

DEPARTMENT OF FOOD AND AGRICULTURE  
Title 3 of the California Code of Regulations

Section 3602, Assessments for Control of Broomrape.

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

The Department of Food and Agriculture (Department) proposes to amend Title 3 of the California Code of Regulations (CCR) Section 3602, Assessments for Control of Broomrape.

**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 their 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 on June 2, 2025. The Department will consider only comments received at the Department offices by that date or postmarked no later than June 2, 2025. 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 Sara Khalid at (916) 708-5609 or [sara.khalid@cdfa.ca.gov](mailto:sara.khalid@cdfa.ca.gov).

**AUTHORITY**

The Department proposes to amend Section 3602 pursuant to the authority vested by Sections 407, 52331 and 52332 of the Food and Agricultural Code (FAC).

**REFERENCE**

The Department proposes this action to implement, interpret and make specific Sections 7401, 7405, 7421, 7423, 7430, 7431, 7432, 7433, 7434, and 7434.5 of the FAC.

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

The specific purpose of Section 3602 is to outline the payment and record keeping procedures for tomato producers and handlers for collection of Broomrape assessment fees. There are also references to the definitions of terms used. By referencing the FAC the Department is providing clarity to the definitions without repeating legislative language.

## **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 that the Secretary is directed or authorized to administer or enforce.

The Legislature hereby finds and declares all of the following:

(a) Broomrape is an invasive weed that presents a clear and present danger to California's agricultural industry due to its harmful impact on crop yields and land values of commercial food crops, including, but not limited to, lettuce, tomato, cauliflower, potato, hemp, eggplant, pomegranate, peppers, beans, peas, carrot, celery, mustard, spinach, sunflower, safflower, and fennel. Susceptible food crops, with an economic value at nearly six billion dollars (\$6,000,000,000), may experience up to 70 percent annual crop losses in areas infested with broomrape. Broomrape also impacts commercial seed production and can make agricultural land unusable for planting susceptible crops for decades.

(b) Broomrape represents a clear and present danger to California's natural environment, with susceptible hosts comprising native California flora, including rare or endangered species, such as showy Indian clover (*T. amoenum*), Buck's clover (*T. buckwestiorum*), and Monterey clover (*Trifolium trichocalyx*). The potential long-term damage to California's native biodiversity and environment from this pest may be irreparable and action must be taken to ensure the maintenance, restoration, enhancement, or protection of the environment by developing and involving regulatory procedures for protection of the environment.

(c) The state's agricultural economy and environment could be rapidly and seriously damaged if measures are not expanded to prevent the spread of broomrape, which can produce an estimated 10,000 to 100,000 seeds per infectious plant.

(d) Financial support for the purposes of this chapter shall be provided by commodities designated in this chapter or included by the board and concurred in by the secretary in accordance with procedures specified in this chapter, and by public funds when available.

(e) The necessity of controlling broomrape is recognized as being in the public interest.

(f) This chapter is enacted in the exercise of the police power of the state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

Existing law, FAC Section 7405 provides that unless the context requires otherwise, the following definitions govern the construction of this chapter:

- (a) "Board" means the Broomrape Board.
- (b) "Broomrape" or "Orobanche" means a small parasitic herbaceous plant.
- (c) (1) "Districts" consists of the following geographical areas:
  - (A) District 1: The Counties of Butte, Colusa, Glenn, Placer, Solano, Sutter, Yolo, and Yuba.
  - (B) District 2: The Counties of Alameda, Contra Costa, Sacramento, San Benito, San Joaquin, Santa Clara, and Stanislaus.
  - (C) District 3: The Counties of Fresno, Madera, Merced, Monterey, San Luis Obispo, Santa Barbara, and Santa Cruz.
  - (D) District 4: The Counties of Imperial, Kern, Kings, Riverside and Tulare, and that portion of the County of Los Angeles lying north of the San Gabriel Mountains.
- (2) When necessary to accomplish the purposes of this chapter, additional areas of the state may be added to these districts or additional districts may be established through regulation when recommended by the board and approved by the secretary.
- (d) "Handler" means a person or entity who receives tomatoes from a producer and who prepares the tomatoes for processing.
- (e) "Person" means a producer, handler, or any other entity that holds title to tomatoes subject to assessment pursuant to this chapter.
- (f) "Producer" means a person engaged in the commercial production of processing tomatoes in California.

Existing law, FAC Section 7421 provides The Legislature hereby finds and declares all of the following:

Upon receipt of a recommendation from the board for the adoption of regulations, the secretary shall do one of the following:

- (a) Initiate appropriate action to implement the recommendation of the board.
- (b) Decline to initiate action on the recommendation of the board and provide the board with a written statement of reasons for the decision.
- (c) Request that the board provide additional information regarding the recommendation.

Existing law, FAC Section 7423 provides that the board shall authorize reimbursement of the secretary for all expenditures incurred by the secretary in carrying out the duties and responsibilities specified in this chapter.

Existing law, FAC Section 7430 provides (a) There is hereby created the Broomrape Management Account in the Department of Food and Agriculture Fund.

(b) The Broomrape Management Account may consist of funds made available from federal, industry, and other nonpublic fund sources. Money made available from federal, industry, and other nonpublic sources shall be continuously appropriated and made available for expenditure without regard to fiscal year for the purposes of this chapter.

(c) Any funds within the Broomrape Management Account shall be used to reimburse the secretary for the costs of carrying out recommendations of the board.

Existing law, FAC Section 7431 provides that (a) The board shall recommend an assessment rate or schedule of rates for approval by the secretary.

(b) The secretary may adjust the assessment rate or schedule of rates from time to time when recommended by the board.

(c) The assessment rate or schedule of rates may vary from district to district and from commodity to commodity based on multiple factors, including the degree of vulnerability to damage from broomrape experienced by producers.

Existing law, FAC Section 7432 provides that The assessments collected from producers shall be paid by handlers to the secretary as provided by the secretary.

Existing law, FAC Section 7433 provides that (a) Any assessment that is imposed on the producer or handler pursuant to this article is a personal debt of the person assessed.

(b) Failure to collect the assessment does not exempt the person assessed from liability and does not relieve a person from the obligation to pay the assessment.

(c) Any person who fails to file a report or pay the assessment or otherwise comply with this chapter shall pay a penalty of 10 percent of the amount of the assessment determined to be due, and, in addition, shall pay 1.5 percent interest per month on the unpaid balance of the assessment and the penalty.

Existing law, FAC Section 7434 provides that (a) Any funds received pursuant to this article shall be deposited and handled in a manner determined by the board and shall be expended for the purposes, administration, and enforcement of this chapter.

(b) To the extent that revenue generated from Section 7430 is insufficient to repay the expenditures associated with this program, the Department of Food and Agriculture Fund shall be held harmless, and the secretary shall not be required to administer the provisions of this chapter.

Existing law, FAC Section 7434.5 provides that Any costs incurred by the department in establishing, administering, and enforcing the provisions of this chapter shall be solely reimbursed by the assessment. These costs include, but are not limited to, startup costs incurred by the department before collecting the assessment, the costs of developing any regulations pursuant to this chapter, and the ongoing costs associated with the statewide coordinator.

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

This amendment is important to outline the payment and record keeping procedures for tomato producers and handlers for collection of Broomrape assessment fees. There are also references to the definitions of terms used to allow for clarity.

There are no existing, comparable federal regulations or statutes.

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 3602 and has determined that they are not inconsistent or incompatible with existing state regulations.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

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.).

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

*The Department has made the following initial determinations:*

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: None

Cost to any local agency or school district requiring reimbursement pursuant to Gov. Code sec. 17500 et seq. (Gov. Code sec. 11346.5(a)(6).): 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 may affect small business.

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

The amendment of Section 3602 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, and (4) is not expected to benefit the health and welfare of California residents, (5) is expected to benefit the state's environment, and (6) is not expected to benefit workers' safety.

Providing clarity on record keeping and testing instructions will allow handlers and producers to adhere to procedures and also protects the California tomato industry.

## **BUSINESS REPORTING REQUIREMENT**

It is necessary for the health, safety, or welfare of the people of the state that the regulation which requires a report apply to businesses.

## **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.cdfa.ca.gov/plant/Regulations.html](http://www.cdfa.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.