

DEPARTMENT OF FOOD AND AGRICULTURE  
Title 3 of the California Code of Regulation Section 3854 Prohibited Noxious Weed  
Seed

**Notice of Proposed Rulemaking  
45 – Day Notice**

The Department of Food and Agriculture (Department) proposes to make permanent the emergency amendment to Title 3 of the California Code of Regulations (CCR) Section 3854 Prohibited Noxious Weed Seed.

**PUBLIC HEARING**

A public hearing is not scheduled. However, a public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

**WRITTEN COMMENT PERIOD**

Any interested person or his or her authorized representative may submit written comments relevant to the proposed regulations to the Department. Comments may be submitted by USPS, FAX or email. The written comment period closes January 26, 2026. The Department will consider only comments received at the Department offices by that date or postmarked no later than January 26, 2026. Submit comments to:

Erin Lovig, Senior Environmental Scientist Supervisor  
California Department of Food and Agriculture Plant Health and  
Pest Prevention Services  
1220 N St,  
Sacramento, CA 95814  
916.403.6650  
Permits@cdfa.ca.gov

Questions regarding the substance of the proposed regulation should be directed to Erin Lovig. In her absence, you may contact Rachel Avila at (916) 698-2947 or [rachel.avila@cdfa.ca.gov](mailto:rachel.avila@cdfa.ca.gov).

Unless there are substantial changes to the proposed regulations prior to adoption, the Department of Food and Agriculture may adopt the proposal as set forth in this notice without further notice to the public. Following the public hearing, if one is requested, or following the written comment period if none is requested, the Department, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

## **AUTHORITY**

The Department proposes to amend Section 3854 pursuant to the authority vested by Sections 407 and 52332 of the Food and Agricultural Code (FAC).

## **REFERENCE**

The Department proposes this action to implement, interpret and make specific Sections 5004, 52256-52258, 52287 and 52332 of the FAC.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

This amendment will add Egyptian broomrape to the list of Prohibited Noxious Weed Seed. In addition, we are adding to the list the alternate generic name *Phelipanche* in addition to *Orobanch*e for this pest and for its close relative branched broomrape, *Orobanch*e (*Phelipanche*) *ramose*.

Egyptian broomrape is a harmful agricultural weed because of its ability to reduce yields, produce large numbers of long-lived seeds, and its ease of spread. To prevent spread of this species to non-infested areas, to protect California's agricultural industry, and to prevent trading partners from quarantining California commodities for this parasitic pest, it is necessary to eradicate it when found within California, as well as to prevent its spread from limited incursions within the state. That is why the Department proposes to make permanent the emergency amendment to add Egyptian broomrape to the list of Prohibited Noxious Weed Seed.

## **EXISTING LAWS & REGULATIONS**

Existing law, FAC Section 407, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which the Secretary is directed or authorized to administer or enforce.

Existing law, FAC section 5004, provides that the Secretary may adopt a list of the plants that is, or is liable to be, detrimental, to agriculture or important native species, and difficult to control or eradicate, which the Secretary, by regulation, designates to be a noxious weed.

Existing law, FAC section 52256, provides that "Noxious weed seed" means the seed or propagule of any species of noxious weed, as defined in Section 5004. As used in the FAC chapter California Seed Law, noxious weed seed are of two classes, prohibited noxious weed seed and restricted noxious weed seed, which are defined in Sections 52257 and 52258, respectively.

Existing law, FAC section 52256.5, provides that "Person" also means any individual, partnership, corporation, trust association, cooperative association, or any other business unit or organization.

Existing law, FAC section 52257, provides that “Prohibited noxious weed seed” means the seed or propagule of any species of noxious weed which the director, as provided in Section 52332, finds and declares to be a prohibited noxious weed seed and which either: (1) is not known to occur, or is of limited distribution, in this state; (2) is not widely distributed throughout the state and which not only reproduce by seed, but also by underground roots or stems; or (3) is under eradication measures in this state.

Existing law, FAC section 52257.5, provides that “Conditioner” means any person who cleans, scarifies, or blends to obtain uniform quality, or who conducts other operations which would change the purity, germination, or identity of any lot of seed, including, but not limited to, packaging, labeling, blending together of uniform lots of the same kind or variety, or the preparation of a mixture.

Existing law, FAC section 52257.6, provides that “Process” means any modification of the form or nature of agricultural or vegetable seed, or any treatment of the seed, which renders it inviable.

Existing law, FAC section 52257.8, provides that “Research” means any research related to the variety, purity, quality, type, strain, or other genetic and physiological characteristics of agricultural or vegetable seed or the production thereof.

Existing law, FAC section 52258, provides that “Restricted noxious weed seed” means the seed or propagule of any species of noxious weed, the seed of which is not otherwise designated as prohibited noxious weed seed, and which the director, as provided in Section 52332, finds and declares to be a restricted noxious weed seed.

Existing law, FAC section 52287, provides that All prohibited and restricted noxious weed seed which are enumerated in this chapter or in any regulation which is adopted by the director pursuant to this chapter, California Seed Law, are hereby recognized as noxious within the meaning of the Federal Seed Act (7 U.S.C., Sec. 1551, et seq.).

Existing law, FAC section 52332, provides that the secretary, by regulation, may adopt a list of noxious weed seed that the secretary finds are prohibited noxious weed seed, as defined in this chapter, California Seed Law

## **ANTICIPATED BENEFITS OF THE PROPOSED AMENDMENT**

The amendment of this regulation provides the necessary regulatory authority for the prevention of movement of a serious plant pest which is a mandated statutory goal.

This amendment is necessary to prevent the future spread of Egyptian broomrape to uninfested areas of the State. The regulation benefits agriculture, the environment, and the overall California economy by preventing the spread of Egyptian broomrape.

There are economic benefits to the State’s general fund from these regulations. Egyptian broomrape attacks a broad array of field crops and some ornamentals. Tomato, potato, tobacco, eggplant, peppers, peas, carrot, celery, mustard, spinach, and chrysanthemum are among the susceptible plants. Out of these hosts the largest

potential agricultural impact in California is to tomatoes. In 2023 tomatoes had a total value production of 1.5 billion in the state. Egyptian broomrape may attack different hosts, such as sunflower in the current case. Established Egyptian broomrape infestations can reduce crop yields by up to 90%, threaten export markets, and are extremely difficult to eradicate.

By adding Egyptian broomrape to the Prohibited Noxious Weed Seed list we will reduce the chances of future incursions and help maintain the economic baseline.

There is no existing, comparable federal regulations or statute.

There are no known specific benefits to worker safety or the health of California residents.

### **EVALUATION OF INCONSISTENCY / INCOMPATIBILITY WITH EXISTING STATE REGULATIONS**

As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of Section 3854 and has determined that they are not inconsistent or incompatible with existing state regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern prohibited noxious weed seed in California.

### **DISCLOSURES REGARDING THE PROPOSED ACTION**

*The Department has made the following initial determinations:*

Mandate on local agencies or school districts: None.

Cost to any local agency or school district requiring reimbursement pursuant to 17500 et seq: None

Cost or savings to any state agency: None

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on a representative private person or business: The agency is not aware of any cost impacts that a representative person or business would necessarily incur in reasonable compliance with the proposed action.

Significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states: The cost impacts are expected to be none and minimal/non-consequential. The Department makes

the initial determination that the proposed action will not have a significant, statewide adverse economic impact.

Significant effect on housing costs: None

Small business determination: The proposed action will not affect small business because compliance activities are currently being performed by existing staff throughout quarantine areas within the State without any impact on small business.

## **RESULTS OF THE ECONOMIC IMPACT ANALYSIS / ASSESSMENT**

The amendment is designed to prevent or minimize the spread of Egyptian broomrape by amending Section 3854. The Department has made an assessment that the amendment to this regulation would: (1) not create or eliminate jobs within California, (2) not create new business or eliminate existing businesses within California, (3) not affect the expansion of businesses currently doing business within California, (4) is expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and is (6) not expected to benefit workers' safety.

Health and welfare: The proposed action will benefit the health and welfare of California residents by making it more likely that Egyptian broomrape would be prevented from spreading within California, thus protecting the agricultural sector. Maintaining the economic baseline is important to the health and welfare of California residents.

The state's environment: The proposed action will benefit the state's environment by increasing the chance that Egyptian broomrape would be prevented from spreading within California. If the pest was to enter California it could adversely impact private and commercial landscape plantings, local, regional, state and national parks, other recreational sites, open habitats, and wild lands. Affected plants could become less vigorous and may produce fewer seeds. Plants/trees with low propagule output can result in major changes to plant community structure. Therefore, this amended regulation may contribute to the preservation of the natural environment.

## **CONSIDERATION OF ALTERNATIVES**

The Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department invites interested persons to present alternatives during the written comment period.

## **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE**

The Department has prepared an initial statement of reasons for the proposed action, and has made available all the information upon which its proposal is based and the express terms of the proposed action. The Department has posted the information regarding this proposed regulatory action on its Internet website ([www.cdffa.ca.gov/plant/Regulations.html](http://www.cdffa.ca.gov/plant/Regulations.html)). A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

## **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After the comment period and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer named herein. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the agency officer named herein.