# OFFICE OF THE STATE REGISTER INSERTION ORDER (eff.08/02)

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## [ ] EMERGENCY RULE (ER); [ ] NOTICE OF INTENT (NOI); [ X] RULE; [ ] POTPOURRI

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This is your authority to publish in the (month) MAY, 20 16 *Louisiana Register* the document indicated above.

Office of Agricultural & Environmental Sciences
Office/Board/Commission promulgating this document

Department of Agriculture and Forestry
Department under which office/board/commission is classified

Mike Strain DVM, Commissioner of Agriculture & Forestry
(name) (title)
Name and title of person whose signature will appear in the publication (at the end of the document)

Lindsey Hunter (225) 922-1250 (225) 922-1253
(name) (phone) (fax)
Name, phone number, and FAX number of person to contact regarding this document

LHunter@ldaf.state.la.us
E-mail address of contact person

Provide a short descriptive listing for this document to be used in the *Louisiana Register's* **TABLE OF CONTENTS/INDEX** (note: this description should match the fiscal statement title, if sending a Notice of Intent:

LAC 7:XV.127 (Xyloporosis)

*Name of electronic document/file:

N/A

**Important:** If submitting both an Emergency Rule (ER) and a Notice of Intent (NOI) to be published this month, **AND** if the rule text in the ER is identical to the rule text in the NOI, check here:

Signature of Agency Head or Designee

Dane Morgan, Assistant Commissioner of Management and Finance
Print Name and Title of Agency Head or Designee

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**CERTIFICATION OF AVAILABLE FUNDS** **DOCUMENT #**

**[ X ] ISIS AGENCY:** I certify the availability of fiscal year 2015-2016 appropriated funds for the payment of the above referenced publication and authorize the processing of an Interagency Billing with the following coding on the 30th of the month of the publication. Attach supplemental sheet for additional lines of coding.

| 160 | 2356 | 4950 | | |
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**[ ] NON-ISIS AGENCY:** I certify the availability of fiscal year 2015-2016 appropriated funds for the payment of the above referenced publication and agree to place corresponding invoice in line for payment upon receipt.

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Louisiana Department of Agriculture and Forestry
Office of Management and Finance
5825 Florida Blvd., Suite 1000
Baton Rouge, LA 70806

Signature of Agency Head or Designee - Phone # (225) 952-8142

Dane Morgan, Assistant Commissioner of Management and Finance
Print Name and Title of Agency Head or Designee

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# ACT OF ADOPTION OF REGULATIONS

LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY
OFFICE OF AGRICULTURAL AND ENVIRONMENTAL SCIENCES
HORTICULTURE AND QUARANTINE PROGRAMS

RE: LAC 7:XV.127 (Xyloporosis)

I, Mike Strain, DVM, Commissioner of Agriculture and Forestry, have proposed to adopt the above cited rules and regulations. The steps required by the Administrative Procedure Act, La. R.S. 49:950, *et. seq.*, for promulgation of these rules and regulations have been substantially complied with, except for the final steps of formal adoption and publication in the State Register.

The notice of intent to take the proposed action was published in the State Register at LR 42:296-297 (February 20, 2016). More than 90 days but less than one year has elapsed since the publishing of the notice of intent.

Therefore, I, in my official capacity as commissioner of agriculture and forestry, hereby adopt these rules and regulations, which become effective when published in the State Register.

Signed this 10th day of May 2016 at Baton Rouge, Louisiana.

MIKE STRAIN DVM,
COMMISSIONER OF AGRICULTURE AND FORESTRY

# Notices of Intent

RULE

**NOTICE OF INTENT**

**Department of Agriculture and Forestry**
**Office of Agricultural and Environmental Sciences**

Horticulture and Quarantine Programs—Xyloporosis
(LAC 7:XV.127)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry ("department") intends to adopt the rule set forth below, differentiating between two strains of xyloporosis in citrus nursery stock. The proposed Rule was first established by Emergency Rule (*Louisiana Register*, Volume 42, Number 1).

The proposed Rule is necessary because new information has been found about the disease xyloporosis. Xyloporosis is synonymous with the names cachexia and hop stunt viroid. These three names were all named for the same disease but, at different times in the last 80 years. As technology became more advanced, PCR testing showed that all three diseases were actually the same disease. The name cachexia is the name that is most commonly used today. In addition, there are two strains of cachexia. One strain infects citrus but is symptomless and it is called non-cachexia variant. The other strain also infects citrus which causes the disease cachexia (or xyloporosis). That strain is called cachexia virulent. The current regulations restrict movement of citrus nursery stock unless it is found free of xyloporosis (along with CTV, psorosis, and exocortis) but, it does not specify between non-cachexia and cachexia. The proposed regulation differentiates between the two strains of xyloporosis.

**Title 7**
**AGRICULTURE AND ANIMALS**
**Part XV. Plant Protection and Quarantine**
**Chapter 1. Crop Pests and Diseases**
**Subchapter B. Nursery Stock Quarantines**
**§127. Citrus Nursery Stock, Scions and Budwood**

A. - B. …

C. Citrus nursery stock, scions and/or budwood may move into Louisiana from areas in which tristeza is known to occur, provided it has been grown under a citrus budwood registration program against tristeza, xyloporosis, psorosis and exocortis, and provided that under this registration program the following are required.

1. - 2. …

3. The nursery stock, scions and/or budwood is from parent stock that has been indexed and found free of psorosis and the cachexia virulent strain of xyloporosis.

C.4. - F.6.i.iv. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:319 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:1308 (July 2014), LR 42:

**Family Impact Statement**

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

**Poverty Impact Statement**

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

**Small Business Analysis**

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

**Provider Impact Statement**

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

**Public Comments**

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture and Quarantine Programs, Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on the April 7, 2016. No preamble is available.

Mike Strain DVM
Commissioner

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
## RULE TITLE: Horticulture and Quarantine Programs—Xyloporosis

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in any costs or savings to state or local governmental units.

The proposed amendment to LAC 7:XV.127(C)(3) allows for the import of citrus nursery stock, scions, and/or budwoods that contain the non-virulent, non-cachexia strain of xyloporosis, which does not pose a hazard to other citrus stock.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed rule will not have an effect on revenue collections for state or local governmental units

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The regulation change will allow citrus growers to import more citrus nursery trees from outside the state of Louisiana. The economic benefits to the nursery industry should increase as the regulation will allow for more trees to be imported into the state increasing the supply and selection of citrus trees

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of the proposed rule will not have any effect on competition or employment in the public or private sector.

| | |
|---|---|
| Dane Morgan | Evan Brasseaux |
| Assistant Commissioner | Staff Director |
| 1602#032 | Legislative Fiscal Office |

## NOTICE OF INTENT

### Department of Agriculture and Forestry
### Office of Agricultural and Environmental Sciences

Unmanned Aerial Systems
(LAC 7:XLIX.Chapter 1)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority granted by R.S. 3:42-47, notice is hereby given that the Department of Agriculture and Forestry ("department"), through the Office of Agricultural and Environmental Sciences, intends to adopt LAC 7:XLIX.101-117 in order to establish regulations for the use of unmanned aerial systems in agricultural commercial operations. The proposed regulations set forth the process for registration of an unmanned aerial system and for operator licensure. The proposed regulations also mandate an educational and safety training course, and set forth the general operating rules for be followed when operating an unmanned aerial system for agricultural commercial operation.

### Title 7
### AGRICULTURE AND ANIMALS
### Part XLIX. Unmanned Aerial Systems
### Chapter 1. Unmanned Aerial Systems

**§101. Definitions**

A. The definitions in R.S. 3:42 are applicable to this Part and have the meaning given to them in that statute, except where a regulation or the context clearly indicates otherwise.

B. The following terms are hereby defined for purposes of this Part.

*Agricultural Commercial Operation*—the use of any agricultural facility or agricultural land for agricultural production or agricultural processing and includes the production and processing of crops or products, livestock or livestock products, farm-raised fish and fish products, wood, timber or forest products, fowl and plants for breeding or sale, and poultry or poultry products for commercial or industrial purposes. "Agricultural commercial operation" also includes the use of farm machinery, equipment, devices, chemicals, products for agricultural use, materials, and structures designed for agricultural use and used in accordance with traditional farm practices. This definition excludes urban forestry.

*Commissioner*—the commissioner of the Louisiana Department of Agriculture and Forestry.

*Department*—the Louisiana Department of Agriculture and Forestry.

*FAA*—the Federal Aviation Administration of the United States Department of Transportation.

*Licensee*—the individual to whom a license to operate an aerial system is issued.

*Operator*—any natural person who manipulates the flight controls of an unmanned aerial system.

*Unmanned Aerial System* or *UAS*—any unmanned aircraft (UA) weighing less than 55 pounds and all of the associated support equipment, etc., necessary to operate the unmanned aircraft. This includes but is not limited to, drones, remote controlled aircraft, unmanned aircraft or any other such craft that is controlled autonomously by computer or remote control from the ground.

*Unmanned Aircraft*—an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

*Visual Observer*—any person who assists the operator to see and avoid other air traffic or objects aloft or on the ground.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:42.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 42:

**§103. Authority and Applicability**

A. Upon satisfaction of all United States Federal Aviation Authority and other federal requirements, and in accordance with chapter 1-A of title 3 of the *Louisiana Revised Statutes* of 1950, unmanned aerial systems weighing less than 55 pounds are hereby authorized for use in agricultural commercial operations in the state.

B. The provisions of this Chapter shall only be applicable to use of unmanned aerial systems in the course of agricultural commercial operations and specifically exclude hobby aircraft as defined by the United States Federal Aviation Authority; private aircraft under authority of the United States Federal Aviation Authority; aircraft operating under commercial aviation guidelines established by the United States Federal Aviation Authority; any aircraft, manned or unmanned, operating above the altitude of 500 feet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:42 and R.S. 3:44.