

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations  
Section 3854 Prohibited Noxious Weed Seed  
INITIAL STATEMENT OF REASONS/  
POLICY STATEMENT OVERVIEW

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

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulation is Intended to Address

These regulations are intended to address the obligation of the Secretary of Food and Agriculture to protect the agricultural industry of California from the movement and spread within California of injurious plant pests as required by Food and Agricultural Code (FAC) Sections 401 and 403.

Purpose and Factual Basis

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

The factual basis for the determination by the Department that the amendment of Section 3854 is necessary is as follows:

On August 4, 2025, the Department found that a field of seed sunflowers in Solano County

harbored the A-rated pest Egyptian broomrape. The “A” rated plants are, as defined in CCR Section 3162 Pest Ratings and Official Control Actions, plants that may be placed under official control in the State of California due to their high rating when analyzed for the risk they pose to California. Although it is unlikely that a phytosanitary certificate would be issued for international shipment, as many countries prohibit the shipment of seed from areas with broomrape, any seed harvested could be distributed in California and other states, as seed companies follow seed laws in determining the status of contaminant seed.

Egyptian broomrape are parasitic plants that grow on the roots of broad-leaf hosts and obtain all of their nutrients and water from these plants. As such, they can seriously reduce the yield of infected crops. Seeds germinate in response to chemicals released by host plant roots. The broomrape seedling root then attaches itself to the host plant root and remains underground until flowering. The plant has no chlorophyll and no photosynthetic leaves. Flowering stems emerge about 6 weeks after germination, then flower and begin to set seed within 2–3 weeks. Seed capsules dry and shatter in summer. One plant can produce over 100,000 seeds per year and seeds may lay dormant in the soil for many years. Broomrape seed can be spread by footwear, livestock, machinery, vehicles, flooding, as well as by contaminated fodder, seed and soil. Egyptian broomrape is a relative of branched broomrape and belongs to a species group that is among the world’s worst crop weeds.

In order to ensure that this particular infestation does spread this parasitic pest via contaminated seed of sunflower to the severe detriment of California agriculture and environment, the Department took immediate action to ensure that this ready-to-harvest seed crop is not harvested and distributed. To prevent harvesting and distributing, the Department amended Section 3854 to include Egyptian broomrape. In addition, the Department added 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 *ramosa* (also known as *Phelipanche* *ramosa*). The latter species already appears on the Prohibited Noxious Weed Seed list, but including the alternative generic names for both species will

prevent confusion, help assure compliance, and better protect California agriculture.

### Project Description

#### **Section 3854**

This amendment will add Egyptian broomrape to the Prohibited Noxious Weed Seed list. It is necessary to immediately add this state to the quarantine area to protect California's agricultural industry and urban environment.

The proposed amendment to the Prohibited Noxious Weed Seed list designates Egyptian broomrape seed or propagule as prohibited noxious weed seed. 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. Therefore, as we have a known incursion in sunflowers that are ready to harvest, it is necessary to implement this regulation as an emergency action.

### Current 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

The existing laws obligates the Secretary to investigate and determine the feasibility of controlling or eradicating pests of limited distribution but establishes discretion with regard to the establishment and maintenance of regulations to achieve this goal.

This amendment provides the necessary regulatory authority to prevent the artificial spread of a serious insect pest which is a mandated statutory goal.

#### Anticipated Benefits from This Regulatory Action

Adding Egyptian broomrape to the Prohibited Noxious Weed Seed list will benefit:

- the general public
- homeowners and community gardens
- agricultural industry
- California's natural environment
- the State's general fund

#### California Environmental Quality Act

Prior to conducting any action authorized by this regulation, the Department shall comply with the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et. seq. as amended) and the State CEQA Guidelines (Title 14 California Code of Regulations Section 15000 et. seq.).

#### Mandate on Local Agencies or School Districts

The Department has determined that this regulation does not impose a mandate on local agencies or school districts.

#### Economic Impact Analysis (Government Code 11346.3(b))

The prevention of the spread of Egyptian broomrape by adding it to the Prohibited Noxious Weed Seed list benefits:

- the general public
- homeowners and community gardens
- the agricultural industry
- California's natural environment
- the State's general fund

If Egyptian broomrape was to become established within California it could greatly affect the general public. Host plants are widely grown in California, both native plants and agriculturally important crops. By adopting these regulations to prevent infestation the general public benefits by having a native environment and agriculture safe from this pest.

The adoption of these regulations benefits home gardeners who grow host material for consumption and/or ornamentals in various rural and urban landscapes. By preventing infestation with Egyptian broomrape and thereby preventing damage to hosts, the regulations eliminate the need for hosts to be treated to mitigate infestations 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, the Department will reduce the chances of future incursions and help maintain the economic baseline.

#### *The Creation or Elimination of Jobs within the State*

The amendment is designed to prevent the movement of Egyptian broomrape within California. The Department has been maintaining a prohibited noxious weed seed list throughout the State since 1962 without causing significant creation or elimination of jobs. Maintaining a prohibited noxious weed seed list have helped to maintain the economic baseline. Therefore, the Department has determined that this regulatory proposal will have no significant impact on the creation or elimination of jobs in California.

#### *The Creation or Elimination of Businesses in California*

The amendment is designed to prevent the movement of Egyptian broomrape within California. The Department has been maintaining a prohibited noxious weed seed list throughout the State since 1962 without causing significant creation or elimination of businesses. Maintaining a prohibited noxious weed seed list have helped to maintain the economic baseline. Therefore, the Department has determined that this regulatory proposal will have no significant impact on the creation or elimination of businesses in California.

#### *The Expansion of Businesses in California*

The amendment is designed to prevent the movement of Egyptian broomrape within California. The Department has been maintaining a prohibited noxious weed seed list

throughout the State since 1962 without causing significant expansion of businesses. Maintaining a prohibited noxious weed seed list have helped to maintain the economic baseline. Therefore, the Department has determined that this regulatory proposal will have no significant impact on the expansion of businesses in California.

#### *Worker Safety*

This regulation is not expected to have an effect on worker safety.

#### *Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities*

The Department has determined that Section 3854 does not impose a mandate on local agencies or school districts. All quarantine activities shall be conducted by the Department and quarantines by county agricultural commissioners as part of their regular duties. Therefore, no reimbursement is required under Section 17561 of the Government Code.

The Department also has determined that no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts and no nondiscretionary costs or savings to local agencies or school districts, will result from the amendment of Sections 3854.

The Department has determined that the proposed actions will not have a significant adverse economic impact on housing costs or California business, including the ability of California businesses to compete with businesses in other states. Rather, it will help maintain the economic baseline.

#### *Potential Impact to Homeowners and Community Gardens*

Many of the host plants attacked by Egyptian broomrape are enjoyed by the home gardener and community gardens. Tomatoes, sunflowers, and many other major garden plants are preferred hosts of Egyptian broomrape. Therefore, if Egyptian broomrape is established in California, homeowners and community gardeners would be negatively impacted, some severely so.

### *Potential Impacts to General Fund and Welfare*

The proposed amendment does not have immediate or definitive impacts to the general fund or general welfare. Rather, it would facilitate preventing the artificial spread of a destructive pest. The agricultural industry is one of the economic engines in the State. Negative impacts to agriculture impact the State's economic recovery and the general welfare of the State. Additionally, any further job losses in this area would likely be felt by low-skilled workers whose employment options are already limited. The loss of any additional agricultural jobs would likely result in an increase in the State's public assistance obligations which would also negatively impact the State's economic recovery.

As required by Government Code Section 11346.5(a)(3)(D), the Department has conducted an evaluation of this regulation and has determined that it is not inconsistent or incompatible with existing state regulations.

### 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 were to spread throughout 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.

#### Alternatives Considered

The Department must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

The Department considered taking no action. If no action is taken Egyptian broomrape would not be added to the prohibited noxious weed seed list. If Egyptian broomrape is not included on the prohibited noxious weed seed list, then seed for propagation could be sold with small amounts of Egyptian broomrape included, leading to this plant to spread throughout California and elsewhere. Established Egyptian broomrape infestations can reduce crop yields by up to 90%, making it detrimental to California agriculture and natural environment. Therefore, this alternative was rejected.

#### Information Relied Upon

The Department is relying upon the following studies, reports, and documents in the adoption and amendment of Section 3854:

California Department of Agriculture, 2022-2023 California Agricultural Statistics Review, page 100

Email from Dean Kelch, California Department of Agriculture, titled “Egyptian broomrape find”, dated 9/10/2025

United State Department of Agriculture, Weed Risk Assessment for *Phelipanche aegyptiaca*  
(Pers. Pomel (Orobanchaceae) – Egyptian broomrape, 12/21/2018