

In Title 3, Division 4, Chapter3, amend Section 3434 to read:

**Section 3434. Light Brown Apple Moth Interior Quarantine.**

A quarantine is established against the following pest, its hosts and possible carriers.

(a) Pest. Light brown apple moth (*Epiphyas postvittana*),

(b) Regulated and Quarantine Area Designation and Removal Procedures.

(1) An area shall be designated as a quarantine or regulated area when survey results indicate an infestation is present, the Department has defined the infested area, and the local California County Agricultural Commissioner(s) is notified. The Department shall also provide electronic and/or written notification of the area designation(s) to other California County Agricultural Commissioners and other interested or affected parties and post the area description to its website at: <http://www.cdfa.ca.gov/plant/lbam/regulation.html>. An interested party may also go to the website and elect to receive automatic notifications of any changes in the regulated or quarantine areas through the list serve option.

(2) An infestation is present when the Department determines:

(A) A total of two or more light brown apple moth adults are trapped within three miles of each other and during the timeframe of one lifecycle as determined by the degree-day phenology model; or

(B) A mated female is trapped; or

(C) One or more immature light brown apple moths are confirmed through DNA analysis. An exception to this condition occurs in the event it can be determined that the presence of the immature light brown apple moth was the result of the larvae being transported as a hitchhiker from an infested area into an area which is not regulated or under quarantine on nursery stock.

(3) The initial quarantine/regulated area shall be a minimum of a 1.5 mile radius surrounding the qualifying detections being used as an epicenter. Commercial host properties shall not be split by the quarantine/regulated area boundary line and the boundary line shall be expanded beyond the 1.5 miles as necessary to encompass such host material in its entirety. Wherever possible, known accepted mapping features,

including but not limited to roads, streets, highways, creeks, streams, rivers, canals, city, county, State, park and forest boundary lines are used first and if there are no acceptable features such as these then the use of latitude and longitude points with imaginary lines may be used.

(4) Any interested party or local entity may appeal an area designation by submission to the Department of a written request for review of the designation accompanied by clear and convincing evidence justifying a change in the designation. The appeal must be filed no later than ten (10) working days following receipt of the notice of designation. The Department must respond with a written decision no later than ten (10) working days following receipt of the appeal. During the pending of the appeal, the designation under appeal shall remain in effect.

(5) The quarantine or regulated area designation shall be removed when:

(A) Additional life stages are not detected by trapping or visual surveys for three life cycles after the last detection within the affected area.

(B) A life cycle is an estimate of insect phenology based on a heat degree day temperature driven model. Base developmental temperature thresholds are used in this model's calculations and it estimates the generation time period necessary for the completion of a generation of light brown apple moth. Daily minimum and maximum temperatures are used to produce a sine curve over a 24-hour period. The degree days for that day are estimated by calculating the area above the threshold and below the curve, assuming that the temperature curve is symmetrical around the maximum temperature. For the light brown apple moth the lifecycle model is with 45.5 °Fahrenheit base developmental temperature and 1,117 degree days Fahrenheit per generation.

(c) Articles and Commodities Covered. The following are declared to be hosts and possible carriers of light brown apple moth.

(1) All nursery stock.

(2) All green waste residues from any plants.

(3) All fresh garlands, wreaths, cut flowers and greens produced within the quarantine/regulated area.

(4) All harvested fruits and vegetables produced within the quarantine/regulated area except the following commercially-produced crops:

Arugula  
Artichoke (globe)  
Asparagus  
Beets without tops  
Bok Choy  
Broccoli  
Brussel sprouts  
Bulb crops without tops  
Carrots without tops  
Celery  
Cabbage  
Cauliflower  
Chard  
Collard greens  
Cucumber  
Eggplant  
Endive  
Escarole  
Frisee  
Garlic without tops  
Kale  
Kiwi  
Kohlrabi  
Leeks  
Lettuce (head and leaf)  
Litchi tomato  
Mache  
Melons  
Olive

Onions without tops  
Parsley  
Parsnips without tops  
Peppers  
Potato  
Pumpkin  
Radicchio  
Radish without tops  
Rapini  
Rutabagas without tops  
Seed crops without any plant material  
Spinach  
Squash  
Tomato  
Tuber crops without tops  
Turnips without tops  
Walnuts  
Zucchini

(5) Any other harvested plant parts which by scientific investigation is shown to be capable of sustaining light brown apple moth in any stage of development.

(6) Possible carriers shall include all appliances used in the growing, harvesting, processing and hauling of the host plants and plant parts and any green waste residues including but not limited to tractors, trailers, trucks, planting, picking and pruning equipment and processing machinery and any other article, thing or means of conveyance when it is determined by the Secretary or county agricultural commissioner to present a hazard of spreading live life stages of the light brown apple moth.

(7) Exemptions. The following articles are exempt from the provisions of this subsection:

- (A) Seed extracted from fruit;
- (B) Defoliated dormant bare-rooted nursery stock;

(C) Defoliated dormant nursery stock in containers where all leaf litter and any weeds have been removed;

(D) Privately-owned indoor decorative houseplants; and,

(E) Dying or dead plant material (green waste) that has been processed or handled or treated in a manner approved by the Secretary to eliminate live life stages of the light brown apple moth and is moved directly to a city or county sanitary landfill or State licensed compost facility within the quarantine/regulated area.

(d) Restrictions.

(1) Articles and commodities covered in subsection (c)(1), (2), (3), (4) and (5) are prohibited movement within or from the quarantine area except as provided in (A), (B), (C), (D), (E) and (F) below:

(A) If accompanied by a certificate issued by an authorized agricultural official affirming that the articles and commodities originated from a site or facility which is apparently free from light brown apple moth.

(B) If accompanied by a certificate issued by an authorized agricultural official affirming that the articles and commodities have been inspected or treated in a manner approved by the Department and are apparently free from light brown apple moth.

(C) If purchased at a retail sales location and accompanied by a sales receipt.

(D) If the article or commodity was produced outside the area under quarantine and is being moved through the area under quarantine by direct route and without delay in vehicles or containers which prevent exposure to infestation of the article or commodity to light brown apple moth while en route through the area.

(E) If the article or commodity covered is moved under the terms of a special permit as authorized under Title 3, Section 3154 of the California Code of Regulations.

(F) If the article or commodity covered is moved from the quarantine area directly into the regulated area without transiting an unregulated area.

(2) Articles and commodities covered in subsection (c)(6) are prohibited movement within or from the area under quarantine except if cleaned and treated to the satisfaction of the Department or county agricultural commissioner.

(3) Articles and commodities covered in subsection (c) may move unrestricted within the regulated area. Articles and commodities covered in subsection (c) are prohibited movement from the regulated area except as provided in (A), (B), (C), (D) and (E) below:

(A) If accompanied by a certificate issued by an authorized agricultural official affirming that the articles and commodities originated from a site or facility which is apparently free from light brown apple moth.

(B) If accompanied by a certificate issued by an authorized agricultural official affirming that the articles and commodities have been inspected or treated in a manner approved by the Department and are apparently free from light brown apple moth.

(C) If purchased at a retail sales location and accompanied by a sales receipt.

(D) If the article or commodity was produced outside the area under quarantine or the regulated area and is being moved through the area under quarantine and the regulated area by direct route and without delay in vehicles or containers which prevent exposure to infestation of the article or commodity to light brown apple moth while en route through the area.

(E) If the article or commodity covered is moved under the terms of a special permit as authorized under Title 3, Section 3154 of the California Code of Regulations.

(F) Articles and commodities covered in subsection (c)(6) are prohibited movement from the regulated area except if cleaned and treated to the satisfaction of the Department or county agricultural commissioner.

Note: Authority cited: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code. Reference: Sections 407, 5301, 5302 and 5322, Food and Agricultural Code.