

COMMISSION IMPLEMENTING DECISION (EU) 2017/427**of 8 March 2017****amending Implementing Decision 2012/535/EU as regards measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Bührer) Nickle et al. (the pine wood nematode)***(notified under document C(2017) 1482)*

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community ⁽¹⁾, and in particular the fourth sentence of Article 16(3) thereof,

Whereas:

- (1) Given the critical situation of pine wood nematode (PWN) in Portugal and some findings in Spain, a Task Force composed of a number of Member States' experts was set up in September 2014 with a view to support Portugal in the containment and Spain in the eradication of PWN in their respective territories, while preventing its spread into the rest of the Union territory.
- (2) On 22 June 2016, the Task Force on PWN published a report containing a number of recommendations. Moreover, further scientific knowledge has been acquired as part of the Rephrame project ⁽²⁾.
- (3) It is necessary to introduce a definition of 'plant affected by fire or storm' to identify the susceptible plants to which the respective measures are to be applied.
- (4) The European Plant Protection Organisation has developed international standards concerning contingency plans. In order to ensure consistency with those international standards ⁽³⁾ and to improve the clarity and efficacy of contingency plans, the rules concerning contingency plans should set out in more detail the tasks of the responsible official bodies, laboratories and operators.
- (5) In order to reduce the administrative burden, and taking into account the improvement of the situation as indicated by the outcome of the checks carried out by Portugal and Spain so far, the results of the checks carried out in accordance with Article 11(3) of Commission Implementing Decision 2012/535/EU ⁽⁴⁾ should be submitted on an annual basis and no longer on a monthly basis. The results of the measures taken pursuant to Articles 6 and 7 of that Decision, where applicable, should be communicated by 30 April of each year to ensure the timely submission of relevant information concerning the period preceding the start of the flight season of the vector.
- (6) Experience both in Portugal and Spain, as well as technical and scientific studies, indicate that the detection of PWN on healthy-looking pine is extremely unlikely, while the sampling of cut stems, cutting residues and naturally occurring debris showing signs of activity of insect vectors may be very important to detect the presence of PWN in areas where pine wilt symptoms are not expected to occur. Annexes I and II to Implementing Decision 2012/535/EU should therefore be amended accordingly.
- (7) Evidence reported by the Task Force has confirmed that forest fire occurring during the flight season of the vector immediately attracts vectors from long distances, and for some time after the fire. The immediate removal

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.⁽²⁾ Development of improved methods for detection, control and eradication of pine wood nematode in support of EU Plant Health Policy (REPHRAME) — EU research project No 265483.⁽³⁾ 2009 OEPP/EPP, Bulletin OEPP/EPP Bulletin 39, 471-474 'Generic elements for contingency plans'.⁽⁴⁾ Commission Implementing Decision 2012/535/EU of 26 September 2012 on emergency measures to prevent the spread within the Union of *Bursaphelenchus xylophilus* (Steiner et Bührer) Nickle et al. (the pine wood nematode) (OJ L 266, 2.10.2012, p. 42).

and disposal of plants in fire-affected areas does not mitigate the attractiveness and, in fact, can trigger a risk of further dispersal of vectors. Member States should therefore be allowed to proceed with the felling and removal of susceptible plants situated in those fire-affected areas before the start of the next flight season of the vector.

- (8) Experience has shown that in order to ensure an optimal use of the available resources, the surveys in the infested zones referred to in point 2 of Annex II to Implementing Decision 2012/535/EU should be focused on the parts of the infested zone which are adjacent to the buffer zones, so that appropriate measures may be taken to contain PWN to those parts of the infested zones where it is known to occur and to prevent spread into the buffer zones.
- (9) Member States may reduce the radius of the clear cut from 500 m to 100 m if, based on survey activities carried out in accordance with FAO International Standard for Phytosanitary Measures No 4 ⁽¹⁾, and taking into account the dispersal capacity of the vectors, there is no evidence of presence of the vectors in that part of the territory.
- (10) Experience has confirmed that treatment of wood identified in the demarcated area during the flight season of the vector as required in point 8 of Annex I and point 3(c) of Annex II to Implementing Decision 2012/535/EU may not always be appropriate to prevent the further spread of PWN in case of logs colonised by the vectors during the year preceding the survey activities. The Member State may decide, therefore, to immediately destroy such wood on site.
- (11) Implementing Decision 2012/535/EU should therefore be amended accordingly.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

Amendments to Implementing Decision 2012/535/EU

Implementing Decision 2012/535/EU is amended as follows:

- (1) In Article 1, the following point (h) is added:

‘(h) “plant affected by fire or storm” means any susceptible plant which is damaged by fire or storm in a way which allows oviposition by the vector.’

- (2) Article 4(2) is replaced by the following:

‘2. The contingency plan shall set out the following:

- (a) a specific section providing a summary information on the assessment of the risk of PWN for the Member State concerned, including background information on the biology of PWN, expected symptoms and affected hosts, as well as detection methods, main pathways for entry and further spread, including recommendations of how the risk of entry, establishment and spread can be reduced;
- (b) the roles and responsibilities of the bodies involved in the execution of the plan in the event of an officially confirmed or suspected presence of PWN, as well as the chain of command and procedures for the coordination of actions to be taken by responsible official bodies, other public authorities, delegated bodies or natural persons involved, laboratories and operators;
- (c) the conditions of access of responsible official bodies to the premises of operators and other persons;

⁽¹⁾ Secretariat of the International Plant Protection Convention (1995), International Standard for Phytosanitary Measures 4: Requirements for the establishment of pest-free areas.

- (d) the conditions of access of responsible official bodies, where necessary, to laboratories, equipment, personnel, external expertise and resources necessary for the rapid and effective eradication or, where appropriate, containment of PWN;
- (e) the measures to be taken concerning the provision of information to the Commission, the other Member States, the operators concerned and the public as regards the presence of PWN and the measures taken against PWN in the event that its presence is officially confirmed or suspected;
- (f) the arrangements for recording findings of the presence of PWN;
- (g) the protocols describing the methods of visual examinations, sampling and laboratory testing;
- (h) the procedures, and persons responsible, for the coordination framework with neighbouring Member States and, where applicable, neighbouring third countries.

The content of the contingency plan shall take into account the risk that the specified organism poses to the Member State concerned.'

(3) Article 9(3) is replaced by the following:

'3. Member States shall communicate to the Commission and the other Member States by 30 April of each year a report on the results of the measures taken pursuant to Articles 6 and 7 between 1 April of the preceding year and 31 March of the year of the communication.

That report shall include all of the following elements:

- (a) number and locations of findings of the presence of PWN, including maps, identified respectively for the infested zone and buffer zone;
- (b) number of dead plants, plants in poor health or affected by fire or storm that were identified, with specification of the number of plants which were completely destroyed by forest fires or storm;
- (c) number of dead plants, plants in poor health or affected by fire or storm that were sampled;
- (d) number of samples taken on dead plants, plants in poor health or affected by fire or storm and tested for the presence of PWN;
- (e) number of samples tested positive for PWN;
- (f) number of dead plants and plants in poor health or affected by fire or storm which have been eliminated, with specification of the number of plants which were identified before the start of the relevant period;
- (g) number and location of traps and monitoring period, as well as the number of vectors trapped, the species concerned, number of vectors analysed for the presence of PWN, number of samples analysed for the presence of PWN in the buffer and infested zones respectively, including the number of samples tested positive for PWN, if any.

Member States shall collect the information referred to in points (b) and (f) during the following periods: 1 January to 31 March, 1 April to 31 October and 1 November to 31 December of the preceding year and 1 January to 31 March of the year of the communication.

When communicating that information, Member States shall make reference to the collection period concerned.'

(4) In Article 11(3), the first subparagraph is replaced by the following:

'3. Member States shall, by 30 April of each year, communicate to the other Member States and the Commission the time and results of the checks referred to in paragraphs 1 and 2 carried out during the preceding year.'

(5) Annexes I and II are amended as set out in the Annex to this Decision.

*Article 2***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 8 March 2017.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX

The Annexes to Implementing Decision 2012/535/EU are amended as follows:

(1) Annex I is amended as follows:

(a) in point 2, the third subparagraph is replaced by the following:

‘All plants which are dead or in poor health, and a number of healthy-looking plants selected based on the risk of spreading the PWN in the particular case, shall be sampled after felling. Sampling shall take place in several parts of each plant, including the crown, and in particular in those parts where signs of activity of insect vectors are visible. Samples shall also be taken from cut stems, cutting residues, and naturally occurring debris showing signs of activity of insect vectors, and located in parts of the demarcated areas where wilt symptoms of the susceptible plants are not expected to occur or are expected to occur at a later stage. Those samples shall be tested for the presence of PWN.’

(b) point 4 is replaced by the following:

‘4. Where point 3 applies, each susceptible plant exempted from felling and located between 100 and 500 m from the susceptible plants in which PWN has been found to be present, shall be inspected before, during and after the flight season of the vectors, for signs or symptoms of the presence of PWN.

In case those signs or symptoms are present, the plant shall be sampled and tested for the presence of PWN. The sampling of those susceptible plants shall be carried out in several parts of the plant including the crown. The Member State concerned shall, within the flight season, perform intensive surveys of the vectors by sampling and testing those vectors for the presence of PWN.

Those measures shall apply until completion of eradication as provided for in Article 6(1) or until containment measures as provided for in Article 7(1) have been approved.’

(c) point 5 is replaced by the following:

‘5. Where a Member State has evidence that the vector has not been present in the area concerned for the last 3 years, based on surveys carried out for the presence of the vector in accordance with FAO International Standard for Phytosanitary Measures No 4 (*) and taking into account the dispersal capacity of the vectors, the minimum radius of the clear-cut zone shall be 100 m around each susceptible plant in which PWN has been found to be present.

That evidence shall be included in the communication provided for in Article 9(1).

(*) Secretariat of the International Plant Protection Convention (1995), International Standard for Phytosanitary Measures 4: Requirements for the establishment of pest-free areas.’

(d) point 6 is replaced by the following:

‘6. Member States shall perform, during and outside the flight season of the vector, surveys of the susceptible plants in the demarcated areas by inspecting, sampling and testing those plants and the vector for the presence of PWN. They shall also perform surveys of the vector of PWN during its flight season. Those surveys shall give particular attention to susceptible plants which are dead, in poor health or affected by fire or storm. The sampling of those susceptible plants shall be carried out in several parts of each plant including the crown. Those surveys shall also be performed on cut stems, cutting residues, naturally occurring debris showing signs of activity of insect vectors and located in parts of the demarcated areas where wilt symptoms of the susceptible plants are not expected to occur or are expected to be delayed. The intensity of the surveys within a radius of 3 000 m around each susceptible plant in which PWN has been found shall be at least four times higher than from 3 000 m thereof to the outer limit of the buffer zone.’

(e) in point 7, the first paragraph is replaced by the following:

‘7. Member States shall, throughout the demarcated area, identify and fell all susceptible plants in which PWN has been found to be present, and those which are dead, in poor health or affected by fire or storm. They shall remove and dispose of plants felled and logging remains, taking all necessary precautions to avoid spreading of PWN and its vector until the end of felling. They shall respect the following conditions.’

- (f) in point 8, the second subparagraph is replaced by the following:

‘Where the Member State concludes that stripping of the bark, treatment with an insecticide known to be effective against the vector and coverage with an insect net drenched in such an insecticide is inappropriate, the wood, which was not stripped of its bark, shall be immediately destroyed on site.

Wood waste produced at the time of felling of susceptible plants which is left on site and wood not stripped of the bark which is destroyed on site shall be chipped into pieces less than 3 cm thick and less than 3 cm wide.’

- (g) the following point 8a is inserted:

‘8a. By way of derogation from point 7(b), where a Member State concludes that felling and removal of susceptible plants affected by fire or storm, during the flight season of the vector, is inappropriate, the Member State concerned may decide to proceed with the felling and removal of those plants before the start of the next flight season.

Without prejudice to point 6, the Member State concerned shall, within the flight season, perform intensive surveys in the area affected by fire or storm by sampling and testing those vectors for the presence of PWN and, if confirmed, perform surveys of the susceptible plants located in the surrounding area, by inspecting, sampling and testing those plants which show signs or symptoms of the presence of PWN or its vectors.’

- (2) Annex II is amended as follows:

- (a) point 2 is replaced by the following:

‘2. Member States shall perform annual surveys of the susceptible plants and the vector in the infested zones by inspecting, sampling and testing those plants and the vector for the presence of PWN. Those surveys shall give particular attention to susceptible plants which are dead, in poor health or affected by fire or storm. They shall be focused on parts of the infested zone which are adjacent to the buffer zones, with the aim to preserve those zones. Member States shall fell all susceptible plants in which PWN is found to be present and remove and dispose of those plants and their logging remains, taking all necessary precautions to avoid spreading of PWN and its vectors.’

- (b) point 3 is replaced by the following:

‘3. Member States shall take the following measures in the buffer zones:

- (a) Member States shall perform, outside and during the flight season of the vector, surveys of the susceptible plants in the buffer zones by inspecting, sampling and testing those plants and the vector for the presence of PWN. They shall also perform surveys of the vector of PWN during its flight season. Those surveys shall give particular attention to susceptible plants which are dead, in poor health or affected by fire or storm, and to vectors which are situated in areas where PWN is likely to be present or where delayed expression of symptoms can be expected. The sampling of susceptible plants shall be carried out in several parts of each plant including the crown. Those surveys shall also be performed on cut stems, cutting residues, naturally occurring debris showing signs of activity of insect vectors and located in parts of the demarcated areas where wilt symptoms of the susceptible plants are not expected to occur.
- (b) Member States shall, throughout the concerned buffer zones, identify and fell all susceptible plants which are dead, in poor health or affected by fire or storm. They shall remove and dispose of plants felled and logging remains, taking all necessary precautions to avoid spreading of PWN and its vector before and during felling and under the following conditions:
- (i) Susceptible plants identified outside the flight season of the vector shall, before the next flight season, be felled and destroyed on site, moved under official control into the infested zone or removed. In the last case the wood and bark of those plants shall either be treated, as set out in point 2(a) of Section 1 of Annex III, or processed, as set out in point 2(b) of Section 2 of Annex III.
- (ii) Susceptible plants identified during the flight season of the vector shall, immediately, be felled and destroyed on site, moved under official control into the infested zone or removed. In the last case the wood and bark of those plants shall either be treated, as set out in point 2(a) of Section 1 of Annex III, or processed, as set out in point 2(b) of Section 2 of Annex III.

Felled susceptible plants, other than plants completely destroyed by forest fires, shall be sampled and tested for the presence of PWN, according to a sampling scheme able to confirm with 99 % reliability that the level of presence of PWN in those susceptible plants is below 0,02 %.

By way of derogation from point (ii), where a Member State concludes that the felling and removal of susceptible plants identified during the flight season and affected by fire or storm is inappropriate, the Member State concerned may decide to proceed with the felling and removal of those plants before the start of the next flight season. During such felling and removal, the susceptible plants concerned shall be either destroyed on site or removed and their wood and bark treated, in accordance with point 2(a) of Section 1 of Annex III, or processed, in accordance with point 2(b) of Section 2 of Annex III. Where this derogation applies, and without prejudice to point (a), the Member State concerned shall, within the flight season, perform intensive surveys in the area affected by fire or storm by sampling and testing those vectors for the presence of PWN and, if confirmed, perform intensified surveys of the susceptible plants located in the surrounding area, by inspecting, sampling and testing those plants which show signs or symptoms of the presence of PWN

- (c) As regards susceptible wood identified in the buffer zone during the flight season of the vector, as referred to in point (b), Member States shall strip logs of felled susceptible plants of their bark, or treat those logs with an insecticide known to be effective against the vector or cover those logs with an insect net drenched in such an insecticide immediately after felling.

After stripping, treating or covering, the susceptible wood shall, under official supervision, immediately be moved to a storage place or to an authorised treatment facility. Wood, which was not stripped of its bark, shall, immediately, at its storage place or at the authorised treatment facility, once more, be treated with an insecticide known to be effective against the vector or covered with an insect net drenched in such an insecticide.

Wood waste produced at the time of felling of susceptible plants which is left on site shall be chipped into pieces of less than 3 cm thickness and width.

By way of derogation from the first subparagraph, where the Member State concludes that stripping of the bark, treatment with an insecticide known to be effective against the vector and coverage with an insect net drenched in such an insecticide are inappropriate, the wood, which was not stripped of its bark, shall be immediately destroyed on site. Where this derogation applies, wood waste produced at the time of felling of susceptible plants which is left on site and wood not stripped of its bark which is destroyed on site, shall be chipped into pieces less than 3 cm thick and less than 3 cm wide.'
