a National level and formed the foundation of the current Federal regulatory programs for LBAM and SOD.

After our review, we concluded that the Special Needs Requests do not reflect the States' special needs, but more so reflect broader concerns that may affect the overall regulatory framework for the LBAM and SOD programs. Because concerns were raised in the Special Needs Requests and the report that was developed in response to the recent LBAM and SOD program site visits, APHIS would like to invite the petitioning States to engage in a discussion to consider science-based short-term, intermediate, and long-term strategies to address their concerns. We will be contacting you soon to arrange this discussion.

In addition, APHIS is planning to conduct a full review of the LBAM and SOD programs during the first quarter of Fiscal Year 2010. As part of this process, APHIS will also consider the additional regulatory requirements contained in the Special Needs Request that was submitted. If APHIS determines that changes are required to these programs after the review, appropriate modifications will be made.



Safeguarding American Agriculture

APHIS is an agency of USDA's Marketing and Regulatory Programs  
An Equal Opportunity Provider and Employer

Federal Relay Service  
(Voice/TTY/ASCI/ Spanish)  
1-800-877-8339

For additional information on the APHIS' Special Needs Request regulations, please visit our Website at [http://www.aphis.usda.gov/plant\\_health/special\\_needs\\_request/index.shtml](http://www.aphis.usda.gov/plant_health/special_needs_request/index.shtml).

Sincerely,

A handwritten signature in cursive script that reads "Rebecca Bech".

Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and Plant  
Health Inspection  
Service

Washington, DC  
20250

September 21, 2009

Ms. Christel Harden  
Assistant Deputy Head  
Department of Plant Industry  
511 Westinghouse Road  
Pendleton, South Carolina 29607

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Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and Plant  
Health Inspection  
Service

Washington, DC  
20250

September 21, 2009

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Director  
Consumer Protection Services Division  
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Food and Forestry  
P.O. Box 528804  
Oklahoma City, Oklahoma 73152-8804

Dear Mr. Dickinson:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

APHIS evaluated these requests and determined that they do not meet the criteria listed in the Special Needs Request regulations (7 CFR Part 301.1). The regulations state that although special needs requests can be submitted by multiple States, the information in the request must be detailed enough to allow APHIS to evaluate the special needs of each State individually.

The requests did not include risk assessments that provided new information for APHIS to consider why the existing regulatory program is inadequate. The risk assessment information that was provided was taken from APHIS' pest risk assessments, which address the risks of these pests at a National level and formed the foundation of the current Federal regulatory programs for LBAM and SOD.

After our review, we concluded that the Special Needs Requests do not reflect the States' special needs, but more so reflect broader concerns that may affect the overall regulatory framework for the LBAM and SOD programs. Because concerns were raised in the Special Needs Requests and the report that was developed in response to the recent LBAM and SOD program site visits, APHIS would like to invite the petitioning States to engage in a discussion to consider science-based short-term, intermediate, and long-term strategies to address their concerns. We will be contacting you soon to arrange this discussion.

In addition, APHIS is planning to conduct a full review of the LBAM and SOD programs during the first quarter of Fiscal Year 2010. As part of this process, APHIS will also consider the additional regulatory requirements contained in the Special Needs Request



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For additional information on the APHIS' Special Needs Request regulations, please visit our Website at  
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Sincerely,

A handwritten signature in cursive script that reads "Rebecca Bech".

Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



September 21, 2009

Dr. Harry Fulton  
State Entomologist  
Bureau of Plant Industry  
Mississippi Department of Agriculture and Commerce  
P.O. Box 5207  
Mississippi Street, Mississippi 39762

Dear Dr. Fulton:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

A handwritten signature in cursive script that reads "Rebecca Bech".

Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



September 21, 2009

Mr. Craig Roussel  
Director  
Plant Protection Division  
Georgia Department of Agriculture  
19 Martin Luther King Drive, Room 243  
Atlanta, Georgia 30334-4201

Dear Mr. Roussel:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

A handwritten signature in black ink that reads "Rebecca Bech". The signature is written in a cursive style with a large initial "R" and "B".

Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



September 21, 2009

Dr. John Obrycki  
State Entomologist  
Department of Entomology  
S-225 Agriculture Science Center North  
University of Kentucky  
Lexington, Kentucky 40546-0091

Dear Dr. Obrycki:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

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Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and Plant  
Health Inspection  
Service

Washington, DC  
20250

September 21, 2009

Dr. Stephen Schmidt  
Plant Pest Administrator  
North Carolina Department of Agriculture  
and Consumer Services  
Plant Industry Division  
1060 Mail Service Center  
Raleigh, NC 27699-1060

Dear Dr. Schmidt:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

A handwritten signature in cursive script that reads "Rebecca Bech".

Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



September 21, 2009

Mr. Mike Evans  
Director  
Plant Protection Division  
Georgia Department of Agriculture  
19 Martin Luther King Drive, Room 243  
Atlanta, Georgia 30334-4201

Dear Mr. Evans:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

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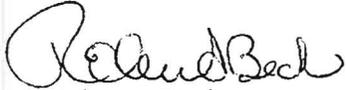
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Sincerely,

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Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



September 21, 2009

Mr. Richard Gaskalla  
Director of Florida Department of Agriculture  
Division of Plant Industry  
Florida Department of Agriculture  
and Consumer Services  
P.O. Box 147100  
Gainesville, Florida 32614-7100

Dear Mr. Gaskalla:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

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Sincerely,

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Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and Plant  
Health Inspection  
Service

Washington, DC  
20250

September 21, 2009

Mr. Terry Walker  
Division Director  
Division of Plant Industry  
Arkansas State Plant Board  
P.O. Box 1069  
Little Rock, Arkansas 72203

Dear Mr. Walker:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

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Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and Plant  
Health Inspection  
Service

Washington, DC  
20250

September 21, 2009

Mr. Dennis Barclift  
Plant Pest Administration  
Alabama Department of Agriculture and Industries  
Division of Plant Industry  
P.O. Box 3336  
Montgomery, Alabama 36109-0336

Dear Mr. Barclift:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiplatyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

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Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine



United States  
Department of  
Agriculture

Animal and Plant  
Health Inspection  
Service

Washington, DC  
20250

September 21, 2009

Mr. Larry Nichols  
Office of Plant and Pest Services  
Virginia Department of Agriculture  
And Consumer Services  
P.O. Box 1163  
Richmond, Virginia 23218

Dear Mr. Nichols:

On March 6, 2009, the Animal and Plant Health Inspection Service (APHIS) received two Special Needs Requests regarding the Federal regulatory programs for the light brown apple moth (*Epiphyas postvittana*, LBAM) and sudden oak death (*Phytophthora ramorum*, SOD).

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Rebecca Bech  
Deputy Administrator  
Plant Protection and Quarantine